



Ministry of  
Environment

## **Procedures for Establishing the Boundaries of a Site**

**Stakeholder Consultation Session**  
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- First public draft of procedure released in December 2006
- Presented at consultation session in February 2007
- Comments received from 11 stakeholder groups
- Purpose of this presentation
  - Summarize procedure document
  - Describe latest changes
  - Respond to questions and comments

- The *Environmental Management Act* does not define “site”
- A few provisions in Determinations of Contaminated Site section 44 (1)
- Site definition important when Director issues other contaminated sites legal instruments
- Procedures needed to
  - Provide consistency
  - Synchronize with court interpretations
  - Clarify legal liability issues

# What are Ministry Procedures?

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2008-03-13

- Guidance to ministry staff, including Director
- Not legally linked to the Act
- Not binding on a Director
- Circumstances for each site must be considered in establishing
  - Site uses
  - Site boundaries
  - Associated fees

- Director should consider in determining site boundaries
  - Parcel boundaries
  - Proximity and ownership of parcels
  - Land, water and sediment uses
  - Zoning and land use policies
  - Ongoing commercial and industrial activities
  - Nature and extent of contamination
  - Degree to which contamination will be addressed

- The land use which applies is the primary land use at the surface of the site (Contaminated Sites Regulation section 12 (1))
- Multiple water and sediment uses are acceptable at a site

# Bordering Parcels

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- Are those parcels which share a common border
- A Director should not designate as a single site parcels which are not bordering

# Full Extent of Contamination

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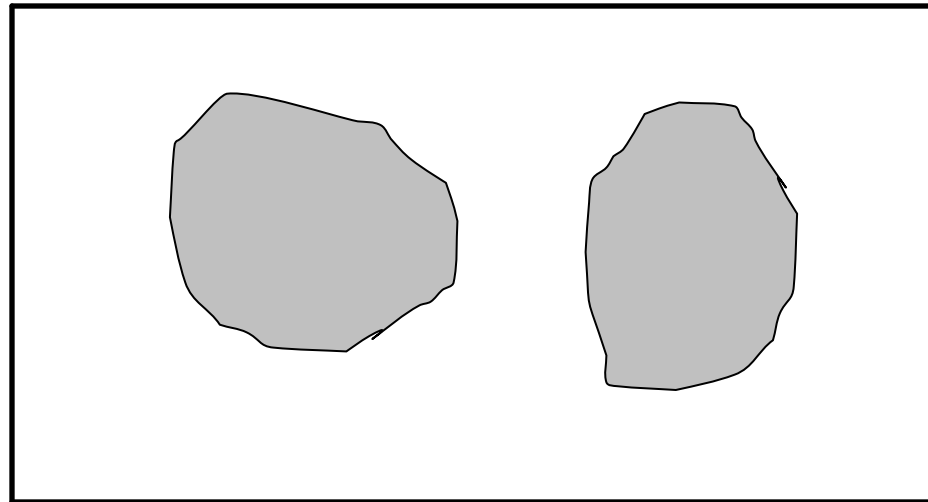
- Director may require the full extent of contamination at a parcel to be addressed
- Could apply to a single or multiple parcels
- Could involve a single instrument or a combination of types (e.g. CoC and AiP)



# Single Parcel, One Owner

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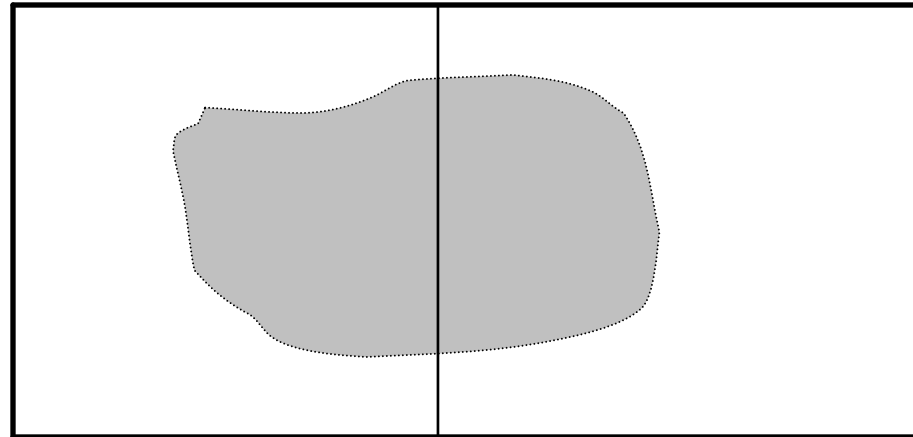
- Contamination is within the boundaries of a single parcel
- Site is the entire parcel



