

BY-LAW NO. 1155/93

OF THE

TOWN OF VULCAN

IN THE PROVINCE OF ALBERTA

A By-Law to authorize the Municipal Council of the Town of Vulcan in the Province of Alberta to enter into agreements with Her Majesty the Queen in the Right of Alberta (represented by the Minister of Environment).

WHEREAS under the provisions of Section 116 of the Municipal Government, being Chapter M-26 of the Revised Statutes of Alberta, 1980, (as amended), the Council may pass a by-law authorizing the making of an agreement with the Province of Alberta, or its agents, for the performances of any matter or thing considered by the Council and the Province or its agents to be a benefit to both parties; and

WHEREAS under Section 7 of the Land Surface Conservation and Reclamation Act, the Minister of the Environment may enter into an agreement with its owner to restrict the use of certain land;

NOW THEREFORE the Municipal Council of the Town of Vulcan be and are hereby empowered to execute an agreement similar to and form attached and marked Exhibit "A", between the said Town of Vulcan and the Minister of the Environment relating to the restricted use of certain lands described as follows:

Part of SW of 4-17-24-W4th

EXCEPTING THEREOUT ALL MINES AND MINERALS.

Read a first time this 14th day of June A.D. 1993.

Read a second time this 14th day of June A.D. 1993.

Read a third time and finally passed this 14th day of June A.D. 1993.



Mayor



Municipal Administrator

THIS AGREEMENT made in duplicate this _____ day of _____ 19 _____,

BETWEEN:

HER MAJESTY THE QUEEN, in Right of Alberta as represented by the Minister
of the Environment

(the "Minister")

– and –

a Municipal Corporation, The Town of Vulcan
Box 360, Vulcan, AB T0L 2B0

(the "Owner")

RECITALS:

1. The Owner is registered as the owner of Lands legally described as:

Part of SW of 4-17-24-W4th

(the "Lands").
2. The Owner has requested that the Minister perform such reclamation on the Lands as the Minister deems proper.
3. Under Section 7 of The Land Surface Conservation and Reclamation Act, the Minister may
 - (a) enter into an agreement on behalf of the Government with an owner to restrict the purposes to which the Lands may be used by that owner and his successors in title for a specified time or of indefinite duration, in consideration of the payment by the Government of the compensation specified in the Agreement, and
 - (b) register the Agreement under The Land Titles Act against the Certificate of Title to the Lands.
4. Under Section 116 of the Municipal Government Act, the Owner is authorized by By-Law Number 1155/93 dated 14th of June, 1993 to enter into this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. The Owner hereby grants and assigns unto Her Majesty the Queen in Right of Alberta, as represented by the Minister of the Environment, the right by his or their servants, workmen, agents, or contractors to enter upon, use, and occupy the Lands to enable the Minister, his servants, workmen, agents or contractors, at his cost, to reclaim the Lands to such condition as the Minister deems proper and to take upon the Lands for that purpose all necessary implements and machinery, on, from and after until the Lands are reclaimed.
2. In consideration of the Minister reclaiming the Lands, the Owner grants the Minister the right of first refusal to purchase or acquire the Lands in the event the Owner desires to sell or otherwise alienate the Lands within a period of ten years from the date hereof, upon the terms and conditions set forth in paragraph 3.
3.
 - (1) The Owner upon the receipt of a bona fide offer to purchase or otherwise alienate the Lands, shall serve a copy of such offer upon the Minister and the Minister shall within three months of receipt of the offer notify the Owner in writing, of the exercise of this right of first refusal.
 - (2) If the Minister exercises the right of first refusal, the consideration to be paid by the Minister shall be the lesser of the consideration set forth in the offer to purchase received by the Owner or the market value of the Lands at the time that the offer was received, less a sum equal to the Minister's costs that were incurred in the process of reclaiming the Lands as set forth in paragraph 1. In the event that the lesser of the consideration set forth in the offer to purchase or the appraised market value of the Lands is less than the sums expended by the Minister pursuant to paragraph 1, the Owner shall not be under any liability to make up the deficit nor shall the Minister be under any liability to make any payment to the Owner.
 - (3) In the event that the Minister does not accept the Owner's offer, the Owner may sell or otherwise alienate the Lands in accordance with the offer to purchase that was provided to the Minister. The Owner shall pay to the Minister the value of the sum expended by the Minister pursuant to paragraph 1 in reclaiming the Lands or the appraised market value of the Lands at the time that the Offer to Purchase was made, whichever is the lesser.
4. The Owner agrees to hold harmless and to indemnify the Minister, his employees and agents from all claims, damages, costs, losses, expenses, actions and suits caused by, or arising directly or indirectly out of, the reclamation performed under this Agreement, or by reason of any matter or thing done, permitted or omitted to be done, by the Owner or his heirs, administrators and assigns, and whether occasioned by negligence or otherwise.
5. This Agreement enures to the benefit of and is binding upon the Parties hereto and their respective heirs, successors and approved assigns.

