

WATER ACT

BEING CHAPTER W-3 R.S.A. 2000 (the "Water Act")

ENFORCEMENT ORDER NO. WA-EO-2018/03-LAR

Dean G. Cadieux
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Karen A. Cadieux
P.O. Box 307
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[collectively the "Parties"]

WHEREAS Dean Cadieux is the registered owner of the lands legally described as NW quarter and S half of section 6-66-13-W4M ["NW6 and S6"];

WHEREAS Dean Cadieux and Karen Cadieux are both registered owners of the lands legally described as NE 6-66-13-W4M [together with NW6 and S6 collectively the "Lands"] in Lac La Biche County, Alberta;

WHEREAS the Beaver River transects the Lands in a meandering pattern in a north-south direction;

WHEREAS an Unnamed Creek, bearing waterbody ID #298359 in the Fish and Wildlife Management Information System [the "Creek"] flows from the northeast across the Lands to the Beaver River;

WHEREAS on April 5, 2018, Alberta Environment and Parks ["AEP"] received a complaint that clearing of vegetation and excavation activities had occurred beside the Beaver River on the east side of highway 36;

WHEREAS on April 6, 2018, AEP Environmental Protection Officers ["EPOs"] attended the Lands and observed:

- Cleared upland vegetation and outer riparian vegetation on the Lands in close proximity (approximately within 7.0 metres of) to the Beaver River.
- Material associated with the clearing pushed into the shoreline and riparian zone of the Beaver River.
- A manmade structure constructed of boulders and other soil materials across a section of the Beaver River.

- Rig matting across another forked channel of the Beaver River, approximately 40 meters in length with an abutment, on top of ice, in the center of the spans.
- Contouring, shoreline modification and clearing of both upland and riparian vegetation on the west side of the Beaver River which exposed patches ice.
- Bare soils exposed along the east side of the Beaver River with brush piles orientated perpendicular to the River.
[collectively the "Beaver River Unauthorized Activity"]

WHEREAS during their attendance on the Lands on April 6, 2018, the EPOs also observed:

- The Creek which had a defined channel approximately 0.60 - 0.75 meters deep and 1.0 - 1.5 meters wide showing recent water flow and freezing with a descending pitch towards the Beaver River.
- Vegetation had been removed and bare soils exposed by a tracked vehicle throughout the extent of the Creek.
- Erosion and rills along tracked vehicle movement and stripping areas along the Creek banks.
- A tracked piece of equipment (dozer) moving vegetation and soil in and around the Creek.
- The Creek's channel had been altered throughout the extent of the Lands with loose, disturbed soils present at multiple locations within the Creek.
- An excavator actively excavating ice, snow, vegetation and sediment from the bed and shore of the Creek.
- Ice and sediment piled along the banks of the Creek.
[collectively the "Creek Unauthorized Activity" together with Beaver River Unauthorized Activity collectively the "Unauthorized Activity"]

WHEREAS during their attendance on the Lands on April 6, 2018, the EPOs did not observe any erosion or siltation control measures in relation to the Unauthorized Activities on the Lands;

WHEREAS based on the observations by the EPOs on April 6, 2018, there is risk that the erosion and sedimentation caused by the Unauthorized Activity would have further significant adverse effect to the aquatic environment if those unauthorized activities are not remediated and stabilized prior to the spring runoff;

WHEREAS on April 6, 2018, the EPOs interviewed Mr. Cadieux and Mr. Cadieux admitted:

- The Unauthorized Activity on the Lands began in 2017 and was continued in 2018.
- The Unauthorized Activity was done by Mr. Cadieux or at his direction by employees of Cadieux Bros Transport Ltd. using Cadieux Bros Transport Ltd. equipment.
- The manmade structure across a section of the Beaver River was there when the Lands were purchased in 1996 and 1997; however in December 2017 Mr. Cadieux added boulders and soil, building it up approximately 2 feet.
- Mr. Cadieux had not contacted AEP and had not applied for any *Water Act* approval in relation to the Unauthorized Activity.

WHEREAS by letter dated April 10, 2018, AEP advised Mr. Cadieux that the Unauthorized Activity required an approval under the *Water Act* in order to legally commence and continue the activity and was advised to:

- Immediately cease any further work in or around the above mentioned waterbodies;

- Establish an Erosional and Sedimentation Plan for the Lands utilizing guidance documents such as Alberta Transportations Erosion and Sediment Control Manual (2011); and
- Not utilize mechanical equipment near the water bodies.

