



RemTech Remediation Technologies Symposium

Pre-Conference Workshop:
Licence to Spill?
– *Regulatory and Environmental Law Highlights*

BROWNFIELD REMEDIATION THE LEGAL FRAMEWORK: 20 YEARS OF UNFULFILLED PROMISE?

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1993 – *Environmental Protection and Enhancement Act*

- Part 5: Release of substances
- Division 1: Release of substances
- Division 2: Contaminated Sites
- Application of Part 5 by Alberta Environment



2001: Lynnview Ridge case

- historic contamination case
- former oil refinery redeveloped to residential subdivision
- issuance of Environmental Protection Order under Division 1 of Part 5 of EPEA
- appeal to Environmental Appeal Board
- further appeal to Courts



2003: Contaminated Sites Stakeholder Advisory Committee

- multi-stakeholder committee
- mandate to provide recommendations on legislative reform to improve likelihood that contaminated sites will be returned to productive use
- final report to Minister in 2005
- recommendations re: allocation of liability and liability closure



2006: Amendments to EPEA

- response to CSSAC report
- expansion of concept of “remediation certificates”
- clarified statutory obligations re: substance releases that occurred pre-EPEA
- extended liability protection for municipalities re: contaminated sites acquired by dedication or gift under Part 17 of *Municipal Government Act*



2008: Record of Site Condition Form

- must accompany every Phase 2 ESA
- designed to make it easier to track environmental characteristics of contaminated or potentially contaminated sites
- form updated in 2009
- professional sign-off required for reports submitted in support of RSCF (PSTs, “approved facilities” and upstream oil and gas sites)



2009: *Remediation Certificate Regulation*

- intended to mitigate risk associated with brownfield redevelopment
- by providing greater certainty with respect to regulatory liability
- application for RC voluntary
- issuance of RC certifies property has been remediated to applicable standard and no further regulatory liability unless new contamination with adverse effect



2011: Remediation Certificate Guide

- Guide to Remediation Certificates for PSTs (originally published June 2009)
- Guide to Remediation Certificates for Upstream Oil and Gas site (January 2011)
- guides for use of RC Regulation and contaminated sites management



Current

- many calls for legislative action to specifically address brownfield remediation and redevelopment
- done in Ontario, Québec, B.C.
- legislative reforms actually undertaken very modest (2006 amendments to *EPEA*; *Remediation Certificates Regulation*)
- led to municipalities undertaking own programs to encourage brownfield remediation and redevelopment



THANK YOU!