# Multiple Parcels, One Owner

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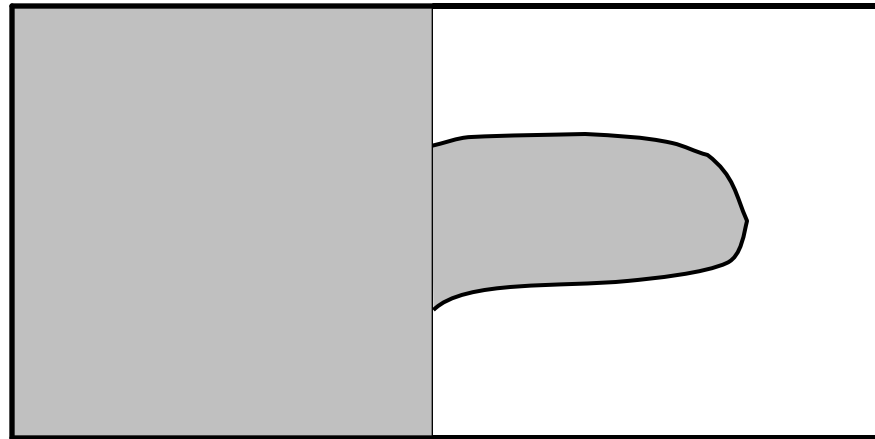
- Bordering parcels, one owner
- Common source of contamination
- Site is composed of both parcels



# Multiple Parcels, One Owner

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- Bordering parcels, one owner
- Common source of contamination
- Site borders derived from contamination borders



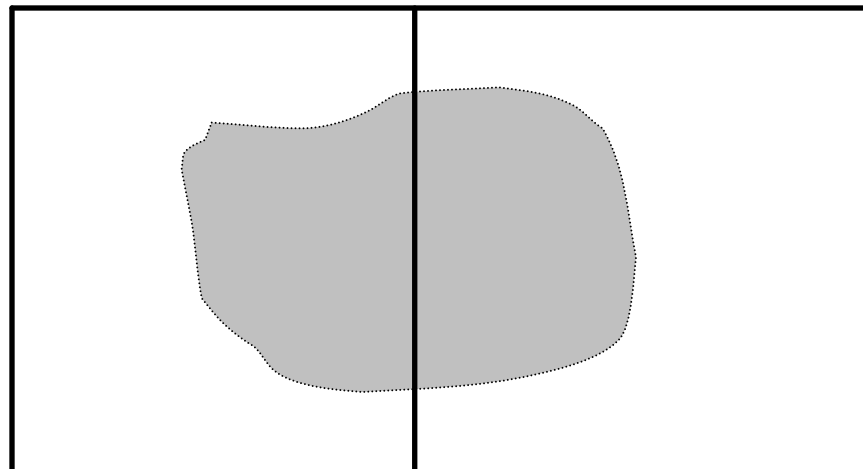
# Two Parcels, Two Owners

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- Bordering parcels, two owners
- Generally each parcel is a separate site

**Site A**

**Site B**



# Two Parcels, Two Owners

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- Could be considered one site if both owners do not disagree
- Before making a decision, a Director should
  - Inform both owners of implications and responsibilities
  - Provide a 30 day opportunity for comment

- Fees normally levied per site
- If the sites are bordering, fees may cover multiple sites for submissions of single
  - Site investigation reports
  - Remediation plans
  - Risk assessment reports
  - Confirmation of remediation reports

# What's New?

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- Definitions of “owner” and “parcel”
- Clarified scope
  - Applies to Crown leases
  - Does not apply to site profiles, spills, situations with no legal instruments
- Director's criteria expanded
  - Zoning and land uses
  - Existence of ongoing commercial and industrial operations

- Vertical boundaries considered
- Reference to Regulation section 17 (3)
  - Soil beyond 3 metres depth (unless otherwise specified by the Director) has a commercial land use
  - Similar concept being developed for definition of “wild lands” land use by Land Remediation Section



- Clarified role of consultants

*Those preparing draft contaminated sites legal instruments are expected to be aware of and follow the provisions of this procedure document*

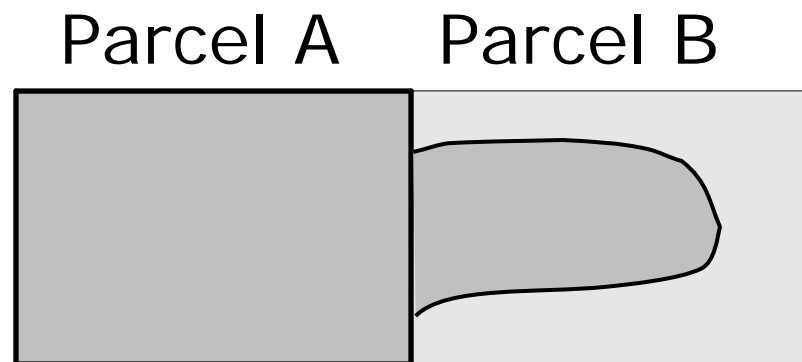
- Amended procedures for considering two parcels owned by different owners as one site
- Formerly confirmation in writing from both owners required
- Now 30 day comment period required to be provided by Director with no written confirmation necessary

- New section on extent of contamination
- Director normally should reject applications for sites instruments which do not address full extent of contamination
- Exception – when there are bordering parcels, different contaminant sources, and different owners

# What's New

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- Certificate – Parcel A owner's contamination
  - Site is all of Parcel A and part of Parcel B
  - Dark shaded contamination at Parcel B comes from Parcel A
  - Light shaded contamination at all of Parcel B, overlapping with dark shaded contamination
- Certificate for dark shaded area should not refer to light shaded substances



- Implementing the procedure document should
  - Formalize key principles
  - Improve consistency in determining site boundaries
  - Protect landowners from inadvertent liability created by Director's decisions
  - Confirm our approach to fees for multiple sites