Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
2006 Version of Procedure (Draft 15)	L	Comments in this section were on draft 15		Unless otherwise specified, responses in this section apply to changes incorporated into the 2007 version (draft 18)
General	Template letters	It would be useful to have the standard letters and release documents in place during stakeholder consultation.		Initial draft letters and documents were provided to working group members.
3.3.2 2)b) bullet 2		Add "or risk-based" standards.		All sites eligible for certificates under Protocol 6 were included.
3.3.2, 3.4.3 and 3.4.4	Commitment to remediate	Any commitments made in support of a release should be made by the proponent, not the Approved Professional.		This change was incorporated.
	Offsite remediation	The proponent's commitment to obtain an AiP or CoC for any offsite contamination within two years of receiving the release should be changed to a written commitment to,"apply for and/or make a reasonable effort to obtain" an AiP or CoC for any offsite contamination within two years.		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.4.2, 3.4.3, 3.4.4	Indemnification of local governments	Indemnification clauses are considered to be redundant, not required, and will burden the process if these clauses are expected requirements. EMA is clear that the proponent is responsible for the property they have contaminated. Also, the indemnification from a responsible party is either beyond the authority of the organization to provide due to unlimited liability requirement and/or not meaningful as the proponent is not able to satisfy the liability requirement.		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4.4 bullet 3	Commitment to remediate	Replace "a written schedule to complete remediation and a written commitment to provide a revised schedule to the Director before any changes in the schedule occur" with "A written schedule, plan and commitment to the director to		This suggestion has been addressed in a different manner in Scenarios 4 and 5 in the current draft of the procedure document. Normally under section 54(3)(d) of the <i>Environmental Management Act</i> the Director would impose

August 14, 2008 1 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		implement Independent remediation or advising of significant changes to the schedule".		requirements to undertake independent remediation in accordance with a submitted remediation plan. Any requirement for notification of the Director of changes to the plan would be addressed as part of the letter imposing the Director's requirements, so the issue of notification of changes to the plan need not be addressed in this procedure.
3.3.2	Commitment to remediate	Add a third exemption: if an Approved Professional attests, with reasons, that the particular circumstances of site activities (requiring a "yes" answer on the site profile) are such that there is no reasonable expectation of contamination either onsite or offsite resulting from the proponent's activities. This would allow some common sense and professional judgment to factor into the process in lieu of a formulaic response when the evidence and site history are such that a site investigation is clearly not warranted.		This should be dealt with by obtaining a Determination that the site is not contaminated.
3.3.2 2)b) bullet 4	Commitment to remediate	Bullets 1 and 2 speak to carrying out investigations and remediation without referencing the requirement to complete PSIs, DSIs, and to obtain a ministry instrument. Similar wording should be used for bullet 4 (i.e. no specific need for an instrument).		We disagree because the offsite property owner would not be given enough assurance that the offsite contamination is being dealt with adequately.
3.3.2 2)b) bullet 2	Expand remediation options	The option to obtain a risk-based CoC should also be available.		The procedure was changed to allow risk-based CoCs.
3.4.2, 3.4.3 and 3.4.4	Indemnification of local government	Indemnification of the Crown and municipal officers is already provided under section 6.1 of EMA and Section 287 or LGA so inclusion here is redundant.		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4.3 bullet 3	Offsite remediation	A proponent cannot commit to obtaining an offsite AiP or CoC within 2 years as circumstances outside the control of		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance

August 14, 2008 2 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		the proponent may govern timing. Preferred wording "a commitment to remediate to the extent possible any offsite contamination to numerical or risk-based standards within two years of investigation."		for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.4.4 bullet 2	Commitment to remediate	Where a subdivision of a large legal parcel is proposed, some areas within the parcel may be contaminated and others may not. The "before occupancy or reuse" provision should apply only to those subdivided lots within the original parcel which are contaminated, i.e. development of the entire legal parcel should not be held up by the presence of contamination within only parts of it. In our opinion, approval of the subdivision will actually facilitate remediation, as it will encourage a focus on the problems within individual subdivided lots by motivated vendors, purchasers, or developers while revenue flows in from sale or development of the uncontaminated lots.		No change to the intent of this section has been made. This policy position could change in the future if a provincial brownfields strategy is developed to address this scenario.
3.4.4 bullet 1	Commitment to remediate	Regarding the commitment from an Approved Professional that adequate investigation has taken place to adequately characterize on and offsite contamination – many development sites are currently occupied and would have to be demolished before comprehensive investigations could occur. We are resistant to letting this happen for fear of sterilizing the existing use of the property. Therefore, we suggest that a written commitment to complete investigation would be adequate.		In most cases like this the ministry has found that some level of investigation is possible to assess whether contamination is present or not, even without building demolition. No change in the wording has been made because investigations normally can be carried out to sufficiently to assess contamination.
3.4.4 bullet 2	Commitment to remediate	We are concerned with the inclusion of the term "reuse" which could be inferred to include the construction of the new development and as such would defeat the intent of the procedure.		The intent of the procedure is to ensure that the site is remediated prior to the proposed "final" land use.  Construction would be an intermediate stage.

