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Recent update to Province of British Columbia - Site remediation news

Suzanne Senger <suzannesenger@gmail.com>

Mon, Feb 1, 2021 at 11:31 PM

To: mayorandcouncil@gibsons.ca

Dear Mayor and Council:

I'm emailing to let you know about important changes to the BC Environmental Management Act (EMA) and Contaminated Sites Regulation (CSR) amendments which came into effect today. I'm happy to say, the changes affect us in a good way.

Background

The changes to the EMA and CSR are part of an ongoing process by the BC Government to address outdated and inadequate legislation, regulation and policy, as well as systemic problems with the BC Professional Reliance regime. I was fortunate to be able to work with NGOs and government to have input into the review process and bring some of our local issues to the forefront of the review.

Locally

Changes that come into effect today relate directly to the troubles we ran into regarding remediation of the High Risk Contaminated Site of the former Hyak Marine Ways, the site of the proposed The George project. Contentious issues here revolved around Site Profile Submission, Local Government approvals process and technical oversight of remediation.

Site Profile

A Site Profile is (was) an administrative form that a property owner must fill out when they submit a development application for certain types of contaminated sites. Prior to today, local governments could choose to receive and forward this form to the BC MoE at the time an application was submitted. Or, they could 'opt out' of receiving the form and forwarding it to the province. If the local government opted out, the applicant simply had to submit the form to the province themselves.

The town opted out in 2008. When the George applicant submitted his OCP, zoning and development permit applications on February 1, 2013, the application materials indicated that a "Site Profile" had been submitted with the application package. But the Site Profile was not actually submitted to the town, nor the province.

Submission of the Site Profile in 2013 would have triggered a provincial requirement to undertake a site investigation and submit an investigation report to the ministry of environment. It would also have triggered a freeze on local government zoning and permitting approvals until the site was properly remediated. By omitting to file the Site Profile, the applicant avoided the zoning freeze and oversight by the BC MoE for many years.

From 2013-2016, I and others identified and pointed out missing and inaccurate information about the contaminated site provided to the town and MoE by the George applicant. In 2016, MoE finally forced him to submit the Site Profile. But by that point, the zoning, OCP amendment and form and character permit approval had been achieved. By mid-2017, the DPA 1-Geotechnical and DPA 2-Environmental development permits were issued, even though the town's experts had determined that the site was **high risk, likely to blow out the aquifer and contaminate the water supply, and it violated the Water Sustainability Act.**

As of today the Site Profile has been replaced with a Site Disclosure Statement and the 'opt out' provision has been removed! Now, every person who is required to provide a site disclosure statement must automatically complete a site investigation and submit an investigation report. This piece doesn't really affect the town because **the town chose to 'opt back in' in 2019**, when this change was announced.

The Freeze

As of today, MoE policies have been clarified and reinforced to ensure that approving officers and local governments understand they must not approve subdivision or zoning applications, or issue development permits or building permits for a contaminated site until an MoE Director has issued a Certificate of Compliance, an Approval in Principle, a Determination that the site is not contaminated, or a Release.

Release of Freeze on Local Government Approvals

A Director can only provide a *Release* if they determine that the lands will not present a significant threat or risk, or if the Director has received a Remediation Plan supporting independent remediation of the lands. And, the Director will no longer provide Releases for multi-phase, complex redevelopment of lands. Instead, developers will need to obtain an Approval in Principle for those developments. In the case of George, which is a multi-phase project that presents a significant threat, the applicant is no longer eligible for a Release.

At this stage, all of the development permits issued for the George project in 2017 and 2018 have expired. If any applicant wishes to move forward with that project they will have to re-do the development permitting process. However, now, zoning and permitting will remain frozen until an AIP is approved by the MoE, or a Certificate of Compliance (that the site has already been remediated and remediation approved by MoE) has been achieved. This means that the Town now has a mechanism to ensure that site remediation is either formally overseen by MoE, or by peer review through the development permit process.

Further changes that will affect this application are numerous yet technical and detailed. So I won't bore you with all that in an email.

Eight years later, I think we can all celebrate the fact these changes to the EMA and CSR provide us with the opportunity to protect the town from the serious risk and liabilities of further activity on the Hyak/George site. If/when a project proposal comes forward again.

Cheers,
Suzanne

From: donotreply@gov.bc.ca

Date: February 1, 2021 at 12:14:56 AM PST

To: suzannesenger@gmail.com

Subject: Recent update to Province of British Columbia - Site remediation news

Updates have recently been made to the following page on the Province of British Columbia website:
[Site remediation news](#)

Message to page subscribers: Changes to the Environmental Management Act (Bill 17) and the Stage 13 Contaminated Sites Regulation (CSR) amendments came into effect on February 1, 2021. More information about implementation including updated protocols, the Groundwater Model and new web content can be found on the Site Remediation news webpage.

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