



Reference: 308748

MAR 15 2017

South Island Resource Management Ltd.
2158 Millstream Road
Victoria BC V9B 6H4
Email: Raymond@allterraconstruction.ca
Email: Todd@allterraconstruction.ca

South Island Aggregates Ltd.
Herald Street Law
101-536 Herald Street
Victoria BC V8W 1S6
Email: info@heraldstreetlaw.com

Martin Uwe Block
A-693 Stebbings Road
Shawnigan Lake BC V0R 2W3
Email: marty.sia@shaw.ca

Michael Kelly
A-693 Stebbings Road
Shawnigan Lake BC V0R 2W3
Email: mike.sia@shaw.ca

Cobble Hill Holdings Ltd.
Herald Street Law
101-536 Herald Street
Victoria BC V8W 1S6
Email: info@heraldstreetlaw.com

Dear Sirs:

Take notice that I am amending Spill Prevention Order MO1701 dated January 27, 2017, under the authority of Section 79 of the *Environmental Management Act*.

In issuing the amended Spill Prevention Order, I have considered the submissions set out in a letter dated March 2, 2017, from Michael Kelly of Cobble Hill Holdings Ltd. (CHH) to the Ministry. In particular, I provide the following response to some of the questions or statements made in the March 2, 2017, letter:

- You have indicated that five business days was inadequate to respond to a decision to amend the Spill Prevention Order. While I believe that five business days was adequate in the context of what was being requested, I have not previously given notice of a draft of the amendments to the Spill Prevention Order. For this reason, I will consider any submissions regarding further amendments to the Spill Prevention Order that I receive within 14 days of this letter being served on you.

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- You have asked for a greater degree of precision in drafting the amended Spill Prevention Order. The attached Spill Prevention Order includes detailed requirements for the permanent closure of the landfill or the removal of all contaminated soil from the facility.
- You have stated that the requirement for the permanent closure of the landfill in accordance with the approved closure plan is unclear. The attached Spill Prevention Order includes detailed requirements for the permanent closure of the landfill. The February 2017 Closure Plan report is currently under review by the Ministry and has not yet been approved; however, the plan in its current form is no longer valid as it is premised on continued acceptance of soil and final volumes and landfill designs which are different than what is presently on site. Comments from Ministry staff on the adequacy of the report, and any relevant comments from the contact water management review report, will be provided to the parties by March 20, 2017. You may wish to use the February 2017 Closure Plan report and amend as necessary to form the basis of the Final Closure Plan referred to in section 4 of the attached Spill Prevention Order, provided that it meets the requirements of that section.
- I acknowledge CHH's interest in proceeding to complete encapsulation in accordance with an approved Closure Plan. Human safety and environmental protection is of paramount importance to the ministry. The former permit was based upon the alleged engineering being sound and correctly installed as required and overseen by a suitably qualified professional. The ministry has yet to receive complete information which satisfactorily verifies your assertion of safety in situ. In the absence of detailed engineering records produced and signed off by a suitably qualified professional, it is difficult for the ministry to concur with your statement that the recent water quality results collected in the watershed confirm that the CHH property is not a source of contamination in the watershed.
- Financial security currently retained by the ministry is held for purposes of ensuring closure is satisfactorily completed and that post-closure operations, maintenance and monitoring are adequate. The ministry only returns financial security when the obligations for which the security are held have been fully met and risk is substantively reduced.

Your attention is respectfully directed to the requirements outlined in the amended Order. Failure to comply with the requirements of this Order is a contravention of the *Environmental Management Act* and may result in legal action.

I direct your attention to Section 120(10) of the *Environmental Management Act*, which reads:

“(10) A person who contravenes an order...that is given, made or imposed under this Act by ...the minister...commits an offence and is liable on conviction to a fine not exceeding \$300 000 or imprisonment for not more than 6 months, or both.”

Failure to comply with the requirements of this Order may also result in an administrative penalty under the Administrative Penalties Regulation (Environmental Management Act) (B.C. Reg 133/2014) (Regulation). I direct your attention to Section 12(4) of the Regulation, which reads:

“(4) A person who fails to comply with an order under the [Environmental Management] Act is liable to an administrative penalty not exceeding \$40 000.”

