



February 24, 2021

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
Email: marty@chholdings.ca

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

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

Dear Sirs:

I am writing to inform you that the Minister of Environment & Climate Change Strategy has amended Spill Prevention Order MOI701, last amended June 29, 2017, under the authority of Section 79 of the *Environmental Management Act*. Enclosed is a copy of the Third Amended Spill Prevention Order MOI701 (the Order). Please note that this amended order has been adjusted to recognize the current status of landfill and reaffirms the expectation that spills are prevented and the environment is protected.

This amendment has been issued to acknowledge that you have permanently closed the landfill in accordance with the approved Final Closure Plan and that post-closure operation and maintenance of works is still required. The Order includes clarification on requirements for monitoring and reporting as well.

The Minister has also removed South Island Resource Management Ltd. and Allterra Construction Ltd. as Named Parties in the Order.

We recognize you have not previously been given notice of these amendments to the Order. For this reason, the Minister will consider any submissions regarding further amendments to the Order that are received within 14 days of this letter being served on you.

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 Ministry of Environment website within 7 days and the entirety of any Regulatory Document provided that:

1. The Province will provide written notice to the parties of its intent to publish the Regulatory Documents at least 14 days prior to publication; and;

2. The Province will not publish any information what could not, if it were subject to a request under section 5 of FOIPPA, be disclosed under the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 as amended from time to time.

Regards,



Cassandra Caunce
Director, South Authorizations
Regional Operations Branch

Enclosure: MO1701 Third Amended Spill Prevention Order

cc: Laurel Nash, Assistant Deputy Minister
South Island Resource Management Ltd.
Allterra Construction Ltd.

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

WHEREAS:

- A. Permit PR-105809 was issued to Cobble Hill Holdings Ltd. under the *Environmental Management Act* authorizing the discharge of refuse and effluent in connection with the landfill facility (the "**Facility**") for contaminated soil and ash located at 460 Stebbings Road near Shawnigan Lake, British Columbia, on land legally described Lot 23 Blocks 156, 201 and 323 Malahat District Plan VIP78459 (the "**Land**");
- B. On January 27, 2017 Permit PR-105809 was suspended and a Spill Prevention Order ("**SPO**") relating to the Facility was issued against certain parties;
- C. Permit PR-105809 was cancelled on February 23, 2017, and the SPO was amended on March 15, 2017 to require closure of the Facility and development of a plan for inspection, operation, maintenance of the Facility, and environmental monitoring during post closure. The SPO was further amended on June 29, 2017;
- D. On June 26, 2019, the Updated Final Closure Plan for the Facility was approved, subject to certain conditions. The Updated Final Closure Plan was implemented and closure of the Facility was documented in Construction Wrap-up Report for the Cobble Hill Holdings Landfill Closure Project, dated September 30, 2020 (the "**Closure Report**");
- E. The Environmental Monitoring Plan for inspection, monitoring, operation and maintenance of the Facility and monitoring of the environment during the Facility's post closure period, dated June 24, 2020, has been reviewed by the Ministry of Environment and Climate Change Strategy;
- F. 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 ("**Leachate**");
- G. 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;
- H. I consider that the following persons (together, the "**Named Parties**") have possession, charge or control of the polluting substance:
Cobble Hill Holdings Ltd.;
Martin Uwe Block and Michael Kelly; and
South Island Aggregates Ltd.
- I. 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.

THIRD AMENDED SPILL PREVENTION ORDER: MO1701

Page 2 of 5

NOW THEREFORE pursuant to Section 79 of the *Environmental Management Act*, I, George Heyman, Minister of Environment and Climate Change Strategy, order that the Spill Prevention Order, as amended on June 29, 2017, to be further amended and restated as follows:

1. DEFINITIONS

The following capitalized terms referred to in this SPO are defined in this section. Other terms used in this SPO have the same meaning as those defined in the *Environmental Management Act*, applicable regulations, and the Landfill Criteria for Municipal Solid Waste Second Edition June 2016.

“CLOSED FACILITY” means the landfill, Facility and related works and appurtenances, including but not limited to landfill cover, erosion control, leachate collection and storage, surface water management, surface and groundwater water monitoring.

“ENVIRONMENTAL MONITORING PLAN” or “EMP” means the Environmental Monitoring Plan referred to in Recital E, with adjustments contained in a letter dated July 7, 2020 from A.J. Downie to the Named Parties, as such plan and adjustments are amended from time to time with written approval of the Director.

“POST CLOSURE PERIOD” means the contaminating lifespan of the Closed Facility as determined by the Director.

2. OPERATION AND MAINTENANCE OF WORKS

Except as approved in writing by the Director, the Named Parties must ensure that the Closed Facility continues to operate as detailed in the as-built drawings in the Closure Report. The Named Parties must ensure that the Closed Facility is regularly inspected at least once per month, maintained in good working order and in operation at all times.

3. BYPASS PROHIBITION

The Named Parties must ensure that no Leachate or contaminants bypass the Closed Facility’s works and spill prevention equipment unless the prior approval of the Director is obtained and confirmed in writing.

4. POST CLOSURE SAMPLING, MONITORING AND INSPECTIONS

The Named Parties must implement the EMP for the entire duration of the Post Closure Period.

