



Ministry
Of the
Environment

Certificate of Property Use

Environmental Protection Act, R.S.O. 1990, c.E.19, s.168.6

Certificate of property use number **8480-75NNA6**
Risk assessment number **8655-697KNB**

Client: CSL Equity Investments Limited and 160901 Canada Inc (Owner)
759 Victoria Square
Montreal, Quebec H2Y 2K3

Site: North of First St. and Pretty River Pkwy between Beech St. and Maple St.,
Former Collingwood Shipyards Property Berm Lands, Collingwood (Property)

- Firstly: Part of Parcel A-1, Section 51-224 being Lots 1,2,3,4,5,75,76,77,78,79 and Part of Lot 6, West side of Maple Street, Lots 1,2,3,4,5, 75,76,77,78,79 and Part of Lot 6, East side of Beech Street, and Part of Maple Street (closed by Bylaw 2340, Instrument RO196647) and Part of Manitou Street (Closed by Bylaw 2236, Instrument RO196646) Registered Plan 489, designated as Part 2 on Plan 51R-35408, being part of PIN 58287-0094(LT);
- Secondly: Part of Parcel A-1, Section 51-224 being Part of Beech Street (Closed by Bylaw 82-81, Instrument RO784703), Registered Plan 489, designated as Part 3 on Plan 51R-35408, being part of PIN 58287-0094(LT);
- Thirdly: Part of Parcel A-2, Section 51-224, being Part of Lot 7, West Side of Maple, Registered Plan 489, designated as Part 10 on Plan 51R-34647, being part of PIN 58287-0097(LT);
- Fourthly: Part of Parcel A-2, Section 51-224, being Part of Lots 6 and 7, West Side of Maple Street, Part of Lot 6, East Side of Beech Street, Registered Plan 489 and Part of Lot 7, East Side of Beech Street, Registered Plan 373, designated as Part 11 on Plan 51R-34647, being part of PIN 58287-0097(LT)

The conditions of this certificate of property use address the risk management measures in the Risk Assessment Number 8655-697KNB accepted by the Director on July 27, 2007. In the event of a conflict between this certificate of property use and the risk assessment, the conditions of the certificate of property take precedence.

Summary:

i) Certificate of property use requirements addressed in Part 4 herein:

Installing any equipment	No
Monitoring any contaminant	Yes
Refrain from constructing any building specified	No
Refrain from using the property for any use specified	No
Other: Monitor and maintain surface cover	Yes

ii) Duration of risk management measures identified in Part 4 of this CERTIFICATE OF PROPERTY USE are summarized as follows:

- A ground water monitoring program will be initiated for a minimum five (5) year period at which point a review of the data by the Ministry shall inform the Director's decision as to the continuation, or termination of the ground water monitoring program
- The surface cover shall be maintained until the Director deems it is no longer required.

Part 1: Interpretation

In this certificate of property use,

“adverse effect” means one or more of,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business;

“Act” means the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended;

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect;

"Director" means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use;

"Ministry" means Ontario Ministry of the Environment;

"OWRA" means the *Ontario Water Resources Act*, R.S.O. 1990, c.0.40, as amended;

“Property Owner” means CSL Equity Investments Limited and 160901 Canada Inc and any subsequent owner of the Property;

"Provincial Officer" means a person who is designated as a provincial officer for the purposes of the Act;

"risk management measures" means the risk management measures described in the risk assessment;

"risk assessment" means the risk assessment 8655-697KNB accepted by the Director on July 27, 2007;

“qualified person” means a person who meets the qualifications prescribed in the regulations made under the Act.

Part 2: Legal Authority

- 2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.

- 2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,
- (a) the performance of any action specified in the certificate of property use;
 - (b) the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
 - (c) measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.
- 2.3 Section 168.6 (1) of the Act states that if the Director accepts a risk assessment relating to a property, he or she may, when giving notice under clause 168.5 (1)(a), issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
- 1) Take any action specified in the certificate that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect on the property, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
 - 2) Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.
- 2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.
- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),
- (a) alter any terms and conditions in the certificate or impose new terms and conditions; or
 - (b) revoke the certificate.
- 2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified building on the property,
- (a) the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
 - (b) the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
 - (c) the owner of the property shall ensure that every occupant of the property complies with the provision.
- 2.7 Subsection 196(1) of the Act states that the authority to make an order under this Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.
- 2.8 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.
- 2.9 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.

