

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

BETWEEN:

**HER MAJESTY THE QUEEN**

-and-

**GINGER ADA ROGERS**

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**AGREED STATEMENT OF FACTS**

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1. Ginger Ada Rogers stands charged that:

*On or about the 31st day of March, 2016, at or near the city of Calgary, in the Province of Alberta, did knowingly provide false or misleading information pursuant to a requirement to provide information contrary to section 227(a) of the Environmental Protection and Enhancement Act.*

2. At all material times, Ms. Rogers was the sole director and shareholder of ACER Environmental Solutions Inc. ("ACER"), an Alberta Corporation that was dissolved in August 2016.
3. At all material times, Ms. Rogers was licensed to practice as and held herself out as a professional geologist.
4. Bouvry Exports Calgary Ltd. ("Bouvry") is an Alberta corporation that owns and operates a meat processing facility near Fort MacLeod, Alberta. The plant operates under an Approval issued by Alberta Environment and Parks (the Approval).
5. The Approval provides for disposal of wastewater from the meat processing facility. The Approval permits the use of wastewater to irrigate nearby lands.

Such use is only permitted if the receiving soil meets specific parameters as specified in the Approval.

6. A term of the Approval required Bouvry to submit an Annual Industrial Wastewater and Industrial Runoff Report to Alberta Environment and Parks. This report was to include a Treated Industrial Wastewater Irrigation Program Report which was to contain the results of soil testing on lands where the wastewater disposal was taking place. This annual reporting to Alberta Environment and Parks was due by March 31st following the year in which the information was collected.
7. Ms. Rogers and ACER were retained by Bouvry to conduct its soil testing and submit reports as required by the Approval for the years 2013, 2014 and 2015.
8. On March 31, 2016, Ms. Rogers submitted to Alberta Environment and Parks the 2015 Annual Industrial Wastewater, Industrial Runoff and Waste Management Report (the "2015 Report") on behalf of Bouvry as required by the Approval. This report contained soil testing results as required by the Approval and included a copy of an analytical report attributed to a third party analytical laboratory, Exova (the "Laboratory").
9. On June 14, 2016, an AEP soil specialist reviewed the 2015 Report. The review compared the 2015 Report to the similar reports that Bouvry had submitted from 2013 and 2014. The reviewer noted that numerous soil sample analysis results in the 2015 Report were identical to what was reported in 2013 even though the soil samples were not identical (taken in different locations and 2 years apart). The soil specialist believed that identical laboratory results in these circumstances are statistically impossible.
10. The Laboratory had done all of the soil analysis for the 2013, 2014 and 2015 Reports. The Laboratory provided copies of their lab analysis (the "2015 Laboratory Analysis") for the lot ID numbers in question to Alberta Environment and Parks. The 2015 Laboratory Analysis was different from the data reported in the 2015 Report – the data reported should have been the same as between the two.
11. The AEP soil specialist compared the 2015 Laboratory Analysis from Exova to the data analysis produced at Appendix B of the 2015 Report. The two reports differed with respect to:

- a. Number of pages;
  - b. Lot ID
  - c. Analytical results;
  - d. Parameters and analytical methods;
  - e.
  - f. QC data; and
  - g. Methodology and notes.
12. In addition, the results contained in the 2015 Laboratory Analysis were such that Bouvry could not have continued to discharge the wastewater to the field under the Approval. Under the 2015 Laboratory Analysis results, the parameters necessary to be present to allow wastewater discharge were exceeded. On the other hand, the results contained in the 2015 Report showed soil parameter results that would have allowed further discharge under the Approval.
13. Alberta Environment and Parks communicated their concerns about the 2015 Report to Bouvry. Bouvry then contacted Ms. Rogers and asked her to explain the anomalous identical results. In a June 24, 2016 letter, Ms. Rogers stated that the identical results were an "unusual occurrence" and that she did not believe this occurrence was a reporting or analytical error with the laboratory's testing. She described sample collection methods for the 2013 and 2015 samples, but she did not provide any explanation for the identical results.
14. Ms. Rogers falsified the information submitted to Alberta Environment and Parks in the 2015 Report. Ms. Rogers submitted data taken from the 2013 soil testing results. Ms. Rogers falsified the 2015 Laboratory Analysis data by passing off 2013 data as being from 2015. That falsification led to an appearance that the soil parameters were not exceeded and that Bouvry could continue to discharge wastewater on land through irrigation. However, in reality the parameters had been exceeded for 2015 and Bouvry would not have been permitted to discharge the wastewater.

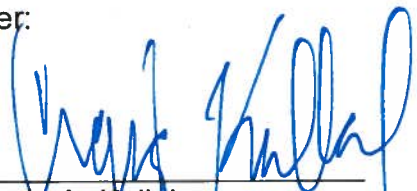
### **Agreements**

15. The parties agree:
- a. Ginger Ada Rogers will plead guilty to Count 1 on Information 180372245P1 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 Ginger Ada Rogers and will solely form the facts to be considered by the Judge pronouncing sentence upon Ginger Ada Rogers. The parties will be at liberty to make further submissions about those facts to the Court.
- c. The parties will jointly submit that Ginger Ada Rogers should receive a fine of \$25,000.00, pay the corresponding victim fine surcharge on that fine amount, and receive a 3 year prohibition Order under s. 234 of the *Environmental Protection and Enhancement Act* for Count 1 on Information 180372245P1.
- 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 12<sup>th</sup> day of September, 2018.

Alberta Crown Prosecution Service  
Per:



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

McLennan Ross LLP  
Per:



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Sarah Levine  
Solicitor and Agent for  
Ginger Ada Rogers