5. SAMPLING AND ANALYTICAL PROCEDURES

- a. The Named Parties must carry out sampling in accordance with the procedures described in the "British Columbia Field Sampling Manual for Continuous Monitoring and the Collection of Air, Air-Emission, Water, Wastewater, Soil, Sediment, and Biological Samples (2013 Permittee Edition)" as amended or replaced from time to time, or by alternative procedures as authorized

THIRD AMENDED SPILL PREVENTION ORDER: MO1701

Page 3 of 5

by the Director. A copy of the above manual is available on the Ministry web page at <https://www2.gov.bc.ca/gov/content/environment/research-monitoring-reporting/monitoring/laboratory-standards-quality-assurance/bc-field-sampling-manual>

- b. The Named Parties must cause analyses to be carried out in accordance with procedures described in the "British Columbia Laboratory Manual (2015 Permittee Edition)", as amended or replaced from time to time, or by alternative procedures as authorized by the Director. A copy of the above manual is available on the Ministry web page at <https://www2.gov.bc.ca/gov/content/environment/research-monitoring-reporting/monitoring/laboratory-standards-quality-assurance/bc-environmental-laboratory-manual>

6. NON-COMPLIANCE REPORTING REQUIREMENTS

- a. The Named Parties must immediately notify the Director by email at EnvironmentalCompliance@gov.bc.ca, or as otherwise instructed by the Director, of any non-compliance with the requirements of this Order and must immediately take remedial action to remedy any effects of such non-compliance.
- b. The Named Parties must immediately notify the Director by email at EnvironmentalCompliance@gov.bc.ca, or as otherwise instructed by the Director, of any groundwater or surface water monitoring showing an increase of monitored concentrations or parameters above Contaminated Site Regulation standards applicable for Drinking Water and Aquatic Life and BC Approved and Working Water Quality Guidelines for Drinking Water and Freshwater Aquatic Life.
- c. The Named Parties must, within 30 days of any non-compliance of any requirement of this Order or exceedance referred to in (b), submit to the Director a written report that includes, but is not necessarily limited to, the following:
 - i. All relevant test results obtained by the Named Parties related to the non-compliance or exceedance;
 - ii. An explanation of the most probable cause(s) of the non-compliance or exceedance, and;
 - iii. A description of remedial action planned and/or taken by the Named Parties to prevent similar non-compliance(s) in the future.
- d. The Named Parties must submit all non-compliance reporting required to be submitted under this section by email to the Ministry's Compliance Reporting Submission Mailbox (CRSM) at EnvironmentalCompliance@gov.bc.ca or as otherwise instructed by the Director. For guidelines on how to report a non-compliance or for more information visit the Ministry website: <https://www2.gov.bc.ca/gov/content?id=076C5CA3ABD342A784CC49EC78CBAE12>

7. ELECTRONIC SUBMISSION OF MONITORING DATA

The Named Parties must cause a “qualified laboratory” as defined in the Environmental Data Quality Assurance Regulation to electronically submit all water quality monitoring data collected under this Order into the Environmental Management System (EMS) database on their behalf within 14 days of the calendar year quarter in which the data is collected, or at such other frequencies as required by the Director in writing. For instructions on the electronic submission process or for more information visit the Ministry website:

<https://www2.gov.bc.ca/gov/content/environment/waste-management/waste-discharge-authorization/data-and-report-submissions/ems-data-uploads>

8. REPORTING REQUIREMENTS

The Named Parties must have a qualified professional prepare and certify reports summarizing post closure activities, non-compliance summary, and environmental monitoring results and inspections, as per the EMP. The reports must include:

- a. Records of inspections, operations and maintenance of the works identified in the Updated Final Closure Plan and the detailed as-built drawings in the Closure Report;
- b. Records of the volumes of leachate collected, stored and transported, including the name and location of the facility(ies) receiving the leachate;
- c. Non-compliance summary;
- d. A summary of all data collected under the EMP for the reporting calendar year suitably tabulated (i.e., excel spreadsheets), appropriate graphs and comparison of results to Approved and Working Water Quality Guidelines;
- e. Spatial and temporal trend analysis, interpretation and discussion of results, and conclusions and recommendations;
- f. All lab reports of data collected under the EMP
- g. A summary of all QA/QC issues during the calendar year.

9. REPORTING SUBMISSION DEADLINES

The Named Parties must ensure the reports are prepared for the reporting periods set out below and submit the required reports to the Director per the timelines also indicated below or at other frequencies as required by the Director in writing.

Quarter	Reporting period	Reporting deadline
1	January 1 to March 31	April 30
2	April 1 to June 30	July 31
3	July 1 to September 30	October 31
4	October 1 to December 31	January 31

Submissions must be made electronically to the Ministry’s Routine Environmental Reporting Submission Mailbox (RERSM) at envauthorizationsreporting@gov.bc.ca or as otherwise instructed by the director.

For guidelines on how to properly name the files and email subject lines or for more information visit the Ministry website: <https://www2.gov.bc.ca/gov/content/environment/waste->

management/waste-discharge-authorization/data-and-report-submissions/routine-environmental-reporting-submission-mailbox.

10. QUALIFIED PROFESSIONAL

For each submission by a qualified professional, the qualified professional must complete, sign and submit a Declaration of Competency and a Conflict of Interest Disclosure Statement, which are posted on the following ministry website:

<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/laws-policies-standards-guidance/environmental-guidance-and-policy/professional-accountability>

This Order shall take effect immediately.

Nothing in this Order shall be construed as limiting any authorities that may be exercised by the Minister or the Director under the provisions of the *Environmental Management Act*.

In the event of any discrepancy between any of these Order requirements and the EMP, these Order requirements will take precedence.

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



George Heyman
Minister of Environment & Climate Change Strategy

February 17, 2021

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