- 2.10 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.
- 2.11 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

- 3.1 The risk assessment was undertaken for the property to establish the risks that the contaminants identified in the risk assessment may pose to users and to identify appropriate risk management measures to be implemented to ensure that the property is suitable for the intended use Parkland as defined by O. Reg 153/04.
- 3.2 The contaminants that are present above Table 3 “Full Depth Generic Site Condition Standards in a Non-Potable Ground Water Condition” of the *Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act (March, 2004)* are for soil only: antimony, arsenic, barium, boron, copper, lead, zinc, naphthalene, phenanthrene, anthracene, fluoranthene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, dibenzo(a,h)anthracene and petroleum hydrocarbons F1, F2, F3 and F4. These contaminants are referred to in this Certificate of Property Use as the contaminants of concern (CoC).
- 3.3 I am of the opinion, for the reasons set out in the risk assessment that the risk management measures described therein and outlined in Part 4 herein are necessary to prevent, eliminate or ameliorate an adverse effect on the property.
- 3.4 The risk assessment indicates that based on the future proposed land use of the Property as parkland, the CoCs in the soils within the berm may pose an unacceptable risk to the users of the property if risk management measures designed to block the exposure pathways are not implemented. As such, it is necessary to cover the impacted soil within the berm with a barrier as specified in Part 4 herein.

Part 4: Director Requirements

Pursuant to the authority vested in me under section 168.6(1) of the Act, I hereby require the Property Owner to do the following:

Risk Management Measures

- 4.1 Implement, and thereafter maintain or cause to be maintained, the risk management measures in the risk assessment as specified in the following documents:
- “Risk Assessment for the Soil Management Berm Site of the Former Collingwood Shipyards Site, Collingwood Ontario.” dated November 25, 2005, prepared by GlobalTox and Terraprobe Consulting Engineers Ltd, (under cover of a memo dated May 24, 2006);
- “Response to Comments by Ministry of Environment on Risk Assessment for the Berm Lands of the Former Collingwood Shipyards Site, Collingwood Ontario, RA815-05” dated May 18, 2006, by Terraprobe Limited
- “Response to “Schedule A to Director’s Notice Dated August 4, 2006 Comments by Ministry of Environment on Risk Assessment for Berm Lands of the Former Collingwood Shipyards Site RA815-05” ” dated December 4, 2006, by Terraprobe Limited;

“Response to Schedule A Comments by Ministry of the Environment on Risk Assessment for the Former Collingwood Shipyards Property Berm Lands, Collingwood, Ontario RA81505c (Dated March 27, 2007)” dated June 18, 2007, prepared by Terraprobe Limited.

- 4.2 Without restricting the generality of the foregoing in item 4.1, carry out or cause to be carried out the following key elements of the risk management measures:
- (a) Construct a barrier over the soil impacted with CoC. The barrier shall be constructed to prevent contact with CoC.
 - (b) Soil impacted with CoC shall be maintained at a distance of no less than 30 metres from surface water.
 - (c) Inspect the berm, a minimum of twice annually and after major flooding or other severe weather events, for damage that may permit contact with the CoC in the underlying impacted soils. Such damage shall be repaired immediately and reported to the Director in writing within 5 days of discovery. Access to the area which has been damaged shall be restricted to authorized personnel who in turn shall take appropriate precautions to prevent exposure to the soil containing CoC while the repairs are undertaken.
 - (d) Maintain a log of all inspections conducted and of all repairs made pursuant to those inspections;
 - (e) Maintain a report documenting the quality of the soil cover material and make this report available for review by staff of the Ministry upon request.
 - (f) If any work is proposed to be carried out at the property where impacted material may be exposed, a Construction Management Plan shall be prepared that shall include a Health and Safety plan in accordance with Ministry of Labour requirements to protect workers and to prevent dispersal of impacted material;
 - (g) A property specific health and safety plan shall be developed and implemented for the Property by a qualified industrial hygienist and shall be applicable to all intrusive activities. The plan shall be maintained on the Property for the duration of all intrusive activities. Prior to the initiation of any project (as defined in the Occupational Health and Safety Act, as amended) on the Property, the local Ministry of Labour office shall be notified of the proposed activities and that the site contains contaminated soil and/or groundwater. Appropriate measures shall be specified in the Health and Safety Plan.
 - (h) A ground water monitoring program has been prepared for the Property as described in the Risk Management Plan. The monitoring program shall be conducted for an initial five year period. Data shall be forwarded to the Director for review. The determination of the need for the extension or modification of the monitoring program will be at the discretion of the Director. The implementation of the monitoring program shall be supervised by a Qualified Person.
 - (i) Submit monitoring reports on an annual basis to the Director and such other parties as the Director may direct as being interested stakeholders until such time that the Director deems they are no longer required. The monitoring report shall be submitted to the Director no later than March 31 of the calendar year following the calendar year being reported upon; and

- (j) Implement the contingency plans in the event that the risk management measures do not operate as designed and or/as described in the risk assessment.
- 4.3 Refrain from using the Property for any of the following use(s): N/A
- 4.4 Refrain from constructing the following building(s): N/A
- 4.5 Within 90 days of implementing the risk management measures referred to in item 4.1 above, submit to the Director a report prepared by a qualified person, confirming the implementation of the risk management measures.

