

Ex. 1

Information 190623496P1

IN THE PROVINCIAL COURT OF ALBERTA

Between:

HER MAJESTY THE QUEEN

-and-

THE VILLAGE OF CEREAL, KENNETH WILLIAM RUDE,
and DARCY GENE OLDS

Defendants

AGREED STATEMENT OF FACTS

AGREED STATEMENT OF FACTS

1. The following numbered paragraphs contain certain facts that are alleged by the Crown and admitted by the Defendants, THE VILLAGE OF CEREAL, KENNETH WILLIAM RUDE, and DARCY GENE OLDS.

2. It is agreed that these facts are admitted for the purpose of dispensing with formal proof thereof in respect of a guilty plea by THE VILLAGE OF CEREAL and KENNETH WILLIAM RUDE before this Honourable Court to the following charge:

Count 5: On or about June 6, 2017, at or near the Village of Cereal, Alberta, did use, apply, supply handle, transport, store or dispose of a pesticide, to wit: Strychnine, in a manner or at a time or place that causes or is likely to cause an adverse effect contrary to section 5(1) of the *Pesticide, Sales, Handling, Use and Application Regulations* and did thereby commit an offence contrary to section 33(a) of the *Pesticide Sales, Handling, Use and Application Regulation*.

3. It is also agreed that these facts are admitted for the purpose of dispensing with formal proof thereof in respect of a guilty plea by DARCY GENE OLDS before this Honourable Court to the following charge:

Count 11: On or about June 6, 2017, at or near the Village of Cereal, Alberta, did use, apply, supply handle, transport, store or dispose of a pesticide, to wit: RAMEX, in a manner or at a time or place that causes or is likely to cause an adverse effect contrary to section 5(1) of the *Pesticide, Sales, Handling, Use and Application Regulations* and did thereby commit an offence contrary to section 33(a) of the *Pesticide Sales, Handling, Use and Application Regulation*.

Background

4. The Village of Cereal (the Village) is located in central Alberta east of Drumheller along Highway 9 at Secondary Road 886 and is within the rural municipality of Special Area 3. In 2017 the municipal body consisted of a Mayor, Tami Olds, a Deputy Mayor, two Councilors' and the Municipal Administrator.

5. Special Areas 3 is a designated retail vendor of Schedule 1 or 2 pesticides listed under the *Pesticide Ministerial Regulation AR 43/97*. The Village was not issued any Approvals or Registrations by the Special Areas 3 relating to the purchase or use of strychnine in 2017.

6. The CJ Peacock Centre, is located in the Village on Main Street. Since the closure of the CJ Peacock School in 2007 the school building has housed the Village Council Chambers, the municipal office, a community centre, a public gym and public library. The outdoor public playground of the former school is present on the site. A Campground is also located in the municipality of the Village. The Campground is located opposite the CJ Peacock Centre on the other side of Secondary Road

886. The baseball diamond is adjacent to the Campground. The CJ Peacock Centre and the Village Campground is accessible to children and pets.

7. The Cereal and District Board of Trade (Board of Trade) is a local non-profit organization consisting of volunteers. The Board of Trade manages and operates the Campground for the Village.

8. The Village of Cereal annually hosts "Cereal Sports Days". Between July 28-30, 2017 the Sports Days event took place at the baseball diamond and Campground.

9. On July 28, 2017 two dogs ingested strychnine in the area of the ball diamond at the Cereal Sports Days and died. Alberta Environment and Parks (AEP) became aware of the incident on August 17, 2017. On August 28, 2017 AEP commenced an investigation into the source of the strychnine. The investigation revealed that on June 6, 2017 strychnine, a restricted Schedule 1 pesticide, was applied to gopher borrows located in the area of the CJ Peacock Centre. It was further learned that on the same day, RAMEX, a restricted Schedule 2 pesticide, was applied to gopher borrows located within the Campground site loops.

10. This Agreed Statement of Facts involves two separate incidents, occurring on or about June 6, 2017. One incident (count 5) involved the application of the pesticide Strychnine in the area of the CJ Peacock Centre and the other incident (count 11) involved the application of the pesticide RAMEX in the area of the Campground. The Investigation did not establish a connection between the death of the two dogs and the actions of the Defendants.

