

Review of British Columbia's Site Remediation Legal Regime

Identification of Contaminated Sites Intentions Paper Consultation

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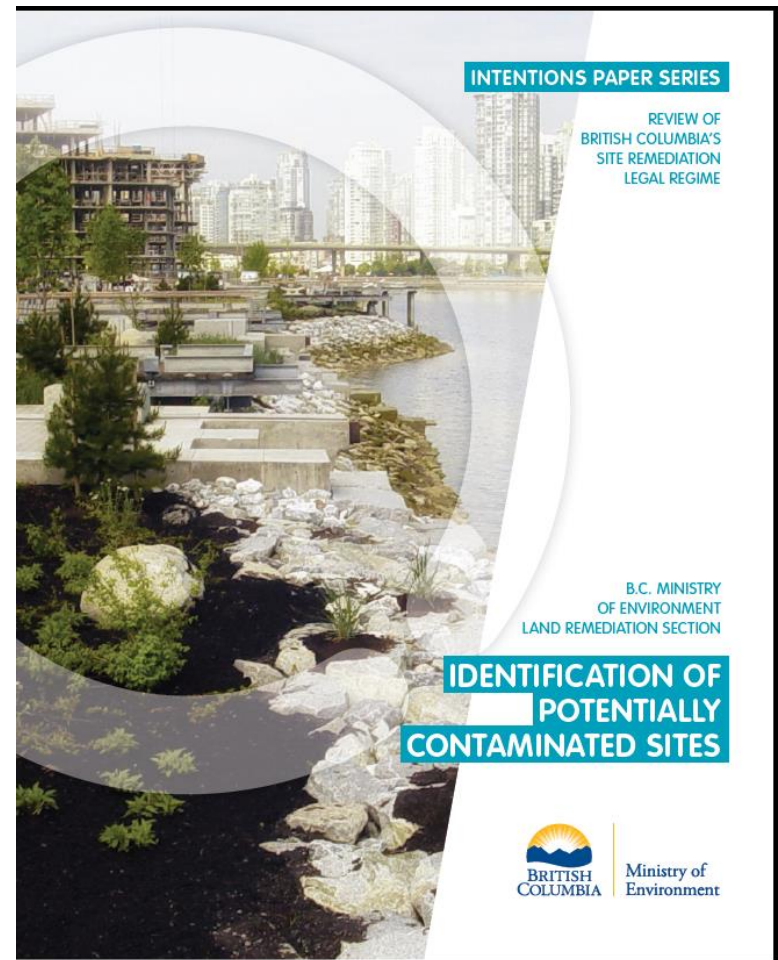


Ministry of
Environment

IDENTIFICATION OF CONTAMINATED SITES

Discussion Points:

- Overview of current site profile process
- Jurisdictional review
- Intentions paper – proposed changes to existing legal regime
- Consultation process
- Discussion



CURRENT SITE PROFILE PROCESS - BACKGROUND

What is the site profile process?

- A series of legal provisions used to identify potentially contaminated sites and ensure these sites are investigated and, if necessary, remediated prior to redevelopment

How does it work?

- Process triggered by decommissioning, foreclosure or application for specific local government approvals
 - Only applies to sites where commercial/industrial activities have occurred as listed in Schedule 2 of the Contaminated Sites Regulation (CSR)
 - If the Director requires a site investigation, approvals are “frozen” until the Director’s requirements are fulfilled
- ❖ Provisions were established (1997) following extensive consultation with local governments to address concerns about redevelopment of contaminated sites

SITE PROFILES – CONCERNS WITH CURRENT PROCESS

- Burdensome administration (for applicant, local government, and ministry)
- Inconsistency across the province (opt-out option, differences in local government permitting processes)
- Too many triggers – often identifies sites, blocks approvals at inappropriate times
- Consequences of triggering the process are unclear (what happens when a site profile goes to the Director?)



