

***DRAFT***  
***ADMINISTRATIVE GUIDANCE***  
***15***

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CSAP Society AGM  
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Ministry of  
Environment

# OUTLINE

## Administrative Guidance 15

- Purpose
- Regulatory context
- Scope
- Reporting Expectations
- Scenarios

# DID YOU CATCH ADMINISTRATIVE BULLETIN 1?



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Effective date: March 1, 2014

## ADMINISTRATIVE BULLETIN FOR CONTAMINATED SITES

1

### Preapprovals Not to Delineate or Remediate the Entire Area of Contamination at a Site

#### Purpose

This bulletin is intended to clarify the scope and intent of preapprovals under Protocol 6 which would exempt an applicant from the requirement to delineate and/or remediate the entire area of contamination at a site.

#### Bulletin

For applications for contaminated sites legal instruments submitted with the recommendation of an Approved Professional, preapproval not to delineate or remediate the entire extent of contamination at and associated with a parcel is enabled under [Protocol 6, "Eligibility of Applications for Review by Approved Professionals"](#) (Protocol 6). This is described under section 4.5 of Protocol 6, which indicates that unless otherwise exempted from preapproval described in section 4.6, a responsible person for the source of contamination on a parcel with respect to an application for a Determination of Contaminated Sites, a Remediation Principle, or Certificate of Compliance, including the delineation and remediation of the area of contamination, including contamination at the parcel and any contiguous parcels which has migrated from that parcel to adjoining parcels.

The provision of preapproval conditions is not intended to replace requirements in the Contaminated Sites Regulation's discretionary preapproval where applicable. Rather it allows for a responsible person's discretion to investigate and delineate. Where it is not possible to investigate and delineate, the responsible person may seek relief from the requirement to delineate and remediate. Examples include:

- a neighbour requesting access for investigation or remediation of a migrating contaminant plume;
- a parcel where a contaminant plume has migrated from a neighbouring parcel and there is no technically feasible method to investigate or remediate below the structures, requiring alternate methods to satisfy site investigation requirements under the Regulation;
- a responsible person seeking relief from the requirement to delineate and remediate a migrating contaminant plume from an adjacent source parcel where the responsible person is seeking relief from the requirement to delineate and remediate from a neighbour's source parcel;

It's evolved

Now draft Administrative Guidance 15:

**Approvals Not to Delineate or Remediate the Entire Area of Contamination at a Site**



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# PURPOSE

## **Administrative Guidance 15**

Describes situations where a Director may recognize that full delineation or remediation is not possible or appropriate when issuing a legal instrument.

# REGULATORY CONTEXT

## Protocol 6, Version 8

*4.5 Subject to section 4.6...any applicant who is a responsible person for the source of contamination with respect to an application for an AiP or CoC is responsible for the delineation and remediation of the entire area of contamination including contamination at a parcel and that which has migrated from that parcel to neighbouring parcels.*

[See EMA 1 and CSR 59, 47 and 48]

Addressing the “entire extent” of contamination has been required in Protocol 6 since 2003 (Version 2)

An exception introduced in Protocol 6, Version 4 (2004)...

# REGULATORY CONTEXT

Corollary to P6, Clause 4.5:

4.5 *Subject to 4.6...any applicant who is **NOT** a Responsible Person for the source of contamination with respect to an application for an AiP or CoC is **NOT** responsible for the delineation and remediation of the entire area of contamination including contamination at a parcel and that which has migrated from that parcel to neighbouring parcels.*



# REGULATORY CONTEXT

Corollary to P6, Clause 4.5:

4.5 *Subject to section 4.6...any applicant who is **NOT** a Responsible Person for the source of contamination with respect to an application for an AiP or CoC is **NOT** responsible for the delineation and remediation of the entire area of contamination including contamination at the **source** parcel and that which has migrated from that parcel to neighbouring parcels, **other than the parcel for which the instrument is sought.***

Legal instruments confirm that CSR standards and procedures have been or will be met on the parcel they are issued for regardless of responsibility.

