

**MINISTRY OF ENVIRONMENT  
DECISION NOTE**

April 9, 2015  
File: 26250-20/16987  
CLIFF/tracking #:276654

**PREPARED FOR:** Honourable Mary Polak, Minister of Environment

**ISSUE:** Orphan Site Declaration for High Risk Site in Langley

**BACKGROUND:**

An illegal drug manufacturing operation on a residential parcel at 20668 72<sup>nd</sup> Avenue, Langley was dismantled by the RCMP and the Ministry of Environment (ENV) in April 2014.

Results of the preliminary site investigation provided to ENV in July 2014 identified the potential for high risk contamination at both the source and neighbouring parcels due to solvent concentrations (toluene and dichloromethane [DCM]) in soil and groundwater. Additional investigations completed in November 2014 <sup>s.15</sup> confirmed the presence of high risk conditions at the source parcel and at 7175 207<sup>th</sup> Street (immediately south of source parcel). The high risk conditions are associated with very high concentrations of DCM that have been mobilized in groundwater (up to 1,250,000 ug/L) Exceedances of Protocol 11 upper cap concentrations are also evident in shallow soils, which are likely contributing to localized impacts on vegetation.

ENV issued a Final Determination of Contaminated Site on February 13, 2015 to all parties with a registered interest in the property; including owners and financial institutions that hold the mortgages for the properties. Concurrently the Ministry issued letters <sup>s.15</sup> regarding <sup>s.15</sup> ongoing responsibility to investigate and remediate the site. On March 5, 2015 the ministry issued warning letters to <sup>s.15</sup> indicating they are out of compliance with EMA and have 14 days to address this non-compliance prior to the ministry considering a response to this non-compliance.

The Ministry of Justice has indicated that ENV can assume that the lack of response to the Ministry's letter of March 5, 2015 can be interpreted that the parties are unwilling or unable to carry out remediation or to comply with the requirements to remediate the site.

**SUMMARY:**

Section 58 of the Environmental Management Act (EMA) and sections 61 and 62 of the Contaminated Sites Regulation (CSR) were created to allow the ministry to undertake the remediation of orphan sites and seek to recover costs from the responsible persons. These provisions anticipated the need for government to act on high risk orphan contaminated sites or at sites where a responsible person cannot be found or is unwilling or unable to carry out remediation or to comply with the requirements to remediate the site. To-date these provisions have only been used on a few sites over the last 20 years; most recently in 2008 for the Lake Cowichan gas station.

The orphan site provisions of EMA and the CSR are intended to work concurrently to allow the director to determine that a site is a high risk orphan site and for the Minister to declare that government needs to undertake remediation in order to protect human health or the environment at a high risk orphan site or a site that is otherwise not adequately being remediated.

s.13,s.15

Option 2/ 

**DECISION & SIGNATURE**

Minister Mary Polak  
Minister of Environment

April 16, 2015

**DATE SIGNED**

**Contact:**

*Lori Halls  
Assistant Deputy Minister  
Environmental Protection  
Division  
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**Alternate Contact:**

*Jim Hofweber,  
Executive Director,  
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**Prepared by:**

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| Reviewed by | Initials | Date           |
|-------------|----------|----------------|
| DM          | WS       | April 15/15    |
| ADM         | LH       | April 15/15    |
| CFO         | ML       | April 15, 2015 |
| Dir./Mgr.   | MWM      |                |

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

April 13, 2015  
File: 107610  
CLIFF/tracking #: 282184

**PREPARED FOR:** The Honourable Mary Polak, Minister of the Environment

**DATE AND TIME OF MEETING:** April 20, 2015, 9:00am

**ATTENDEES:** Stó:lo Tribal Council, Minister Polak

**ISSUE:** Meeting with the Stó:lo Tribal Council regarding the proposed Aevitas Inc. hazardous waste facility in Chilliwack

**BACKGROUND:**

In a letter dated January 12, 2015 to the Minister of Environment, the Stó:lo Tribal Council requested a meeting with the Minister to discuss their concerns in regards to an Aevitas Inc. ('Aevitas') hazardous waste facility proposed on privately owned land in Chilliwack, adjacent to the Fraser River. The letter reminds the Minister of the Province's fiduciary duty to consult where there may be infringement of Aboriginal title and Aboriginal rights, and suggests that the Province should obtain Stó:lo consent before approving the project. In addition, the Stó:lo Tribal Council requested that Aevitas commission the Stó:lo to complete an Aboriginal Interest and Use Study for the proposed site.

Aevitas is proposing to develop a hazardous waste management and recycling facility in Chilliwack. Aevitas submitted an application to the Ministry on November 13, 2014 requesting registration of the facility under the Hazardous Waste Regulation (HWR). The HWR requires a number of plans be approved by the Director prior to construction and operation of the facility. On January 23, 2015, Ministry staff conducted a cursory review of the application and advised Aevitas that further clarification/refinements were needed and a revised application was required. An updated application has not yet been received from Aevitas.

There is no requirement to conduct consultation under the HWR; however, due to significant stakeholder interests and concerns, the Ministry, in a March 6, 2015 letter, required Aevitas to conduct additional consultation with First Nations, stakeholders and the public. Aevitas is required to submit a "Terms of Reference" (ToR) for the consultation plan for review and approval of the Ministry. The ToR has not yet been received by the Ministry.

There are 29 Indian Bands in the lower Fraser River Watershed between the Georgia Strait and the Lower Fraser River Canyon (Yale), representing over 7000 members. Of these Bands, 11 are affiliated with Stó:lo Nation, 8 with Stó:lo Tribal Council, and 10 are unaffiliated with either. The Province has signed a Strategic Engagement Agreement (SEA) with 14 of the above Stó:lo Indian Bands and an additional 2 bands are recently proposing to join.

The Stó:lo SEA defines a framework for consultation and the Stó:lo now manage referrals through their People of the River Referral Office (PRRO). In the framework and agreement, consultation and referral to the PRRO is not required for hazardous waste facilities (notification only). The referral agreement does not apply to waste management applications on private land.

