

Water Act

BEING CHAPTER W-3, R.S.A. 2000 (the “Act”)

ENFORCEMENT ORDER NO. EO-WA-40981

Linda SIDE
SIDE ASSET MANAGEMENT LTD.
206, 10625 West Side Drive
Grande Prairie, AB T8V 8E6

WHEREAS SIDE ASSET MANAGEMENT LTD. is the registered owner of the lands legally described as SW-03-071-06-W6M located in the County of Grande Prairie No. 1, in the Province of Alberta (the “Lands”);

WHEREAS SIDE ASSET MANAGEMENT LTD. is a corporate entity registered in Alberta and Hassen Alex SIDE, Linda Maureen SIDE, Rhonda SIDE, and Barbara V. SIDE are Directors of SIDE ASSET MANAGEMENT LTD.;

WHEREAS on September 6, 2022, Alberta Environment and Protected Areas (“EPA”) received a complaint alleging that dump trucks with dirt and other machinery were infilling the wetland on the Lands;

WHEREAS on September 6, 2022, an EPA Environmental Protection Officer (“EPO”) conducted a site inspection of the Lands and observed the following:

- There was a dirt crossing which separated the wetland into a west wetland and east wetland, the crossing had a single culvert in it to allow water to move from one side to the other;
- All the recent activity took place west of the crossing;
- A piece of heavy equipment (a grader) was on site, but not being actively operated;
- New dirt had encroached multiple different areas of the wetland (not the currently wetted area, but below the upland);
- New dirt was covering wetland vegetation in areas on the south side of the west wetland;
- Some areas had approximately 30 cm of new dirt placed on top of wetland vegetation;
- Fresh tire tracks from heavy equipment were observed to be sunk into the soil at multiple locations due to soft wetland type soil;
- Standing water levels in the wetland were low;
- The west reaches of the west wetland were without standing water;
- A straight dry trench could be seen in the west reaches of the wetland;
- There were no signs of any new dirt being added to the north side of the west area of the west wetland;
- The north side of the west wetland has had the vegetation cut and ground plowed/broken up;

- A piece of heavy equipment had recently drove part way into the wetland and dumped a pile of large wooden sticks into the wetland;
- Multiple different types of wetland birds were observed using the wetland;
- The northeast part of the west wetland (north of the wetted area) had a lot of loose soil on the ground, approximately 12 – 20 cm above the level of the undisturbed ground;
- Wetland vegetation was observed adjacent to all areas where new dirt and/or loose soil was present;

[Hereinafter, collectively referred to as the “Unauthorized Activities”]

WHEREAS on September 6, 2022 an EPO spoke with Jeremy WALKER, designated representative for AI SIDE and ASSET MANAGEMENT LTD., who said the following:

- The intention of the work was not to fill in the wetland, but to fill in low spots;
- His father-in-law, AI SIDE, is directing the work and lives on the property; however, Jeremy WALKER requested that he continue to be the point of contact moving forward;

WHEREAS AI SIDE’s legal name is Hassen Alex SIDE;

WHEREAS on September 9, 2022 an EPO spoke with Jeremy WALKER and asked him not to do any further work to the area and said that an EPA Wetland Specialist would be reviewing the area;

WHEREAS on September 9, 2022 an EPO spoke with Jeremy WALKER who said the following:

- He spoke with the people who were hired to do the work and they said that they were trying to manage tansy and thistle;

WHEREAS on September 13, 2022 an EPA Wetland Specialist advised that ditching in the wetland had occurred between April 2021 and September 2021;

WHEREAS on October 19, 2022, an EPA Wetland Specialist completed a wetland assessment of the Lands and confirmed the presence of a naturally occurring wetland (the “Impacted Wetland”). Through this assessment the EPA Wetland Specialist provided a combined wetland boundary based on the observed wetland boundary from aerial photos from 1950, 1952, 1961, 1972, 1977, 1980, 1985, 1989, 1994, 2003, 2007, and 2021 (the “Historic Wetland Boundary”);

WHEREAS the EPA Wetland Specialist determined that unauthorized activities within this wetland such as infilling and ditch construction have impacted the wetland size and the wetland functions provided by the Impacted Wetland. Further, the EPA Wetland Specialist determined that these unauthorized activities have reduced the overall wetland area and have impacted wetland functions such as water storage, water quality improvement, nutrient cycling and has resulted in habitat impacts that affect biodiversity;

WHEREAS on June 27, 2023, an EPO met with Jeremy WALKER at the Lands and showed him a copy of the Historic Wetland Boundary. WALKER was surprised that the area to the south of dugout was included as part of the wetland because when one looks at that area currently it looks like an area ready to be cultivated. Jeremy WALKER noted that there are no immediate plans to further develop the area, but development of the area is within their 30-year plans;

WHEREAS on June 27, 2023, an EPO conducted a follow-up site inspection of the Lands and obtained Global Positioning System (GPS) tracks of the current undisturbed boundary of the wetland and cultivated areas. While doing this the EPO also observed the following:

