



Environmental Appeal Board

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Group Appeal No.: EAB-EMA-20-G002

Decision No.: EAB-EMA-20-A009(a) & EAB-EMA-20-A010(a)

BETWEEN:

**HYDRO EXTRUSION CANADA, INC.,
FORMERLY SAPA CANADA, INC.**

(APPELLANT)

AND:

**DELEGATE OF THE DIRECTOR,
THE MINISTRY OF ENVIRONMENT AND
CLIMATE CHANGE STRATEGY**

(RESPONDENT)

(Collectively, the “Parties”)

Consent Order

Background

- [1] The Appellant filed the above-noted appeal with the Environmental Appeal Board (the “**Board**”), pursuant to section 100 of the *Environmental Management Act*, S.B.C. 2003, c. 53.
- [2] The appeal is from two separate letters from the Respondent dated June 2, 2020, requesting additional information with respect to an application for a non high risk Certificate of Compliance submitted in respect of 1765 Coast Meridian Road, Port Coquitlam (the “**Site**”) and directing that the Appellant submit a Site Risk Classification Report.
- [3] The Parties have reached an agreement in respect of the appeal and have asked the Board to issue an order including the terms of that agreement. The Parties agree that this Order sets out the terms of their agreement.

Order

- [4] The Board orders as follows, pursuant to section 16 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45:
 - a. The Director will issue a risk managed high risk site Certificate of Compliance (the “**Instrument**”) in the form attached hereto as Schedule A for the Site within 60 days of the date of this order or such further date upon which the parties may agree.

- b. The Appellant will be at liberty, as early as one year from the date of this Consent Order, to apply to the Director for a Site reclassification as non-high risk if the sampling particularized in the associated performance verification plan (the “**Plan**”) produces results consistent with the Site being non-high risk. Any site reclassification application, including any application to amend the Plan will be processed by the Director in good faith in accordance with applicable Protocols under the *Environmental Management Act*.
- c. In all other respects the appeal herein shall be dismissed without costs to either party.
- d. This Order is without prejudice to the continued exercise of the Director’s powers under the *Environmental Management Act* and the *Contaminated Sites Regulation*, B.C. Reg. 179/2021, with respect to the Site.

Consented to by:

_____	“Owen James”	October 31, 2022
Owen James Counsel for Hydro Extrusion Canada, Inc. (formerly Sapa Canada, Inc.)	_____ Signature	_____ Date

_____	“Dennis Doyle”	October 31, 2022
Dennis Doyle Counsel for the Ministry of Environment and Climate Change Strategy	_____ Signature	_____ Date

For the Board:

_____	November 3, 2022
“David Bird” David Bird Vice-Chair, Environmental Appeal Board	_____ Date



CERTIFICATE OF COMPLIANCE

(Pursuant to Section 53 of the *Environmental Management Act*)

THIS IS TO CERTIFY that as of the date indicated below, the site identified in Schedule A of this Certificate of Compliance has been satisfactorily remediated to meet the applicable Contaminated Sites Regulation remediation standards and criteria.

This Certificate of Compliance is qualified by the requirements and conditions specified in Schedule B.

The substances for which remediation has been satisfactorily completed and for which this Certificate of Compliance is valid are listed in Schedule C.

I have issued this Certificate of Compliance based on a review of relevant information including the documents listed in Schedule D. I, however, make no representation or warranty as to the accuracy or completeness of that information.

A Director may rescind this Certificate of Compliance if requirements and conditions imposed in the Certificate of Compliance are not complied with or any fees payable under Part 4 of the Act or regulations are outstanding.

This Certificate of Compliance should not be construed as an assurance that there are no hazards present at the site.