I also draw your attention to the Spill Reporting Regulation (B.C. Reg 263/90) and the reporting requirement in Section 79(5) of the *Environmental Management Act* which provides that:

(5) If a polluting substance escapes or is spilled or waste is introduced into the environment other than as allowed or authorized by [...] the person who had possession, charge or control of the substance or waste immediately before the escape, spill or introduction must, immediately after he or she learns of the escape, spill or introduction, report the escape, spill or introduction in accordance with the regulations.

This Order does not authorize entry upon, crossing over, or use for any purpose of private or crown lands or works, unless and except as authorized by the owner of such lands or works. The responsibility for obtaining such authority rests with you. It is also your responsibility to ensure that all activities are carried out with due regard for the rights of third parties, and comply with other applicable legislation that may be in force, including applicable local government bylaws.

Please be advised that the Ministry intends to publish the Order on the provincial government website within seven days.

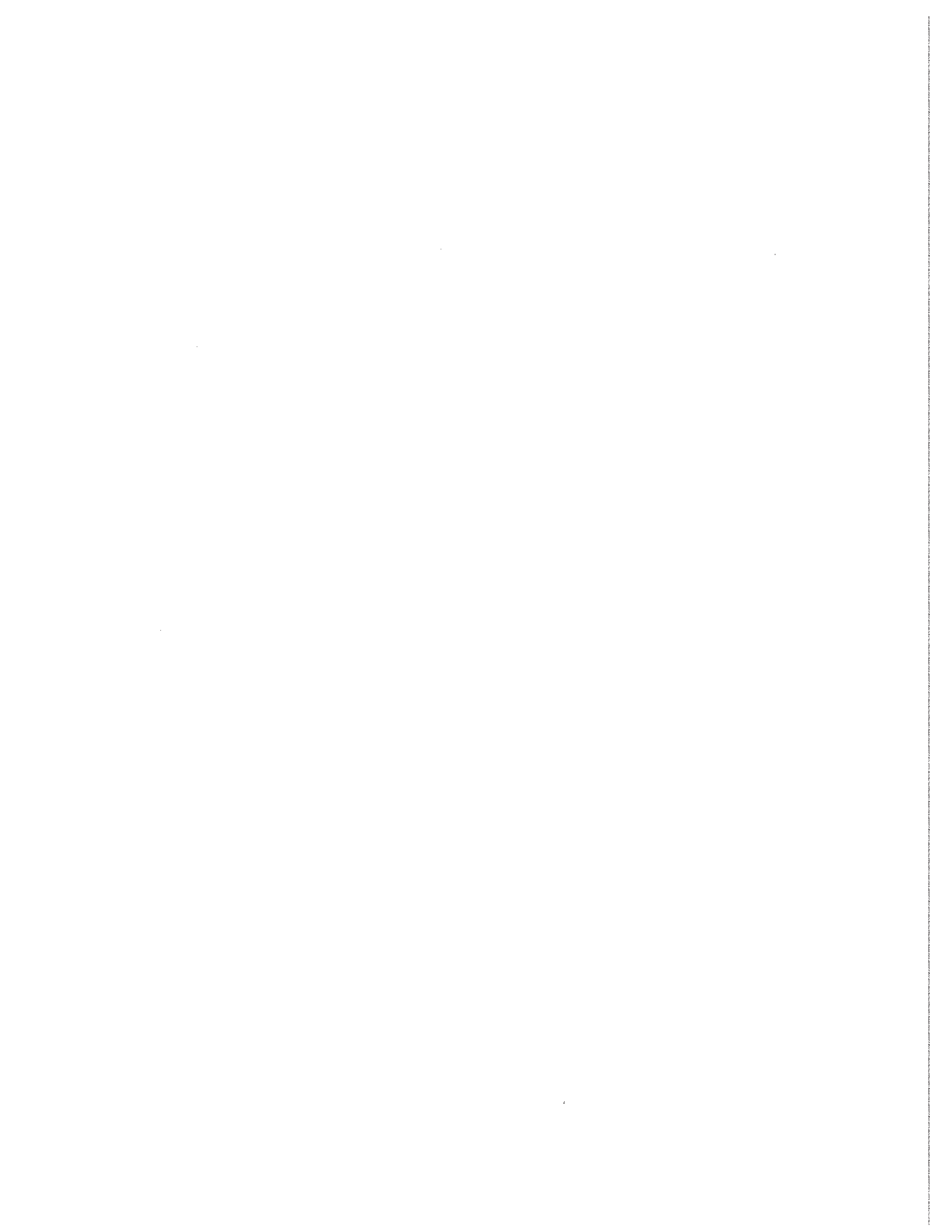
Your ministry contact for all matters relating to the Spill Prevention Order is Ms. Jennifer McGuire, Executive Director, who can be reached at Jennifer.McGuire@gov.bc.ca.

