Contaminated sites BC: Increased requirements proposed in ministry discussion paper

October 20, 2022

Earlier this month, the British Columbia Ministry of Environment and Climate Change Strategy posted a discussion paper titled "Making Contaminated Sites Climate Ready." The discussion paper, which is available for public comment until Nov. 30, 2022, summarizes the ministry's policy proposals to incorporate climate change adaptation and sustainability into the BC contaminated sites framework. These proposals are part of a larger trend of recent amendments to the *Environmental Management Act* and the *Contaminated Sites Regulation*, and forthcoming changes to the process for soil relocation.

Below are some key takeaways from the discussion paper:

- Possible policy changes that will increase reporting and evaluation requirements for people carrying out remediation of contaminated sites;
- Proposed additional requirements for engagement and consultation with Indigenous communities with respect to contaminated sites;
- Proposed requirements to consider the impacts of future climate change and extreme weather events as part of remediation plans; and
- Possible requirements for physical remediation of viable drinking water aquifers where practicable, which would be a significant departure from the current requirements that permit risk-based approaches to manage aquifers.

The ministry will publish a report summarizing the feedback in spring 2023. Any legislative changes will be available as early as spring 2024. BLG can assist clients wanting to comment on the discussion paper and monitor these developments.

Outcomes proposed in the discussion paper

The discussion paper outlines six proposed outcomes to incorporate climate change adaption and sustainability into British Columbia's contaminated sites framework and address remediation requirements to protect groundwater quality. If implemented, these proposed outcomes could bring significant changes to how contaminated sites in British Columbia are managed.

Outcome 1: Incorporate engagement with Indigenous peoples as a component of remediation plans. In November 2019, the Province of British Columbia passed the *Declaration on the Rights of Indigenous Peoples Act*. The provincial government has an obligation under this Act to align laws with the United Nations Declaration on the Rights of Indigenous Peoples. In light of this, the ministry is proposing additional requirements for engagement and consultation with Indigenous communities to take into account Indigenous peoples' views of risk assessment and remediation plans.

Outcome 2: Incorporate climate change adaptation in the contaminated sites framework. The ministry has proposed that anticipated and/or predicted changes in site conditions under British Columbia's changing climate could be explicitly considered as part of all contaminated site investigations and remediation alternatives evaluation. Where long-term remediation is proposed for a site, adaptation measures could be re-evaluated on an ongoing basis as part of risk management to ensure long-term protection of human health and environment.

Outcome 3: Incorporate remediation alternatives evaluation more fully in the contaminated sites framework. The ministry is proposing to incorporate explicit requirements for the evaluation of remediation alternatives for contaminated sites. Anyone conducting remediation in British Columbia may need to assess the vulnerability of potential remediation plans to climate change. Also, the discussion paper contemplates requirements to consider intergenerational equity and the feasibility and use of green and sustainable remediation methods as part of the evaluation of remediation alternatives for contaminated sites.

Outcome 4: Incorporate periodic review of remedial actions for sites with risk assessment or risk management approaches. The ministry is considering whether to require regular review of sites using risk assessment or management as a remediation approach (e.g., every 5 years) and following extreme climate events (e.g., flooding, wildfires, etc.). The periodic review would consider potential changes in site contamination and vulnerability of the site’s risk management strategy due to climate change.

Outcome 5: Establish remediation requirements for viable groundwater aquifers. The ministry may require the physical remediation of viable drinking water aquifers where practicable. Currently, when an aquifer is classified as viable to support current or future drinking water use, site investigations must be completed to confirm if contamination is present, but there is no requirement to physically remediate the aquifer to meet the drinking water standards. A requirement of physical remediation of aquifers would be a significant change, as the present framework allows remediation to be based on risk assessment and institutional controls to prevent the use of aquifers for drinking water purposes.

Outcome 6: Incorporate financial security for sites with risk assessment or risk management provisions. In addition to the discussion paper, the ministry is pursuing the Public Interest Bonding Strategy, which aims to ensure that owners of industrial projects provide sufficient financial assurance to cover the full costs of environmental cleanup and reclamation. The discussion paper builds on this, proposing to incorporate uncertainty from climate change into financial security requirements for contaminated sites.

Next Steps

Members of the public can comment on the discussion paper by either completing an online questionnaire or emailing a written submission to site@gov.bc.ca. The deadline for submission is 4 p.m. (PST) on Nov. 30, 2022.

For further information, including assistance with your submission, please contact the authors listed below or any member of BLG's Environmental team.

By

Rick Williams, Roark Lewis

Expertise

Environmental, Environmental, Social and Governance (ESG)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3
T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9
T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2
T 604.687.5744
F 604.687.1415

Montréal
1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4
T 514.954.2555
F 514.879.9015

Toronto
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3
T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription

preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.