

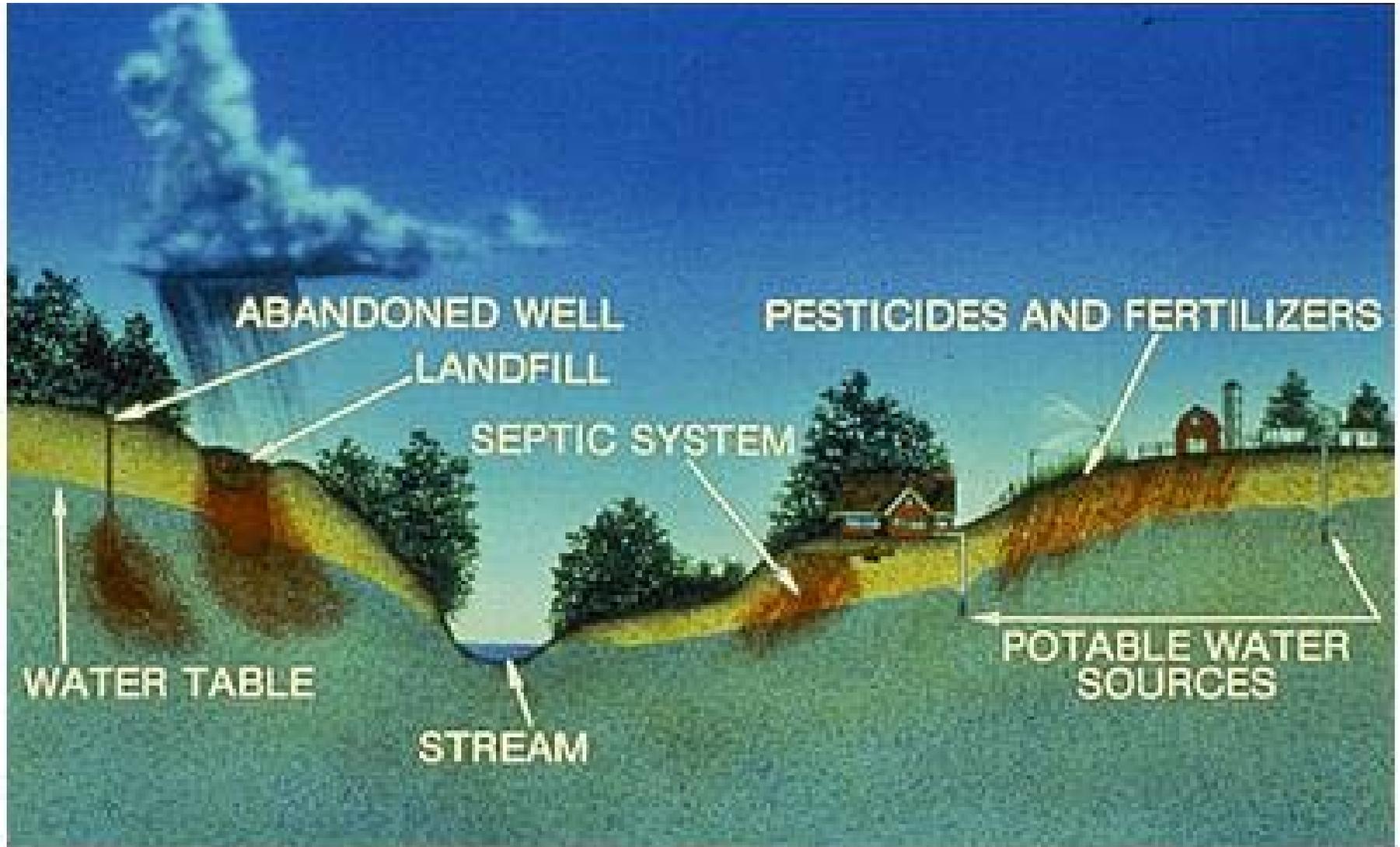
Update on Alberta Environment Contaminated Sites Initiatives



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CONTAMINATION SOURCES





What is a contaminated site?

