

WATER ACT

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

ENFORCEMENT ORDER NO. DORD0001090

Steve Downton
53312 Range Road 273
Spruce Grove, Alberta
T7X 3S1

WHEREAS Stephen Downton ("the Party") is the registered owner of the lands legally described as SE-21-53-27-W4M (the "Lands") located in Parkland County, Alberta;

WHEREAS on February 13, 2023, the Party's representative, TeckEra Consulting Ltd. ("TeckEra"), called the Alberta Environmental and Dangerous Good Emergencies hotline to report to Environment and Protected Areas ("EPA") that the Party had infilled wetlands on the Lands;

WHEREAS on April 5, 2023, TeckEra provided a summary to the EPA Environmental Protection Officer (the "EPO") of the activities completed on the Lands and indicated that the wetland infilling had occurred between December 2020 to March 2021;

WHEREAS on April 9, 2023, TeckEra provided EPA a Wetland Assessment and Impact Report prepared by Blackfly Environmental Ltd. ("Blackfly") in February 2020, for TeckEra, which identified five wetlands were assessed on the Lands;

WHEREAS on June 6, 2023, two EPA Environmental Protection Officers completed an inspection of the Lands and observed fill material had been placed into wetlands (the "Unauthorized Activity");

WHEREAS on June 9, 2023, an EPA Wetland Specialist completed a wetland referral and reviewed aerial photographs dating back to 1979, confirming the presence of six wetlands on the Lands;

WHEREAS on June 16, 2023, the EPO sent a Notice of Non-Compliance (the "Letter") to the Party, advising them that that are to take all reasonable measures to come back into compliance, and that no further activities can occur within a water body without written authorization from EPA;

WHEREAS the Letter, from EPA, requested that the Party acquire the services of a third-party Authenticating Wetland Professional to assess the impacts to the wetlands on the Lands, caused by the Unauthorized Activity, and complete a Compliance Wetland Assessment Report ("CWAR") by July 28, 2023. The CWAR was to also propose wetland replacement options to address the Unauthorized Activities;

WHEREAS on July 4, 2023, EPA was informed by email that the Party retained Blackfly as the authenticating wetland professional;

WHEREAS on April 15, 2024, Blackfly submitted a report titled, "Compliance Wetland

Assessment Report, Notice of Non-Compliance, No. 775032, LSD 08-21-053-27 W4, Stephen Downton, April 2024” (the “CWAR”) on behalf of the Party;

WHEREAS Blackfly identified six wetlands in the CWAR (W1 through W6), and determined that four of six wetlands were impacted by the unauthorized activity;

WHEREAS the CWAR included:

1. a proposal for onsite permittee responsible wetland restoration for two wetlands (W3 and W6) followed by restoration monitoring,
2. and fee replacement for two wetlands (W2 and W4) to the Wetland Replacement Program as the replacement option on the Lands;

WHEREAS the CWAR stated, the Party’s unauthorized activities since 2020 have impacted 0.484 hectares (“ha”) in two wetlands classified as Graminoid Marsh, and the ABWRET-A score from the Authenticating Professional for both wetlands was determined to be “D” value wetland;

WHEREAS the Director accepts the restoration and replacement options outlined in Section 6.0 of the CWAR, proposed by the Blackfly on behalf of the Party;

WHEREAS the Alberta Wetland Mitigation Directive (“Mitigation Directive”) identifies the replacement value ratio for a “D” value wetland as 1:1;

WHEREAS the Impacted Wetlands are located in the Relative Wetland Value Assessment Unit 1 (“RWVAU 1”) based on the Mitigation Directive;

WHEREAS the Impacted Wetlands are each a “water body” as defined in section 1(1)(ggg) of the *Water Act*;

WHEREAS the Unauthorized Activity 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 shall commence or continue an activity except pursuant to an approval unless it is otherwise authorized under the *Act*;

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

WHEREAS the Party is the person responsible for the Unauthorized Activity pursuant to section 1(1)(kk) of the *Water Act*;

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 Activity without an approval;

WHEREAS Edward Furler, Acting Compliance Manager, Regulatory Assurance Division, Capital District, has been designated as 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*.

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

1. No later than August 30, 2024, the Party shall submit, to the Director, confirmation of receipt of compensation paid to the EPA Wetland Replacement Program for the replacement of 0.484 ha of wetlands as a result from the Unauthorized Activity in RWVUA 1 at a replacement ration of 1:1.
2. Within 7 days of receiving confirmation of payment from the Wetland Replacement Program, the Party will provide a copy of the confirmation of payment to the Director.
3. The Party shall complete the wetland restoration as described in section 6.0 of the CWAR, in accordance with the Director's written authorization.
 - (a) The Party shall complete wetland restoration monitoring as described in section 7.0 of the CWAR.
4. The Party shall provide notice to the Director by email five days prior to commencing the work set out in section 6.0 of the CWAR.
5. On or before, August 27, 2027, the Party shall provide to the Director a written Reclamation Validation Report documenting the actions taken to complete with clause 3 of this Order.

DATED at Edmonton, in the Province of Alberta, this 2nd day of August 2024.



Edward Furler, Acting Director
Compliance Manager
Northern Region - Capital District

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, the Party 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 this or any other legislation.