Site Changes

- 4.6 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the risk management measures described in the risk assessment and any underlying basis for the risk management measures, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further risk management measures as are necessary to prevent, eliminate or ameliorate any adverse effect that will result from the discharge of the contaminants in to the natural environment. An amended certificate of property use will be issued to address the changes set out in the notice received and any further amendments that the Director considers necessary in the circumstances.

Reports

- 4.7 Retain a copy of any reports required under this certificate of property use, the risk assessment and any reports referred to in the risk assessment (until otherwise notified by the Director) and within five (5) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

Property Requirement

- 4.8 For the reasons set out in this certificate of property use and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, (other than a tenant if leases are applicable to the property) before dealing with the Property in any way, to give a copy of this certificate of property use, including any amendments thereto, to every person who will acquire an interest in the Property as a result of the dealing.

Certificate of Requirement

- 4.9 Within fifteen (15) days from the date of receipt of the certificate of requirement, issued under subsection 197(2) of the Act, register the attached certificate of requirement on title to the Property in the appropriate Land Registry Office.
- 4.10 Immediately after registration of the certificate of requirement, provide a duplicate copy of the registered document, with registration particulars, to the Director.

Owner / Occupant Change

- 4.11 While this certificate of property use is in effect, forthwith report in writing to the Director any changes of ownership, or occupancy of the Property.

Financial Assurance

- 4.12 The Director has not included in the certificate of property use a requirement that the owner provide financial assurance to the Crown in right of Ontario.

Part 5: General

- 5.1 The requirements of this certificate of property use are severable. If any requirement of this certificate of property use or the application of any requirement to any circumstance is held invalid, the application of such

- requirement to other circumstances and the remainder of the certificate of property use shall not be affected thereby.
- 5.2 Subsection 186(3) of the Act provides that non-compliance with the requirements of this certificate of property use constitutes an offence.
- 5.3 An application under section 168.6(3) of the Act to,
a) alter any terms and conditions in this certificate of property use or impose new terms and conditions; or
b) revoke this certificate of property use,
shall be made in writing to the Director, with reasons for the request.
- 5.4 The requirements of this certificate of property use are minimum requirements only and do not relieve you from,
a) complying with any other applicable order, statute, regulation, municipal, provincial or federal law;
or
b) obtaining any approvals or consents not specified in this certificate of property use.
- 5.5 Notwithstanding the issuance of this certificate of property use, further requirements may be imposed in accordance with legislation as circumstances require.
- 5.6 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in this certificate of property use because of,
a) natural phenomena of an inevitable or irresistible nature, or insurrections,
b) strikes, lockouts or other labour disturbances,
c) inability to obtain materials or equipment for reasons beyond your control, or
d) any other cause whether similar to or different from the foregoing beyond your control,
the requirements shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the Director must be notified immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the requirements in question.
- 5.7 Failure to comply with a requirement of this certificate of property use by the date specified does not absolve you from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.

Part 6: Hearing before the Environmental Review Tribunal

- 6.1 Under section 139 of the Act you may require a hearing before the Environmental Review Tribunal, if, within fifteen days after service upon you of this certificate of property use, you serve written notice upon the Environmental Review Tribunal and the Director.
- 6.2 Section 142 of the Act provides that the notice requiring the hearing must include a statement of the portions of the certificate of property use for which the hearing is required and the grounds on which you intend to rely at the hearing. Except by leave of the Environmental Review Tribunal, you are not entitled to appeal a portion of the certificate of property use or to rely on grounds of appeal that are not stated in the notice requiring the hearing.
- 6.3 Written notice requiring a hearing shall be served personally or by mail on the following:

The Secretary
Environmental Review Tribunal
2300 Yonge Street, Suite 1201
P.O. Box 2382
Toronto ON M4P 1E4

and

Director
Ministry of the Environment
54 Cedar Pointe Drive, Unit 1201
Barrie ON L4W 5R7

Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing and the time for requiring a hearing is not extended by choosing service by mail.

Unless stayed by application to the Environment Review Tribunal under Section 143 of the Act, this certificate of property use is effective from the date of issue.

Issued at Owen Sound this 1st day of October 2007

Original Signed by P.E. Bye

P.E. Bye

Director for the purpose of s. 168.5 of the Environmental Protection Act