



Rural Municipality of
FISHER

Box 280, Fisher Branch, MB R0C 0Z0
Tel: 204-372-6393, Fax: 204-372-8470

**Special Meeting of Council
September 26, 2023 at 10:00 am
Council Chambers**

1. Adoption of Agenda
2. In Camera
3. Out Camera
4. 1st and 2nd Reading of By-Law
5. Other Business
6. Adjournment

Fisher CAO

From: Hay, David <David.Hay@gov.mb.ca>
Sent: September 22, 2023 11:45 AM
To: fishercao@mymts.net
Cc: spyziak@rmoffisher.com
Subject: Outstanding Orders
Attachments: RM of Westbourne Cost Recovery.pdf

Hi Kelly,

I connected with Reeve Pyziak this morning and shared the information I've collected thus far:

We have six outstanding orders on the following parcels:

- NW 24-22-2W;
- SW 23-24-1W;
- SW 34-22-1W;
- SE 33-22-1W;
- NW 26-24-2W; and
- SW 33-22-1W.

I was also able to track down more information about the process where the department can provide authorization to the municipality to enforce an order. Attached is an example as promised. My understanding is that the municipality passes a bylaw outlining their power to recover expenses (section 4 of the bylaw). The MOU from April 1999 is included in the attachment and enables the department to issue a form of authorization (Figure 2) to the municipality. I have reached out to our legal counsel to advise as to whether the reference to s. 4(3) needs to be updated with the current numbering within The Water Rights Act (amended in 2019) and can provide further guidance once received.

In terms of process, we would issue Figure 2 (last page of the attachment) for each outstanding order such that the municipality can proceed to action.

Let me know if you have any questions.

David Hay

A/Director, Drainage and Water Rights Licensing Branch
Manitoba Environment and Climate
David.Hay@gov.mb.ca / Cel: 204-792-3607
14 Fultz Boulevard (Box 8), Winnipeg, MB R3Y 0L6

TWP 22 RGE 2 W

605-2
FISHER

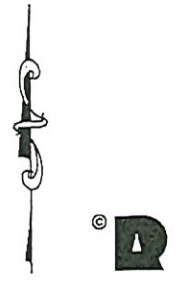
SEE PAGE 605-5

132N		11W											9W			7W			132N	
31		32		33		34		35		36		37		38		39		40		
ROCKY E WALLACK (CROWN)		DAVID C WALLACH		ROCKY E WALLACK		DAVID C WALLACK		DAVID C & KYLE B WALLACH		ROCKY E & BRENDA WALLACK (CROWN)		RICHARD R & SHERRYL D WOLOSZYN		NICHOLAS & WENDY YUZWA		LLOYD F & LINDA R PODAIMA				
30		29		28		27		26		25		24		23		22		21		
STANLEY V WALLACH		ROCKY E WALLACK		DAVID & GHISTAINE WALLACK (CROWN)		DAVID C WALLACH		DAVID & GHISTAINE WALLACK (CROWN)		ROCKY E & BRENDA WALLACK (CROWN)		DANIEL W KOSC		BROAD VALLEY HOLDING CO LTD		DANIEL W KOSC				
STANLEY & MARGARET WALLACH		DONALD L & TRACY L WALLACH		ROCKY E WALLACK		ROCKY E WALLACK		DAVID C WALLACK		DANIEL W KOSC		DONALD & VIRGINIA ZEMBIK		DALE PODAIMA		CANERS FARMS LTD				
130N		130N											130N			130N				
19		20		21		22		23		24		25		26		27		28		
KAREN J LEOCHKO (CROWN)		KAREN J LEOCHKO (CROWN)		BEATRICE H & DAVID C WALLACK		DAVID C WALLACK		ROCKY E & BRENDA WALLACK (CROWN)		DAVID C WALLACK		ROCKY E WALLACK		SAMUEL J GOLAS		CANERS FARMS LTD				
STANLEY V WALLACH (CROWN)		KAREN D LEOCHKO (EXEC)		KENNETH W EMMS		ROCKY E WALLACK		ROCKY E WALLACK		ROCKY E WALLACK		DAVID & GHISTAINE WALLACK		STELLA ROSCHUK & JOHANNA MARKO						
18		17		16		15		14		13		12		11		10		9		
S & M WALLACH		STANLEY V WALLACH (CROWN)		KAREN J LEOCHKO		WILLIAM & ALICE GRYWINSKI & ELAINE GRZENDA		DAVID C WALLACK		ROCKY E WALLACK		JOHN P THORNE		BOB & JACE B CHEREPAN		CHARLES & BEATRICE & DAVID WALLACH				
JOHN & LOVEY & JOSEPH ZASITKO		KAREN J LEOCHKO (EXEC) & LENA GORITZA		KENNETH W EMMS (CROWN)		KENNETH W EMMS (CROWN)		PETER R OZARKO		ROBERT & LORIE BRELAND & LINDA WILSON		THOMAS & ROZANNE NEVAKS-HONOFF		DOUGLAS J MAIR		Poplarfield				
128N		128N											128N			128N				
7		8		9		10		11		12		13		14		15		16		
CLIFFORD G KOPEC		KOPEC FARMS INC		HEINZ H LAUBSTEDT		FRANK & DELORIS FIARCHUK		DEVON C FUZ		J H AYOUB & M ABUZHARA		MYRTLE LEDUCHOWSKI		CEMETERY		CEMETERY				
HEINZ H LAUBSTEDT		HEINZ H LAUBSTEDT		BARRY N & TINA K BRILL		RILEY E DMYTERKO		BLAINE K & RYAN L PODAIMA 218350		GORDIE FUZ (R M)		Hydro Line		EDWARD LEDUCHOWSKI		GARY M KOCHAN		BRIAN PODAIMA		
6		5		4		3		2		1		12		11		10		9		
HEINZ H LAUBSTEDT		KOPEC FARMS INC		KENNETH W EMMS		JAKE KLASSEN		DEVON C FUZ		GLEN W PODAIMA		GLEN W PODAIMA		DAVID W & BERNICE M SMITH		DAVID N & OLGA HUMINICKI		LEONARD TALAGA		
HEINZ H LAUBSTEDT (CROWN)		EDWARD M & LARRY S TYCHOLIS		KELVIN & MICHAEL & SYLVIA MALONEY		GORDON J & DARLENE FUZ		GORDON J & DARLENE FUZ		KYLE B WALLACH		KYLE B WALLACH		R M OF FISHER						
126N		11W											9W			7W			126N	