DISCUSSION PAPER

To address concerns - discussion paper proposed options for amending the legal regime for identifying contaminated sites

- Posted for public comment in October 2014
- Received approximately 20 comments
- Summary of comments available on website
- All comments were reviewed and considered during development of the intentions paper

JURISDICTIONAL REVIEW

- Ontario & Quebec have provincial regulations that dictate when site investigation and remediation should be completed during redevelopment and/or site decommissioning
- Many jurisdictions leave contaminated sites issues completely to local government to deal with during the development process
 - Alberta
 - Oregon State
 - Queensland, Australia
 - United Kingdom

INTENTIONS PAPER – WORKING GROUPS

Consultation with key players prior to posting for broader public comment

- Oil and Gas Commission
- Local government working group
- Industry working group



IDENTIFICATION OF CONTAMINATED SITES PROCESS

Will no longer be referred to as the “Site Profile Process”

- Site identification process, site identification form

Overall objectives:

- ✓ to identify sites that are to be decommissioned, redeveloped for a new use, or that are going through insolvency proceedings
- ✓ to ensure these sites are investigated in a timely manner and remediated prior to reuse of the land

PROPOSED INTENTIONS

Site Identification Form (Schedule 1 – currently Site Profile form)

- Remove question sections (Section IV through IX)
- Specific site history searches must be completed prior to filling out form



Schedule 2 – List of Commercial or Industrial Purposes and Activities

- Update to ensure the listed activities adequately capture relevant industries and activities

Triggers

- **RETAIN** development, variance, zoning; **REMOVE** demolition, soil removal, subdivision; **ADD** building permit, application for protection under *Companies' Creditors Arrangement Act*

Exemptions

- Revise, remove, and create new exemptions to ensure process meets objective of identifying sites under redevelopment or decommissioning/insolvency proceedings

HOW WILL THE PROPOSED PROCESS WORK?

For sites with Schedule 2 activities:

- Triggering action (decommissioning, insolvency, applications for local government approvals) would *automatically* initiate regulatory requirements for site investigation, remediation and reporting
- Site identification form submitted to ministry for information and compliance tracking purposes
- Property owner and local government would be informed of regulatory requirements
- Regulatory requirements would be tracked via Site Registry database for compliance and enforcement purposes

HOW WILL THE PROPOSED PROCESS WORK? – CONT'D

- **For site decommissioning/foreclosure:** requirement to submit to the Director (1) site investigation reports and (2) Site Risk Classification Report – within 1 year
 - For sites regulated under the Oil and Gas Activities Act – submit reports and Site Classification Form to the Commission
- **For applications for protection under CCAA:** requirement to submit to the Director (1) a site identification form for all properties located within BC and (2) submit any existing site investigation reports and Site Risk Classification Reports – within 30 days of filing the application
- **For redevelopment:** site investigation and remediation must be completed and a COC or negative Determination be obtained *prior to final building inspection or occupancy (similar to current Scenario 5)*. Local government will have legal authority to withhold occupancy or not complete final inspection.

KEY POINTS FOR LOCAL GOVERNMENT

- No longer able to “opt out” of administration process
- Shifts current local government responsibilities from beginning of redevelopment permit process to the end of construction
- Local government immunity protection will remain as is
- MOE will provide training when legislation changes occur
- MOE recognizes some sites will not be captured, however that is currently the case and other mechanisms exist to identify sites (eg., NIR, NOM submissions, complaints, spill reports)

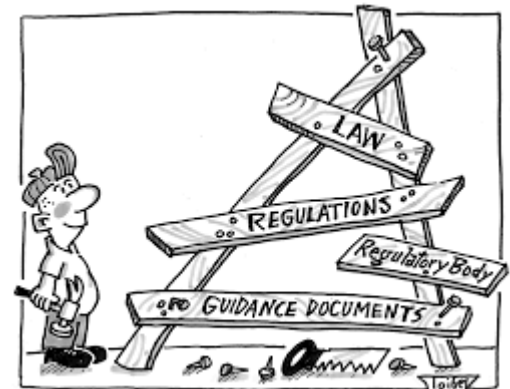
KEY POINTS FOR PROPERTY OWNERS

- For all sites with Schedule 2 activities: must obtain a ministry instrument to confirm site meets environmental standards (numerical or risk-based)
- Provides maximum flexibility allowing site investigation/remediation to be completed during redevelopment of the site, permits not “frozen” until occupancy
- Consistent rules across province
- MOE will provide training when legislation changes occur

CONSULTATION PROCESS – NEXT STEPS

Comment period: ends July 31, 2016

- Webinar scheduled for June 8, 2016
- Possible face-to-face consultation in Vancouver (TBD)
- Comments received during this consultation period will be considered by the ministry prior to proposing future legislative and regulatory amendments relating to the identification of contaminated sites
- Amendments anticipated to occur in 2017 or later



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Thank you for your participation today.
We encourage you to forward your comments to:

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Consultation closes on **July 31, 2016**