# REGULATORY CONTEXT

Subject to section 4.6...

*4.6 Any application for a legal instrument of a type listed in Table 2 must be preapproved by a Director.*

Table 2. Applications requiring preapproval by a Director of Waste Management

No.	Types of Applications for Contaminated Sites Legal Instruments Requiring Preapproval
<i>Involving the extent of the area of contamination delineated and remediated</i>	
1	If the applicant for a contaminated sites legal instrument is a responsible person for the source parcel and has not delineated and/or remediated the entire area of contamination including contamination at a parcel and contamination which has migrated from that parcel to neighbouring parcels.



# AFFECTED PROPERTY EXCEPTION

## Protocol 6 Version 7, 2010

Table 2. Contaminated Sites Legal Instrument applications which must be accompanied by a recommendation by an Approved Professional

Column I	Column II	Additional Qualifications <sup>2</sup>
Legal Instrument	Site Risk Classification <sup>1</sup>	
Determination of Contaminated Site	high risk non-high risk	
Approval in Principle	non-high risk	For remediation under the numerical standards, this requirement does not apply unless remediation can meet the requirements in the Approval in Principle within five years of the Approval in Principle being issued and a schedule of remedial commitments is provided to a Director by the responsible person indicating how this timeline will be met.
Approval in Principle or Certificate of Compliance	non-high risk	<p>This requirement does not apply if the application:</p> <ol style="list-style-type: none"> <li>1) Is based on a detailed risk assessment that does not comply with the guidance requirements and data hierarchies of Technical Guidance 7, "Supplemental Guidance for Risk Assessments."</li> <li>2) Is based on a screening level risk assessment that does not comply with Protocol 13, "Screening Level Risk Assessment."</li> <li>3) Is based on a risk assessment that includes one or more parcels affected by contamination migrating beyond a source site boundary, unless the application includes written statements confirming that each affected site owner agrees in writing to the risk management remedial approach.</li> <li>4) Is for any parcel contaminated by substances migrating from a source site, unless the application includes the following written statements confirming that any measures necessary to prevent recontamination of that affected site by the contamination originating at the source site have been, in the case of a Certificate of Compliance, or will be, in the case of an Approval in Principle, put in place               <ol style="list-style-type: none"> <li>(i) by an Approved Professional, that the design of any works or implementation of other measures required in the opinion of the Approved Professional to prevent recontamination of the affected site from the source site will, if operated and maintained as specified by the Approved Professional, prevent recontamination of the affected site; and</li> <li>(ii) by the current owner or operator of the source site, that any works or measures intended to prevent recontamination of the affected site will be implemented, operated, and maintained according to the Approved Professional's specifications and any requirements in a Certificate of Compliance or Approval in Principle issued for the source site; or</li> <li>(iii) by the current owner or operator of the affected site, that any works or measures intended to prevent recontamination of the affected site will be implemented, operated, and maintained according to an Approved Professional's specifications and any requirements in a Certificate of Compliance or Approval in Principle issued for the affected site.</li> </ol> </li> </ol>

**See Procedure 12**

# SCOPE

## **Administrative Guidance 15:**

- Clarifies regulatory context
- Outlines eligible applications and reporting expectations
- Consolidates miscellaneous director's approvals under a single approval process
- Supports applications for both:
  - Legal instruments under Protocol 6; and
  - Site profile releases under Administrative Guidance 6

# ELIGIBLE APPLICATIONS

## Miscellaneous services and functions applications

- Area wide contamination (releases only)
- Merging plumes
- Responsible person requests for part site instruments for affected parcels
- Denied access
- Technical infeasibility (beyond scope of Technical Guidance)
- Flow through plumes (releases only)
- Beneficial use