SEE PAGE 605-3

SEE PAGE 605-1

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TWP 24 RGE 1 W

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FISHER

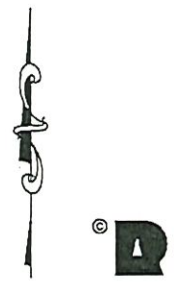
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144N	5W		3W		1W		144N
EDWARD & COLLEEN BERNIER	DAVID G BOUCHARD	GERALD A & PHYLLIS A BOUCHARD	EDWIN M MALENCHAK	GERALD D & SHEENA C LETEXIER	TERENCE A MALENCHAK (CROWN)	FISHER BRANCH HOLDING CO LTD	ADAM J GULAY
AMANDA & JACK BOUCHARD	GRANT R VANDERSTEEN	JACK J & AMANDA V BOUCHARD	THEODORE MALENCHAK	AMANDA & JACK BOUCHARD	DOREEN P NOWAKOWSKI	DOREEN P NOWAKOWSKI	ANDRE A CONAN (CROWN)
LOUISE A BOUCHARD	LAURA A BOUCHARD	VALERIE M BOUCHARD	JACK J & AMANDA V BOUCHARD	VALERIE M BOUCHARD	DANIEL A & SUSAN H MALENCHAK	MARY M PONCHON	DOREEN P NOWAKOWSKI
P & JA BOCEK	ANDRE A CONAN	DANIEL & SUSAN MALENCHAK	EUGENE & ANTOINE PONCHON	ANTOINE J PONCHON	ANDRE A CONAN	ANDRE A CONAN (CROWN)	MURRAY S SHEPELL
GERALD D & SHEENA C LETEXIER	DL & TS HARTOG	ANDRE A CONAN	EUGENE & ANTOINE PONCHON	MARY M PONCHON	MATTHEW S GOLAS	ANDRE A CONAN	CHRISTOPHER SHEPELL
142N	3617433 MANITOBA LTD	GERALD D & SHEENA C LETEXIER	GERALD D & SHEENA C LETEXIER	EUGENE & ANTOINE PONCHON	MARY M PONCHON	MATTHEW S GOLAS	ANDRE A CONAN
RICHARD & SHERRYL WOLOSZYN	ANTOINE J PONCHON	MATTHEW S GOLAS	PAUL KURYK	MARY PONCHON	MARY M PONCHON	MARY M PONCHON	ANDRE A CONAN
MAN HYDRO	GORDIE S WEVURSKY	LOVEY WEVURSKY	CLINTON D & ELAINE J PLETT	INTERLAKE AGRI LTD	MATTHEW S GOLAS	JACK J & AMANDA V BOUCHARD	SAMUEL J GOLAS
3617433 MANITOBA LTD	DANIEL M ROCHE	DANIEL M ROCHE	INTERLAKE AGRI LTD	THOMAS & SHANNON PYZIAK	EUGENE A PONCHON	LEONARD GAUTHIER	PHILIP D CANERS (CROWN)
B P GUIMOND	NICHOLAS M KLIMCHUK	WILLIAM S & ADELE R PLISHKA	58955 MANITOBA LTD	INTERLAKE AGRI LTD	DANIEL F & MARTHA REIMER	GANERS FARMS LTD	HAROLD P PAYMENT
TYSON I SINCLAIR	LARISSA MALENCHAK & IAN J OBELNICKI	BO & DL TRUTHWATE	BRIAN W & DORRIE L HELLEGARDS	SAMUEL J GOLAS	HOWARD R & MARILOU B BEAUDETTE	NEAL E BASARABA	RICHARD J PAYMENT & SUSAN A HUDSON
ALBERT E BALE	ALEXANDER KLIMCHUK	KENNETH J KLIMCHUK	HERTA M GOLAS	EDWARD R & BERNICE F BASARABA	NEAL E BASARABA	EDWARD R & BERNICE F BASARABA	RICHARD PAYMENT & SUSAN HUDSON
ALBERT E BALE	HENRY H & BARBARA PAYMENT	ALLAN D & RAE D CANERS	CANERS FARMS LTD	TRENTON E & RANDALL D PLETT	INTERLAKE AGRI LTD	EDWIN & ELIZABETH REIMER	EDWARD R & BERNICE F BASARABA
138N	5W		3W		1W		138N