## **DISCUSSION:**

The Ministry is currently working with Aevitas to clarify some elements in their application and re-submit. Details of the consultation to be conducted will be confirmed through submission of a ToR by Aevitas. The Ministry will review the ToR to determine if it includes appropriate consultation efforts for all the interested stakeholders. The ToR will be reviewed with input from Ministry of Aboriginal Relations and Reconciliation to ensure appropriate FNs are consulted. Once the ToR is approved, Aevitas is then required to conduct the consultation as per the ToR, and submit a consultation report to the Ministry. The report will need to summarize the issues that were raised, and describe how they have been addressed in the existing technical plans or in revised/updated versions of these plans.

Only when the revised application, updated plans, and consultation report have been received, the Ministry will conduct a detailed review of the file and make a decision on the registration application. It is estimated that a decision is unlikely before the 4<sup>th</sup> quarter of 2015 based on the significant effort required by Aevitas to complete the outstanding items.

Even though a formal referral is not required for a hazardous waste registration under the Strategic Engagement Agreement and framework, the Ministry has communicated with PRRO staff that a referral will be made once a complete application has been submitted by Aevitas. The Ministry will be communicating with Aevitas regarding the Stó:lo request to fund an Aboriginal Interest and Use Study for the proposed site.

s.13,s.16

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### **Prepared by:**

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| <b>Reviewed by</b> | <b>Initials</b> | <b>Date</b> |
|--------------------|-----------------|-------------|
| DM                 | WS              | 2015/05/17  |
| DMO                | BC              | 2015/04/15  |
| ADM                | LH              | 2015/04/15  |
| Exec. Director     | JMcGuire        | 2015/04/14  |
| Dir./Mgr.          | ADownie         | 2015/04/14  |
| Author             | ASundher        | 2015/04/14  |

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

10 April 2015

File:

CLIFF/tracking #: 282242

**PREPARED FOR:** Honourable Mary Polak, Minister of Environment

**DATE AND TIME OF MEETING:** Thursday, April 16 2015, 5:15 to 5:45 PM  
(Hemlock Room, BC Legislature)

**ATTENDEES:** ENV staff attending are Mark Zacharias, ADM, ESSPD and Anthony Danks, ED, Strategic Policy Branch. Members of the UBCM Environment Executive Committee are:

- Dir. Rhona Martin (Chair), from Columbia Shuswap RD
- Dir. Jim Abram (V. Chair), from Strathcona RD
- Coun. Brian Frenkel, from Dist. of Vanderhoof
- Mayor Gerry Taft, from Invermere
- Coun. Rick Glumac, from Port Moody
- Coun. Cheryl Shuman, Dawson Creek

**ISSUE(S):** (1) Land-based spill preparedness; (2) packaging and printed paper program; (3) new Building Canada Fund; and, (4) mental health and policing.

**BACKGROUND:**

The UBCM Executive will be holding meetings in Victoria on April 15-17, 2015. It has numerous sub-committees. Being gathered in Victoria anyway, members of the Environment sub-committee proposed this meeting with the Minister of Environment. The purpose of the UBCM Environment Committee is to advocate for policies that advance local government interests in solving environmental problems.

**DISCUSSION:**

While the environmental priorities of the Committee are broad, for this 30-minute meeting they have proposed discussing (1) land-based spill preparedness and response; (2) the packaging and printed paper program; (3) the new Building Canada fund; and, (4) mental health and policing. Note: topics (1), (3), and (4) are being raised in all UBCM provincial outreach meetings this week. The Minister is not expected to address topics (3) and (4), but UBCM members are keen to share their perspective.

1. ***Land-based spill preparedness and response*** – UBCM to discuss “the elements of a provincial land-based spill preparedness framework that would help build community support for a ‘world class’ spill preparedness and response framework in BC.”

The Province is developing a world-leading industry-funded spill regime with the right mix of prevention, planning, response and recovery. The aim of the enhanced regime is to ensure that the costs of preparing for and responding to an incident from any sector falls on those entities that bring the risk, rather than local communities, individuals or

provincial tax payers. The regime will set out very clear requirements for companies to meet, some key examples are:

- Geographic response planning – strategically placing response resources along waterbodies to ensure a prompt/effective response following a spill;
- Greater community collaboration – requirements for local input into planning, local participation in drills, and greater local awareness about risks;
- Spill reporting and notifications – new reporting requirements and clear rules around how to notify local communities following an incident; and,
- Recovery requirements – ensuring that following a spill the responsible party does everything necessary to address the damage done.

Public consultations on a second intentions paper that outlines a series of policy changes to establish a world leading spill response regime in BC concluded in summer of 2014. UBCM was an active participant on advisory groups, and provided meaningful written comment to the policy intentions paper process.

ENV's Environmental Emergency Program has and will continue to work with stakeholders on the development of an industry-funded model for enhanced land-based spill prevention and response. The local government perspective here is critical – ENV wants to work with local governments to develop a regime that addresses concerns about the ability to respond to risks in their communities.

There has been strong local interest in industry funded contingency funds for local communities to access during a spill response. This concept is still being explored and no specific decisions on it have been made. The other aspects of the proposed enhancements that are going forward will greatly reduce the impact on local communities by having strict requirements in place to ensure that those companies that pose a risk are doing everything possible to prepare and respond to a spill.

**2. *Packaging and printed paper program*** – UBCM to discuss “the state of regulatory compliance of producers within the program, and the impact of increased compliance on expanding the collection system to all communities throughout the province.”

Since the implementation of the packaging and printed paper (PPP) program in May of 2014, obligated producers of PPP are required to register with an agency with an approved stewardship plan. As Multi-Material BC (MMBC) was the only agency to step forward, producers must register with MMBC in order to be in compliance with the Recycling Regulation (the Regulation). Although a second agency, StewardChoice, has proposed a stewardship plan that is actively under ministry review, there are many complexities involved with trying to introduce a second plan at this point.

