

WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-2018/05-RDNSR

Reco Developments Corporation
7222 – 119 Street
Edmonton, Alberta T6G 1V6

(the "Company")

And

Marco Castro-Wunsch
Reco Developments Corporation
7222 – 119 Street
Edmonton, Alberta T6G 1V6

("Castro-Wunsch")

(collectively "the Parties")

WHEREAS the Company is the registered owner of the lands legally described as the east half of NW32-54-26-W4M in the County of Sturgeon County, in the Province of Alberta (the "Lands");

WHEREAS the Company is a corporate entity registered in Alberta, and Castro-Wunsch is one of two directors of the Company and is the sole voting shareholder, and at all material times made the decisions in respect of the issues which form the subject-matter of this Order;

WHEREAS there is an unnamed ephemeral water body (the "Water Body") that flows from the north to the south across the Lands for approximately 1.0 kilometers ("km") and drains into the Sturgeon River approximately 1.9 km downstream of the Lands;

WHEREAS on September 26, 2014, a Sturgeon County development officer issued a warning letter to the Company for unauthorized development – site grading on the Lands (Alberta Environment and Parks (the "Department") received a copy of this letter);

WHEREAS on October 20, 2014, the Department received a public complaint that Castro-Wunsch was hauling soil into a flood plain and was altering the natural flow of water on the Lands;

WHEREAS on October 29, 2014, an Environmental Protection Officer (“EPO”) with the Department inspected the Water Body on the Lands and observed that fill had been placed within the Water Body;

WHEREAS on February 6, 2015, the Department received another public complaint stating they observed a wetland being filled in on the Lands;

WHEREAS on June 3, 2015, an EPO with the Department inspected the Lands and observed a truck with a Rysen Bobcat Services Ltd. logo dumping soil directly into the Water Body;

WHEREAS on July 3, 2015 an EPO with the Department met with Castro-Wunsch, Derrick Brooks from Rysen Bobcat Services Ltd., and Quach Long, a tenant on the Lands. At that meeting the EPO observed a truck with a Cleanit Greenit logo offloading compost into the Water Body (Cleanit Greenit Composting Systems Ltd. has one of the same directors as the Company);

WHEREAS on July 22, 2015, the Department sent a notice of investigation letter to Castro-Wunsch and the Company;

WHEREAS on July 22, 2015, the Department sent an information request letter to Castro-Wunsch requesting:

- **a report be prepared by a qualified third party professional to assess all wetlands, including the size and class of wetland, that were affected by the placement of fill or other activities on the Lands;**
- **a description of how the natural drainage was impacted due to the placement of fill on Lands; and**
- **a plan be prepared by a qualified third party professional on how to restore the natural drainage on the Lands, including timelines on how the natural drainage will be restored to pre-disturbance conditions;**

WHEREAS on August 18, 2015, a member of the public raised concerns to the Department that the Company’s infilling activities on the Lands were blocking the natural drainage on the Lands and on adjacent lands;

WHEREAS on June 13, 2016, Castro-Wunsch provided the Department with a signed contract with Enviro Mak Inc. to complete a Wetland Assessment Report and Application for Restoration to be submitted to the Department;

WHEREAS on November 15, 2016, the Department received the Wetland Assessment and Impact Report (the “Report”) from Castro-Wunsch for the Lands, which proposed removing 0.32 hectares of fill material from the southeast corner of the Lands;

WHEREAS on April 3, 2017, the Department sent Castro-Wunsch a response to the Report which set out that the Department required:

- **a restoration plan prepared by a qualified third party professional for the removal of all fill material placed within the Water Body, which covered 2.4316 hectares; and**
- **prior approval from the Department prior to undertaking any restoration activities on the Lands;**

WHEREAS on May 31, 2017, the Department received a wetland restoration plan entitled "Wetland Restoration Plan for Flood Protection/Restoration at NW32-54-26-W4M in Sturgeon County Alberta" (EnviroMak Inc., May 31, 2017) (the "Plan") from Castro-Wunsch for the Lands;