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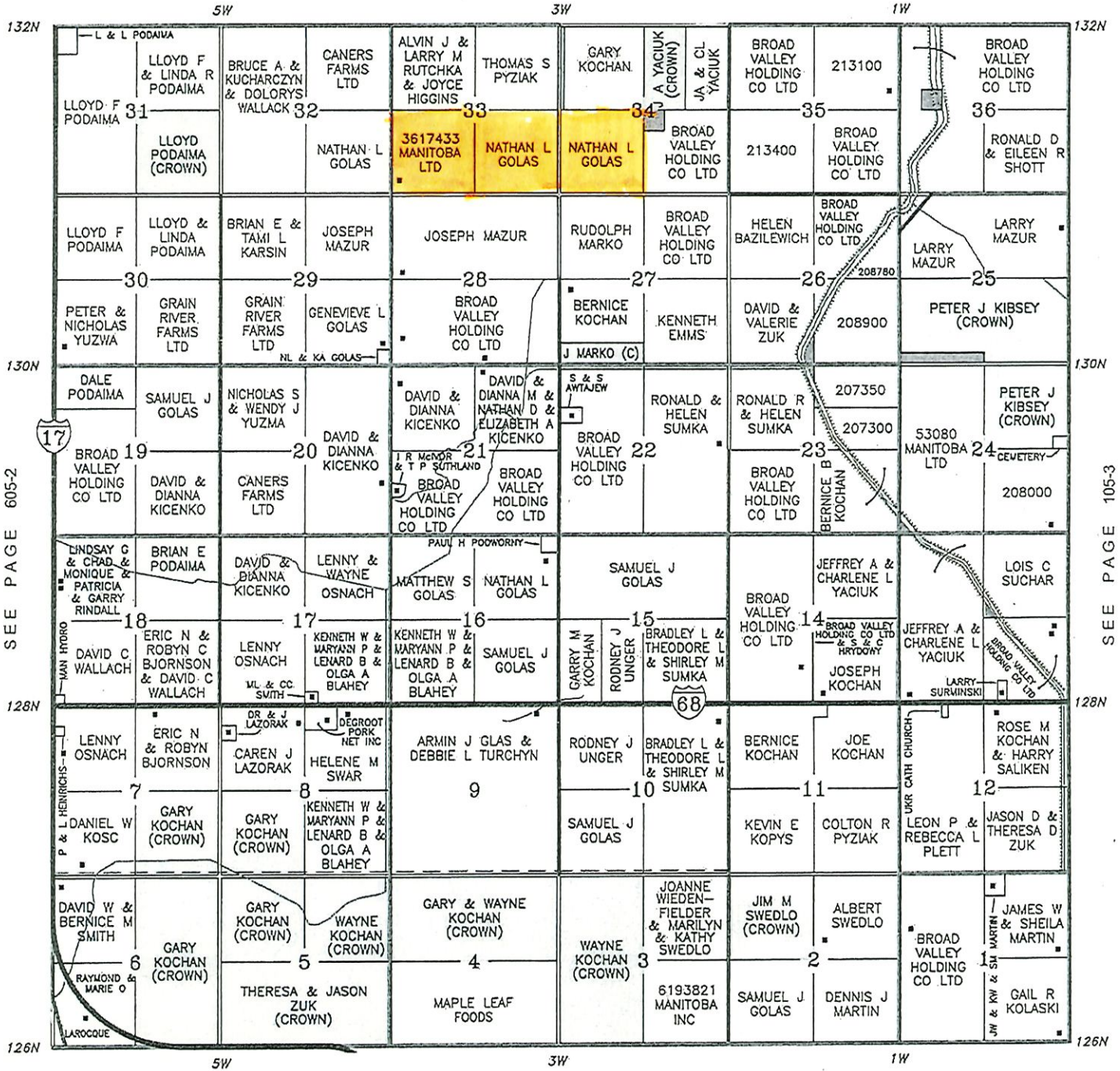
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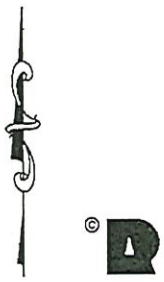
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FISHER