The regulatory integrity of the program is important and the Ministry has been working with producers and MMBC since late 2013 to bring all ‘freeriding’ producers into compliance. In total, approximately 1,000 producers are now in compliance. This includes the vast majority of all known major producers, with the Ministry now pursuing generally smaller producers.

The progressive enforcement approach used by the Ministry is proving very successful in ensuring compliance with all producers. In fact, one of the top ‘freeriding’ producers just came into compliance after being issued a warning letter in February.

Since 2014, more than 300 advisory letters and almost 50 warning letters have been issued. Collectively, these enforcement actions have brought most companies into compliance; translating into \$4.4M in additional producer fee funding for the PPP program. Continued compliance action will result in further producer funding, which will go towards reconciling MMBC’s costs to date, and providing additional services across the province.

Administrative monetary penalties (AMPs) are a relatively new enforcement tool for the Ministry. AMPs are discretionary financial penalties up to \$40k per offence and imposed by a Ministry decision-maker. None have been issued to date, but will be used as required. Warning letters, which cite the possibility of AMPs, have been very effective so far in bringing free rider producers into compliance.

Although there is a strong desire from UBCM members and MMBC for the Ministry to apply AMPs more aggressively to bring about more compliance/services sooner, this measure will only be used when it is most appropriate (as part of ENV’s progressive enforcement approach).

Although the program only launched last May, the vast majority of BC communities have MMBC funded curbside, multi-family and/or depot services in place; however, a number of communities declined the offer of MMBC funded services. Many such communities later reversed their position and were put on MMBC’s waitlist pending further producer funding (currently there are 22 communities waitlisted – see attachment three for a discussion regarding Comox’s relationship to MMBC, an issue that has garnered the attention of UBCM).

Note: MMBC attributes service gaps and waitlist to free-riding producers currently outside of their program, specifically the newspaper sector, valued at \$8.6 million.

Industry stewardship of PPP is by far the largest and most complex Extended Producer Responsibility program in the history of BC, and it is still very much in its infancy after only being launched last spring. Despite initial start-up challenges, three clear successes are:

1. MMBC is servicing 1,240,000 homes directly, and is providing depot access to 1,694,000 (some overlap).
2. 20 new communities are receiving curbside recycling for first time.
3. MMBC is currently servicing 86 communities in the province.

The Ministry has also just reorganized itself to provide a dedicated team of staff to focus solely on EPR programs – including PPP implementation and compliance in particular.

3. ***The new Building Canada fund*** – UBCM to discuss “the availability of funds for local governments under the \$1.1 billion BC share of the Provincial-Territorial Infrastructure Component of New Building Canada Fund.”



4. ***Mental health and policing*** – UBCM to provide an “overview of the impact of mental health issues on local government policing costs, and the need for greater provincial support in dealing with individuals with mental health issues.”

s.13

**Attachment 1: Original request from UBCM Environment Committee for meeting**

**Attachment 2: Confirmation from UBCM of specific agenda topics for meeting**

**Attachment 3: Comox and MMBC**

**Contact:**

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**Prepared by:**

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| Reviewed by | Initials | Date        |
|-------------|----------|-------------|
| DM          | --       | --          |
| DMO         | BC       | April 15/15 |
| ADM-ESSPD   | MZ       | April 14/15 |
| ADM-EPD     |          |             |
| ED-SPB      |          |             |
| Dir-SPB     |          |             |
| Author      | BJVS     | 13 Apr 2015 |

**Attachment 1:**

**Original request from UBCM Environment Committee for meeting**

March 17, 2015



The Honourable Mary Polak  
Minister of Environment  
PO Box 9047 STN PROV GOVT  
Room 112, Parliament Buildings  
Victoria, BC V8W 9E2

Dear Minister Polak,

**RE: UBCM Executive Meeting in Victoria - April 15-17, 2015**

The UBCM Executive will be holding its April 2015 Executive meeting in Victoria. As Chair of UBCM's Environment Committee, we would welcome the opportunity to meet with you for 45 minutes to discuss policy matters that fall within our common portfolios. In particular, we would like to discuss the Committee's current priorities, as well as to receive any Ministry updates on new initiatives, policies, anticipated regulation or legislation that may impact local governments. Our Committee is scheduled to meet on Thursday, April 16<sup>th</sup> from 12:30pm to 2:15pm at the Local Government House in Victoria.

If your schedule does not permit a meeting during this time, we are amenable to discussing other timeframes. As we are in Victoria for two and a half days, we could possibly meet in the afternoon on the 15<sup>th</sup> or at another time on the 16<sup>th</sup>.

Our staff support person, Marylyn Chiang, will be in contact with your office shortly to try and arrange a suitable time.

Thank you in advance for your consideration of our meeting request and we look forward to the prospect of meeting you in Victoria.

Yours truly,

A handwritten signature in black ink, appearing to read "Rhona Martin". The signature is fluid and cursive, with the first name "Rhona" being more prominent than the last name "Martin".

Director Rhona Martin  
Chair, UBCM Environment Committee

## Attachment 2:

### Confirmation from UBCM of specific agenda topics for meeting

**From:** Jared Wright [<mailto:jwright@ubcm.ca>]  
**Sent:** Thursday, April 9, 2015 9:22 PM  
**To:** Vander Steen, Benjamin ENV:EX  
**Cc:** Marylyn Chiang  
**Subject:** Re: Our Minister and upcoming UBCM Env Executive meeting

Hi Ben,

The Committee will be tabling four agenda items, two of which pertain directly to the Minister's portfolio.

**Land Based Spill Preparedness** - Discussion on the elements of a provincial land based spill preparedness framework that would help build community support for a "world class" spill preparedness and response framework in BC.

**Packaging and Printed Paper Program** - Discussion on the state of regulatory compliance of producers within the program, and the impact of increased compliance on expanding the collection system to all communities throughout the province.

**New Building Canada Fund** - Discussion on the availability of funds for local governments under the \$1.1 billion BC share of the Provincial-Territorial Infrastructure Component of New Building Canada Fund.