Council of the Village of Cereal and William Rude

11. At a meeting of the Council of the Village of Cereal on May 22, 2017 a motion was passed to "treat the grounds of the CJ Peacock Centre for gophers". A motion was also passed to invoice the Cereal Board of Trade for spraying the Cereal Campground. Present during the meeting was the Mayor, the Deputy Mayor, a Councilor, and the Village Administrator.

12. The Village Foreman, the Defendant, William Rude was present at the Council meeting when the gopher problem at the CJ Peacock Centre was discussed. He was asked if he would "take care of the problem". The Council knew how Mr. Rude was going to deal with the gopher problem because he told them "I'd just get some poison and poison them". Mr. Rude used strychnine in two plastic containers which he had stored in his garage.

13. On or about June 6, 2017 Mr. Rude mixed the liquid strychnine concentrate with oats and put a little bit on a stick and threw it down the gopher borrows in the area surrounding the CJ Peacock Center including the playground. Mr. Rude was aware that the product, 2 % liquid strychnine concentrate (PCP #30433) by Maxim Chemicals, was a "restricted product" for agricultural use and rodent control - not parks and residential areas. He was also aware of the harmful nature of the product and the warning on the label that "it is toxic. Keep it away from children. Don't get it on your skin". Mr. Rude admitted to the investigator that when he read, "keep

away from children” on the product label he did not even “give it a thought”. Mr. Rude acknowledged he should not have used it. Mr. Rude posted signs at the Village Office which said the area had been “treated for gophers”. There was no mention of the word “strychnine” on the sign. Mr. Rude subsequently disposed of the two empty strychnine bottles at the Youngstown Landfill.

Darcy Olds

14. The Defendant, Darcy Olds is an individual who was employed by the District and Cereal Board of Trade as the “Caretaker” of the Village of Cereal Campground. Mr. Olds’ responsibilities did not include the application of pesticides. The Board of Trade did not instruct Mr. Olds to deal with the gophers at the Campground in June of 2017. The idea to exterminate gophers at the Campground was Mr. Olds alone.

15. After supper on June 6, 2017 Mr. Olds and Mr. Rude were together in the maintenance shed at the Campground where the gopher problem was discussed. Mr. Olds and Mr. Rude shook up the two bags of premixed RAMEX. The product consisted of “little green pellets.” Mr. Olds believed RAMEX to be similar to mouse and rat poison but he did not know the active ingredient in RAMEX as he had not read the label on the bag “for quite a while”.

16. After Mr. Rude departed, Mr. Olds wore gloves and carried the RAMEX to visible gopher burrows. Mr. Olds spooned the pellets in some [gopher] holes... mainly in the area of the parking lot” [of the Campground]. He put some of the poison in the area of the island where there are a couple of picnic tables, fire pits and a swing set. He did not put the RAMEX near the swing set. Mr. Olds told the Mayor about the application of the RAMEX. The Village Administrator put up signage at the gate of the campground the next day.

17. Mr. Olds was aware the label on the RAMEX bag stated that it was too be applied by a “farmer, or a certified applicator, or somebody that's working under ... the *Pest Control Products Act* ... [or] government program...such as an ag fieldman...”. Mr. Olds was not occupied as a farmer nor working under a pest control program at the time of the application of RAMEX.

Scene Photos

18. Scene photos taken on August 28, 2017 by the Investigator are included below.

STRYCHNINE (PCP #30433) and RAMEX (PCP #13920) are Pesticides

19. 2% liquid STRYCHNINE (PCP #30433) registered by Maxim Chemical is listed as pesticide in Schedule 1 of the *Pesticide (Ministerial) Regulation AR 43/97*.

Registered Label - Strychnine

20. The label for 2% liquid STRYCHNINE (PCP #30433) includes the following information:

- A Warning that the product is "RESTRICTED" and limited for sale use to pest control operators, agricultural producers and persons authorized in government approved pest control programs. "
- A Warning not to use the product in residential or public areas such as parks, playing fields or other sites that are open to the public.
- A Warning that it is "~~Toxic to all forms of life.~~" Further, to keep the product out of reach of children and domestic animals. That it is fatal if swallowed or absorbed through the eyes; and treated grain must be placed in areas inaccessible to children, pets, wildlife and domestic animals.
- A Notice to User that the product is only to be used in accordance with the label and that it is an offence to use it in a way that is inconsistent with the direction on the label.
- Directions for Disposal: "All unopened, empty or partially empty bottles of 2% Liquid Strychnine Concentrate and contaminated equipment (e.g. buckets, containers) must be stored in a locked compartment. Dispose of the container in accordance with provincial requirements..."