August 14, 2008 3 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
3.3.2, 3.4.3 and 3.4.4	Offsite remediation	Concern with the timing to obtain an offsite AiP or CoC within two years. It may be impossible to meet this time frame for any number of reasons.		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose.
3.4.3 and 3.4.4 bullet 2	Commitment to remediate	It may be impossible to commit to investigating or remediating adequately as specified in the procedure. We suggest that these requirements be modified so that the proponent must commit only to retain an Approved Professional for these purposes.		We do not concur because some level of site investigation is normally possible at or adjacent to sites.
1.0	Clarify definition of low-risk	The procedure does not include clear risk-based criteria for making a determination that a particular site is low-risk and therefore, it is unclear how the ministry could determine that a particular site does not present a significant threat or risk.		During the stakeholder presentations, the ministry tried to clarify what no significant threat or risk implies. With the latest version of the procedure we are reducing the use of this release mechanism which should reduce confusion. Note also that the procedure will be closely linked to the Site Risk Classification Protocol which has been released for public comment. Several of the release mechanisms will not be available to our clients if their sites are classified as high risk.
3.4.2, 3.4.3 and 3.4.4 Indemnification	Indemnification of local government	Local government indemnification – the process does not appear to extend indemnity to all local government staff that are undertaking technical review of low risk letters and providing direction to the approving officer. In addition, the process currently lacks any provision from releasing local government from any liability incurred for the issuance of an occupancy permit.		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4 Release of authorities to approve applications	Indemnification of local government; Expand legislative	Current release conditions do not provide local governments with a reasonable ability to require remediation of on and offsite contamination. In particular, the issuance of occupancy permits prior to securing site remediation for		The ministry will be taking on a greater compliance role to ensure that agreed to conditions are completed.

August 14, 2008 4 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
	authority of approving officers	onsite contamination and an AiP or CoC for offsite contamination appears to increase local government liability exposure. Local governments will be assuming additional risk without tying release to building permits, as they will have little recourse for requiring remediation, other than a ministry order or civil action, after issuance of an occupancy permit. Therefore, many local governments will want remediation completed prior to issuance of a building permit.		
3.4 Release of authorities to approve applications	Indemnification of local government; Expand legislative authority of approving officers	There is also a concern that the release conditions will not encourage the timely clean-up of offsite contamination. The proposed process should contain the condition that the impacted party will be given the option of having remediation conducted according to numerical or risk-based standards. This condition would provide a greater degree of comfort and security to local governments, as many would likely opt for a numerical approach to remediation.		The ministry views standards-based and risk-based contaminated sites legal instruments as equally valid. We always encourage responsible and affected parties to reach a mutually agreeable remediation strategy.
Other	Rights-of-way and utility corridors	Clearer guidance is required by local governments on how they should handle the migration of contaminants onto rights-of-way and utility corridors. Also, NOM requirements should include notification of utilities.		The ministry is developing further guidance on offsite migration. However, no standards currently exist under the CSR for the protection of utilities.
Other	Local government workloads	The new process could increase the workload on local governments. The local government staff will be left to communicate and manage the expectations of the new process. In order to manage the new process, it would be beneficial to provide local governments with statistics on the total number of site profiles received regionally which require no investigation, investigations and low risk release requests to give local governments a sense of future workload. Other information would be helpful.		Updated communications materials are expected to accompany the release of the new procedure.
2.0	Commitment to remediate	It is recommended that the ministry require that the investigation of contaminated sites occur prior to the "approving authority" (as defined in the Site Profile Procedures) approving any of the respective applications, pursuant to section 40(1) of the <i>Environmental Management</i>		This is the current and proposed process. However, a ministry contaminated sites legal instrument may not be required prior to reuse or occupancy.

August 14, 2008 5 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		Act (the "EMA"), which trigger the site profile submission (the "Site Profile Triggering Applications"), and in any event prior to the use and occupancy of the site thereafter.		
2.0	Expand legislative authority of approving officers	It is the approving authority that has the legal authority and jurisdiction to approve or not approve each of the Site Profile Triggering Applications. Therefore, it is strongly suggested that in instances where the remediation of the site, including any contamination that has migrated from the site, cannot be completed prior to the approving authority being requested to approve any of the Site Profile Triggering Applications, then the approving authority should specifically be granted the necessary legislative authority (in the EMA or the Vancouver Charter) to withhold any approval(s) and to require that the remediation be completed in a satisfactory manner prior to any future use or occupancy of the contaminated site.		The short term goal of the ministry has been to streamline the processing of site profiles without amending the contaminated sites legal regime. Changes to the legislation and regulations may be considered in the future.
2.1	Expand legislative authority of approving officers	Notwithstanding that the Director has the legal authority to require a site investigation (Section 41 of the EMA) or a remediation order (Section 48 of the EMA) in the event that the applicant does not honour its commitments to remediate made to the Director, we are concerned that unless the commitments to remediate are required to be completed prior to the occupancy of the contaminated site, the site will in many instances be subdivided into many strata lots and sold to numerous innocent purchasers who will have no knowledge as to the contamination when they acquire ownership and commence occupying the site. Accordingly, it is very important that the approving authority be granted the legislative authority to require that a covenant withholding an occupancy permit be entered into and registered in the Land Title Office against title to the site. This has been our practice, with the support of the ministry, since the introduction of the contaminated sites legislation, with the result that applicants have been required to remediate the contaminated sites prior to obtaining an Occupancy Permit and potential purchasers have had notice		Granting an approving authority the legislative authority to require a covenant would require legislative changes which may be considered in the future. At present the ministry may require that a restrictive covenant be issued against a property prior to release of an authorization. Citizens purchasing properties on potentially contaminated sites have a responsibility to carry out due diligence searches, including Site Registry queries to ensure that contaminated sites issues have been addressed to their satisfaction prior to purchase.