**Mental Health and Policing** - Overview of the impact of mental health issues on local government policing costs, and the need for greater provincial support in dealing with individuals with mental health issues.

We recognize that the last two issues are not the Minister's area of responsibility. We are simply highlighting these two other priority areas of interest in all of our provincial outreach meetings next week. There is no expectation for the Minister to really respond, as they are for the Minister's information, and so that the Minister is aware that we will be connecting more directly with her Cabinet colleagues on these matters.

Please let me know if this helps.

Kind regards,

Jared

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### **Attachment 3:**

#### **Comox and MMBC**

- The Town of Comox was in negotiations with MMBC for receiving PPP collection service, but Comox did not provide their response form to MMBC by Sept. 16th, 2013 (the deadline MMBC set for municipalities to accept the collection incentive). Instead Comox sent MMBC a letter indicating conditional acceptance but with no formal response form.
- MMBC informed Comox that a response form was needed in order to include them in the program. Comox refused to submit it until early December 2013, after MMBC's deadline for executing collector contracts had passed (November 30, 2013). As a result, MMBC was not able to include Comox in the program.
- Comox had a contract with Emterra to provide PPP collection service in the community, which was set to expire on March 31, 2015.
- On June 19, 2014 Comox wrote to MMBC requesting that MMBC begin providing PPP collection service as of April 1, 2015, via third party contract (see attached letter). On August 22, 2014 MMBC wrote to Comox, stating that they are not in a position to provide curbside service on the date requested (see attached letter). MMBC indicated their inability to provide service in Comox is linked to non-compliant producers free-riding on the program.
- The Town of Comox is currently on the waitlist to receive MMBC service. They sit near the top of the waitlist and will receive service once MMBC has acquired sufficient funding from new producer members.
- MMBC met with the Comox-Strathcona Waste Management Board on Thursday February 12, 2015 and the Comox Mayor Paul Ives raised the waitlist issue. MMBC has indicated that the discussion was constructive and Mayor Ives understood the current issue of free-riders and how producer non-compliance impacts MMBC's ability to provide service to Comox.
- Comox has recently signed a five-year contract extension with Emterra for curbside garbage, recycling and organics collection, but structured the contract to allow for MMBC to take over/pay for the recycling component when able.

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

April 14, 2015  
File: 105809  
CLIFF/tracking #: 282268

**PREPARED FOR:** The Honourable Mary Polak, Minister of Environment

**DATE AND TIME OF MEETING:** April 16, 2015; 1:00-1:30pm

**ATTENDEES:** Sonia Furstenau, CVRD; Calvin Cook, President of Shawnigan Residents Association; David Robertson, Headmaster of Shawnigan Lake School; Dr. Bill Moulaison, local physician; and Rod MacIntosh, local realtor.

**ISSUE:** Impact on the community from permit issued to Cobble Hill Holdings Ltd. (CHH) for contaminated soil treatment and landfill facility located near Shawnigan Lake, BC.

**BACKGROUND:**

On August 21, 2013, Permit 105809 was issued under the *Environmental Management Act* to Cobble Hill Holdings Ltd. (CHH) for a contaminated soil treatment and landfill facility located near Shawnigan Lake. The permit allows CHH to accept contaminated soil and process it through bioremediation or landfilling into an engineered landfill facility, as well as discharge treated effluent to an ephemeral stream.

During the permitting process technical reviews were conducted by qualified professionals from both within and outside the ministry, and there was extensive consultation with stakeholders and local residents. The final permit includes an extensive set of requirements for the protection of the environment including regulating the authorized discharges and works (the water discharge must meet the most stringent water quality standards in BC.); management of material on site; control of dust, odour and erosion; as well as monitoring, sampling and public reporting of monitoring information and reports.

The decision to issue the permit was appealed to the Environmental Appeal Board (EAB) by the Shawnigan Residents Association, the Cowichan Valley Regional District, and private individuals. During the appeal the facility was under a partial stay as directed by the EAB. The EAB partial stay allowed a specified limited quantity of lesser-contaminated soil to be deposited on-site. The contaminated soil was deposited in a lined asphalt paved soil management area. On May 29, 2014, ministry staff conducted an on-site compliance inspection. The landfill facility was not in operation and no waste had been discharged to the landfill, at that time. The compliance inspection found 3 minor non-compliances; an advisory was issued as the MOE response to the non-compliances.

The EAB appeal hearing began in March 2014 and concluded on July 25, 2014 (it was not continuous). On March 20, 2015 the EAB released its decision, finding that, on a balance of probabilities, the geology and hydrogeology of the site and the facility design, together with the permit conditions, will provide the required protections. The permit was confirmed subject to directions that the Director amend the permit to:

- Provide for representation on the Advisory Committee by the local community, including the Shawnigan Residents Association and/or other interested community members as chosen by the delegate.

- Prohibit blasting during cell liner installation and prohibit re-use of liners.
- Require a permanent roof over the soil management area within one year.
- Require that wheels of soil transport vehicles be rinsed before leaving the site.
- Require monitoring of the stream immediately following a storm event greater than 1 in 200 years.

On April 8, 2015, ministry staff visited the site. The facility had not appreciably changed since the last inspection in May 2014. The previously-accepted contaminated soil was deposited in a lined asphalt paved soil management area. The landfill facility was not in operation and no waste had been discharged to the landfill. Ministry staff collected water samples and sent them to the laboratory for analysis for basic parameters (pH, conductivity, etc.), phenols, and dioxins and furans. The basic parameters and phenols results are expected by April 20, and the dioxin and furans results are expected by May 7.

CHH did not pay permit fees last year while the permit was under appeal, and on April 8, 2015, the Ministry's Business Services Branch sent a letter to CHH indicating they will be recommending suspension of the permit unless all outstanding permit fees and interest (approximately \$77,000) are received within 30 days.

On April 9, 2015, the permittee's qualified professional was on-site conducting quarterly sampling of groundwater and surface water, as required by the permit.