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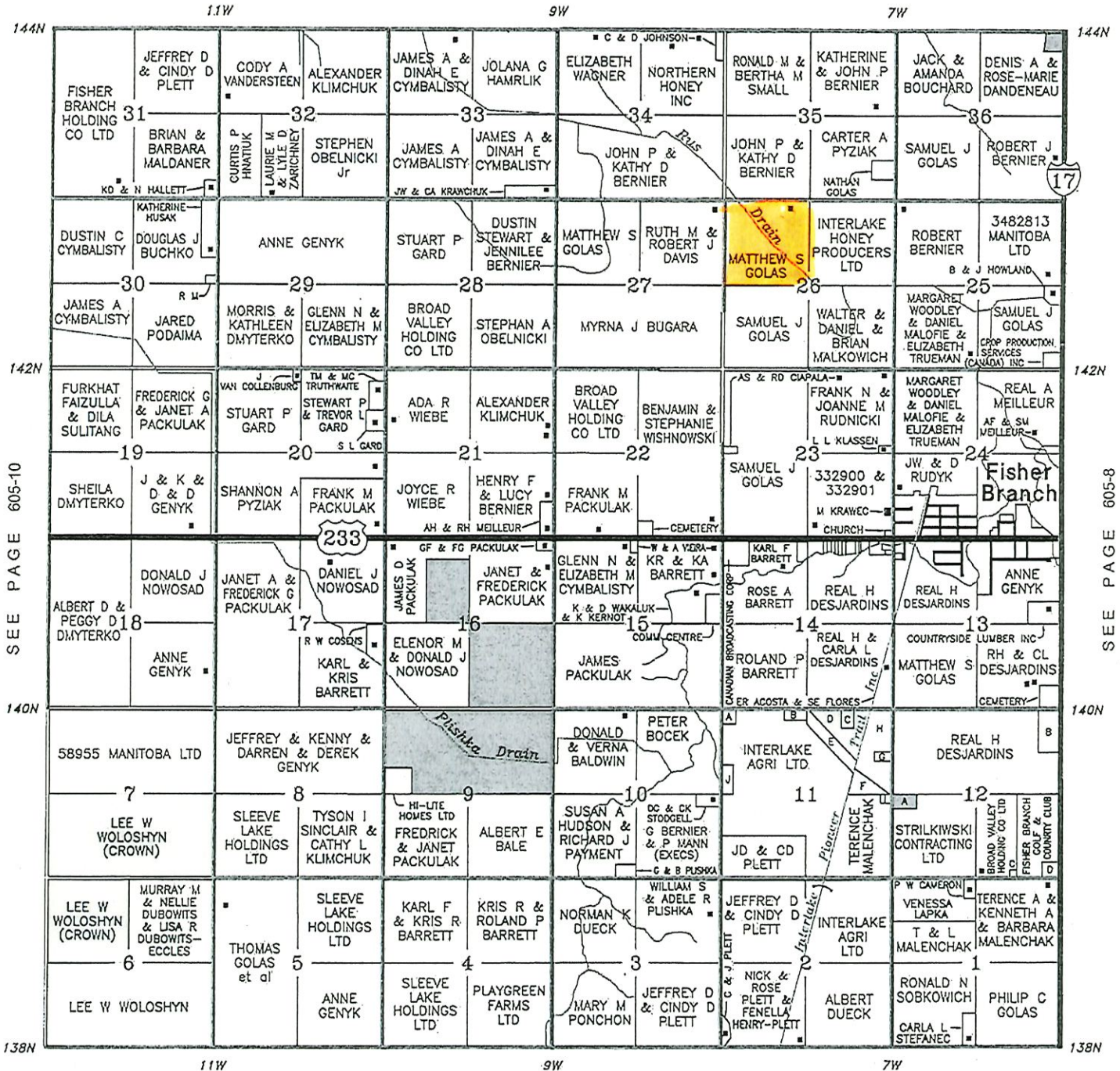
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TWP 24 RGE 2 W