August 14, 2008 6 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		of any contamination of the site prior to purchasing all or any portion of the site.		
2.1	Commitment to remediate - timing	Although the Director has the power to issue a remediation order to address outstanding contamination issues, the Director has no procedures or the necessary ministry staff in place to monitor whether the applicant's commitments have been honoured unless a deadline date tied to an approval by an approving authority is imposed. We strongly recommend that the deadline date be linked to occupancy of the site.		The ministry is currently developing a compliance strategy which will include requirements under the site profile process.
3.3.2	Commitment to remediate – timing and compliance	We are opposed to the Director not requiring a site investigation based upon the ministry's assumption that there is "a <i>strong likelihood</i> that the site will be remediated". The Site Profile Procedures lack the necessary security and certainty that the applicant will remediate both the onsite and offsite contamination in a timely and satisfactory manner. This exemption does not provide for any financial security or the withholding of any permits or approvals to secure that the applicant carries out remediation obligations.		The ministry will be relying on statements by Approved Professionals. Compliance will be monitored by the ministry under the compliance plan for site profiles currently being developed.
3.3	Commitment to remediate	There is concern that the ministry's decision to not require a site investigation does not take into account the severity or the risks associated with the contamination, but is only based upon the ministry's belief that the applicant will carry out its remediation obligations. It is believed that the ministry, in determining whether a site investigation is necessary, should be focussing on the nature and extent of the contamination and the possible health hazards and environmental damage that may be caused by the contamination.		The procedure requires a statement from the Approved Professional [later changed to "the property owner"] indicating that the site will be remediated to applicable standards prior to occupancy. The Approved Professional or site owner will not be able to make that commitment without a thorough understanding of the extent and nature of contamination. Also, the site profile process will be linked with the Site Risk Classification Protocol. Several key releases of authorizations will not be available for high risk sites.
3.3	Offsite remediation	With respect to any offsite contamination, there are no proposed procedures to ensure that the remediation is actually completed. As currently drafted, the applicant's written commitment is simply to obtain an Approval in Principle within two years of the Director's decision not to		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a

August 14, 2008 7 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		require a site investigation. It is strongly recommended that this procedure be amended to provide that a Certificate of Compliance for any offsite contamination must be obtained prior to any occupancy of the site and that the approving authority be specifically granted the authority to impose conditions and to require covenants from the applicant to ensure its written commitment to remediate is completed.		client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.3	Commitment to remediate – timing and compliance	Since in many instances the applicants making the commitments to the ministry are numbered companies with no assets other than the contaminated site, there is strong opposition to the ministry delaying the applicant's obligations to remediate the site or to perform any investigations until a time subsequent to receiving any approvals from the approving authority. By delaying the obligation to remediate the contaminated site to post-occupancy of the contaminated site, the ministry and the approving authority are left with trying to enforce the completion of the remediation obligations against an applicant with no assets or against innocent purchasers who purchase the site from the previous owner who made the written commitment. This scenario can be avoided by the ministry through legislative changes or by any other means empowering the approving authority to withhold approving any of the Site Profile Triggering Applications or the issuance of an Occupancy Permit until the required remediation has been completed or secured to the approving authority's satisfaction.		As indicated above, to allow a no site investigation decision at this time, an Approved Professional on behalf of the proponent must confirm that contamination has been fully delineated and will be remediated to numeric standards prior to occupancy. Compliance appears to be the outstanding issue and the ministry is addressing that by developing a new compliance and enforcement strategy for contaminated sites.
3.3	Offsite remediation	There is concern with the ministry's requirements that the onsite and offsite contamination be remediated at separate times. It is believed that the definition and interpretation of "Site" should include both the lands which are the subject of the Site Profile Triggering Application and any property adjacent thereto onto which contamination has or is migrating from the applicant's property. The applicant should be obligated to investigate and remediate the entire area upon which any contamination from their property has in the past or continues to migrate. We suggest that this is		Our draft procedure on establishing the boundaries of a site was posted to the web for public review and comment on July 15, 2008. The requirement to complete offsite remediation at a future date is consistent with our current release requirements.  Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we

August 14, 2008 8 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		how the ministry has in the past interpreted and applied Section 44(1) of the EMA. Accordingly, the boundaries of a contaminated site included all areas upon which contaminants migrated and the remediation of all such contamination was required to occur prior to occupancy of the applicant's property.		received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.4.1(i) to 3.4.1(iii)	Offsite remediation	In respect of a final determination under Section 44 of the EMA, any determination that a site is not a contaminated site should include a ministry determination both with respect to the onsite and any offsite contamination.		Offsite areas would have to be assessed if they contain areas of potential environmental concern originating from the source site.
3.4	Voluntary Remediation Agreements	The entering into of a Voluntary Remediation Agreement (VRA) provides no assurance to the approving authority that the contamination both onsite and offsite will be remediated prior to any future use of the site.		This is currently a legislative exemption. Unless this exemption is removed from the legislation, the key to ensuring remediation is completed under a VRA is compliance enforcement. The ministry is currently developing a compliance and enforcement strategy for contaminated sites.
3.4	VRA	Any Voluntary Remediation Agreement entered into between the ministry and the applicant should include a covenant by the applicant not to occupy the contaminated site until a Certificate of Compliance is obtained and that the applicant will remediate both the onsite and the offsite contamination to ministry acceptable standards.		See above.
3.4	Commitment to remediate - Approvals in Principle	The issuance of an Approval in Principle should not obligate the approving authority to issue an approval for any of the Site Profile Triggering Applications unless the Approval in Principle includes conditions that:  (i) no occupancy of the site shall occur until a Certificate of Compliance is issued by the ministry, including for any offsite contamination. A restrictive covenant withholding an occupancy permit should be registered against title to the site; and		This would require statutory or regulatory change and is beyond the short term goals we wish to achieve in this procedure document. The points will be noted for consideration for future amendments to the contaminated sites legal regime.

