

PUBLIC LANDS ACT

BEING CHAPTER P-40 R.S.A. 2000 (the "Act")

Amendment No. 1 to

ENFORCEMENT ORDER NO. PLA-EO-2019/02-SSR

Bremner Engineering and Construction Ltd.
c/o Registered Office
116 Boulder Crescent
Canmore, Alberta
T1W 1L2

("BECL")

and

Mr. Richard Bremner
Box 8270
Canmore, Alberta
T1W 2V1

(collectively the "Parties")

WHEREAS Richard Bremner is the sole director and shareholder of BECL, a corporation registered in Alberta, and is the directing mind and principal of BECL;

WHEREAS the lands legally described as SW-19-24-09-W5, and Plan 9112067 Lot 2 located on the NW-18-24-09-W5, in the Municipal District of Bighorn in the Province of Alberta (collectively the "Lands"), are "public lands" within the meaning of the *Public Lands Act*, R.S.A 2000 Chapter P-40 (the "Act");

WHEREAS on January 24, 1991, surface material lease SML900046 ("SML900046"), a formal disposition under the *Act*, was issued to Jamer Sand and Gravel Inc. ("JSGI"), for a term of 10 years commencing on November 1, 1990, for the right to work and remove sand and gravel and manufacturing clay out of the surface of the Lands;

WHEREAS effective as of July 14, 1994, JSGI assigned all rights and interests in SML900046 to BECL;

WHEREAS SML900046 expired on October 31, 2000;

WHEREAS condition 12 of SML900046 required BECL to, at the cancellation or termination of the lease, deliver possession of the Lands to the Minister in a satisfactory condition;

WHEREAS condition 13 of SML900046 required BECL to reclaim the surface of the Lands in a manner satisfactory to the Minister;

WHEREAS on April 15, 2007, Alberta Environment and Parks ("AEP") Land Division staff inspected the Lands and found that BECL had not completed its reclamation obligations as required by SML900046;

WHEREAS AEP sent a letter to BECL on May 4, 2009, advising BECL that BECL's reclamation obligations were unfulfilled and requiring BECL to obtain a Temporary Field Authorization ("TFA") for the required reclamation;

WHEREAS AEP issued TFA No. TFA092366 on May 28, 2009, which required BECL to submit a plan of reclamation to AEP for review and approval;

WHEREAS BECL submitted to AEP a reclamation plan dated October, 2009, and three supplemental information request letters dated November 2, 16 and 30, 2009, amending the reclamation plan, which together were approved by AEP on December 9, 2009, as the "Conservation and Reclamation Business Plan" or "CRBP";

WHEREAS AEP issued two additional TFAs to BECL dated December 11, 2009, and February 4, 2011, which each expired after one year, authorizing BECL to reclaim the disturbed land in accordance with the CRBP;

WHEREAS on January 30, 2012, BECL sent a letter to AEP requesting a new TFA to replace TFA111608 to complete ongoing reclamation activities on the Lands. No authorization was issued to BECL to continue reclamation activities on the Lands;

WHEREAS on October 20, 2015, AEP Lands Officers inspected the Lands and confirmed:

- the Lands were being used for the unauthorized storage of imported aggregate and topsoil stockpiles;
- reclamation activities had been discontinued;
- that weed control was required;
- a GPS survey of the perimeter of SML900046 identified previous trespass occurrences along the west boundary, identified as a road to gain access to the uppermost portion of the Lands, on lands legally described as SE-24-24-10-W5 (the "Trespass Lands");

WHEREAS the Trespass Lands, as identified in the attached Appendix A, are located adjacent to the SW-19-24-09-W5 and are public lands within the meaning of the *Act*;

WHEREAS AEP has never received an application from nor issued any authorization to either of the Parties to use, occupy or develop the Trespass Lands or any area outside that described in SML900046;

WHEREAS on February 9, 2016, AEP sent BECL a letter stating that occupation to conduct reclamation activity on the Lands must be approved by a TFA, and identifying several CRBP non-compliance items for BECL to address, including:

- unauthorized imported stockpiles of fill, rundle rock, and pit run to cease immediately;
- unauthorized storage of culverts to be removed immediately;

- waste debris to be removed from imported fill on site prior to fill being used for reclamation; and
- weed control measures required.

WHEREAS on November 30, 2017, the AEP Investigator conducted a site visit of the Lands and confirmed:

- reclamation activities were occurring on the Lands, but had not yet been completed;
- a road to gain access to the top portion of the Lands along the west boundary was constructed on the Trespass Lands;
- the Lands were still being used for the unauthorized storage of imported aggregate rock material;
- waste debris was observed mixed within imported fill on the Lands; and
- weeds were observed across the Lands.

