

**IN THE PROVINCIAL COURT OF ALBERTA  
CRIMINAL DIVISION**

**BETWEEN:**

**HER MAJESTY THE QUEEN**

**- and -**

**PERMOLEX LTD.**

BEFORE THE HONOURABLE	)	On Wednesday, the 18th day of
JUDGE J. A. HUNTER	)	April, 2012.
AT RED DEER, ALBERTA	)	

**ORDER PURSUANT TO SECTION 234(1) OF THE  
ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

**WHEREAS** PERMOLEX LTD. has entered a plea to:

**Count #1 of Information 090850546P1**

On or about the 23<sup>rd</sup> day of July, 2007, at or near Red Deer in the Province of Alberta did contravene a term or condition of an approval: to wit, section 4.2.4 of approval 46503-00-02 which provides as follows:

Industrial wastewater shall be discharged to the City of Red Deer sanitary sewer system in accordance with the City's requirements

and did thereby commit an offence contrary to section 227(e) of the *Environmental Protection and Enhancement Act*.

**Count #2 of Information 100181304P1**

On or between the 20<sup>th</sup> day of June 2006 and the 28<sup>th</sup> day of April 2008, both dates inclusive, at or near Red Deer in the Province of Alberta did contravene a term or condition of an approval: to wit Approval No. 46503-00-02, section 4.1.2 which states:

The approval holder shall only emit effluent streams to the atmosphere from the following sources:

- (e) the ethanol scrubber exhaust vent identified in the application as C-422

and did thereby commit an offence contrary to section 227(e) of the *Environmental Protection and Enhancement Act*.

**WHEREAS** the root cause of both incidents was a failure to have a qualified process engineer working at the facility, the company has since hired a professional process engineer and will continue to pay for the services of a qualified professional for the maximum period of time provided for under the legislation being three years from the date of this Order.

**AND WHEREAS** in addition to a fine of \$50,000.00, \$25,000.00 in respect of count #1 on information 090850546P1 and \$25,000.00 in respect of count #2 on information 100181304P1 (inclusive of victim fine surcharge) for which time to pay has been granted to May 2, 2012, the Crown and Defence counsel have made a joint submission to this Honourable Court for a creative sentencing project to provide funding to the City of Red Deer. The City will use the funds to measure the quality and quantity of storm water entering the Red Deer River and creek tributaries, as well as determine the City's impact on the river, analyze the river's capacity to handle pollutants, and develop methods to reduce impacts.

**AND WHEREAS** the total contribution from this creative sentence to the Red Deer River Storm Water Project is \$100,000.00;

**IT IS HEREBY ORDERED** that pursuant to the provisions of section 234(1) of the *Environmental Protection and Enhancement Act*, PERMOLEX LTD. shall comply with the following conditions:

1. On or before the 1<sup>st</sup> day of May, 2012, PERMOLEX LTD. shall deposit the amount of \$100,000.00 into a trust account (the "Trust Account") at the City of Red Deer (the "City") for the sole purpose of funding the Red Deer River Storm Water Project, as described in Appendix "A" hereto;
2. The conditions upon which funds may be disbursed from the Trust Account are set out in Appendix "B" hereto.
3. For the purpose of the administration of the Red Deer River Storm Water Project, the association's representative will be Mr. Tom Warder, P. Eng, Environmental Services Manager for the City of Red Deer, or his designate. The Alberta Environment representative will be Hanneke Brooymans or her designate.
4. Mr. Warder as a duly authorized representative of the City, shall authorize all expenditures from the Trust Account, and shall verify such expenditures are incurred for purposes for which the Trust Account was established, all as more particularly set out in this Order;
5. Upon payment of the monies as required in paragraph 1 of this Order, PERMOLEX LTD. shall have no further responsibility for the funds in the Trust Account.
6. In the event that any of the conditions of this Order cannot be satisfied, or the City is not prepared to accept the funds set out in paragraph 1 of this Order under the conditions specified, or that all such funds are not necessary for the purposes set out herein, Counsel for

7. PERMOLEX LTD. and Alberta Justice shall meet to resolve the issue, failing which the parties have leave to appear before this Honourable Court for further direction.

