



Reference: 311003

*August 11, 2017*

Allterra Construction Ltd.  
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Victoria BC V9B 6H4  
Email: [todd@allterraconstruction.ca](mailto:todd@allterraconstruction.ca); [Raymond@allterraconstruction.ca](mailto:Raymond@allterraconstruction.ca)

Dear Mr. Mizuik and Mr. Lam:

Re: Request to amend Spill Prevention Order MO1701 to remove two Named Parties

Thank you for the July 12, 2017, letter from your legal counsel, Wong & Doerksen, addressed to the Minister of Environment and Climate Change Strategy, regarding a request to further amend the second amended Spill Prevention Order MO1701 (SPO) as set out in that letter. Specifically, I acknowledge that you disagree with the continuation of South Island Resource Management (SIRM) and the addition of Allterra Construction Ltd. (Allterra) as Named Parties under the SPO.

I am aware that you have had conversations with ministry staff to further explain your interest and rationale for the request to remove or limit the responsibility of Allterra and SIRM under the SPO. I have considered your request and the information provided in the July 12 letter and information shared with staff, and I have decided not to amend the SPO.

There does not seem to be any dispute that SIRM was properly named to the SPO when it was first issued. Indeed, the July 12 letter concedes that SIRM was the operator of the site and had possession, charge or control of the polluting substance at the time when the SPO was issued. I am not persuaded that SIRM should now be removed from the SPO based on the argument that it no longer has possession, charge or control of the polluting substances because of the voluntary actions undertaken by SIRM to terminate its relationship with Cobble Hill Holdings (CHH) and/or South Island Aggregates (SIA), including termination of a lease and operating agreement. If that were the case, then any site operator could avoid its obligations under an order by simply terminating its relationships and voluntarily abandoning the site, which would be contrary to sound law and policy. Accordingly, I consider there to be insufficient grounds to support the removal of SIRM from the SPO.

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The July 12 letter also provides information with respect to Allterra and submissions as to why it should not have been included as a Named Party in the SPO. Specifically, I acknowledge your position that Allterra is a separate legal entity from SIRM and that the current role of Allterra on the site is limited to a contractual relationship with CHH, on a fee for service basis, to assist with compliance with the obligations under the SPO. However, given the history of this matter, including the close corporate relationship between Allterra and SIRM and other actions undertaken by Allterra, including payment of permit fees, I am not persuaded by the characterization of Allterra as simply a fee for service contractor. Moreover, I have reviewed the grounds for adding Allterra to the SPO on the basis of having possession, charge and control of the polluting substances, as have been previously outlined to you and which include actions taken by Allterra to manage the polluting substances and the works designed to prevent their release, and I am not persuaded that Allterra should be removed from the SPO.

I am therefore retaining the current list of Named Parties on the SPO, and am not amending the SPO to remove SIRM and Allterra as Named Parties.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Heyman", with a stylized, cursive script.

George Heyman  
Minister