21. RAMEX (PCP #13920) registered by RAMEX Company is included as a Schedule 2 pesticide by the certification statement indicated on the label of the product.

Registered Label - RAMEX

22. The label for RAMEX (PCP #13920) includes the following information:

- A Warning that the product is a commercial rodenticide and only to be used by certified pest control operators, farmers and persons authorized in government approved pest control programs. "
- A Warning to keep the product out of reach of children, pets and livestock. That it may be *harmful or fatal* if swallowed or absorbed through skin. Chemical-resistant gloves must be worn when handling product and when disposing of dead rodents, unconsumed bait and empty containers. Avoid contact with eyes, skin or clothing. Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet. Wash skin thoroughly with soap and water after handling. ...
- Directions for use: For the control of rodents indoors and outdoors within 15 metres of buildings. Rodenticide bait can be placed in tamper-resistant bait stations along the fence line of properties, outside of the 15 metre limit but within 100 metres of buildings, if the station is securely fastened (e.g., nailed down) to the fence or ground.
- Use Limitations: Bait MUST be placed either in tamper-resistant bait stations or in locations not accessible to children, pets, livestock or non-target wildlife.
- A Notice to User that the product is only to be used in accordance with the label and that it is an offence to use it in a way that is inconsistent with the direction on the label.
- Directions for Disposal: "do not reuse empty container. Dispose of unused or spoiled bait in accordance with local requirements. Follow provincial instructions for any required additional cleaning of the container prior to its disposal. Make the empty container unsuitable for further use. Dispose of the container in accordance with provincial requirements.

ALL OF WHICH IS ADMITTED AS FACT,

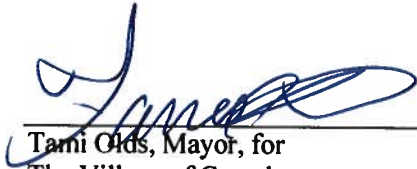
DATED this 25th day of September 2019 in Hanna, Alberta.



Martha O'Connor
Agent of the Attorney General of Alberta



Hugh Somerville
Counsel for The Village of Cereal, William
Rude and Darcy Olds .



