

**WATER ACT**

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

**ENFORCEMENT ORDER NO. EO-WA-38739**

Capital Power Generation Services Inc.  
2500-10220 103 Ave NW  
Edmonton, AB T5J 0K4  
(the "Party")

**WHEREAS** the Party is the registered owner of the lands legally described as Section 25, Township 50, Range 3, West of the 5<sup>th</sup> Meridian, within Leduc County (the "Lands");

**WHEREAS** Sandra Haskins and Brian Vaasjo are named as Directors of the Party;

**WHEREAS** on August 11, 2021, Alberta Environment and Parks (AEP) was made aware of an impact to a wetland resulting from the construction of a laydown area on the Lands (the "Unauthorized Activity"), which occurred some time between late March and early April of 2021 at the Genesee Generating Station, when the Party self-reported the Unauthorized Activity to AEP;

**WHEREAS** the Party did not have a *Water Act* approval in place authorizing the Unauthorized Activity;

**WHEREAS** the Party submitted a letter to AEP on August 17, 2021, detailing the location of the wetland and the impacts resulting from the Unauthorized Activity;

**WHEREAS** an AEP Environmental Protection Officer ("EPO") sent the Party a Notice of Non-Compliance (Notice) on September 9, 2021 requesting that the Party:

1. retain an Authenticating Wetland Professional (the "Professional") to assess the impact to the wetland;
2. provide a response to AEP by September 23, 2021 with information on the Professional's wetland assessment credentials; and
3. submit a Compliance Wetland Assessment Report (CWAR) stamped and signed by the Professional by November 8, 2021.

**WHEREAS** the Party provided a response to the Notice on September 15, 2021 and confirmed its intent to remediate the Unauthorized Activity;

**WHEREAS** in the Party's response it confirmed that it had retained Golder Associates (the "Consultant") to provide technical assistance to remedy the impacts caused by the Unauthorized Activity;

**WHEREAS** the Party submitted a full CWAR on November 23, 2021;

**WHEREAS** the CWAR classified the impact as a semi-permanent graminoid marsh (the “Impacted Wetland”), 1.00 hectare of which was impacted by the Unauthorized Activity;

**WHEREAS** the CWAR proposed that the Party pay a replacement fee to compensate for the Impacted Wetland, but the CWAR did not address the option of reclaiming or replacing the Impacted Wetland on or off the Lands as set out in the Alberta Wetland Policy;

**WHEREAS** on June 7<sup>th</sup>, 2022, the Director met with representatives of the Party to discuss replacement options other than replacement fees, and the Party committed to submitting a report outlining all available wetland replacement options;

**WHEREAS** the Party submitted a report on August 9, 2022, titled “Capital Power Genesee Wetland Replacement Options – AEP Reference No. 382368” (the “Report”) created by Golder Associates, that outlined six options including off-site wetland replacement options;

**WHEREAS** in the report, the consultant specified that an off-site wetland replacement could not be completed for at least two-years;

**WHEREAS** the Impacted Wetland is a “water body” as defined in Section 1(1)(ggg) of the *Water Act*;

**WHEREAS** the Activity is an “activity” as defined in Section 1(1)(b) of the *Water Act*;

**WHEREAS** the *Water Act* states that no person shall commence or continue an activity except pursuant to an approval unless it is otherwise authorized under this *Act*;

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

**WHEREAS** the ABWRET-A score for the Impacted Wetland was determined to be a “D” value wetland;

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

**WHEREAS** the Impacted Wetland has a replacement rate of \$19,100/ha;

**WHEREAS** Maxwell Harrison, Compliance Manager, 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 *Water Act*, by conducting the Activity without an approval;

**WHEREAS** the Director accepts the initial proposal by the Party to pay wetland replacement fees for the Impacted Wetland;

**THEREFORE**, I, Maxwell Harrison, Director, pursuant to Section 135(1) and 136(1)) of the *Water Act*, HEREBY ORDER THAT:

1. The Party shall replace 1.00 hectare of wetland area by paying a wetland restoration service fee to the AEP Wetland Replacement Program to compensate for the Impacted Wetland at a 1:1 ratio at a rate of \$19,100/ha, resulting in \$19,100 to be paid to the Wetland Replacement Program Dedicated Revenue Initiative.

2. No later than January 15, 2022, the Party shall submit confirmation of agreement to the Director to pay the AEP Wetland Replacement program a service fee of \$19,100 for the replacement of 1.00 hectare of wetland area as a result of the Activity on the Impacted Wetland.
3. Payment as described in Clause 1 must be completed within 90 days of the issuance date of this Order.
4. Within 7 days of receiving confirmation of payment receipt acceptance, the Party will provide the confirmation to the Director.

DATED at the City of Edmonton, in the Province of Alberta, this 29<sup>th</sup> day of November 2022.

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Maxwell Harrison  
Compliance Manager  
Regulatory Assurance Division  
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.**