#### **DISCUSSION:**

Ministry staff are working to amend the *Environmental Management Act* permit in accordance with the EAB directions. The permit amendments are expected to be completed next month (subject to receipt of all outstanding permit fees and interest) and once in place, the permit will contain all the protections necessary to ensure environmental protection.

Because the site is a quarry, the Ministry of Energy and Mines (MEM) also has a *Mines Act* permit for the site. The two ministries are working closely together to ensure that permit requirements are consistent and complementary, that all directives from the EAB are addressed, and that there is ongoing oversight of the facility.

#### **SUMMARY:**

The Ministry of Environment assesses each permit application based upon the information provided in the application, the risk to the environment, mitigations and treatment which are available to manage the waste, input from First Nations and the public, and other site-specific relevant information. The Statutory Decision Maker is required to ensure that an approved activity can be conducted safely, with no impacts to humans, and that the environment is adequately protected.

The EAB carefully reviewed the permit and considered all of the evidence. The EAB found that, on a balance of probabilities, the geology and hydrogeology of the site and the facility design, together with the permit conditions, will provide the required protections. The EAB confirmed the permit subject to directions.

The ministry respects the EAB and its directions. Ministry staff are currently working to amend the permit in accordance with the EAB directions and this will be done next month.

The facility is not yet fully operational. After the permit has been amended and the facility is fully operational, ministry staff plan to conduct another compliance inspection.

**Attachments:** #1 Background Info & Chronology of Events

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**Prepared by:**

*A.J. Downie, Director*

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| <b>Reviewed by</b> | <b>Initials</b> | <b>Date</b> |
|--------------------|-----------------|-------------|
| DM                 | --              | --          |
| DMO                |                 |             |
| ADM                | LH              | 2015/04/14  |
| Dir./Mgr.          | AD              | 2015/04/13  |

## ATTACHMENT 1: Background Info & Chronology of Events:

- The Ministry has a legal obligation to consider all permit applications that are submitted by clients/proponents. The decision whether or not to issue a permit must be based on the technical merits of the proposal and is made independent of the political process.
  - The Ministry is not involved in a proponent's selection of sites for a particular facility or activity, but the Ministry's decision-making process considers site-specific factors relevant to protection of the environment.
  - Each permit application is assessed based upon the information provided in the application, the risk to the environment, mitigations and treatment which are available to manage the waste, input from First Nations and the public, and other site-specific relevant information.
- In the fall of 2011 Cobble Hill Holdings Ltd. (CHH) applied for a permit under the Environmental Management Act (EMA) to accept contaminated soil and process it through bioremediation or landfilling into an engineered landfill facility, as well as discharge treated effluent to an ephemeral stream.
  - "Bioremediation" is a natural process which relies on bacteria, fungi, and plants to alter contaminants. These organisms are capable of using chemical contaminants as an energy source, rendering the contaminants harmless or less toxic products, and has been effectively used to detoxify certain contaminants, including certain hydrocarbons and metals.
  - "Landfilling" in this case does not mean that contaminated soils are simply deposited into the quarry; rather, the soil will be encapsulated in engineered cells.
- The public and local government have expressed ongoing concern regarding the relocation of contaminated soil to the Cowichan Valley Regional District (CVRD), under both the Contaminated Sites Regulation soil relocation agreements and at specific facilities permitted under the *Environmental Management Act* (EMA).
  - Concerns are primarily related to potential impact on surface and ground water in the Shawnigan Lake Community watershed serving approximately 4,000 water connections.
- On August 27, 2012 the Chair of the CVRD Board wrote to the Minister of Environment offering to collaborate with the Ministry to find a "suitable soil depository within the Regional District that is not proximate to a public water supply". The Ministry's role is not to seek out and provide sites for contaminated soil storage and treatment; rather, its role is to assess applications for permits as they come forward.
  - However, nothing precludes the CVRD from bringing an application for a facility to store or treat contaminated soil elsewhere in the CVRD.
  - The CVRD has not submitted an application for a contaminated soil waste discharge permit to the ministry for consideration.
- On March 19, 2013 the Ministry released a draft permit to CHH to "receive, treat, utilize and landfill contaminated soil and ash to the cavity created by an advancing hard rock quarry."
- There was extensive public consultation, including formal notifications and public information sessions on the application. A public meeting to hear the details of the discharge application and the related process was attended by an estimated 250 concerned citizens.



- Ministry staff coordinated an assessment of the potential environmental impacts of the proposal, including impact on surface water, groundwater, air quality and wildlife. Reviews were conducted by qualified professionals from within and outside of government
- Those potential impacts and protective measures were compared against the ministry's standards for protecting human health and the environment; a draft permit was developed which ensured that there would be an adequate level of treatment and environmental protection.
- The statutory decision maker made the final decision to issue the permit on August 21, 2013.
- As construction began, the location of the settling pond and the discharge spillway was found to have been constructed in part on adjacent CVRD property. The settling pond was modified to correct the situation but the CVRD remained concerned with the spillway final location. This issue was left to CVRD and CHH to resolve.
- The CVRD initiated legal proceedings against CHH regarding the proposed use of the property stating that it violates the CVRD's zoning bylaw. No current information is available on this action.
- On May 29, 2014, ministry staff conducted an on-site compliance inspection. The landfill facility was not in operation and no waste had been discharged to the landfill, at that time. The compliance inspection found 3 minor non-compliances; an advisory was issued as the Ministry's response to the non-compliances. It is the Ministry's expectation that the non-compliances are addressed and other start-up requirements are addressed prior to CHH acceptance of additional material.
- On April 8, 2015, ministry staff visited the site. The facility had not appreciably changed since the last inspection in May 2014. The previously-accepted contaminated soil was deposited in a lined asphalt paved soil management area. The landfill facility was not in operation and no waste had been discharged to the landfill. Ministry staff collected water samples and sent them to the laboratory for analysis.
- CHH did not pay permit fees last year while the permit was under appeal, and on April 8, 2015, the Ministry's Business Services Branch sent a letter to CHH indicating they will be recommending suspension of the permit unless all outstanding permit fees and interest (approximately \$77,000) are received within 30 days.
- The Ministry understands that on April 9, 2015, the CHH's qualified professional was on-site conducting quarterly sampling of groundwater and surface water, as required by the permit.