Tami Olds, Mayor, for
The Village of Cereal



Kenneth William Rude



Darcy Gene Olds

Photo A

Aerial View Village of Cereal, AB

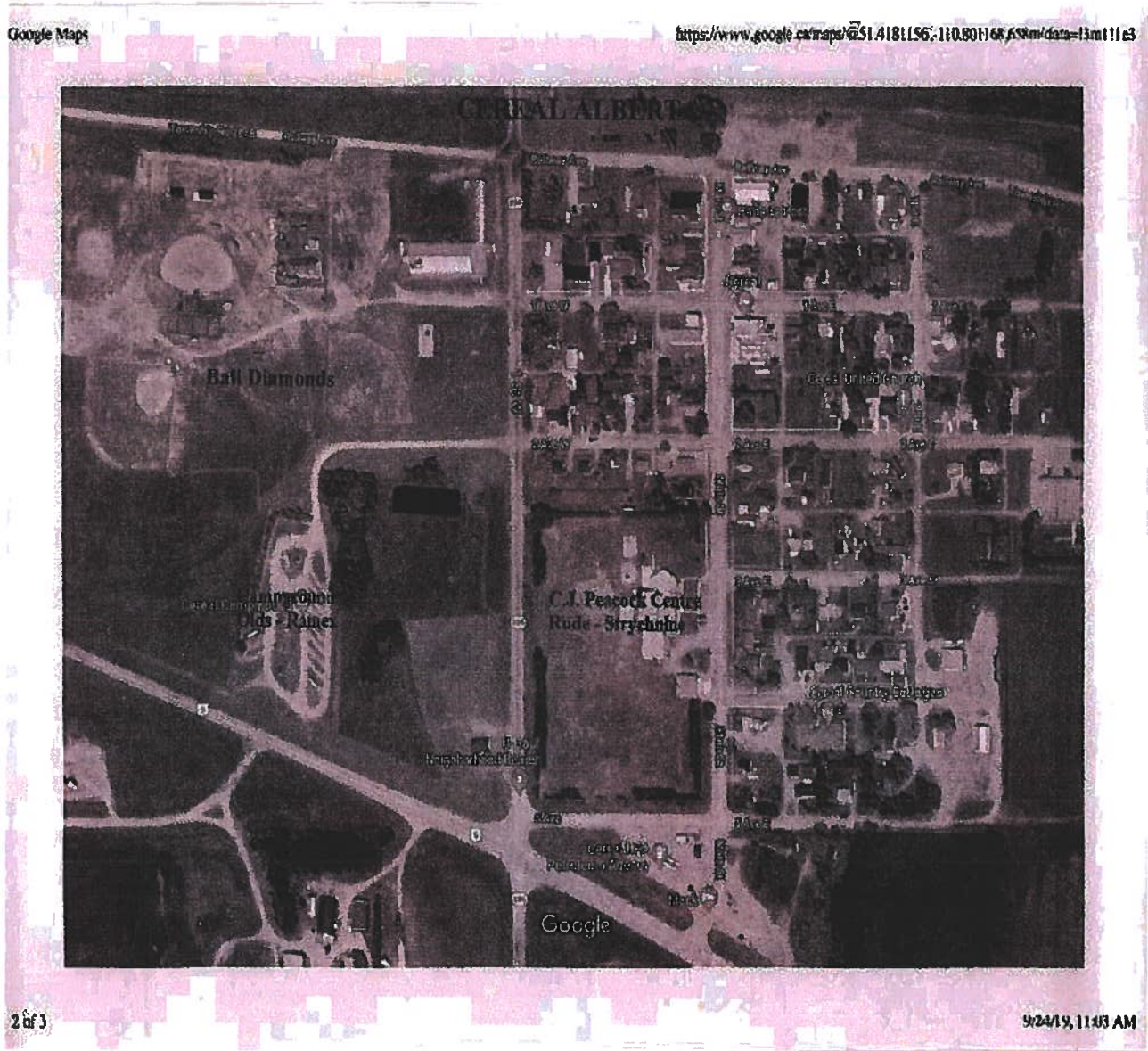


Photo B, C

Front entrance of the CJ Peacock Centre and Play structure located on the NW side of the building.



Photos D

Photo of a sign that was used to post the CJ Peacock Centre grounds after the Strychnine application.