WHEREAS section 21(1)(f) of the *Public Lands Administration Regulation* (A.R. 187/2011, as amended) ("PLAR") states the holder of a formal disposition must, on the expiry, cancellation, surrender, or abandonment of the formal disposition, reclaim the subject land to an equivalent land capability;

WHEREAS section 54(1) of the Act prohibits a person from causing or permitting loss or damage to public land, or activities on, or the use of, public land that is likely to result in loss or damage, or excavation;

WHEREAS under section 56(1)(n) of the Act, a person who as the holder of a disposition, contravenes a provision of the disposition, is guilty of an offence;

WHEREAS section 20(1)(b) of the Act states that no person shall enter on and occupy public land for any purpose unless authorized by the director;

WHEREAS section 56(1)(d) of the Act states that a person who occupies public land and is not the holder of a disposition or an authorization under section 20 authorizing the person to do so and is not otherwise authorized to do so under this Act and the regulations, is guilty of an offence;

WHEREAS section 59.1 of the Act provides that where the director is of the opinion that a person has contravened a section of the Act or regulation, the director may issue an enforcement order to that person;

WHEREAS Craig Knaus, Compliance Manager, South Saskatchewan Region, has been appointed a Director for the purposes of issuing enforcement orders under the Act (the "Director");

WHEREAS the Director is of the opinion that the Parties have contravened section 21(1)(f) of PLAR by not reclaiming the Lands to an equivalent land capability;

WHEREAS the Director is of the opinion that the Parties have contravened section 54(1) of the Act by causing or permitting loss or damage to the Trespass Lands, or activities on, or the use of the Trespass Lands, that were likely to result in loss or damage, or excavation of the Trespass Lands;

WHEREAS the Director is of the opinion that the Parties have contravened section 56(1)(n) of the Act by not satisfying conditions 12 and 13 of former SML900046.

WHEREAS the Director is of the opinion that the Parties have contravened section 20(1)(b) of the Act by:

- occupying the Lands for the unauthorized purpose of storing imported aggregate and rock material stockpiles on the Lands; and
- entering on and occupying the Lands and the Trespass Lands without having authorization from the director to do so;

WHEREAS each of the Parties is a "person responsible", as defined in section 1(o.1) of the Act;

THEREFORE, I, Craig Knaus, the Director, pursuant to section 59.1 of the *Public Lands Act*, DO HEREBY ORDER THAT:

A. For the Area Covered by SML900046 (the Lands):

1. The Parties shall by June 8, 2019, remove all imported aggregate and rock material from the Lands that is not authorized for use for reclamation activities under the CRBP.
2. The Parties shall by **October 31, 2019**, submit a schedule to AEP, for approval by the Director, for the implementation and completion of the work to be undertaken to reclaim the Lands as set out in the CRBP, which work shall have a completion date of no later than **October 30, 2020**, or as otherwise identified in the TFA.
3. The Parties shall by **November 29, 2019**, submit to AEP a current "as-built" diagram of the Lands, prepared by a qualified engineering firm with the appropriate knowledge, experience, and professional designations, verifying the existing status of any previous reclamation activities on the Lands.

B. For the Area Outside of SML900046 (the Trespass Lands):


4. The Parties shall by **October 31, 2019**, submit to AEP a schedule to reclaim the Trespass Lands to, at a minimum, meet the same standards that are set out in the CRBP, which work shall have a completion date of no later than **October 30, 2020**, or as otherwise identified in the TFA.
5. The Parties shall by **November 29, 2019**, submit to AEP a current "as-built" diagram of the Trespass Lands, prepared by a qualified engineering firm with the appropriate knowledge, experience, and professional designations, verifying the existing status of any previous reclamation activities on the Trespass Lands.

C. For both the Lands and the Trespass Lands:

6. The Parties shall implement the reclamation work required under this Order in accordance with the schedules approved by the Director for each of:
 - a. the Lands; and
 - b. the Trespass Lands.

7. The Parties shall implement and complete to the satisfaction of the Director the reclamation work required to:
 - a. reclaim the Lands in accordance with the CRBP; and
 - b. reclaim the Trespass Lands to, at a minimum, meet the standards that are set out in the CRBP.
8. Prior to undertaking any reclamation work required under this Order, the Parties shall apply for and obtain from AEP a TFA authorizing the Parties to access the Lands and the Trespass Lands for such purposes.
9. The Parties shall ensure the topsoil used for the reclamation work required under this Order meets the surface soil and subsurface soil guidelines in the *Alberta Tier 1 Soil and Groundwater Remediation Guidelines*, and is analysed at a minimum for the following parameters:
 - a. BTEX;
 - b. PHC Fractions F1-F4;
 - c. PAHs;
 - d. Regulated Metals;
 - e. Total Dissolved Solids;
 - f. Chloride;
 - g. Detailed Salinity;
 - h. pH; and
 - i. Particle size.
10. Within 30 days after completing all of the requirements of this Order, the Parties shall submit to the Director a written report, prepared by a qualified engineering firm with the appropriate knowledge, experience, and professional designations, which includes:
 - a. a description of the work undertaken to comply with this Order;
 - b. a certification of completion confirming that all required reclamation work has been fully completed in accordance with this Order; and
 - c. updated "as built" diagrams that show the status, after completion of the reclamation work undertaken to comply with this Order, of each of:
 - (i) the Lands; and
 - (ii) the Trespass Lands.

DATED at the City of Calgary in the Province of Alberta, this 19th day of September, 2019.



Craig Knaus
Compliance Manager (the Director)
South Saskatchewan Region

Notwithstanding the above requirements, the Parties shall obtain all other necessary approvals from any regulatory agency (provincial or federal) in complying with this order.

Take notice that this environmental 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 211 of the *Public Lands Administration Regulation* may provide a right of appeal against this decision to the Public Lands Appeal Board. There may be a strict time limit for filing such an appeal. A copy of section 211 is provided below.

Appendix A

SML900046