August 14, 2008 9 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		(ii) the applicant must satisfy all the ministry's and the approving authority's requirements with respect to the remediation of the contamination, the protection of the site from migrating contamination and the protection of any utilities servicing the site from any contamination.		
3.4.1(iv) to 3.4.1(v)	Release conditions – no significant risk	We are opposed to the Director issuing "No Significant Risk Release Letters" where there is known to be contaminants of a nature which may be harmful to the health of persons using the site, damaging to the environment or in instances where contamination has migrated onto adjacent property.		Draft 15 has been revised so that the no significant risk release letters will be limited to releases of demolition and soil removal authorizations. Other releases would be provided under the mechanisms "acceptance of independent remediation by the Director" and "a site investigation is not required decision by the Director".
3.4	Release conditions – no significant risk	The issuance of "No Significant Risk Release" letters is extremely problematic because such letters are misconstrued by the recipients to mean that the risk associated with the contamination is insignificant. In fact, the ministry is not actually assessing the nature of the contamination, but only that the ministry assumes that those risks will be managed appropriately. We strongly believe that the language "No Significant Risk" is a misnomer and is misleading. Accordingly, we recommend that these letters only be issued where the contamination is extremely minimal or low risk, the contamination would not pose a risk to human health or the environment and it is likely to be properly managed by the applicant. As an approving authority, we are opposed to granting its approval for permits, zoning or subdivision where contamination exists at a level which may be harmful to persons using the contaminated site or that are working on City property adjacent thereto as a result of contaminants that migrated from the applicant's site.		We have noted this for consideration for future amendments to the contaminated sites legal regime.
3.4	Release conditions – acceptance of independent	We are opposed to an accepted Notice of Independent Remediation providing a release for the approving authority to grant any of the respective approvals. The Notice of Independent Remediation provides no assurance that the		The notification of commencement of independent remediation and acceptance of independent remediation are two different processes. Draft 32 of this procedure contains provisions which clearly describe the requirements

August 14, 2008 10 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
	remediation	contamination onsite or offsite will be satisfactorily remediated in a timely manner.		which must be in place for independent remediation to be accepted by the Director.
3.4	Letter templates	In respect of each of the scenarios outlined in the Site Profile Procedures, the City would need to review the templates contemplated by the ministry, including the proposed form of indemnification to be granted to the Crown and the approving authority.		Initial draft letters and documents were provided to working group members. The ministry does not plan to issue these draft letters to all stakeholders for comment.
3.4.3 and 3.4.4	Commitment to remediate	For scenarios 2 and 3, the applicant should be committing to obtain a Certificate of Compliance within two years of receiving any approval from the approving authority. Otherwise, there is no commitment to actually perform the remediation of the offsite contamination, but only a commitment to obtain an Approval in Principle from the ministry which may never be completed or acted upon.		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.4	Commitment to remediate	We are extremely concerned about the ministry using "risk-based standards" and allowing an occupancy permit to be issued for a contaminated site when there are no procedures in place for overseeing that the required monitoring by the Owner is occurring. In many instances, the contaminated site will be sold to innocent purchasers of strata lots who will have no notice of the contamination or that any monitoring may be required.		Revisions to Protocol 6, "Eligibility of Applications for Review by Approved Professionals," our compliance strategy under development, and our new monitoring report submission requirements in our contaminated sites legal instruments should address these concerns.
3.4	Commitment to remediate; Offsite remediation	We are opposed to the differential treatment and remediation requirements in respect of onsite and offsite contamination. The condition in the "No Significant Risk" letter should be that the applicant obtains a Certificate of Compliance for all the contamination that is on the site and which has migrated from the site. It is not sufficient from the approving authority's perspective that only an Approval in		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site

August 14, 2008 11 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		Principle be obtained for the offsite areas.		investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
Section 85.1 of the Land Title Act	Release conditions – no significant risk	We disagree with the ministry's proposed interpretation of the meaning of the "No Significant Threat or Risk Release Letter" set out in the footnote. As indicated previously, such letters should not be issued for sites with contamination levels that may pose a risk to human health or the environment regardless of whether those risks may be properly managed. In the absence of the applicant entering into legal covenants satisfactory to the ministry and the approving authority, the issuance of such letters provides a false assurance to any subsequent owners or users of the site regarding the nature of the contamination on the site.		Under the current draft 32, the no significant risk release letters will be limited to releases of demolition and soil removal authorizations. Other releases would be provided under the acceptance of independent remediation and no site investigation is required provisions.
	Expand legislative authority of approving officers	It is in our view unreasonable for the approving authority to be requested to issue the approvals for the Site Profile Triggering Applications in situations where there may be significant risks to human health or the environment. The legislation should be changed to specifically provide that the approving authority is not compelled to issue any such approvals until the approving authority is satisfied as to the safety and proper use, redevelopment, and zoning of the site.		This would require legislative changes which are not planned at this time. See previous responses. Note that for two key scenarios, releases will not be available for high risk sites.
2007 Version of Procedure (Draft 18)		Comments in this section were on draft 18		Unless otherwise specified, responses in this section apply to changes incorporated into the 2008 version of the Procedure (draft 29)
2.2	Release conditions – no significant risk	It is unclear how the Ministry of Environment would make a determination that a particular site does not present a "significant threat or risk." Local governments will need to know what constitutes low risk in order to assess the magnitude of risk.		A request for release would be accompanied by a submission under the site risk classification Protocol 12 for the site.
3.4	Indemnification of	The extension of full indemnification to local governments is	Extending indemnification to	The requirement for indemnification was included in draft

