

WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-2020/04-SR

Patrick J McCarthy (the "Party")
PO Box 1660 Stn Main
Camrose, AB T4V 1X6

WHEREAS the Party is the registered owner of the lands legally described as the Southwest Quarter of Section 5, Township 47, Range 20, West of the 4th Meridian, located in Camrose County, in the Province of Alberta (the "Lands");

WHEREAS on June 10, 2019, Alberta Environment and Parks (AEP) received information from a member of the public that an activity was occurring involving a wetland on the Lands;

WHEREAS on June 10, 2019, the Party stated to an AEP Inspector that he was removing infill from the wetland;

WHEREAS a review of historical photos of the Lands from 2007 to 2018 by an Alberta Environment and Parks ("AEP") Inspector confirmed that:

- placement of infill consisting of earthen soil occurred on the west side of the "Impacted Wetland" between 2007 and 2011,
- the infill of the Impacted Wetland was approximately .96 hectares in size

[hereinafter, collectively referred to as the "Unauthorized Activity"]

WHEREAS AEP confirmed the Party hired Judo Construction company to do the Unauthorized Activity sometime between 2007 and 2011;

WHEREAS on June 11, 2019, an AEP Inspector attended the Lands and observed that infill was partially removed from the Impacted Wetland, however, most of the Unauthorized Activity remained substantially the same in size as confirmed in 2018.

[hereinafter, collectively referred to as the "Additional Unauthorized Activity"]

WHEREAS the Impacted Wetland is a water body within the meaning of section 1(1)(ggg) of the *Water Act*;

WHEREAS each of the Unauthorized Activities and Additional Unauthorized Activities is an “activity” as defined in section 1(1)(b) of the *Water Act*;

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

WHEREAS AEP has not issued an approval under the *Water Act* to the Party or any other person, authorizing any of the Unauthorized Activities, and these activities are not otherwise authorized under the *Water Act*;

WHEREAS the Party is a person responsible for the Unauthorized Activities pursuant to section 1(1)(kk) of the *Act* and section 1(5) of the Water (Ministerial) Regulation (AR 205/1998);

WHEREAS Todd Urquhart, Compliance Manager, Red Deer-North Saskatchewan Region, has been appointed a Director for the Purpose of issuing enforcement orders under the *Water Act* (the “Director”);

WHEREAS the Director is of the opinion that the Party has contravened section 36(1) of the *Water Act*, which is an offence under section 142(1)(h) of the *Act*, by conducting the Unauthorized Activities without an approval;

THEREFORE, I, Todd Urquhart, Director, pursuant to section 135(1) and 136(1) of the *Water Act*, **HEREBY ORDER THAT**:

1. The Party shall immediately cease all unauthorized activity on the Lands;
2. The Party shall retain an authenticating professional that meets each of the requirements of section 4.0 of “Professional Responsibilities in Completion and Assurance of Wetland Science, Design and Engineering Work in Alberta” (Government of Alberta, May 1, 2017) (the “Authenticating Professional”);
3. The Party shall, on or before, July 28, 2020, submit to the Director in writing all of the following information:
 - (a) the name and contact information of the Authenticating Professional, and
 - (b) a summary of how the Authenticating Professional meets all the requirements of Clause 2 of this Order;
4. On or before, September 22, 2020, the Party shall submit to the Director for the Director's written approval, a written Wetland Restoration Plan, prepared, stamped and signed by the Authenticating Professional;
5. In the Wetland Restoration Plan, the Party shall include, at least each of the following:
 - (a) a detailed plan to restore the Impacted Wetland to its condition prior to the Unauthorized Activities, including restoring at least each of the following:

- i. wetland boundary;
- ii. topography and slopes;
- iii. soils and
- iv. vegetation

in around the Impacted Wetland;

- (b) a complete list of the:
 - i. equipment,
 - ii. methods, including earth works and planting techniques, and
 - iii. materials, including salvaged and donor soils and vegetation,that will be used in the implementation of the Wetland Restoration Plan;

 - (c) a description of the measures to prevent all erosion, siltation and other adverse effects to
 - i. the Impacted Wetland, and
 - ii. all other water bodies,during all of the work carried out in the implementation of the Wetland Restoration Plan;

 - (d) a detailed proposal, prepared in accordance with Section 6 of the Alberta Wetland Restoration Directive (Government of Alberta, November 1, 2016) to complete a Wetland Restoration Verification (the "Wetland Restoration Verification Proposal") for the Impacted Wetland including after the first growing season, that includes at minimum:
 - i. date of verification site assessment;
 - ii. a statement concluding whether or not that the restoration works are in good condition and performing as intended;
 - iii. a statement concluding whether or not the restoration action has resulted in wetland area, class and value that are equivalent to the restoration plan; and
 - iv. a statement concluding whether or not the wetland has become established or is on a trajectory towards a healthy functioning wetland.
8. In the Wetland Restoration Plan, the Party shall include a schedule of implementation for the work proposed in the Wetland Restoration Plan, excluding the proposals required in clauses 7(d) of this Order, with a completion date of no later than November 30, 2020 (the "Completion Date");
9. The Party shall only complete the work described in the Wetland Restoration Plan in accordance with the Director's written authorization;
10. The Party shall provide the Director with 5 days' notice either by phone or email prior to commencing the work in the Wetland Restoration Plan as approved by the Director;
11. The Party shall implement the Wetland Restoration Verification Proposal in accordance with the Director's written authorization;

DATED at the City of Camrose in the Province of Alberta, this 16th day of June, 2020.



Todd Urquhart
Compliance Manager
Regulatory Assurance Division
Southern Region – Red Deer
Designated Director under the Act

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environment Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 115 is enclosed.

**For further information, please contact the Board Secretary at:
#306 Peace Hills Trust tower, 10011-109 Street,
Edmonton, Alberta, T5J 3S8
Telephone 780-427-6207; Fax 780-427-4693.**

Notwithstanding the above requirements, Patrick J McCarthy shall obtain all other necessary approvals or authorizations required to comply 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 the *Water Act* or any other legislation.

APPENDIX 1 SW5-47-20-W4
Approximately .96 hectares to be removed