Sincerely,



Mary Polak
Minister

Enclosure



ORDER OF THE MINISTER OF ENVIRONMENT
ENVIRONMENTAL MANAGEMENT ACT SECTION 79
AMENDED SPILL PREVENTION ORDER: MO1701

WHEREAS this Amended Spill Prevention Order amends and restates Spill Prevention Order MO1701 dated January 27, 2017;

AND WHEREAS Cobble Hill Holdings Ltd., Inc. No. BC0754588 ("**Cobble Hill Holdings**") is the owner of land legally described as Lot 23 Blocks 156, 201 and 323 Malahat District Plan VIP78459 (the "**Land**") located at 460 Stebbings Road near Shawnigan Lake, British Columbia, which is used as a landfill facility for contaminated soil and ash (the "**Facility**") as part of a reclamation plan for a quarry site;

AND WHEREAS Permit PR-105809 issued to Cobble Hill Holdings under the *Environmental Management Act* authorizing the discharge of refuse and effluent in connection with the Facility has been cancelled for non-compliance;

AND WHEREAS the contaminated soil and ash landfilled at the Facility under Permit PR-105809 (the "**Contaminated Soil**") generates and may be expected to continue to generate leachate, which is a liquid that, in the course of passing through matter, extracts soluble or suspended solids, or any other component of the material through which it has passed ("**Leachate**");

AND WHEREAS the Leachate and contaminants in the Contaminated Soil are polluting substances that, in my opinion, are capable of causing pollution if they were to be spilled or escape onto any land or into any body of water, as they contain contaminants that are capable of substantially altering or impairing the usefulness of the environment;

AND WHEREAS I consider that the following persons (together, the "**Named Parties**") have possession, charge or control of the polluting substance:

- **Cobble Hill Holdings Ltd.**, owner of the Land and Facility;
- **Martin Uwe Block and Michael Kelly**, directors of Cobble Hill Holdings Ltd.;
- **South Island Resource Management Ltd.**, operator of the Facility; and
- **South Island Aggregates Ltd.**, operator of the quarry reclamation program on the Land;

AND WHEREAS I consider it reasonable and necessary to lessen the risk of an escape or spill of the polluting substances (Leachate and Contaminated Soil) to make the following Order;

NOW THEREFORE pursuant to Section 79 of the *Environmental Management Act*, I, Mary Polak, Minister of Environment, order as follows:

1. The Named Parties must ensure that:

- a. the landfill is covered completely with weighted and secured impermeable cover, and that sufficient weather protection is provided for the cover in order to ensure its effectiveness, except as needed for implementation of an approved Final Closure Plan or Contaminated Soil Removal Plan;
 - b. all Leachate generated at the Facility, including from the landfill, soil management area and wheel wash area, is collected, stored temporarily pending removal from the Facility, and transported from the Facility to an off-site facility that is authorized to treat and/or dispose of the Leachate. The collection and temporary storage of Leachate at the Facility must be carried out so as to prevent an escape or spill of Leachate into the environment;
 - c. all works for the collection and temporary storage of Leachate generated at the Facility are inspected regularly and maintained in good working order; and
 - d. records of the volumes of Leachate collected, stored and transported, including the name and location of the authorized facility(ies) receiving the Leachate, are maintained and submitted to the director on or immediately before the 1st and 15th day of each month, until the Named Parties have complied with section 6 or section 11 of this order.
- Submissions must be made electronically to the following email inbox:
EnvironmentalCompliance@gov.bc.ca.
2. The Named Parties may elect to permanently close the landfill or to remove all Contaminated Soil from the Facility. If the Named Parties elect to permanently close the landfill, then the Named Parties must comply with the provisions set out in Part A: Final Closure (sections 3 – 7). If the Named Parties elect to remove all Contaminated Soil from the Facility, then the Named Parties must comply with the provisions set out in Part B: Contaminated Soil Removal (sections 8 – 12). The Named Parties must comply with either Part A or Part B of this order, and all other provisions of this order.