August 14, 2008 12 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
	local governments	crucial if the ministry is considering proceeding with the site profile process as currently envisioned. On one level, we positively note that indemnification has been extended to the Approving Officer as opposed to simply the Crown. However, the process does not appear to extend indemnity to all local government staff that are undertaking technical reviews of low risk release letters and providing direction to the Approving Officer.  The process also currently lacks any provision for releasing	all local government staff involved with the low risk release letters would fulfill the intent of extending indemnification beyond the Crown.	15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
		local government from any liability incurred for the issuance of an occupancy permit. This absence has been an outstanding issue previously raised by local governments.		
3.4	Information to be submitted in support of release	We believe that the site profile process could be strengthened by incorporating the requirement for the submission of details on any investigation/remediation plan, timelines, and reporting to the ministry within the independent remediation process.		If a release is provided under the acceptance of independent remediation, this information is required and must be submitted to the ministry.
3.4	Indemnification of local government	As currently drafted, the conditions proposed in the release of low-risk release letters appear to favour the ministry and the proponent as local governments lack a reasonable ability to require remediation of onsite and offsite contamination. In particular, the issuance of occupancy permits prior to securing site remediation for onsite contamination and an Approval in Principle (AIP) or Certificate of Compliance (CoC) for offsite contamination appears to increase local government liability exposure.		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4	Commitment to remediate	Local government will be assuming additional risk without tying releases to building permits, as they will have little recourse for requiring remediation other than a ministry order or civil action once they issue the occupancy permit. We believe that the proposed process will be problematic for many local governments, as local governments will want remediation conducted <i>prior to issuing a building permit</i> as opposed to tying remediation to the issuance of an		Releases provided to local government will be based on confirmation of investigative work completed, remediation plans developed, and commitments by the proponent to complete the work. In key scenarios these will be supported by the recommendations of Approved Professionals. Under draft 32 key releases are not available for high risk sites.

August 14, 2008 13 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		occupancy permit.		
3.4	Offsite remediation	In turn, the profile process conditions do not appear to address the longstanding local government issue of timely clean-up of offsite contamination. Local governments are concerned that with an AIP, applicants could take several years before remediating offsite contamination and obtaining a CoC. The proposed process should also contain the condition that the impacted party will be given the option of having remediation conducted according to numerical or risk-based standards. This condition would provide a greater degree of comfort and security to local government, as many would likely opt for a numerical approach to remediation.		Remediation of offsite contamination is the subject of a separate project and will be addressed separately. Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose.
3.4	Commitment to remediate	Local governments will require information on how the ministry intends to enforce the applicant's compliance with his/her commitment, how applicant commitments could be extended, and what protective requirements (e.g. restrictive covenants, bonds) will be employed to ensure proper and timely remediation of sites.		The ministry is currently developing a compliance strategy which will include requirements under the site profile process. This ministry is willing to share this with local governments and has already made a presentation to key local governments on this topic.
3.4	Offsite remediation	We believe that any site profile process should also clearly outline how local governments should handle the migration of contamination onto rights of way and utility corridors, as local governments have frequently called for clarification on this matter. Similarly, the notification requirements for investigations and/or remediation should be broadened to require notification to owners of rights-of-way and utility corridors.		These concerns will be passed along to those responsible for the review of offsite migration policies in the ministry.
General	Local government workloads	As currently envisioned, the proposed interim site profile process may also increase local government workloads. With the removal of the facilitative process from the release process, local government staff will be left to communicate and manage the expectations of the new process. This onus to communicate the new process will particularly	In turn, the development of a communication strategy and communication materials by the ministry for local governments would be equally beneficial in helping	Statistics could be provided on request. The ministry plans to update fact sheets and administrative guidance for communities prior to implementation of a new process. The ministry would welcome discussions about opportunities for site profile training with local governments and the Union of British Columbia Municipalities.

August 14, 2008 14 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		impact the smaller communities that have limited staff resources. In order to manage the new process, it would be beneficial to provide local governments with statistics on the total number of site profiles received regionally by the ministry which require no investigation, investigation, and low risk release requests. Such information would help local governments understand the workload implications of the proposed process.	local governments explain the new process to proponents.	
General	Further Consultation	It was our understanding that a second meeting between the ministry, local governments, and industry representatives would take place in the fall following the industry's absence at the limited stakeholder consultation meeting in August. Comments made by industry representatives at the February session also seemed to confirm this understanding. We believe that it would be beneficial for all stakeholders to meet and engage in further dialogue on the proposed site profile process.		Additional consultation was conducted in June 2008. The procedure was posted in the summer of 2008 for further stakeholder review.
3.4	Indemnification of local governments	Industry representatives questioned the ministry's statutory authority to impose such requirements. They would also like to see the template letter.		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4	Indemnification of local government	Indemnification clauses are considered to be redundant, not required, and will burden the process if these clauses are expected requirements in the Site Profile Process. The <i>Environmental Management Act</i> (EMA) is clear that the proponent is responsible for property that he has contaminated. An indemnification from a responsible party is either beyond the authority of the organization to provide due to the unlimited liability requirement and/or not meaningful as the proponent is not able to satisfy the liability requirement. Furthermore, this issue has been dealt with by the Environmental Appeal Board in the context of		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.