WHEREAS the Beaver River and the Unnamed Creek, (#298359) are each a "water body" within the meaning of section 1(1)(ggg) of the *Water Act*,

WHEREAS the Unauthorized Activity is an "activity" as defined in section 1(1)(b)(i) of the *Water Act*, namely removing or disturbing ground, vegetation or other material in or on any land, water or water body that causes, may cause or may become capable of causing the siltation of water or the erosion of the bed or shore of a water body, or causes, may cause or may become capable of causing an effect on the aquatic environment;

WHEREAS section 36(1) of the *Water Act* states that no person shall commence or continue an activity except pursuant to an approval unless otherwise authorized under the *Act*;

WHEREAS AEP has not issued an approval for the Unauthorized Activity to any of the Parties and the Unauthorized Activity is not otherwise authorized under the *Water Act*;

WHEREAS Mr. Dean Cadieux, is a "person responsible" for the activity described herein pursuant to section 1(1)(kk) of the *Water Act* and section 1(5) of the *Water (Ministerial) Regulation* (AR 205/1998) as the person who commenced and carried out Unauthorized Activity without an approval;

WHEREAS Ms. Karen Cadieux, is a "person responsible" for the activity described herein pursuant to section 1(1)(kk) of the *Water Act* and section 1(5) of the *Water (Ministerial) Regulation* (AR 205/1998) as an owner of the land on which the Creek Unauthorized Activity were carried without an approval;

WHEREAS, Neil Brad, AEP Regional Compliance Manager, Lower Athabasca Region [the "Director"] has been designated as a Director for the purpose of issuing enforcement orders under the *Water Act*;

WHEREAS the Director is of the opinion that the Parties have contravened section 36(1) of the *Water Act*, which is an offence under section 142(1)(h) of the *Water Act*, by commencing or continuing an activity without an approval;

THEREFORE, I, Neil Brad, Director, pursuant to sections 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

1. The Parties shall immediately cease all unauthorized activity on the Lands.
2. The Parties shall implement sediment and erosion control measures including silt fencing and matting in and around the Beaver River and the Creek and remove the rig matting as soon as conditions allow.
3. The Parties shall submit to the Director, for the Director's approval, the name and qualifications of a Qualified Aquatic Environmental Specialist [the "QAES"] with experience in preparing a remedial plan by APRIL 27 2018.

4. The Parties shall submit to the Director, for the Director's approval, a written remedial plan [the "Remedial Plan"] by MAY 17 2018, which is signed and prepared by a Qualified Aquatic Environmental Specialist (QAES).
5. The Parties shall include the in Remedial Plan, at least all of the following:
 - A. A detailed description for how the Beaver River Unauthorized Activity will be remediated;
 - B. A detailed description of how the Creek will be restored on the Lands;
 - C. A description of the methods to be used to stabilize and re-vegetate the banks of the Beaver River and the Creek, utilizing natural seed bank and natural riparian vegetation;
 - D. A description of the measures that will be implemented to prevent and minimize ongoing erosion and sedimentation to the Beaver River and the Creek and to mitigate any erosion and sedimentation that will result from the intended remedial measures;
 - E. A description of the type of equipment, methods, and materials that will be used in implementing the Remedial Plan;
 - F. A description of the long-term monitoring and maintenance measures that will be implemented such that the remedial measures remain effective in stabilizing the banks of the Beaver River and the Creek and minimize ongoing erosion and sedimentation to the Beaver River and the Creek; and
 - G. A schedule for implementing the Remedial Plan with a completion date no later than July 26 2018.
6. The Parties shall implement the Remedial Plan as approved in writing by the Director in accordance with the schedule of implementation approved by the Director.
7. The Parties shall provide the Director with a minimum of 2 business days' notice by email prior to commencing any activity under the Remedial Plan.
8. The Parties shall submit to the Director a final report prepared and signed by the QAES describing the work undertaken to comply with this Order by AUGUST 30 2018

DATED at the Hamlet of Lac La Biche in the Province of Alberta, this 23rd day of April, 2018.

Original Signed by:
 Neil Brad
 Regional Compliance Manager
 Lower Athabasca Region

Notwithstanding the above requirements, the Parties shall obtain all other necessary approvals in complying with this order.

Take notice that this enforcement order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation. Failure to comply with this order may result in further enforcement proceedings.

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. For further information, please contact the Board Secretary at:

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