# REPORTING EXPECTATIONS

	Scenario	Applicable Lands	Legal Instrument or Release Request Requirements
1	Denied access	Affected parcels	<p>Demonstrate that all reasonable efforts have been made to delineate and remediate the entire area of contamination in accordance with applicable tech guides and Admin Guide 11.</p> <p>Contamination must be bounded on a gross scale (e.g., on an adjacent roadway beyond the affected parcel).</p>
2	Technical infeasibility	Source parcel or affected parcels	<p>Submit:</p> <ul style="list-style-type: none"> <li>a) a description of, and rationale for the alternate method and a statement on its ability, versus ministry approved methods, to meet site investigation requirements, and</li> <li>b) a qualitative statement on the risks associated with the use of the alternate method versus ministry approved methods.</li> </ul>
3	Merging plumes	Affected parcels	<p>Submit:</p> <ul style="list-style-type: none"> <li>a) evidence that certain contaminants are not the responsibility of the applicant and are the responsibility of the neighbour, and</li> <li>b) communication records (per AG11) demonstrating all reasonable efforts have been made to work with the neighbouring RP.</li> </ul>



## Land Remediation

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## Land Remediation



### Welcome

The Land Remediation Section administers the provisions for the investigation and remediation of contaminated sites in British Columbia under the *Environmental Management Act* and Contaminated Sites Regulation.

Our section focuses on the remediation of brownfields, orphan sites and complex, high risk contaminated sites, and facilitates the remediation of low and medium risk sites. We also manage the Site Registry, provide operational and procedural