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Heather Osachoff
For Director, *Environmental Management Act*

Schedule A

The site covered by this Certificate of Compliance is located at 1765 Coast Meridian Road, Port Coquitlam which is more particularly known and described as:

Block 13, District Lot 288, Group 1, New Westminster District Plan 4667
PID: 011-122-111

The approximate center of the site using the NAD (North American Datum) 1983 convention is:

Latitude: 49° 14' 55.4"
Longitude: 122° 45' 27.4"

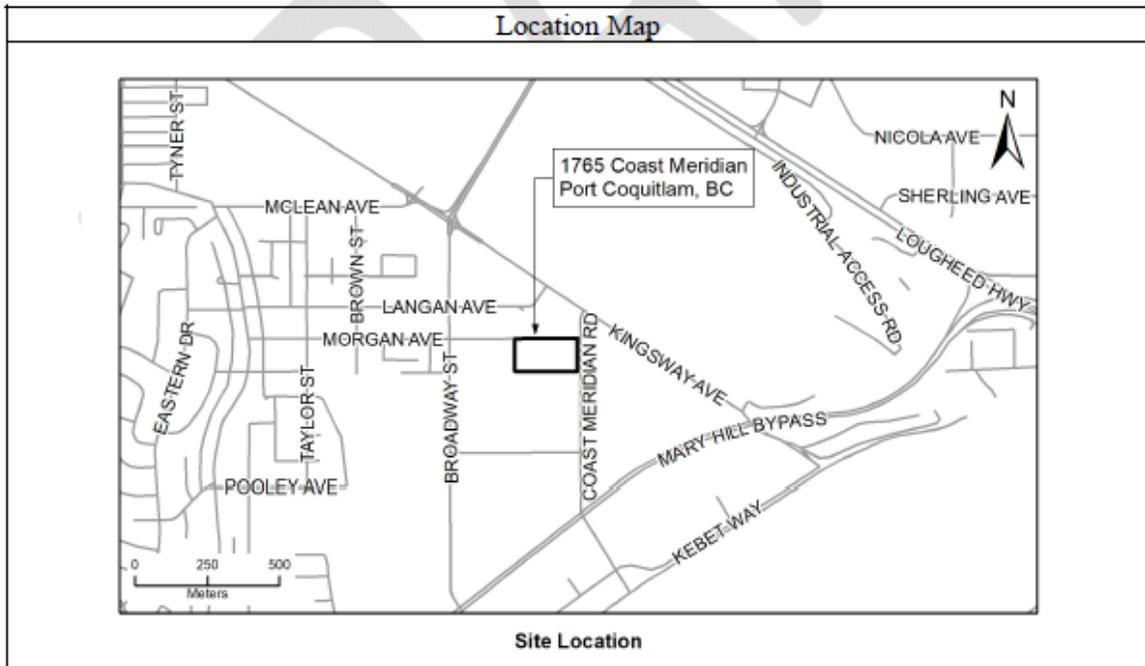
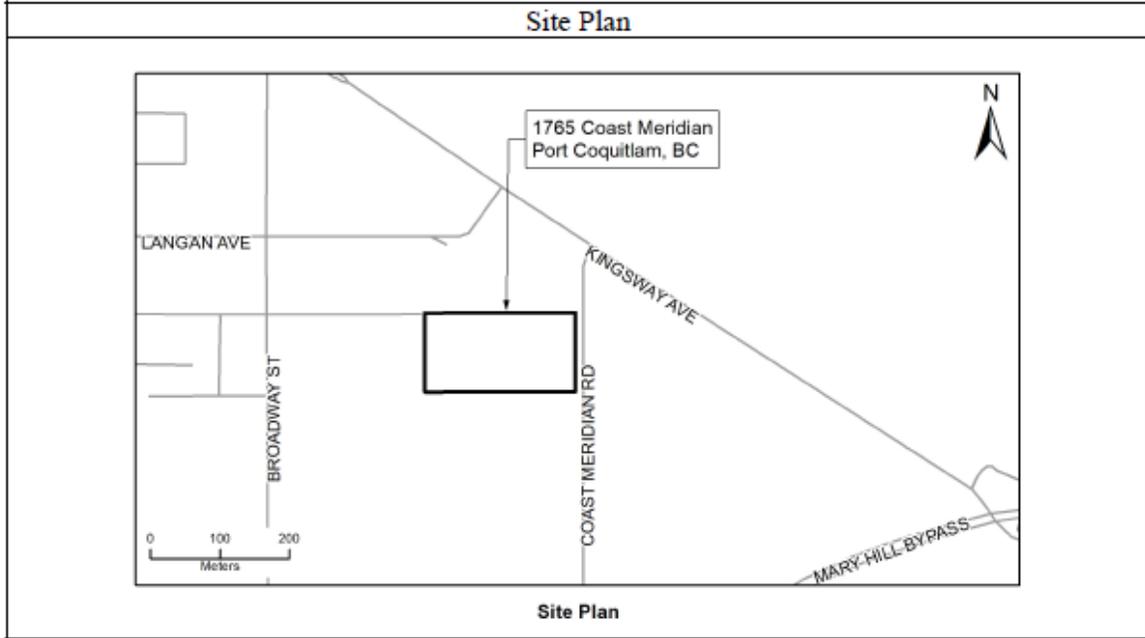
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Schedule B