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FISHER

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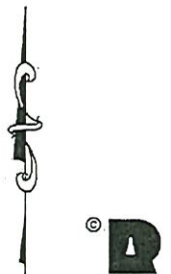
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SEC. 11 TWP. 24 RGE. 2 WPM

- A - RP & D BERNIER
 - B - R BERNIER
 - C - R M OF FISHER
 - D - THOMAS J STOCKI (CROWN)
 - E - RP & D BERNIER
 - F - THOMAS J STOCKI (CROWN)
 - G - TJ & AF STOCKI
 - H - T & E STOCKI
 - I - CHURCH
 - J - ALEXANDER L & JANICE DUNCAN
- 1-35745
1-49406

SEC. 12 TWP. 24 RGE. 2 WPM

- A - CROWN
- B - K E DANISH
- C - S T GOLAS
- D - COUNTRYSIDE HOMES INC



RURAL MUNICIPALITY OF WESTBOURNE

BY-LAW NO. 1885

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WESTBOURNE govern certain aspects of drains and drainage on public or private property.

WHEREAS Section 232(1)(h) of The Municipal Act, S.M. 1996, c.58 ("Act") states as follows:

232(1)A council may pass by-laws for municipal purposes respecting the following matters:
...(h) drains and drainage on private or public property.

AND WHEREAS Section 239(1)(3) of the Act provides for entering on private lands to enforce by-laws as follows:

239(1) If this or any other Act or a by-law authorizes or requires anything be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or

(a) enter the land or structure at any reasonable time, and carry the inspection, enforcement or action authorized or required by the Act or by-law;

(b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and

(c) make copies of anything related to the inspection, remedy, enforcement or action.

239(3) In an emergency, or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable time and may do the things referred to in clauses (1)(a) and (c) without the consent of the owner or occupant;

AND WHEREAS Section 294.1 of the Act states as follows:

294.1(1) In this section, "drain" means a culvert, drain, drainage dyke or floodway, constructed or maintained by a municipality but does not include a provincial waterway as defined by The Water Resources Administration Act.

294.1(2) Subject to the rights vested in any other party under The Water Resources Administration Act or the Water Rights Act, a Municipality has jurisdiction over every drain within its boundaries.

294.1(3) A municipality must maintain every drain within its boundaries to a standard that is appropriate for the use to which the municipality expects the drain to be put.

294.1(4) A municipality may require a person who without written authority from the municipality obstructs a drain to remove the obstruction, and if the person fails to do so, the municipality may remove the obstruction and recover any expense it incurs from the person who caused the obstruction:

(a) by levying and collecting the amount of the expense as a tax;
(b) by any other means."

AND WHEREAS the Council of the Rural Municipality of Westbourne deems it expedient and in the best interests of the municipality to pass a By-Law regulate and control certain aspects of drains and drainage on private and public property within the municipality.

NOW THEREFORE the Council of the Rural Municipality of Westbourne enacts as follows:

1. Title

This by-law shall be referred to as "the Drainage By-Law".

2. Definitions

Where used in this By-Law, the following terms shall have the following meanings:

- (a) "Act" means The Municipal Act, S.M. 1996, c.58 as amended from time to time.
- (b) "Drain" means a culvert, drain, drainage ditch, dyke or floodway, constructed or maintained by the Municipality but does not include a Provincial Waterway.
- (c) "Municipality" means the Rural Municipality of Westbourne.
- (d) "Person" means and includes any individual, corporation, partnership, joint venture, syndicate, association or trust, and any other form of organization, and includes both the plural and the singular.
- (e) "Provincial Waterway" means a Provincial Waterway as defined by The Water Resources Administration Act, R.S.M. 1987, c. W70 as amended from time to time.
- (f) "The Water Rights Act" - means The Water Rights Act R.S.M. 1988 as amended from time to time.