August 14, 2008 15 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		Certificates of Compliance.		
3.4	Editorial suggestions	Clarification and appropriate use of terminology within the document to enable consistent interpretation and application by ministry staff. An example is the overuse and requirement for "an Approved Professional".		Procedure revised for greater clarity.
3.4	Review of templates	Appendix 2 references "standard templates". There is value to review the existing templates during the consultation process.		Template letters were provided to stakeholder group members for review and comment.
3.4	Release conditions	What is the release mechanism for lease sites used for oil and or gas exploration and associated facilities on Crown land?		Under the current contaminated sites legal regime they are the same as those to be used for other sectors.
General	Timing of implementation	Will there be ample warning prior to implementation of this procedure?		All stakeholders will be advised of implementation of the new procedure in advance of its coming into effect.
Section 3.3.2 2b) bullet 1	Offsite contamination clarification	Surely only offsite contamination within a domain that is inferred to be contaminated by offsite migration of contamination originating at the site being investigated must be investigated? Otherwise offsite metals contamination in fill not caused by onsite activities and that is more extensive than the i.e. offsite PHC plume that migrated from the site would need to be investigated. What if the site contains contamination that has migrated onto the site from offsite? Does the Approved Professional need to fully characterize contamination within the source site to comply?		In most cases, a release will require submission of a PSI and, if necessary, a DSI for the site. These are adequate to characterize onsite contamination and the likelihood of migration of contamination to and from the site.
1	Definitions	Is it intended as a Director's Protocol per authority in EMA S.64? Section 1 (Definitions), last paragraph states: "A number of terms used in this <u>Protocol</u> "		This should read "Procedure" and has been corrected in the most recent version.
General	Stakeholder review - UBCM	Has the Procedure been endorsed by UBCM and do the provisions and procedures address UBCM concerns?  Will UBCM members consider the procedures to be		Representatives from local governments have participated in stakeholder meetings and have made extensive comments on drafts of the procedure. The commenter may wish to contact the UBCM directly to determine its position

August 14, 2008 16 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		sufficient so that the releases by the ministry will provide an adequate basis and appropriate documentation of conditions and prerequisites so local development approvals will be issued?		with regards to the draft procedure.
General	Oil and Gas Issues	The document is titled: <i>Procedures for Processing Site Profiles</i> . The document states that this procedure does not address related issues under the <i>Petroleum and Natural Gas Act</i> (PNGA).  Clarification right in the title, to clearly indicate that processing of Site Profiles per the PNGA is excluded, is recommended. No mention is made further (e.g., in the web site introduction) about plans for a document relating to sites covered by the PNGA.		This will be further expanded in Administrative Guidance 1, "Completing and Submitting Site Profiles." Site profiles submitted in support of abandonment of oil and gas wells are managed under a separate process.
General	Roles and Responsibilities – Approved Professionals	As noted above, roles and requirements for Approved Professionals are outlined. Specified involvement and commitment of the proponent to use an Approved Professional is required in certain instances. Several issues arise, including:  • What authority is provided in EMA and/or the CSR for involvement of Approved Professionals in these roles and with these responsibilities as specified in a Procedure? Are these assignments for the convenience of the ministry?  • Is it intended that these assignments be linked to current authorized roles for Approved Professionals (i.e., recommending AIPs, COCs, Determinations or CSRAs)?  • Is it intended that these assignments per this Draft Procedure be implemented via amendments to the CSR or is the status of this Procedure intended as a Protocol with authority for a Director per EMA S. 64, and is this considered the be appropriate and adequate authority?  • What forms and documents, if any, will Approved Professionals be expected to sign per the		The authority to require that specific activities be done by an Approved Professional is provided in section 42 of the <i>Environmental Management Act</i> . Those activities may be specified in various types of documents, including protocols, procedure documents and policies. Approved Professional work is defined under the "Procedures for the Roster of Approved Professionals" to clarify their role in the site profile procedure. The extent of the AP's liability is also addressed in the above referenced procedure. Usually an Approved Professional will be expected to sign a letter of recommendation, and often a Summary of Site Condition.  Liabilities of Approved Professionals in performing their activities under the <i>Environmental Management Act</i> have already been addressed under separate agreement with members of the CSAP Society.  The compliance and enforcement strategy being developed by the ministry will address situations where commitments made by a client are not honoured.

August 14, 2008 17 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		<ul> <li>requirements?</li> <li>Will any of these have explicit or implied warranties?</li> <li>What implications to further liability for Approved Professionals are associated with these assignments and the required documents?</li> <li>Whereas "Indemnification of the Crown and the approving authority using the standard templates" is a prerequisite in a number of cases for the ministry issuing a release, what provisions are intended or will be allowed by the ministry or approving authorities for any limitations on liability of Approved Professionals?</li> <li>Per the statement (e.g., Sec. 2.1, 3<sup>rd</sup> paragraph, in this Draft Procedure) regarding authority of the Director for enforcement actions if prerequisites for 'release' are not honoured,</li> <li>What position will Approved Professionals be placed in with regard to liability?</li> <li>What enforcement actions (and related costs) are intended (or would actually apply) for Approved Professionals if the proponent / land owner does not honour the commitments?</li> </ul>		
3.4.2	Commitment to remediate; Offsite remediation	A commitment to investigate onsite and offsite is a prerequisite to release but an AIP or COC only for offsite contamination (if any) is required within two years. Is it correct that this offsite AIP or COC can be obtained without obtaining an AIP or CoC for the onsite property?		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.

