

IN THE PROVINCIAL COURT OF ALBERTA  
CRIMINAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN

-and-

DARCY B. DOBROSKY

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AGREED STATEMENT OF FACTS

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1. Darcy B. Dobrosky stands charged that:

*On or between the 1<sup>st</sup> day of April, 2009 and the 8<sup>th</sup> day of March, 2016, at or near the Town of Oyen, in the Province of Alberta, did fail to monitor potable water in a waterworks system at random locations within the water distribution system contrary to s. 5.1.4 of the Code of Practice for a Waterworks System Consisting Solely of a Water Distribution System and did thereby commit an offence contrary to section 227(e) of the Environmental Protection and Enhancement Act, notice of the offence having first come to the attention of the Director on March 9, 2016.*

2. At all material times, Mr. Dobrosky was employed by the Town of Oyen (population of 1006) as a public works foreman. Mr. Dobrosky had held the position for 25 years. Overall, Mr. Dobrosky was an employee of Oyen for approximately 37 years.
3. Included among Mr. Dobrosky's duties was to operate Oyen's drinking water distribution system. Mr. Dobrosky held an Alberta Environment and Parks

restricted operator certificate that allowed him to operate the Oyen drinking water distribution system. He had been grandfathered into being allowed to operate the system by virtue of his years of experience doing the job rather than for having completed the formal certification process. In 2015, Mr. Dobrosky had failed the formal certification examination though he continued to be allowed to operate the Oyen drinking water distribution system under his restricted operator certificate.

4. Oyen's drinking water system was only a distribution system as Oyen obtained the potable water that it distributed from Hanna.
5. Entities, like Oyen, operating drinking water distribution systems must have an Alberta Environment and Parks Registration. Pursuant to the terms of the Registration, certain conditions must be met including that a person with an operator certificate run the system. Based upon the size of the Oyen drinking water distribution system, the responsible person was to take and have analyzed 4 samples from random locations in the Oyen drinking water system per month. The person running the system thereafter had to submit certain reports each month to Alberta Environment and Parks.
6. As required by the Registration, the samples were to be analyzed for residual chlorine and bacteriological contaminants to monitor the safety of the water in the distribution system.
7. The Code of Practice that sets out that all these requirements must be met is statutorily defined as part of the *Environmental Protection and Enhancement Act*. Section 5.1.4 of the Code of Practice was the specific section that required the random samples to be taken in the prescribed manner.
8. At an Oyen Town Council meeting on June 9, 2016, a Town Councilor asked Mr. Dobrosky questions about whether he did "end of line" testing on the water system. Mr. Dobrosky's response prompted the Chief Administrative Officer to review Mr. Dobrosky's written reports to Alberta Environment and Parks. The Chief Administrative Officer became concerned upon reviewing the reports when she noted that Mr. Dobrosky was reporting having sampled water from the town office. She had never seen Mr. Dobrosky doing the same. Mr. Dobrosky also reported having taken samples from a car wash that did not have an accessible external tap of any kind.
9. On June 10, 2017, the Chief Administrative Officer met Mr. Dobrosky at the Town Shop where he worked. She asked him about the sampling locations. She

advised him that she had never seen him sample at the Town Office. Mr. Dobrosky claimed that he did so all the time. The Chief Administrative Officer advised Mr. Dobrosky that she did not believe him. Mr. Dobrosky admitted that he had been taking all samples from a sink at the Town Shop – not at random locations as required.

10. The Chief Administrative Officer called an emergency Town Council meeting. Mr. Dobrosky resigned his employment with the Town shortly after that meeting. The Chief Administrative Officer reported the matter to Alberta Environment and Parks.
11. Subsequent Alberta Environment and Parks investigation disclosed that Mr. Dobrosky had reported taking 4 samples per month at various locations other than the Town Shop for each month of the year 2015. In fact, all samples had been taken from the Town Shop. Further, subsequent investigation suggested that Mr. Dobrosky had been taking all random samples from the Town Shop as early as 2010 and that Mr. Dobrosky had advised other Town employees that all samples were to be taken from the Town Shop. Mr. Dobrosky was cooperative with investigators as they completed their investigation.

## Agreements

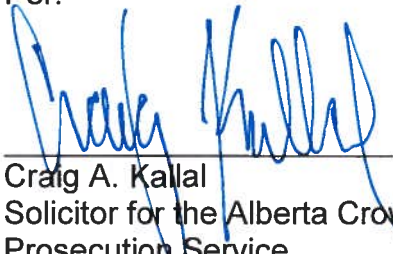
12. The parties agree:

- a. Darcy B. Dobrosky will plead guilty to Count 2 on Information 180275646P1 described in paragraph 1 of this Agreed Statement of Facts.
- b. The facts contained within this Agreed Statement of Facts are fully admitted and acknowledged by Darcy B. Dobrosky and will solely form the facts to be considered by the Judge pronouncing sentence upon Darcy B. Dobrosky. The parties will be at liberty to make further submissions about those facts to the Court.
- c. The parties will jointly submit that Darcy B. Dobrosky should receive a fine of \$1,000.00 inclusive of victim fine surcharge, receive a 3 year prohibition Order under s. 234 of the *Environmental Protection and Enhancement Act* for Count 2 on Information 180372245P1, and be placed on probation for a period of 2 years.
- d. This Agreed Statement of Facts may be filed and relied upon even if signed in counterpart or by facsimile copies of the signatures of any person or both.

CONSENTED TO WITH RESPECT TO FORM AND SUBSTANCE this 24 day of October, 2018.

Alberta Crown Prosecution Service

Per:



Craig A. Kallal  
Solicitor for the Alberta Crown  
Prosecution Service,  
Specialized Prosecutions Branch



Hugh D. Sommerville, Q.C.  
Solicitor and Agent for  
Darcy B. Dobrosky