PART A: Final Closure

3. By April 17, 2017, the Named Parties must submit to the Ministry complete up to date “As-Built” plans and specifications of the existing Facility, including the landfill base liner system, leachate collection system, leak detection system, landfill, slopes, impermeable cover, leachate storage works, tanks, pipes, pumps, leachate storage pond, soil management area and wheel wash area including details, layers, cross-sections, inspections, photos, quality assurance/quality control and testing results for the works. The plans and specifications must be certified by a “Qualified Professional” as defined in the Landfill Criteria for Municipal Solid Waste, Second Edition, June 2016 (the “LCMSW”).
4. By May 31, 2017, the Named Parties must submit a final plan to permanently close the landfill (the “Final Closure Plan”) to the Ministry for review and approval. The Final Closure Plan must use the LCMSW for guidance and provide sufficient technical justification to demonstrate that any proposed site-specific alternatives provide an equivalent or better level of environmental protection, be

certified by a Qualified Professional, address and respond to any input from Ministry staff, and include the following:

- a. assessment of the adequacy of the existing Facility, including landfill stability (static and seismic), leachate collection and storage works, to prevent an escape or spill of Leachate into the environment during the post-closure period (determined in accordance with the LCMSW) and, if applicable, recommended revisions to the Facility to remedy any inadequacies;
- b. a plan for the management of any contaminated soil stored in the soil management area, in accordance with the *Environmental Management Act*;
- c. proposed landfill final cover including slopes, layers, cross-sections, topsoil, vegetation and storm water management works including ditching on the landfill final cover. Stability assessment and hydrologic modeling that demonstrates the landfill final cover and ditching will be stable and adequate for worst case conditions including 200 year design storm event(s) plus snowmelt and multi-day precipitation events must be included;
- d. a Leachate collection and storage plan including hydrologic modeling that demonstrates that the leachate collection and storage works including tanks, pipes, pumps, and leachate storage pond, will be adequate for worst case conditions including 200 year design storm event(s) plus snowmelt and multi-day precipitation events;
- e. a plan for Leachate removal and transport to an off-site facility that is authorized to treat and/or dispose of the Leachate;
- f. a post-closure inspection, operation, maintenance and environmental monitoring program including:
 - i. inspection, operation and maintenance of the landfill final cover including storm water management works on the landfill final cover, ditching, topsoil, vegetation and the repair of any damage due to erosion, leachate breakouts, slope failures, settlement and burrowing animals;
 - ii. inspection, operation and maintenance of Leachate collection and storage works;
 - iii. inspection, operation and maintenance of environmental monitoring works; and
 - iv. an environmental monitoring program, including leachate monitoring, to verify that the escape or spill of Leachate into the environment has not occurred;
- g. contingency measures to address any failure of the works or the escape or spill of Leachate or Contaminated Soil into the environment; and
- h. an implementation schedule which provides for commencement of closure activities by July 1, 2017, and completion of all closure activities by October 31, 2017.

The Final Closure Plan may be approved by the Minister, with or without conditions.

5. Following approval of the Final Closure Plan, the Named Parties must carry out all closure activities set out in the approved Final Closure Plan in accordance with any conditions of the approval. The Named Parties must carry out the closure activities in accordance with the implementation schedule in the approved Final Closure Plan, and must complete all closure activities by October 31, 2017 or such other date as specified by the Minister.