Requirements and Conditions

1. Any changes in land, vapour, or water uses must be promptly identified by the responsible persons in a written submission to the Director. An application for an amendment or new Certificate of Compliance may be necessary. The uses to which this condition applies are described in Schedule C and in the documents listed in Schedule D.

The documents listed in Schedule D indicate that vapour attenuation factors were applied to meet risk-based Contaminated Sites Regulation standards at the site. These vapour attenuation factors were selected based on assumptions about the structures, locations and depths of buildings existing or expected at the site. These assumptions include the following:

- (a) Current and future buildings will have or be slab on grade foundations.

Any inconsistencies that arise between the structures, locations and depths of proposed or constructed building at the site and the range of structures, locations and depths of buildings assumed in the selection of vapour attenuation factors in the documents listed in Schedule D must be promptly identified by the responsible persons in a written submission to the Director. An application for an amendment or new Certificate of Compliance may be necessary.

2. The principal risk controls which must be present or implemented and must be maintained at the site include the following:
 - (a) Site groundwater must not be used as potable water.
 - (b) The building's HVAC systems must remain operational.
 - (c) The current and future building's foundation slab must remain intact.
3. Performance verification must be undertaken as specified in the 2022 Performance Verification Plan listed in Schedule D or as specified in a modification of the plan approved by the Director.
4. Records must be maintained of performance verification actions, and the subsequent results, undertaken to maintain risk controls and to achieve the Performance Verification Plan. The records must be available for inspection by the Director.
5. The Director must be notified promptly by the persons responsible for the site if performance verification actions indicate that any risk controls for the site are not being met. The following

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information must be submitted to the Director with the notification, or as soon as practicable thereafter:

- (a) The time period over which institutional and engineering controls did not meet the requirements of this Schedule;
 - (b) The nature of the excursions;
 - (c) The temporary or permanent corrective measures implemented or to be implemented;
 - (d) An implementation schedule; and
 - (e) Supporting documentation.
6. The responsible persons must provide an annual report prepared by an Approved Professional on whether the Performance Verification Plan and risk controls required in clauses 2 and 3 of this Schedule have been implemented and are being met. This report must be submitted to the Director every year within 90 days of the anniversary of the date of issuance of this Certificate of Compliance, or on a schedule as otherwise approved in writing by the Director. The report must include the following:
- (a) An evaluation of the performance of the risk controls listed in clause 2 of this Schedule;
 - (b) Interpretation of current and cumulative results of the performance verification actions, including monitoring results, undertaken according to the Performance Verification Plan; and
 - (c) Supporting documentation.
7. If requested by the Director, a report signed by an Approved Professional must be submitted for review to the Director and must include the following:
- (a) An evaluation of the performance of the risk controls listed in clause 2;
 - (b) Recommendations for modification of any plans referenced above, along with supporting rationale;
 - (c) Interpretation of current and cumulative results of the performance verification actions undertaken according to the plans described in clause 4 above; and
 - (d) Supporting documentation.