- The entire area south of the wetland as well as the southeast part of the lands has not been cultivated;
- The cultivated area north of the wetland has a good buffer space between itself (the southern edge of the crop) and the taller wetland vegetation;
- This buffer area has wetland type vegetation starting to grow in it once more;
- The area of land south of the dugout does not look like a wetland anymore, it has been worked up and looks like the other cultivated land to the east;

[Note that these further observations are now added to the collective reference of “Unauthorized Activities” in this document]

WHEREAS on July 21, 2023, an EPO conducted a comparison between the surface areas of the Historic Wetland Boundary (3.95 hectares) and the current undisturbed wetland boundary (1.74 hectares). The current undisturbed wetland was found to be 2.21 hectares smaller than it has been historically;

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

WHEREAS each of the Unauthorized Activities are 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 EPA has not issued an approval to Hassen Alex SIDE, Linda Maureen SIDE, Rhonda SIDE, Barbara V. SIDE, SIDE ASSET MANAGEMENT LTD., or any other person authorizing any of the Unauthorized Activities in the Impacted Wetland on the Lands, and these activities are not otherwise authorized under the *Water Act*;

WHEREAS SIDE ASSET MANAGEMENT LTD. 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 Jack MCNAUGHTON, Compliance Manager, North 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 SIDE ASSET MANAGEMENT LTD. 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, Jack MCNAUGHTON, Director, pursuant to section 135(1) and 136(1) of the *Water Act*, HEREBY ORDER THAT:

1. SIDE ASSET MANAGEMENT LTD. shall immediately cease all unauthorized activity on the Lands.

2. SIDE ASSET MANAGEMENT LTD. 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. SIDE ASSET MANAGEMENT LTD. shall, on or before December 8, 2023, submit to the Director in writing, for the Director’s written approval, 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 July 5, 2024, SIDE ASSET MANAGEMENT LTD. shall submit to the Director for the Director’s written approval, a written Wetlands Assessment Report, prepared, stamped and signed by the Authenticating Professional.
5. The Wetlands Assessment Report shall include, at a minimum, a detailed assessment of:
 - (a) The condition of the Impacted Wetland prior to the Unauthorized Activities being undertaken, including all of the following:
 - i. delineation of wetland boundary;
 - ii. classification, determined in accordance with the “Alberta Wetland Classification System” (Government of Alberta, June 1, 2015);
 - iii. landscape characteristics, including topography and slopes;
 - iv. hydrology;
 - v. soils, and
 - vi. vegetation;
 - (b) The current locations and current physical characteristics of the Unauthorized Activities;
 - (c) Whether current site conditions will accurately reflect wetland value from an ABWRET-A assessment (Government of Alberta, 2015);
 - (d) All of the effects of the Unauthorized Activities on the Impacted Wetland;
 - (e) A Wetland Replacement Proposal in which the total area of the Impacted Wetland is replaced by selecting the highest priority replacement option, in the following priority order, with detailed justification if a higher priority option is not feasible:
 - i. In-situ Wetland Replacement (Priority #1 - highest): restore the Impacted Wetland to its respective condition prior to the Unauthorized Activities, including wetland area and classification in the same location the loss occurred; or
 - ii. Propinquity Wetland Replacement (Priority #2): replace the Impacted Wetland at a 1:1 ratio in close proximity to the Impacted Wetland within the Lands, and may including restoring wetlands of equal area and classification on the Lands (if available) as those lost as a result of the Unauthorized Activities; or
 - iii. Permittee-Responsible Wetland Replacement (Priority #3): retain a third

- party wetland replacement agent to meet the remedial requirements of SIDE ASSET MANAGEMENT LTD. to replace the Impacted Wetland in accordance with the Directive for Permittee-Responsible Wetlands Construction in Alberta and/or the Code of Practice for Wetland Replacement Works at a 3:1 ratio within Relative Wetland Value Assessment Unit 12; or
- iv. Utilization of the Wetland Replacement Program (Priority #4 – lowest): utilize the EPA Wetland Replacement Program to complete wetland restoration on behalf of SIDE ASSET MANAGEMENT LTD. for wetland areas lost.

DATED at the Town of Peace River, in the Province of Alberta, this 6th day of November, 2023.



Jack MCNAUGHTON
Compliance Manager, Alberta Environment and Protected Areas

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

**For further information, please contact the Board Secretary at:
Alberta Environmental Appeals Board
#306 Peace Hills Trust Tower, 10011 – 109th Street
Edmonton, Alberta, T5J 3S8
Telephone: (780) 427-6207; Fax: (780) 427-4693**

Notwithstanding the above requirements, SIDE ASSET MANAGEMENT LTD. shall obtain all necessary approvals from any regulatory agency (provincial or federal) 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 the *Water Act* or any other legislation.