WHEREAS on October 11, 2017, an EPO and Wetland Specialist with the Department reviewed the Plan and provided further comments to include in the restoration of the Water Body;

WHEREAS the Water Body is a "water body" as defined in section 1(1)(ggg) of the *Water Act*;

WHEREAS the placement of fill on the Lands is an "activity" as defined in section 1(1)(b)(i) of the *Act*, created by removing or disturbing ground in or on any land, water or a water body, which has altered the flow of water or changed the location of water;

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 the Department has not issued an approval for any activity on the Lands to the Company, Castro-Wunsch or any other person, and this activity is not otherwise authorized under the *Act*;

WHEREAS John Collins, Compliance Manager, Red Deer North Saskatchewan Region (the "Director") has been appointed a Director for the purposes of issuing enforcement orders under the *Act*;

WHEREAS the Director is of the opinion that the Company and Castro-Wunsch are each a person responsible for the placement of fill in or around the Water Body on the Lands pursuant to section 1(1)(kk) of the *Water Act*, and section 1(5) of the *Water (Ministerial) Regulation* (AR 205/98);

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

WHEREAS the contents of this Order reflect the Department's Wetland Specialist's comments to the Plan to restore the Water Body;

THEREFORE, I, John Collins, Director, Red Deer North Saskatchewan Region, pursuant to sections 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

Cease activity

1. The Parties immediately cease all unauthorized activities on the Lands.

Restoration Plan

2. The Parties shall remove 2.4316 hectares of fill material from the Water Body and carry out the remaining restoration work as described in the Wetland Restoration Plan for Flood Protection/Restoration at NW32-54-26-W4M in Sturgeon County Alberta (EnviroMak Inc., May 31, 2017) (the "Plan") with the following additions:

- a. implement a 30 metre buffer from the natural Water Body boundary for all upland fill placement, to be clearly marked out on the Lands;
 - b. prevent all erosion and sedimentation from the restoration work, including the excavation and placement of fill material, from entering any downstream water body including but not limited to the Sturgeon River;
 - c. plant native perennials and woody species in the adjacent upland to the Water Body to provide habitat for waterfowl and songbirds, and provide a physical-chemical buffer from surrounding land uses and disturbances; and
 - d. conduct the restoration work outside of the Restricted Activity Period for the Unnamed Creek (FWMIS ID 41837) with completion by December 31, 2018.
3. The Parties shall include a schedule of implementation of the Plan, including a proposed commencement date and completion date, which shall be submitted for approval by the Director.
 4. The Parties shall implement the Plan in accordance with clause 2 of this Order and the schedule of implementation once the schedule of implementation has been approved by the Director.

Validation Report

5. Within 30 days of the completion of the Plan, the Parties shall submit a Wetland Validation Report to the Director for the approval (the "Validation Report").
6. The Validation Report shall meet all the requirements of Section 4 of the "Alberta Wetland Restoration Directive" (AEP, Nov 1, 2016) (the "Directive").
7. The Validation Report shall be signed and stamped by an Authenticating Professional in accordance with the "Professional Responsibilities in Completion and Assurance of Wetland Science, Design and Engineering Work in Alberta" (AEP, May 1, 2017) (a "Professional").

Monitoring Report

8. After a minimum of two years of growing seasons have been completed following the completion of the Plan, the Parties shall submit a Wetland Reclamation Monitoring Report ("Monitoring Report") to the Director for approval.
9. The Monitoring Report shall meet all the requirements of Section 5 of the Directive.
10. The Monitoring Report shall be signed and stamped by a Professional.

Verification Report

11. After a minimum of four years of growing seasons have been completed following the completion of the Plan, the Parties shall submit a Wetland Reclamation Verification Report ("Verification Report") to the Director for approval.

12. The Verification Report shall meet all the requirements of Section 6 of the Directive.
13. The Verification Report shall be signed and stamped by a Professional.

DATED at the City of Edmonton in the Province of Alberta, this 27 day of July, 2018.



John Collins
Compliance Manager
Red Deer North Saskatchewan Region

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. 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 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 or any other legislation.