DATED this 18th day of March, 2012, in the City of Red Deer, in the Province of Alberta.

---

Judge J. A. Hunter  
Provincial Court of Alberta

CONSENTED TO BY:

---

Susan McRory, Crown Prosecutor

AND:

---

Alan Blair, Gowlings  
Counsel for Permolex Ltd.

## APPENDIX "A"

### **Red Deer River Storm Water Project**

#### **Project Summary**

In 2011, the City of Red Deer took a major step in environmental stewardship when they released a 25-year Environmental Master Plan.

The plan included input from citizens, local businesses and industries, community groups and developers. This input was used to craft a plan that defined environmental priorities and goals for the city.

One of the plan's prime goals was to improve the quality of water resources.

"The Red Deer River is an important resource for the city," the plan says. "It provides a natural heritage system, drinking water for residents, water for commercial and industrial use, and supports a rich ecosystem. New integrated water management approaches that encompass the economic, social and environmental benefits of water conservation are the cornerstone to ensuring adequate quantities of high quality water for the future."

In 2012, the City plans to measure and monitor the quality, peak flow, and quantity of storm water entering the Red Deer River and creek tributaries. As well, a water quality monitoring program will be established at key points along the river and creeks to determine the City's impact, analyze the river's capacity to handle pollutants, and develop methods to reduce impacts.

The \$100,000.00 dedicated through this Order to this project will likely be spent within the first two years. The total value of the project over its three-year life span is estimated to be about \$200,000.00. It was originally intended to be funded entirely by the ratepayers who use the City's water services. The number of ratepayers that would otherwise be footing the entire bill is about 28,000 (that is one per household and covers all City residents, as well as residential, commercial, industrial and institutional customers).

The cost estimate for the project is based on the best information the City currently has. However, they will be putting out a request for proposals in April and will have a better idea by May what the total costs will be.

The project is to be completed by a consulting company within 30 months of being awarded the work. However, a report summarizing the results of the first year's work shall be submitted for the purposes of this project. This report will include information on which chemicals and aquatic life were found both upstream and downstream of the City's wastewater treatment plant. It would also identify which substances in the river are of concern and possible ways to reduce impacts on the river.

## APPENDIX "B"

### Conditions of Funding

The trust fund created in favour of the City of Red Deer, as established by this Order, may be used by the City on the following conditions:

1. The funds shall be used to develop the Red Deer River Storm Water Project within three years;
2. The following limitations apply to the Red Deer River Storm Water Project:
  - (a) The City will not apply any overhead charges to the Red Deer River Storm Water Project.
  - (b) Once the project has collected its first full year of data for the Red Deer River Storm Water Project, the City shall submit a written report. The final report shall also be submitted, upon completion of the project. Copies will be delivered to this Honourable Court, and to the Environmental Investigations Liaison, Regulatory Prosecutions, Alberta Justice or his/her designate, and to Permolex Ltd. as to the success of the Red Deer River Storm Water Project.
  - (c) The reports prepared pursuant to paragraph 3(b) shall be in the public domain;
  - (d) The reports prepared pursuant to paragraph 3(b) will identify as the genesis of the fund, this Order;
3. The following will not be considered legitimate expenses of the Red Deer River Storm Water Project:
  - (a) Operating expenses of the City that are not related to the Red Deer River Storm Water Project;
  - (b) Purchase of land;
  - (c) The regular activities of the City;
  - (d) Fees or honoraria for members of the City other than the costs directly associated with the Red Deer River Storm Water Project; and
  - (e) Out-of-province travel expenses.
4. At the conclusion of the Red Deer River Storm Water Project, the City shall provide this Honourable Court with a financial statement outlining an accounting for the funds directed to this project by this Order and shall return any unused funds to the Clerk of the Court, Red Deer Provincial Court House, Red Deer, Alberta within six months of the completion of the Red Deer River Storm Water Project to be dealt with thereafter as this Honourable Court may direct.
5. If for any reason the funds directed to this project cannot be used in the manner set forth in this Order, or if the City is for any reason unable or unwilling to comply with this Order, all funds directed to this project shall be held by the board in trust until further direction of this Honourable Court.