3. Interference With Drains

- (a) Where any Person deposits or puts into any Drain any soil, stones, refuse, waste, brush, trees or other matter whatsoever, the Municipality may require that Person to remove the soil, stone, refuse, waste, brush, trees or other matter; and, if the Person fails to do so, the Municipality, at the expense of the Person in default, may remove the soil, stones, refuse, waste, brush or other matter and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.
- (b) Where any Person deepens, widens, alters, diverts or stops-up or in any way interferes with any Drain the Municipality may require that Person to return the said Drain to its previous state, and if the Person fails to do so, the Municipality, at the expense of the Person in default, may return the municipal drain to its previous state and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.
- (c) Where any Person causes the diversion or discharge of water or other liquid into a Drain without being licensed to do so under The Water Rights Act the Municipality may require such Person to stop the discharge of water or other liquid into the Drain, and if the Person fails to do so, the Municipality, at the expense of the Person in default, may stop the discharge of water or other liquid into the Drain and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.

4. Municipalities Power to Recover Expenses

The Municipality may recover any expense that it incurs under Section 3 above from the Person who is in default:

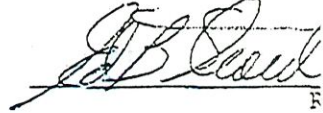
- (a) by levying or collecting the amount of the expense as a tax; or
- (b) by any other means.

5. Overriding Jurisdiction of The Water Rights Act

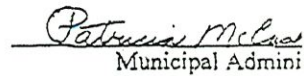
Nothing herein shall effect the rights granted to any Person by license granted under The Water Rights Act, and the Municipality in enforcing its rights under section herein, shall act in accordance with any policy directives, protocols, memorandums, understanding or any other procedures that may be binding upon a Municipality are established by or in consultation with the Province of Manitoba from time to time for the purpose of complying with The Water Rights Act.

DONE AND PASSED by the Rural Municipality of Westbourne this
day of August, 1999.

RURAL MUNICIPALITY OF WESTBOURNE



J.B. Clark
F



Patricia McLeod
Municipal Administrator

Given First Reading this 13th day of July, 1999.

Given Second Reading this 13th day of July, 1999.

Given Third Reading this 10th day of August, 1999.

MEMORANDUM OF UNDERSTANDING RESPECTING ENFORCEMENT OF
MINISTERIAL ORDERS UNDER THE WATER RIGHTS ACT ON DRAINAGE
MATTERS IN MUNICIPALITIES, DATED _____

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA AS
REPRESENTED BY THE MINISTER OF NATURAL RESOURCES

("Manitoba Natural Resources")

and

ASSOCIATION OF MANITOBA MUNICIPALITIES

("AMM")

WHEREAS:

- A. Water Resources Branch of Manitoba Natural Resources is responsible for the management and licensing of water resources, including drainage works, within Manitoba in accordance with *The Water Rights Act*,
- B. AMM represents municipalities in Manitoba;
- C. Under s. 232(1) of *The Municipal Act*, municipalities may make by-laws respecting drains and drainage on private or public property;
- D. The AMM has prepared a standard form by-law for consideration by municipalities respecting drains and drainage on private or public property;
- E. Subsections 4(1), 4(3) and 4(4) of *The Water Rights Act* read as follows:

Removal of unauthorized works

4(1) Where a person is using or diverting water or has constructed or established or is maintaining any works in breach of section 3, the minister may make an order requiring the person, within a period of time stated in the order,

(a) to cease using or diverting the water; or

(b) to remove the works; or

(c) to repair or reconstruct or alter the works in a manner stated in the order;

as the case may be, and the order shall further state that if the person to whom it is directed fails to comply with the order the minister or a person authorized by the minister may, without further notice or legal process and at the expense of the person, take or cause to be taken the steps set out in subsection (3).

Minister may remove works

4(3) Where after service in accordance with subsection (2) of an order made under subsection (1) the person to whom it is directed fails to comply therewith, the minister may, without further notice or legal process and at the expense of the person, do or cause to be done such things as he deems necessary to stop the use or diversion of the water, or cause the works to be breached, demolished or removed or to be otherwise dealt with as he deems necessary or advisable to enforce the order, as the case may be.

Power to enter lands

4(4) The minister or any person authorized by him may enter upon or cross any lands for the purpose of taking any of the steps authorized under subsection (3).

- F. AMM and Manitoba Natural Resources consider it in the public interest for Manitoba Natural Resources to authorize municipalities which have made a by-law of the nature referred to in clause "D" above, on behalf of the Minister of Natural Resources, to enter onto private land to remove works and remedy unauthorized drainage works which are in violation of a Ministerial order under The Water Rights Act;
- G. Manitoba Natural Resources and AMM wish by this Memorandum to provide for a mutually beneficial approach to the enforcement action for unauthorized drainage works;

Therefore, Manitoba Natural Resources and AMM express their mutual understanding as follows:

SECTION 1 - PRIORITY SYSTEM OF MANITOBA NATURAL RESOURCES FOR ISSUANCE OF MINISTERIAL ORDERS REGARDING ILLEGAL DRAINAGE WORKS

- 1(1) Manitoba Natural Resources has established a four level priority system (Figure 1) to be used as a guideline for the issuance of Ministerial Orders for unauthorized drainage works, to maximize the effectiveness of Departmental efforts. Priority 1 is the highest priority. Priority 1 and Priority 2 are considered emergency situations.
- 1(2) Upon receipt by Manitoba Natural Resources of a written complaint from a member of the public, or a municipality or of a Report from a Natural Resource Officer about unauthorized drainage works, a determination will be made by Manitoba Natural Resources as to the priority classification of the situation.

