

ALBERTA ENVIRONMENT'S NEW REMEDiation CERTIFICATE PROGRAM FOR PETROLEUM STORAGE TANK SITES

The Remediation Certificate Program

On June 3, 2009, Alberta Environment announced that it would be implementing its long-awaited Remediation Certificate Program (the "Program").

Alberta's *Environmental Protection and Enhancement Act* ("EPEA") has contained provisions concerning remediation certificates since EPEA's enactment in 1996. However, Alberta Environment has not indicated that it would provide remediation certificates until now.

Not to be confused with reclamation certificates, remediation certificates are intended to encourage the remediation of contaminated sites by providing closure of regulatory liability against changing remediation guidelines. Prior to the Program, changing remediation guidelines issued from time to time by Alberta Environment could result in intensified regulatory liability in respect of a contaminated site, in turn resulting in a reluctance to develop contaminated sites for use in case changing guidelines increased the liability associated with such development.

Brownfields

This has been of particular issue with respect to brownfields sites. Brownfields are lands on which commercial or industrial activities have historically taken place, rendering the lands contaminated. Brownfields are excellent sites for potential redevelopment, but because of the many risks involved in developing these properties, they often sit idle or abandoned. It is estimated that there may be as many as 30,000 such sites in Canada, including crumbling warehouses where toxic substances have been used or stored, old battery sites, decommissioned refineries and former gas stations. Left idle and unmanaged, these sites become a burden on the municipalities in which they are located, (*continued on page 2*)



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representing a loss of economic opportunity and in some cases, adversely impacting a neighbourhood's quality of life. Brownfields also represent the opportunity to revitalize urban centres and generate income for developers, all levels of government and communities at large. Some well-known brownfield sites include the False Creek area in Vancouver, the Angus Shops, a former CPR Rail Site in Montreal and the Calgary Garrison.

In 2003, The National Roundtable on Environment and the Economy produced a document entitled "*Cleaning up the Past, Building the Future: A National Brownfield Redevelopment Strategy for Canada*", which recommended a mechanism for closure of regulatory liability, subject only to specified re-openers or fraud, as part of its brownfield redevelopment strategy.

Application of the Program

The Alberta Remediation Certificate Program will address this recommendation and help to open the way to increased brownfield redevelopment and decreased urban sprawl. It will also provide lending institutions, investors, and the public assurance that substance releases have been remediated to the satisfaction of Alberta Environment for a defined land use.

A remediation certificate issued pursuant to the Program will provide assurance that additional remediation is not required if remediation guidelines are amended or updated. Alberta Environment will not issue an Environmental Protection Order (EPO) following certification of a remediated area, unless further contamination is detected or the land use changes.

Further Program Details

The features and details of the Program are as follows:

- The initial stage of the program will make remediation certificates available for petroleum storage tank sites. The program will incorporate other types of sites in the future. Petroleum storage tank sites include underground and above ground storage tank facilities, which contain or have contained gasoline, diesel, heating oil, aviation fuel or other similar products.

- Remediation certificates will be available from Alberta Environment effective June 2009.
- Application for a remediation certificate is voluntary.
- The certificate applies only to the remediated area, not the entire site.
- Approximately 10 per cent of remediation certificates issued annually will be subjected to an audit.
- Remediation certificates may be cancelled as a result of a failed audit or substantiated complaint.
- An application fee of \$1,000 will fund the audit program.

In order to be eligible to receive a remediation certificate under the Program, the following are required:

- The applicant must provide full disclosure of the release including all assessment and remediation activities.
- The applicant must provide a delineation of the entire release.
- The entire release, including contamination that has migrated under structures, must be remediated within the legal land boundaries to *Alberta Tier 1 Soil and Groundwater Remediation Guidelines* or *Alberta Tier 2 Soil and Groundwater Remediation Guidelines*.
- In the event of unremediated off-site portions of a release, the person(s) responsible must obtain agreement for an ongoing risk management plan from all affected third parties before applying under the Program.
- All accompanying environmental site assessment reports and the application form must be signed off by a member of one of the following professional regulatory organizations:
 - Alberta Institute of Agrologists;
 - Alberta Society of Professional Biologists;
 - Association of Professional Engineers, Geologists and Geophysicists of Alberta;

- Association of the Chemical Profession of Alberta;
- College of Alberta Professional Foresters; or
- College of Alberta Professional Forest Technologists.

Remediation certificates under the Program will not be available in certain situations, including the following:

- Any remediated area that does not meet current Alberta Tier 1 guidelines and/or Alberta Tier 2 guidelines.
- Land where contamination is initially identified, but does not exceed Alberta Tier 1 guidelines or Alberta Tier 2 guidelines and is therefore, not remediated.

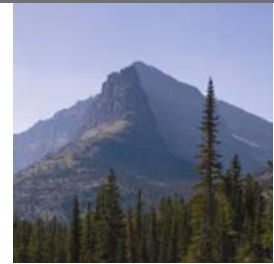
- Federal Crown land.
- A contaminated area within natural or agricultural land uses, as outlined in Alberta Tier 1 guidelines requires complete remediation and is not eligible for a remediation certificate if a risk management plan is in place.
- Land that has received a closure letter from Alberta Environment in the past does not automatically qualify for a remediation certificate. The remediation certification program is voluntary and there is no requirement to pursue a remediation certificate after a closure letter has been issued.

Monitoring

We will continue to monitor any changes to the Program and watch for any additional information released by Alberta Environment. In the event you have any questions, please contact: Jennifer Cleall or Colin Lipsett at the numbers listed below.

Environmental, Energy and Resources Practice Group

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