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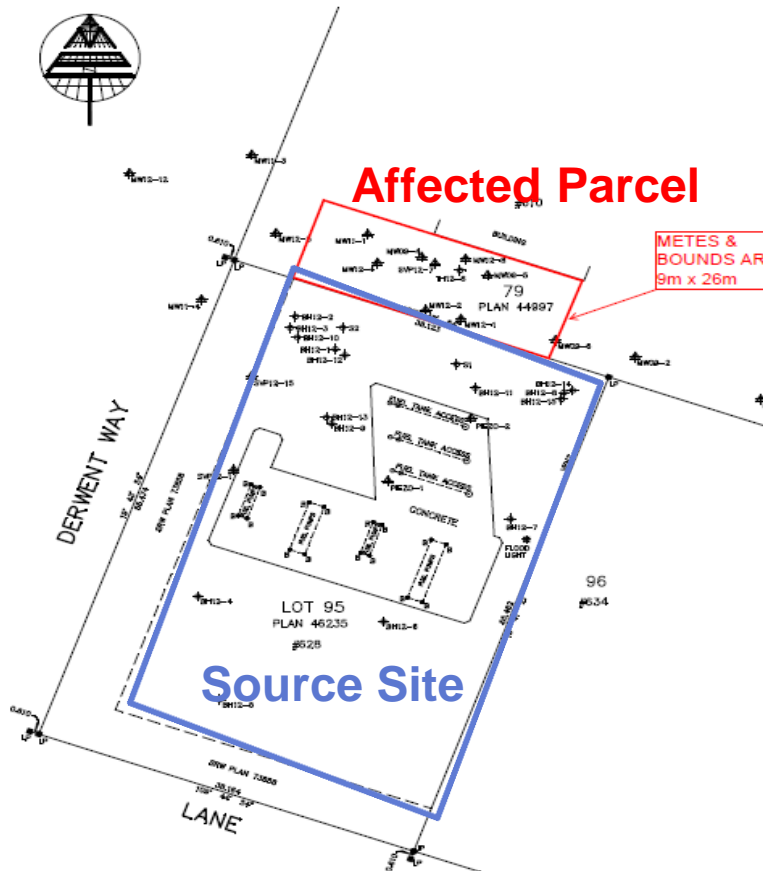
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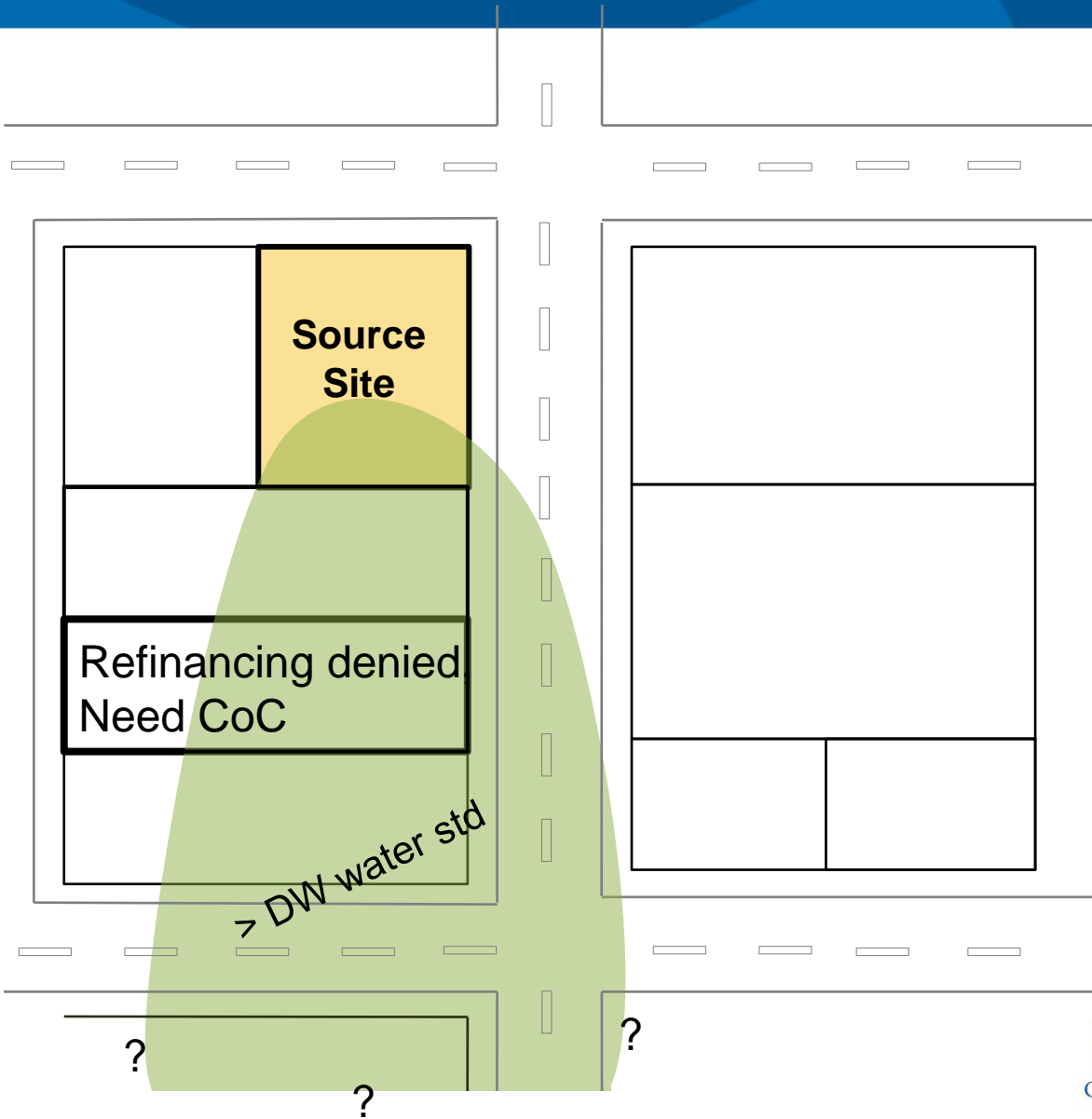
# SCENARIO 1

## CoC Application for Affected Parcel – Incomplete Remediation



- Operating source site.
- Entire extent of contamination delineated.
- Remediation of accessible source site via soil excavation/in-situ treatment
- LDPE barrier liner installed at boundary with affected parcel.
- Affected parcel remediated to numerical standards for all media.
- GW gradient away from the affected parcel.
- Written confirmation from the affected parcel owner for the numerical-based CoC.

# SCENARIO 2





**QUESTIONS?**

**THANK YOU!**