- 1(3) Those drainage works not meeting any of the priority classification criteria will be considered in watershed planning.
- 1(4) Manitoba Natural Resources will consider issuing ministerial orders under subsection 4(1) of *The Water Rights Act* in circumstances that are determined to be of a high priority.

SECTION 2 – AUTHORIZATION OF MUNICIPALITIES

- 2(1) Where a Ministerial Order relating to unauthorized drainage works is not complied with in a municipality, the Minister of Natural Resources may authorize the municipality in which the drainage works are located to take action on behalf of the Minister to enforce the order in accordance with subsection 4(3) of *The Water Rights Act*.
- 2(2) A standard form of authorization is set out in Figure 2. (*back*)
- 2(3) The municipality will be required to comply with all applicable laws and with all directions from Manitoba Natural Resources when taking authorized enforcement action.

SECTION 3 – APPLICATION OF THE WATER RIGHTS ACT

- 3(1) This Memorandum outlines the understandings of AMM and Manitoba Natural Resources in respect of the authorization given to municipalities and the issuance of Ministerial Orders regarding unauthorized drainage works. This Memorandum is not intended to create a contractual relationship between Water Resources Branch and AMM. Water Resources Branch and AMM recognize that the authorization and issuance of Ministerial Orders shall take place in accordance with *The Water Rights Act* and Regulations and other laws and regulations which may apply.
- 3(2) Neither party to this agreement (or in the case of AMM any of the municipalities it represents) is waiving or amending nor shall be deemed to be waiving or amending whatever rights they may otherwise have at law with respect to drainage matters.

SECTION 4 – EFFECTIVE DATE, AMENDMENT, TERMINATION

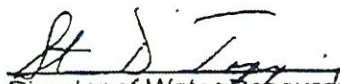
- 4(1) This Memorandum shall be effective as of the date noted above.
- 4(2) This Memorandum may be amended by common statement in writing of Manitoba Natural Resources and AMM.

- 4(3) Either party may withdraw from this Memorandum by giving the other party reasonable notice in writing.
- 4(4) This Memorandum sets out the common understanding of AMM and Manitoba Natural Resources. It is not intended to create a legally binding relationship between AMM and Manitoba Natural Resources.

This MEMORANDUM has been signed by the Director of Water Resources Branch, Manitoba Natural Resources and by the President of the Association of Manitoba Municipalities on the dates noted below.




 Witness



 Director of Water Resources Branch
 Manitoba Natural Resources for the
 Minister of Natural Resources

April 9, 1999

 Date



 Witness



 President,
 Association of Manitoba Municipalities

April 16, 1999

 Date

Figure 2

Authorization of Municipality for Enforcement of Ministerial Order under s. 4(3) of The Water Rights Act

WHEREAS:

- A. The Minister of Natural Resources has made an Order under the authority of s. 4(1) of *The Water Rights Act* requiring that _____ remove, repair or reconstruct unauthorized drainage works from property legally described as _____ in the Rural Municipality of _____, by _____ (date);
- B. That person or persons has not remove those works;
- C. It is in the public interest that those works be removed in accordance with the authority of subsection 4(3) of *The Water Rights Act*,

Therefore, the Minister hereby authorizes the Rural Municipality of _____ to do such things as the municipality deems necessary to cause the works to be breached, demolished or removed, or to be otherwise dealt with as the municipality deems necessary or advisable to enforce the Order.

For the Minister of
Natural Resources

Date



Rural Municipality of
FISHER

THE RURAL MUNICIPALITY OF FISHER

BY-LAW NO. /23

**BEING A BY-LAW OF THE RURAL MUNICIPALITY OF FISHER
TO GOVERN CERTAIN ASPECTS OF DRAINS AND DRAINAGE ON
PUBLIC OR PRIVATE PROPERTY**

WHEREAS Section 232(1)h of The Municipal Act, SM 1996 c 58 (the "Act") states as follows:

232(1) A council may pass by-laws for municipal purposes respecting the following matters:

(h) drains and drainage on private property

AND WHEREAS Section 239 (1) (3) of THE ACT provides for entering onto private lands to enforce by-laws as follows:

239(1) If this or any other ACT or By-law authorizes or requires anything be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or the occupier of the land or building or other structure be entered to carry out the inspection, remedy, enforcement or action,

a.) enter the land or structure at any reasonable time and carry out the inspection, enforcement, or action authorized or required by the ACT or By-law;

b.) request that anything be produced to assist in the inspection, remedy, enforcement of action, and

c.) make copies or anything related to inspection, remedy, enforcement, or action.