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

April 14, 2013

File:

CLIFF/tracking # 282510

**PREPARED FOR:** Honourable Mary Polak, Minister of Environment

**DATE AND TIME OF MEETING:** April 24, 10:30 a.m.

**ATTENDEES:** Minister Polak, Mayors of Abbotsford, Chilliwack and Mission,

**ISSUE(S):** To discuss options to ensure their residents are treated equitably under the PPP program

**BACKGROUND:**

The Mayors will raise the following points of concern:

**1. Other jurisdictions apparently shown favouritism by MMBC in securing original service contracts;**

Many jurisdictions had concerns with MMBC's contract terms; however, others such as Burnaby, City of Vancouver and Surrey found ways to resolve them before the final deadline. It was more complicated for Abbotsford and Mission, as they are part owners in the local non-profit Abbotsford Community Services (ACS) charity that has provided PPP collection and processing for over 20 years. ACS was unable to bid on the MMBC processing contract as it covered too large an area and if the jurisdictions accepted MMBC contracts, they would see that material bypass ACS for MMBC's contractor, Green By Nature (GBN). This was a compounding factor to what was seen as a difficult negotiation. There still exists a possibility of ACS serving as a subcontractor to GBN, at least to bulk transfer local PPP. Ministry staff have encouraged such discussions to take place.

**2. Province to enforce regulation to make up the \$20-30 million MMBC shortfall;**

The Ministry is working closely with MMBC to identify 'freeriding' producers and has been very successful to date, resulting in MMBC securing \$4.4 million which will go towards MMBC partially reconciling its internal costs, and providing future services across the province. The vast majority of identified and verified eligible producers have voluntarily reached compliance through advisory and warning letters. Administrative Monetary Penalties (AMP's) are fines up to \$40,000 and are issued by authorized Ministry staff. As efficient and effective as these are, they are used as a tool of last resort.

**3. Residents paying a 'hidden fee' that is supporting other programs elsewhere;**

While it is true that all consumers across BC are paying the costs of industry, ensuring their products are recycled and there are not yet province-wide services provided, it is not administratively feasible under the regulation to reconcile these

unique situations and then reverse them once such services are provided.

4. **Province to make a timely decision regarding StewardChoice proposal.**

The PPP stewardship plan put forward by StewardChoice is actively under review by Ministry staff; however, there are many complexities involved with trying to introduce a second plan at this time. Most stewardship plans require extensive input from the Ministry and all stakeholders over several months and are submitted for final approval only after several drafts. Stewardship plans for PPP are that much more complex given the scope of established services at play.

**DISCUSSION:**

Although the vast majority of local governments accepted the incentives offered to provide PPP collection services for their local residents, several were not able to do so before the deadline for a variety of reasons. Reasoning for Abbotsford, Chilliwack and Mission involved the non-profit ACS agency, the employment needs of many disadvantaged individuals and possibly the viability of the recycling operation itself.

The City of Abbotsford, District of Mission and City of Chilliwack initially declined the MMBC incentives offered and like other such communities, have been waitlisted by MMBC pending further producer compliance and associated funding. As successful as the Ministry's compliance and enforcement efforts have been to date, further producer compliance will take time – time that is best used by Abbotsford, Chilliwack and Mission to finalize agreements and ready their respective jurisdictions for implementation.

s.13

Attachment 1: Incoming March 2 letter from Mayors

**Contact:**  
Lori Halls, ADM  
EP  
250 387-9997

**Alternate Contact:**  
*Cameron Lewis, ED*  
*Waste Prevention*  
250 383-3866

**Prepared by:**  
*Bob McDonald, Manager*  
*PPP Implementation*  
250 387-3588

| <b>Reviewed by</b> | <b>Initials</b> | <b>Date</b>    |
|--------------------|-----------------|----------------|
| DM                 | WS              | April 23/15    |
| DMO                | BC              | April 20/15    |
| ADM                | LH              | April 20/15    |
| Dir./Mgr.          | CL              | April 16/15    |
| Author             | BM              | April 14, 2015 |



March 2, 2015

File: 5360-40-01

Email: [env.minister@gov.bc.ca](mailto:env.minister@gov.bc.ca)

Honourable Mary Polak  
Minister of Environment  
Parliament Buildings  
PO Box 9047, Stn Prov Govt  
Victoria, BC V8W 9E2

Dear Minister Polak:

**Re: Provincial Packaging and Printed Paper Program**

We are writing to you today regarding the Provincial governments Packaging and Printed Paper (PPP) Program. We appreciate that yourself, members of your staff, as well as representatives from Multi-Material BC (MMBC) have previously met to discuss this program. Today, we are once again writing to request a meeting with you as Minister of the Environment. This meeting will be with the City of Abbotsford, District of Mission and City of Chilliwack to discuss options to ensure our residents are treated equitably under the PPP program.

Abbotsford, Mission and Chilliwack chose not to join the MMBC PPP program by the September 16, 2013 deadline without first negotiating on a number of contract concerns. Other municipalities, such as Vancouver, Surrey and Burnaby replied in a similar manner, but were accommodated into the roll-out of the program on May 19, 2014. Since late 2013, Abbotsford, Mission and Chilliwack have requested permission from MMBC to join the program as soon as possible. MMBC was not responsive to the municipalities' requests.

MMBC advised in early January 2015 that it still did not have the funds to extend the program beyond its current participants. The reason provided is that some businesses are not complying with the MMBC stewardship plan. MMBC added they are waiting for the Province to force all applicable businesses to pay MMBC the required financial contribution. The shortfall in funding is believed to be approximately \$20-30 million due to non-participation by businesses.

As of May 19, 2014, residents of Abbotsford, Mission and Chilliwack are paying a hidden fee to MMBC at many retail stores. Instead of the fee being returned to the respective community to help pay for recycling collection, it is instead going to other municipalities that MMBC has accepted into the program. This must be corrected as soon as possible. It is not fair that our residents are paying a hidden fee as a result of the Province's PPP program and that these fees are being used to fund other municipalities' recycling programs.