- Common definition - contamination above set standards or contamination causing risk

- “A site at which substances occur at concentrations
 1. Above background levels and pose an immediate or long-term risk to human health or the environment, or
 2. Exceeding levels specified in relevant policies or regulations”
 - Treasury Board Federal Contaminated Sites Policy

EPEA provisions relevant to contaminated site restoration

■ Part 5 – Div.1 Substance release

- Adverse effect
- Responsible persons = narrow scope
- Less formal process
- Joint & several liability

■ Part 5 – Div. 2 Designation

- Significant adverse effect
- Responsible persons = broad scope
- More formalized process
- Public participation
- Apportioned liability

Evolving Issues & Concerns

- Stakeholder concerns over ongoing liability
 - Long-term liability and closure
 - Retrospective (historic) liability
 - Responsible parties in land sales transactions
 - Municipal planning decisions
- National Roundtable on Environment and Economy
 - Incentives for brownfield development

Contaminated Sites Stakeholder Advisory Group (CSSAC) Purpose and Mandate

- Review Alberta's contaminated sites legislation and policy
- Prepare recommendations for Minister of Environment on any upgrades
- Representation from Government, Industry, Commerce and NGOs

CSSAC

Process

- First round of meetings between October, 2003 and March, 2004
- Information sources considered:
 - Environmental Law Centre report
 - National Roundtable on Environment and Economy report – “*Cleaning Up the Past, Building the Future*”
 - CCME (1993) principles
 - Other analyses prepared by working groups
- Interim report completed in Spring 2004

Environmental Law Centre Project

Objectives

- Review regulatory approaches to contaminated land management (analysis & critique)
 - Mainly Canada; limited US & Europe

- Focus on specific issues
 - Liability allocation & termination
 - Retrospective application of legislation & liability
 - Triggers for use of legislation & regulatory tools
 - Effects of changing remediation objectives (re: liability & remediation)

ELC Report Findings

- Common elements
 - Polluter pays principle
 - Retrospective application of liability

- Legislative trends
 - Limited government resources
 - Greater access to information
 - Explicit provision for risk management
 - Clearly stated exemptions from liability
 - Third party review and certification

- No clear trends/not addressed
 - Joint & several liability vs. proportional
 - Effects of changing remediation standards

CSSAC Recommendations

Single Regulatory Process

- Amend EPEA to provide one management process for contaminated sites
- Better define “adverse effect” and “significant adverse effect”
- Legislative provisions to support risk management
- Clarify reporting requirements

CSSAC Recommendations

Allocation of Liability

- Amend EPEA to better define process for liability allocation
 - Considerations:
 - May be seen as conflicting with “Polluter Pays” principle
 - Allocating liability complex and very resource intensive
 - May create a “bottleneck” in remediated contaminated sites

- Clarify “persons responsible”

CSSAC Recommendations

Regulatory Liability

- Termination of regulatory liability upon cleanup
 - Considerations:
 - Resources required to review applications
 - May trigger request for certificates at previously closed sites
 - Environmental site information system required to support due diligence
- Regulatory basis for voluntary remediation agreements that limit liability

CSSAC Recommendations

Assurance Mechanism

- Assurance mechanism required to enable liability termination and liability allocation
 - Considerations:
 - Fund? Insurance?
 - Assurance administration resources
 - May discourage pollution prevention

- Review whether historical contamination should:
 - Be covered by retrospective provisions?
 - Be covered by an alternative funding mechanism?

CSSAC Recommendations

Role and Liability of Local Authorities

- Include exemptions for local authorities where such would help ensure contaminated sites are addressed

Second (Final) CSSAC Report

- Government approved direction of interim report
- Requested CSSAC continue to meet to develop program options
- CSSAC reconvened October 2004
 - Three working groups dealt with specifics
- Final report submitted to Minister June 2005
- Recommendations currently under consideration by Government

Next Steps

- Obtain Government approval/feedback
- Update/improve policy and complete required regulatory amendments where required
- Ongoing work to refine program options

Other related contaminated site initiatives

- Groundwater remediation objectives
 - Elements of risk-based closure
 - Draft posting for comments in early 2006
- Environmental Site Assessment Registry
 - Supporting environmental stewardship and risk management
 - System design to be developed this year
- CCME scientific review of the Canada Wide Standard for Petroleum Hydrocarbons in Soil

Conclusion

Alberta Environment is committed to improving contaminated sites legislation and policy through stakeholder consultation