239(3) in an emergency, or in extraordinary circumstances, the designated officer need not give reasonable notice to enter at a reasonable hour and may do the things referred to in clauses (1)(a) and (c) with the consent of the owner or occupant.

AND WHEREAS Section 294.1 of the Act states as follows:

294(1) In this section, "drain" means a culvert, drain, drainage ditch, dyke or floodway, constructed or maintained by a municipality but not include provincial waterway defined by the Water Resource and Administration Act.

294.1(2) Subject to the rights vested in any other party under The Water Resources Administration Act or the Water Rights Act a Municipality has jurisdiction over every drain within its boundaries.

294.1(3) A municipality must maintain every drain within its boundaries to a standard that is appropriate for the use to which the municipality expects the drain to be put.

294.1(4) A municipality may require a person who without written authority from the municipality obstructs a drain to remove the obstruction, and if the person fails to do so, the municipality may remove the obstruction and recover any expenses it incurs from the person who caused the obstruction.

a.) by levying and collecting the amount of the expense as a tax, or

b.) by any other means

AND WHEREAS the Council of the Rural Municipality of Fisher deems it expedient and in the best interests of the municipality to pass a By-law to regulate and control certain aspects or drains and drainage on private and public property within the municipality.

NOW THEREFORE the Council of the Rural Municipality of Fisher enacts as follows:

1. Title

This by-law shall be referred to as “the Drainage By-Law”

2. Definitions

Where used in this By-Law, the following terms shall have the following meaning:

- a.) “Act” means The Municipal Act, S.M 1996 c.58 as amended from time to time.
- b.) “Drain” means a culvert, drain, drainage ditch, dyke, or floodway, constructed or maintained by the Municipality but does not include Provincial Waterway.
- c.) “Municipality” means the Rural Municipality of Fisher
- d.) “Person” means and includes any individual, corporation, partnership, firm, joint-venture, syndicate, association of trust, and any other form of entity or organization, and includes both the plural and the singular,
- e.) “Provincial Waterway” means a Provincial Waterway as defined by The Water Resources Administration Act, R.S.M. 1987, c W70 as amended from time to time.
- f.) “The Water Right Act” means The Water Right Act R.S.M. 1988. C W80 as amended from time to time.

3. Interference with Drains

- a.) Where any person deposits or puts into any Drain any soil, stones, refuse, waste, brush, trees, or other matter, and, if the Person fails to do so, the Municipality, at the expense of the person in default, may remove the soil, stones, refuse, waste, brush, or other matter, and, if necessary to do so, may enter onto any other lands, in accordance with the powers and procedures set out under the Act.
- b.) Where any Person deepens, widens, alters, diverts or stops-up or in any way interferes with any Drain the Municipality may require that person to return the said Drain to its previous state, and if the person fails to do so, the Municipality, at the expense of the Person in default, may return the Municipal Drain to its previous state, and if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.
- c.) Where any person causes the diversion of discharge of water or other liquid into a Drain without being licensed to do so under the Water Rights Act, the Municipality may require such person to stop the discharge of water or other liquid into the Drain, and if the person fails to do so, the Municipality, at the expense of the Person in default, may stop the discharge of water or other liquid into the Drain and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.

4. Municipalities Power to Recover Expenses

The Municipality may recover any expense that it incurs under Section 3 above from the person who is in default:

- a.) by levying or collecting the amount of the expenses as a tax; or
- b.) by any other means.

5. Overriding Jurisdiction of the Water Rights Act

Nothing herein shall effect the rights granted to any Person by license granted under The Water Rights Act, and the Municipality in enforcing its rights under section 3 herein, shall act in accordance with any policy directive, protocols, memorandum of understanding or any other procedures that may be binding upon a Municipality that are established by or in consultation with the Province of Manitoba from time to time for the purpose of complying with the Water Rights Act.

DONE AND PASSED by the Rural Municipality of Fisher, in council duly assembled this _____ day of _____, 2023.

Reeve

Chief Administrative Officer

First Reading given on the _____ day of _____, 2023. Resolution /23

Second Reading given on the _____ day of _____, 2023.

Third Reading given on the _____ day of _____, 2023.