**Request for the Minister**

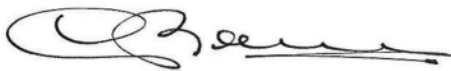
Abbotsford, Mission and Chilliwack request a joint meeting with the Minister to discuss actions available to the Province to address the current inequity, including:

- 1) requiring all applicable businesses to comply with the BC Recycling Regulation;
- 2) Province considers and makes a timely decision regarding approval of any alternative PPP plan, such as StewardChoice, to ensure the benefits of market competition; or
- 3) MMBC is required to make the program available to all interested local governments.

Please advise as soon as possible regarding a meeting by email to Mayor Braun's assistant, Nancy Friesen at [nfriesen@abbotsford.ca](mailto:nfriesen@abbotsford.ca) or by phone at 604-864-5500.

Thank you for your time, and attention. We look forward to your reply.

Yours truly,



Henry Braun  
Mayor,  
City of Abbotsford



Randy Hawes  
Mayor,  
District of Mission



Sharon Gaetz  
Mayor,  
City of Chilliwack

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

April 21, 2015  
File: 280-20  
CLIFF/tracking #: 282953

**PREPARED FOR: Honourable Mary Polak, Minister of Environment**

**DATE AND TIME OF MEETING:** Meeting with AltaGas Ltd. on May 4, 4:00pm

**ATTENDEES:** Neil Mackie, Government Relations Manager; David Cornhill, CEO; David Harris, COO; John Lowe, EVP

**ISSUE(S):** Introduction meeting to discuss overview of AltaGas and where they think they may have environment impacts/issues.

**BACKGROUND:**

AltaGas is a natural gas, power and utility company with infrastructure in British Columbia and the United States. They operate gas processing facilities, pipelines, small hydroelectric and windpower facilities in British Columbia. They have plans for a new gas liquids gathering line in Northeast BC, Pacific Northern Gas line in Northern BC to service their proposed LNG facility, Douglas Channel LNG, in the Kitimat area and smaller regional LNG facilities.

Because of the size and nature of AltaGas' assets in British Columbia, they do not have any *Environmental Management Act* (EMA) authorizations with the Ministry of Environment; their EMA authorizations are administered by the Oil & Gas Commission.

**DISCUSSION:**

With the type of activities AltaGas operates, their emissions are smaller than other proponents in the associated sectors, but their emissions can lead to concerns if there are other permitted emissions or trends in the area.

For their proposals in Northeast BC, it should be recommended they pay attention to the work recent done by Ministry of Health in the Northeast Human Health Risk Assessment. This assessment shows some areas of increased health risk due to industrial development. AltaGas should pay attention to the results of this report when considering locations of some facilities.

The Kitimat airshed is geographically-constrained with multiple permitted emitters. They should refer to the Kitimat Airshed Assessment, the LNG Canada Environmental Assessment documents, and the Rio Tinto Alcan STAR report and Environmental Effects Monitoring plan to get a better idea of the airshed and what they may be required to monitor in the airshed.

**Contact:**

*Lori Halls  
Assistant Deputy Minister  
Environmental Protection  
250-387-9997*

**Alternate Contact:**

**Prepared by:**

*Ed Hoffman  
Director  
Oil & Gas/LNG Operations  
250-565-6443*

| <b>Reviewed by</b> | <b>Initials</b> | <b>Date</b> |
|--------------------|-----------------|-------------|
| DM                 | WS              | 04-30-15    |
| DMO                | BC              | 04-30-15    |
| ADM                | LH              | 04-30-15    |
| Dir./Mgr.          |                 |             |
| Author             |                 |             |

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

April 23, 2015  
File: 50400-25/MMBC  
CLIFF/tracking #: 283011

**PREPARED FOR:** Mary Polak, Minister of Environment

**DATE AND TIME OF MEETING:** May 5, 2015 at 1pm

**ATTENDEES:** Retail Council of Canada's Greg Wilson, Director Government Relations and Nathalie St-Pierre, VP Sustainability.

**ISSUE:** Retail Council of Canada's (RCC) suggestions to improve BC's EPR regime.

**BACKGROUND:**

RCC represents the voice of the retail sector representing 45,000 member storefronts that employ 300,000 British Columbians. Retailers are the largest obligated sector under the Recycling Regulation

On July 24, 2014, RCC wrote to the Minister expressing concern about level playing field with respect to competing extended producer responsibility programs – Attachment 1 - particularly with regards to StewardsChoice Enterprises. RCC is concerned that a stewardship plan put forward by StewardsChoice Enterprises, a for-profit business selectively representing waste transporters, could destabilize the current Multi-Material BC's (MMBC) program for packaging and printed paper. The Ministry has responded to their concerns previously – Attachment 2.

While RCC's members are generally supportive of British Columbia's extended producer responsibility model, their concerns remain, most notably: that a level playing field approach must be applied to stewardship programs; and assurance is needed that the Ministry is taking action on non-compliant producers (free-riders).

**DISCUSSION:**

**Level playing field in the Packaging and Printed Paper (PPP) product category**

As noted above, RRC has previously expressed that in the absence of a level playing field approach by the Ministry, competition within PPP product category could undermine the current program, creating financial instability, thus impacting its viability.

With respect to StewardsChoice, Ministry staff continues their due diligence in reviewing their stewardship plan to ensure it will meet the requirements of the Regulation and other provincial standards. The same approach is applied to any stewardship plan submitted to the Ministry for approval, regardless of the product category.

**Compliance**

RRC's members continue to be concerned with non-compliant producers ("free-riders") believing they are currently a financial burden on many EPR programs. They also feel



that allowing producers to remain free-riders for a protracted period sends the wrong message regarding the importance of EPR programs, and only increases the probability of severe financial impact, since the likelihood of collecting pro-rated producer fees diminishes with time.