August 14, 2008 18 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
3.4.2	Commitment to remediate; Offsite remediation	Will the provisions of this Procedure take precedence to provisions of <i>Protocol 6: Eligibility for Applications for Review by Approved Professionals</i> and the provisions of <i>Procedure: Establishing the Boundaries of a Site</i> if written pre-requisites, prohibitions, or interpretations of these documents differ?		No. The Director of Waste Management will use his or her discretion in such situations.
3.4.2	Commitment to remediate; Offsite remediation	Provisions of Administrative Guidance #6 require remediation of the onsite and a Confirmation of Remediation report with the notification of completion of independent remediation within 90 days. Will the procedure under Scenario 2 also require remediation and completion of a Confirmation of Remediation? This aspect is not addressed by the Procedure.		In subsequent drafts of the procedure this scenario has changed and the release no longer is available under independent remediation.
	Municipalities opting out	The document does not acknowledge or mention processes relating to municipalities that have 'opted out' of the site profile process by filing notice with the Minister that the municipality or Approving Offices do not wish to receive site profiles (see Update on Contaminated Sites-Local Governments that Have Opted Out of the Site Profile System August 2008  • While it is generally correct that the site profile process is a mandatory process, it would seem this exemption should be mentioned (e.g., at least in Sec. 3.1 of the document).  • Does the lack of mention of this opt-out provision indicate plans to remove this opt-out provision by regulation amendment shortly, or is the Procedure viewed as non-applicable and therefore need not be mentioned?  • If the opt-out provision is not to be removed, and even if the Procedure is not considered applicable for jurisdictions that have opted out (i.e., forty-two (42) as of May 2004), some comments of clarification / procedures are recommended re. applicable EMA and CSR provisions for this		This procedure addresses the situation where the ministry receives a site profile and is required to process it. Since the ministry should not receive a site profile if a local government has opted out of the administration of site profiles, the procedure would not apply to that situation. In future the ministry expects to carry out a broad review of the site profile provisions under the Environmental Management Act.

August 14, 2008 19 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		somewhat confusing situation.		
	Municipalities opting out	No acknowledgement is made and no procedures are provided for the situation that could develop where a site may be classified as a potential or confirmed high risk site (Draft Protocol 12), a site profile is submitted and request for release for an approving authority is made.  • Is it intended that if Protocol 12 is adopted, this Procedure would be revised and procedures included to clarify site profile processing for such a site.  • Pursuant to Draft Protocol 12 will it be required for all sites (not just per Scenario 3) that sites be investigated before a site profile is submitted and a request for release is made? If investigations subsequently determine that a site is classified as high risk, will the ministry retract / rescind a release?		The most recent draft of the procedure does not provide key releases for sites designated high risk under Protocol 12. The ministry retains the ability to issue site investigation, remediation and other orders for sites in or out of the site profile process.
	Municipalities opting out	Scenario 3 deals with most property redevelopment situations, where maintaining the current use is not planned and where redevelopment for other uses requires applications for one or more of subdivision, rezoning, a development permit or development variance permit, etc.  • Parallel site investigations and local development approval processing will no longer be possible under this Procedure as the requirements for this situation require investigations to have been completed.  • Significant delays in release of the approving authority can be anticipated.  • The extent of completed reporting is not specified.  • While remediation would not have to have been completed prior to request for release, remediation planning would have to be sufficiently advanced so that written confirmation and commitments for remediation and a schedule for remediation could be provided by an Approved Professional. Approved Professionals normally do not control		The scenario was changed in later drafts so these comments no longer apply. Where a remediation schedule is required, amendments to that schedule must also be provided to the ministry.

August 14, 2008 20 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		development schedule changes. What implications are there to Approved Professionals of changes to schedules? (It is noted per the 3rd paragraph of Sec. 2.1, last para., p.2, that the Director has legal authority to issue a site investigation or a remediation order.)		
3.4	Indemnification of local government	In order to process applications in each of three scenarios, why does the ministry require indemnification of the Crown and the approving authority using the standard template? Does the EMA allow the ministry to request such indemnification?		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4	Offsite remediation	Should the requirement to obtain an instrument within two years of investigation if offsite migration occurred rather be within two years of obtaining the release? Also, why the two year requirement? Could it not be five years?		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.4	Release conditions	I would strongly recommend against such an approach. Municipalities are uncomfortable at the moment with the release of Development Permits based on these affirmations, as there is little enforcement of the clause requiring Occupancy Permits for residential sites (most individuals will move in regardless).	The ministry must maintain a database of these commitments and ensure that regulatory compliance is in fact being met at these sites. This responsibility should not be passed to the Municipalities based on their release of the Occupancy Permits.	We expect to be implementing a site profile compliance strategy when this procedure comes into effect.