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Schedule C

Uses, Substances and Chemical Abstract Service #s

Substances remediated in soil for industrial land soil use:

To meet numerical remediation standards:

- Chromium (CAS# 7440-47-3)

To meet risk-based remediation standards:

- Benzene (CAS# 71-43-2)
- Ethylbenzene (CAS# 100-41-4)
- Toluene (CAS# 108-88-3)
- Xylene (CAS# 1330-20-7)

Substances remediated in water for drinking water use:

To meet risk-based remediation standards:

- Arsenic (CAS# 7440-38-2)
- Benzene (CAS# 71-43-2)
- Ethylbenzene (CAS# 100-41-4)
- Toluene (CAS# 108-88-3)
- Xylenes (total) (CAS# 1330-20-7)
- VHW₆₋₁₀

Substances remediated in water for freshwater aquatic water use:

To meet risk-based remediation standards:

- Ethylbenzene (CAS# 100-41-4)
- Toluene (CAS# 108-88-3)
- VPHw
- VHW₆₋₁₀

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Substances remediated in vapour for industrial land use:

To meet risk-based remediation standards:

- xylenes, total (CAS# 1330-20-7)
- VPHv (CAS# NA)
- 1,1,2,2-Tetrachloroethane (CAS#79-34-5)
- 1,1-Dichloroethene (CAS# 75-35-4)
- 1,2,4-Trichlorobenzene (CAS#120-82-1)
- 1,2,4-Trimethylbenzene (CAS# 95-63-6)
- 1,3,5-Trimethylbenzene (CAS#108-67-8)
- 1,3-Butadiene (CAS# 106-99-0)
- 2-Propanone (acetone) (CAS# 67-64-1)
- a-Chlorotoluene (benzyl chloride) (CAS# 100-44-7)
- Bromoethene (vinyl bromide) (CAS# 593-60-2)
- Hexachlorobutadiene (CAS# 87-68-3)
- Tetrahydrofuran (CAS# 109-99-9)

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Schedule D

Documents

- *Performance Verification Plan*, prepared by Stantec Consulting Ltd., dated 9 September 2022;
- *Summary of Site Condition*, prepared by Hemmera, dated September 25, 2020;
- *Fourth Addendum to Stage 1 & 2 PSI, DSI, COR, and Risk Assessment 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated May 6, 2019;
- *Performance Verification Plan for 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated February 18, 2018;
- *Third Addendum to Stage 1 & 2 PSI, DSI and COR, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated February 19, 2018;
- *Second Addendum to Stage 1 & 2 PSI, DSI and COR, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated October 23, 2017;
- *Addendum to Stage 1 & 2 PSI, DSI and COR, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated July 28, 2017;
- *Addendum to Detailed Human Health and Ecological Risk Assessment, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated August 2, 2017;
- *Update to Human Health & Ecological Risk Assessment, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated November 2, 2016;
- *Stage 1 and 2 Preliminary Site Investigation, Detailed Site Investigation, and Confirmation of Remediation, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated October 25, 2016;
- *Detailed Human Health & Ecological Risk Assessment, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Hemmera, dated February 6, 2015;
- *Amended Wide Area Site Designation – Dissolved Cobalt Groundwater Plume. 1711 Kingsway Avenue, Port Coquitlam, BC and Neighbouring Area*, prepared by MOE, dated 3 Dec 2014;
- *Environmental Stage 2 Preliminary Site Investigation*, prepared by Next Environmental Inc., dated 07 Jul 2011;
- *Environmental Stage 1 Preliminary Site Investigation, 1765 Coast Meridian Road, Port Coquitlam, BC*, prepared by Next Environmental Inc., dated 20 Apr 2011;
- *Phase 2 Assessment of Cobalt Plume Migration for Risk Assessment, 1711 Kingsway Avenue – Rev 0*, prepared by Roberston GeoConsultants Inc., dated 01 Jan 2011;
- *Phase 1 Assessment of Cobalt Plume Migration for Risk Assessment, 1711 Kingsway Avenue, Port Coquitlam*, prepared by Roberston GeoConsultants Inc., dated 01 Apr 2009;

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