Following the meeting with the Minister, RRC officials will travel to the Recycling Council of BC Conference, May 6-8, in Whistler. Ministry staff will also be in attendance at the conference and will be available to meet with RCC officials as requested.

s.13

**Contact:**

*Lori Halls, ADM  
Environmental Protection  
250 387-9997*

**Alternate Contact:**

*Cameron Lewis  
Waste Prevention,  
250-953-3866*

**Prepared by:**

*Meegan Armstrong  
Waste Prevention,  
250 387-9944*

| Reviewed by | Initials | Date     |
|-------------|----------|----------|
| DM          | --       | --       |
| DMO         | BC       | 04/28/15 |
| ADM         | LH       | 04/27/15 |
| ED          | CL       | Apr 27   |
| Author      | MA       | Apr 27   |

**Attachments:**

Attachment 1 – Letter from RCC to Minister Polak – July 24, 2014

Attachment 2 – Letter from Minister Polak to RCC – September 19, 2014



Retail Council of Canada  
Conseil canadien du commerce de détail  
209-1730 West 2nd Avenue  
Vancouver, BC V6J 1H6  
Telephone +1 (604) 736-0368  
[www.retailcouncil.org](http://www.retailcouncil.org)

24 July 2014

Hon. Mary Polak  
Minister of Environment  
PO Box 9341, Stn Prov Govt  
Victoria, BC V8W 9M1

***By electronic mail***

Dear Minister Polak,

**Subject: StewardChoice plan for EPR in printed paper and packaging**

*The Retail Council of Canada (RCC) is the voice of retail. We represent 45,000 member-storefronts – from the most widely-recognized chains to small independent stores on streets in neighbourhoods across Canada. 300,000 British Columbians work in the Retail sector. Retail is the largest private-sector employer in Canada.*

The best interests of the Government and people of British Columbia will be served if the stewardship plan for packaging and printed paper submitted by StewardChoice Enterprises is rejected at an early date.

Before the Province entertains competing EPR programs, it should conduct an impact analysis to determine whether a competitive plan is desirable, and what requirements need to be met. After an impact analysis is complete, if it is determined that competition is in the interest of the people of British Columbia, and only after the government has set the rules for all interested organizations to follow, then all parties – including Multi-Material B.C. – should be able to submit proposals under new rules in a manner that would maintain a level playing field.

Fundamental justice expects that all approved stewardship plans operate under equal terms – any competing plan must be held to the same requirements that Government has placed upon Multi-Material B.C. The StewardChoice plan is devised to cherry-pick profitable, low-service-cost materials which would ultimately result in the financial destabilization of Multi-Material B.C.'s current budget model and fee structure.

The StewardChoice plan is not a true extended-producer responsibility (EPR) program as it proposes to move decision-making from obligated stewards (who fund the program) to recyclers and haulers (who are service-providers). StewardChoice Enterprises is a for-profit organization, while Multi-Material B.C. is operated by and for stewards on a cost-recovery basis. These two key differences will, likely, significantly increase costs for business and consumers over the long-term.



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[www.retailcouncil.org](http://www.retailcouncil.org)

Serious enforcement actions against non-compliant producers must be undertaken without delay as “free-riders” are undermining the ability to provide quality recycling services in British Columbia.

We share the Government of British Columbia’s interest to have the best EPR program at the lowest cost to consumers and business. The retail sector is ready to continue supporting the efforts in building such a program.

Yours truly,



Nathalie St-Pierre  
Vice-President, Sustainability

Copy: David Ranson, Executive Director, Environmental Standards Branch  
Gwenda Laughland, Acting Director, Waste Prevention



Reference: 208783

**SEP 19 2014**

Nathalie St-Pierre  
Vice-President, Sustainability  
Retail Council of Canada  
209 – 1730 West 2nd Avenue  
Vancouver BC V6J 1H6

Dear Ms. St-Pierre:

Thank you for your letter of July 24, 2014, regarding the submission of the StewardChoice Enterprises Inc. (StewardChoice) stewardship plan for packaging and printed paper (PPP).

As you are aware, British Columbia's (BC's) policy regarding waste management and recycling is to shift the responsibility from local governments and the general taxpayer to industry and consumers. The goal of the Recycling Regulation (the Regulation) and Extended Producer Responsibility (EPR) programs is to ensure producers take responsibility for collecting, transporting and recycling the material they put into the market and that all British Columbians have reasonable access to the recycling of those products.

We all have a vested interest in ensuring that stewardship programs operate effectively and efficiently. The recent introduction of an EPR program for PPP has required some significant changes in the province and the Ministry of Environment is working with Multi-Material BC (MMBC) to ensure its stewardship program is fully implemented and service level objectives are met. Ensuring compliance with provincial regulatory requirements is one of the ministry's principal objectives. As such, the ministry is working closely with MMBC to identify program "free-riders" not in compliance with the Regulation and the ministry is warning them of escalating enforcement action.

Any new stewardship plan for PPP that is submitted must meet the requirements of the Regulation and other provincial standards that have been established. As you are aware, StewardChoice has submitted a draft stewardship plan that they are currently consulting on. At this point, it is unclear how the StewardChoice stewardship plan can accomplish the objectives in the Regulation. Should the plan be submitted to the Director, the ministry will then conduct a formal review.

...2

Ministry of  
Environment

Office of the  
Minister

Mailing Address:  
Parliament Buildings  
Victoria BC V8V 1X4


Telephone: 250 387-1187  
Facsimile: 250 387-1356

- 2 -

I support the idea of competition and have said all along that producers are welcome to develop their own stewardship plan as long as it meets the requirements laid out in the Regulation for PPP product stewardship. However, I do not want to introduce instability into the existing PPP recycling system. The ministry is cognizant that maintaining a level-playing field for the PPP product category is paramount in order to enable fair competition. I can assure you that the ministry will take the necessary steps to assess the impact of a competitive stewardship plan on the current delivery of the MMBC program, if a competitive plan is submitted to the Director.

Thank you again for expressing your concerns about the StewardChoice stewardship plan.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Polak".

Mary Polak  
Minister