August 14, 2008 21 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
3.4	Indemnification of local governments	From your presentation, you indicated that some stakeholders are reluctant to extend indemnification to local governments and challenge the legality of doing so. From the city's perspective inclusion of indemnification of local governments is critical.		The requirement for indemnification was included in draft 15. However it was dropped in later versions. We received legal policy advice that it is highly questionable whether the ministry has the authority under any of the release provisions to require a client to indemnify a third party. We welcome comments from local governments and others on this issue.
3.4	Offsite contamination and remediation	The city prefers that the applicant remediate offsite contamination as part of releasing onsite permits. What is the justification for allowing a two year period following release of permits?		Draft 15 of the procedure contained the requirement to obtain an Approval in Principle or Certificate of Compliance for offsite lands within two years. This requirement was dropped in later versions because of legal policy advice we received indicating that if the ministry wishes to have a client clean up a site, the ministry must use the direct regulatory remedies at its disposal (including site investigation and remediation orders) for that purpose. The ministry is in the midst of a major project to review the existing provisions for offsite migration and to follow up on recommendations to strengthen the contaminated sites regime in this area.
3.4	Onsite instruments	Some local governments would like to see the requirement to obtain a determination or CoC prior to release of building permits be implemented.		The request was considered but not adopted because not all local governments use building permits.
3.4	Acceptance of independent remediation	It appears that this mechanism may be used as the release mechanism in the future. When will the ministry provide timelines as to when it would undertake a review and consultation for the independent remediation process?		The release under "Acceptance of Independent Remediation" is incorporated in the most recent version of the procedure.
3.4	Letter of commitment from applicant	The draft procedure refers to a commitment letter from the applicant. Will this include requirements for bonding and covenants? How will the ministry administer this and facilitate extension requests by applicants particularly for offsite remediation?		These issues are being addressed under our site profile compliance strategy and Protocol 8, "Security for Contaminated Sites".
3.3.2(2)(b)		I don't support the "no site investigation required" release		These concerns have been addressed in subsequent

August 14, 2008 22 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		under s. 3.3.2(2)(b). I believe these situations would be more appropriately handled under s. 3.4.4 Scenario 3. My rationale is that the current proposal:  • provides no liability protection to the local government  • there is no mechanism to address failure to follow through with commitments. This is particularly concerning where there is offsite contaminant migration; and  • the Site Registry status code would automatically be changed to "Inactive - No Further Action" (see Chris Dalley 23 Jan/07 email re: new SITE Patch 5.2.0) - which is misleading to say the least.		versions of the procedure.
3.4.4	Decommissioning and foreclosure	Decommissioning and foreclosure are included in Scenario 3 (s. 3.4.4 of draft procedure, site investigation required, permits released via IR acceptance) along with applications for development/zoning/subdivision. Decommissioning and foreclosure are different circumstances than application for a local government approval. Is the intent then that releases for decommission/ foreclosure sites only apply where there is also an application for development/zoning/subdivision? Without a local government application, I wouldn't expect an Approved Professional to make commitments to secure a release they don't need. In those cases, it would seem to me that the only mechanism we could use to set a time frame for investigation/ remediation is to issue a SI order. Assuming that decommissioning and foreclosure are only eligible for a Scenario 3 release when they are associated with an application for local government approval, perhaps it would be clearer if decommissioning and foreclosure weren't mentioned in s. 3.4.4 of the procedure.		Under these scenarios there is no application for an authorization from a local government or other agency and thus there is no release to be provided. The comments are therefore beyond the scope of this procedure.
2008 Version of Procedure (Draft 29)		Comments in this section were on draft 29		Responses in this section apply to changes incorporated into the 2008 version of the Procedure (draft 32)
4.3.3	Scenario 5	In Scenario 5, d, it says the Approved Professional has to conclude that the site would be eligible for a Certificate of	Change wording to make it clear that only the source site	Wording has been changed so that it is clear that the Approved Professional needs to confirm that following the

August 14, 2008 23 of 24

Original Document Section(s)	Issue	Stakeholder Comments	Stakeholder Recommendation(s)	Ministry Response(s)
		Compliance for the process to proceed. By "site" I think it means the source site. If that is correct it is kind of interesting. It has been a long standing ministry policy to not issue a COC for a site without an AIP or COC for the offsite contamination caused by the site. Hence, can an AP in part (d) really say that the site would be eligible for a COC if the offsite work was not in place? Technically you may have done enough RA work to conclude that the site (and only the site) is safe per the proposed remedial plan and in that a technical sense (i.e. meet risk based standards) could qualify for a COC, but based on the AP's knowledge of MoE policy I would know that it could not get a COC unless they had that offsite AIP or COC, which it likely won't have as you are not proposing that they get one first. What you mean by that statement would have to be clarified or that would pose a difficult dilemma for the AP.	would have to be eligible for a certificate.	remediation plan will result in the source site being remediated to appropriate standards (the site being defined by the legal lot(s) to be redeveloped). Our intent here is not to hold back site development and require that the proponent obtain a CoC. However, the expectation is that market forces would encourage the developer to go in that direction, at which point a contaminated sites legal instruments would likely be obtained for both on and offsite.
4.3.3	Scenario 4 – Approved Professional statements	We would like to better understand the rationale for CSAP signoff in Scenario 4. In our reading of the scenario, a CSAP approved site profile would be required for significant improvements to a service station site.		The requirements for release under this scenario include submission of site investigation report(s) and a remediation plan. The statement from the Approved Professional will provide the ministry with assurance that the site has been adequately investigated and contamination can be appropriately managed during site investigation and also assurance the site is not high-risk and does not require additional oversight by the ministry.

August 14, 2008 24 of 24