6. The Named Parties must submit complete detailed final "As-Built" plans and specifications, certified by a Qualified Professional, of any revisions to the Facility including the landfill final cover, resulting from implementing the approved Final Closure Plan in accordance with any conditions of the approval, within 30 days after the works have been constructed.
7. Following completion of all closure activities in the approved Final Closure Plan, the Named Parties must submit quarterly implementation reports to the Ministry on or immediately before the last day of March, June, September and December of each year, for the duration specified in the approved Final Closure Plan. Implementation reports must include records of inspections, operations and maintenance of the Facility, records of the volumes of Leachate collected, stored and transported, including the name and location of the authorized facility(ies) receiving the Leachate, and environmental monitoring program records interpreted and certified by a Qualified Professional. Submissions must be made electronically to the following email inbox:
EnvironmentalCompliance@gov.bc.ca.

PART B: Contaminated Soil Removal

8. By April 17, 2017, the Named Parties must provide written notice to the Ministry that the Named Parties will submit a plan for the removal of all Contaminated Soil, from the Facility (the "Contaminated Soil Removal Plan").
9. By May 31, 2017, the Named Parties must submit a Contaminated Soil Removal Plan to the Ministry for review and approval. The Contaminated Soil Removal Plan must be certified by a Qualified Professional and provide details related to the removal of all Contaminated Soil from the Facility and the transport of all such Contaminated Soil to an off-site facility that is authorized to treat and/or dispose of the Contaminated Soil. The plan must include the following:
 - a. the soil tonnages at the Facility;
 - b. environmental protection measures to monitor and oversee the work, to prevent the escape or spill of Contaminated Soil and Leachate into the environment;
 - c. the name and location(s) of off-site facility(ies), authorized to treat and/or dispose of the soil, that will receive the soil;
 - d. a detailed workplan and implementation schedule that includes: commencement of Contaminated Soil removal by July 1, 2017, 33% soil tonnage removed by September 30, 2017, 66% soil tonnage removed by December 31, 2017, complete soil removal by March 31, 2018, and submission of a Contaminated Soil removal completion report certified by a Qualified Professional including documentation of the plan by April 30, 2018.

The Contaminated Soil Removal Plan may be approved by the Minister, with or without conditions.

10. Following approval of the Contaminated Soil Removal Plan, the Named Parties must carry out all activities set out in the approved plan, in accordance with any conditions of the approval. The

Named Parties must carry out the activities in accordance with the implementation schedule in the approved plan, and must complete the removal of all Contaminated Soil from the Facility by March 31, 2018.

11. The Named Parties must submit implementation reports to the Ministry following commencement of Contaminated Soil removal on a monthly basis until the removal of all Contaminated Soil from the Facility is complete. Implementation reports must be submitted on or immediately before the last calendar day in each month and include:
 - a. soil tonnages and types removed from the Facility;
 - b. the names and location(s) of off-site facility(ies), authorized to treat and/or dispose of the soil, that received the soil and the corresponding soil tonnages and types received;
 - c. the soil tonnages and types remaining at the Facility; and,
 - d. photos and records of the implementation of the approved Contaminated Soil Removal Plan.

Submissions must be made electronically to the following email inbox:
EnvironmentalCompliance@gov.bc.ca.

12. By April 30, 2018, the Named Parties must submit a Contaminated Soil Removal Completion Report certified by a Qualified Professional that includes:
 - a. photos, records, sampling and testing results, site investigation and characterization, and comparison with standards, that verify and confirm that all Contaminated Soil has been removed from the Facility;
 - b. the name and location(s) of off-site facility(ies), authorized to treat and/or dispose of the Contaminated Soil, that received the soil and the corresponding soil tonnages and types received.

PART C: General

Notwithstanding section 2 of this order, and without limiting any right to amend the order provided under the *Environmental Management Act*, if the Named Parties have elected to carry out Part A of this order and are not in compliance with the provisions of Part A, then the Minister may amend this order to require the Named Parties to carry out the provisions of Part B of this order in accordance with a prescribed schedule.

This order shall take effect immediately.

The Named Parties are jointly and severally responsible for fulfilling all requirements of this order.

Nothing in this order prevents the Ministry of Environment from taking any other action that may be taken under the *Environmental Management Act*.


Minister of Environment

March 15, 2017
Date

(This part is for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and Section: *Environmental Management Act, Section 79*

Other (specify): _____