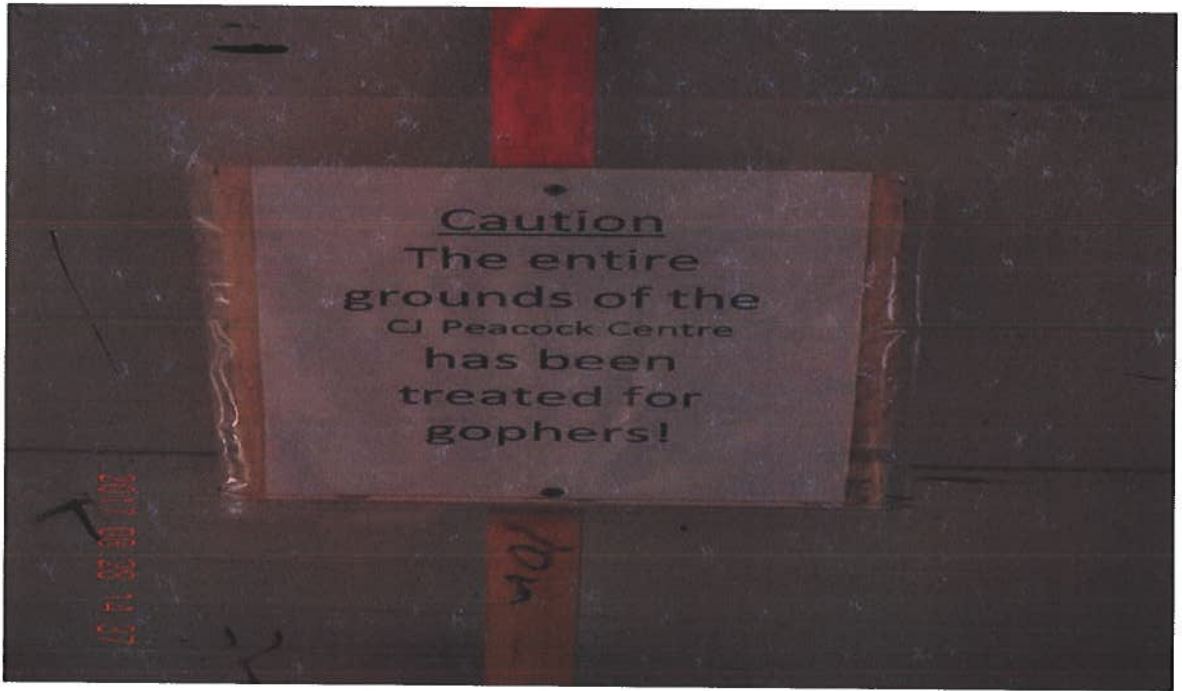


Photo E

Village of Cereal Campground - Welcome Sign.

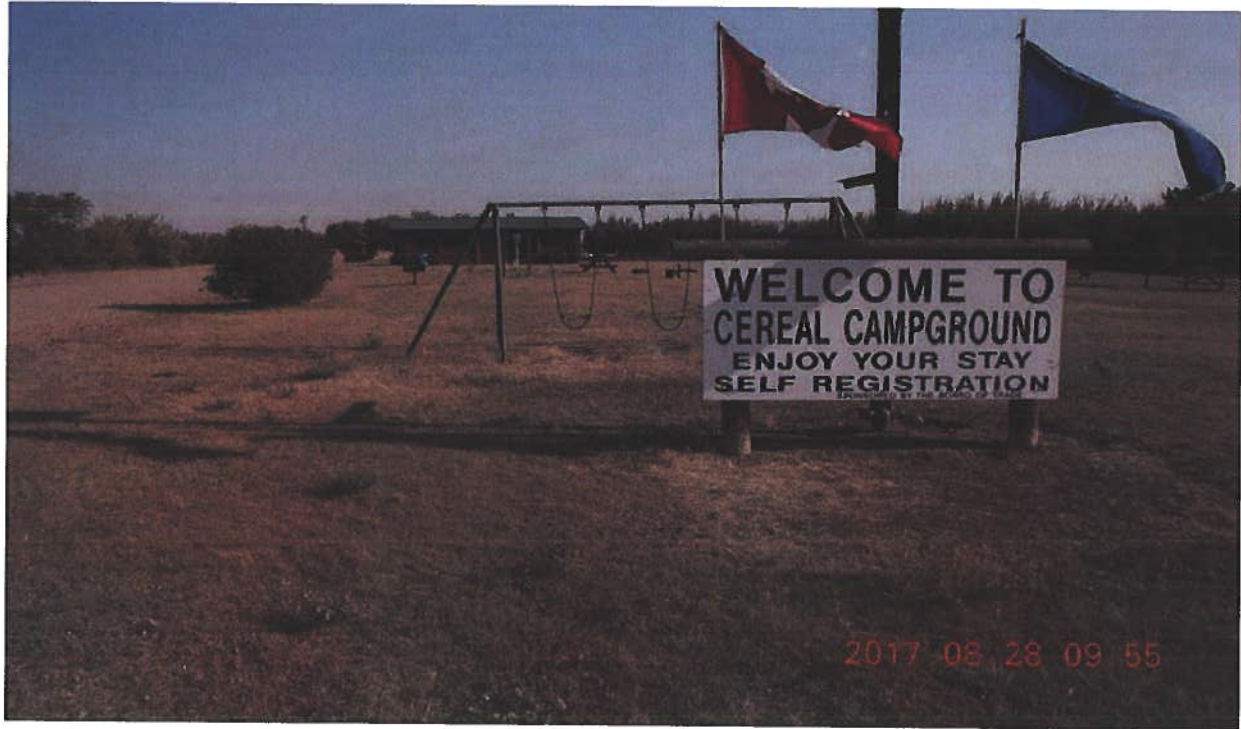


Photo F

Sign at the entrance to the Cereal Campground. It reads "Caution The entire grounds of the campsite has been treated for gophers".



Photo G

Sign at the Cereal Campground showing that the campground contains 30 sites and is self-registration. Caution notice is also attached to this sign regarding treatment for gophers.

