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March 15, 2021

Ministry of Environment and Climate Change Strategy
Land Remediation Section
PO Box 9342 Stn Prov Govt
Victoria, BC
V8W 9M1

Attn: Cindy Bertram
Sent via email: site@gov.bc.ca

Reference: Regulation of Soil Relocation – Intentions Paper – January 2021

Dear Ms. Bertram,

The Canadian Brownfields Network (CBN) appreciates the opportunity to participate in the BC Ministry of Environment and Climate Change Strategy (ENV) invitation to comment with respect to the proposed policy direction intentions paper for *Regulating Soil Relocation*. CBN's Technical Advisory Committee (TAC) has solicited and compiled comments from interested members for the purpose of making this submission on behalf of CBN. CBN has a diverse membership of site owners, developers, consultants, and industry association representatives who are active in the area of brownfield development within British Columbia and across Canada.

CBN is committed to supporting the redevelopment and reuse of brownfield properties through advocacy for regulations and policies that are founded on sound science and appropriate risk, are harmonized across jurisdictions, and provide clarity and certainty with respect to brownfield redevelopment.

The proposed legal regime for soil relocation in British Columbia is a welcome improvement on the previous Contaminated Soil Relocation Agreement process and has the potential to divert significant quantities of soil away from landfill for beneficial reuse. Uncontaminated soil will increasingly be in demand for infrastructure and flood protection works and brownfield property development will play a role in surplus soil reuse.

CBN strongly supports the overhaul of the soil relocation regime and increase in transparency to the public, but suggests the Ministry consider further changes that would improve the certainty that soil relocation projects can proceed without undue delay once a qualified professional has reviewed the project. The specific issues and suggestions for improvement are included in the attached Comment Form.

We would be pleased to discuss these comments further with the Ministry. In closing, we thank you for the opportunity to provide comments and input on the Intentions Paper.

Kindest Regards,

A handwritten signature in black ink, appearing to read 'Peter Sutton', with a stylized, flowing script.

Peter Sutton
Co-Chair, Technical Advisory Committee
Canadian Brownfields Network

A handwritten signature in black ink, appearing to read 'Chris De Sousa', in a cursive script.

Chris De Sousa
President
Canadian Brownfields Network

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The Ministry of Environment and Climate Change Strategy (the ministry) is updating the legal regime for soil relocation in B.C. Following consultations and engagement, the ministry has amended the *Environmental Management Act* (EMA) to enable a new process for the relocation of soil that meets the land use standards of the receiving site (meaning it is considered uncontaminated for the purpose of reusing the soil at the receiving site). The ministry is planning to amend the Contaminated Sites Regulation (CSR) and the other associated regulations governing soil relocation to support the changes to the EMA.

The ministry has prepared a “Regulating Soil Relocation Intentions Paper” to provide information on the ministry’s proposed regulatory changes. The intentions paper, as well as additional information, can be found on the ministry’s [site remediation website](#).

Interested parties are invited to submit comments using this form or by separate submission if desired.

All comments will be treated with confidentiality by ministry staff and contractors when preparing consultation reports. Please note however that the comments you provide and the information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

Comments may be sent to Cindy Bertram at site@gov.bc.ca.

Comments to the Ministry should be made on or before March 15, 2021.

Consultation Questions

The following consultation questions are based on the Regulating Soil Relocation Intentions Paper available from the ministry's site remediation website at:

<https://www2.gov.bc.ca/gov/content/environment/air-land-water/site-remediation>.

A. General Comments

A.1 Do you have any general comments regarding the ministry’s proposed changes for regulating soil relocation in British Columbia?

A.2 In your view, how effective are the proposed revisions in improving ministry oversight, and public and municipal and Indigenous government notification of soil movements in B.C.?

Not effective at all	Significant gaps	Adequate	Quite effective	Very effective
Circle or highlight one				
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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- A.3 What are the reasons for your choice? Do you have suggestions for the ministry to improve the process for tracking and deposit of soil from known or potentially contaminates sites?

B. Province of B.C.’s Relationship with Indigenous Peoples

- B.1 Do you have any comments regarding the *Declaration on the Rights of Indigenous Peoples Act* in relation to the proposed regulatory changes for soil relocation in B.C. (see section 2.4 of the intentions paper)?

Note that comments are also being sought on proposed changes that have specific relevance to Indigenous communities and Nations (see questions C.1.3 and C.4.2).

C. MINISTRY INTENTIONS

C.1 Soil Relocation Process

The ministry is proposing a new notification process that includes a requirement for the analysis of all soil proposed to be relocated from sites with commercial or industrial uses. The submission of a notification form will be required if the soil meets the land use standards of the receiving site (section 4.1 of the intentions paper).

- C.1.1 Do you have any comments regarding the ministry’s proposed new notification process for the relocation of uncontaminated soil (section 4.1.A of the intentions paper)?
- C.1.2 Do you have any comments on the use of existing regulatory tools – and ending the use of Contaminated Soil Relocation Agreements (CSRAs) – for the relocation of contaminated soil (see text box on p. 6 of the intentions paper)?
- C.1.3 Do you have any comments regarding the ministry’s proposal to include federal reserve lands in the notification process (section 4.1.A of the intentions paper)?
- C.1.4 Do you have any comments regarding the proposed exemptions to the notification process:
(1) for uncontaminated soil that is to be relocated outside the province;
(2) when the volume is less than 10 cubic metres per job; and
(3) for applicable “preload” situations?

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C.2 Soil Relocation Notification and Certification Form

The ministry is proposing that a *Soil Relocation Notification and Certification Form* (notification form) be required for soil that will be relocated from a site where a commercial or industrial use (listed in CSR Schedule 2) has occurred and will be deposited at a receiving site within the province (section 4.2 of the intentions paper).

- C.2.1 Do you have any general comments regarding the proposed notification form?

- C.2.2 Do you have any comments or suggestions about the information that should be included in the notification form?

- C.2.3 Do you have any comments or suggestions regarding the site registry (see text box on p. 8 of the intentions paper)?

C.3 Soil Testing Requirements

A person who intends to relocate soil from sites that will be subject to notification requirements will be responsible for testing soil quality in accordance with the ministry's Technical Guidance #1 document (section 4.3 of the intentions paper).

- C.3.1 Do you have any comments or suggestions regarding the ministry's proposed soil quality testing requirements?

C.4 Notification of Municipal Governments and Indigenous Nations

Municipal governments with jurisdiction in the locations of both source and receiving sites would be notified of the prospective soil relocation at least two weeks in advance of the proposed relocation date (section 4.4.A of the intentions paper).

- C.4.1 Do you have any comments regarding the ministry's proposed intentions with respect to the notification of municipal governments?

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Indigenous Nations with lands or territories located within 1 km of either the source or the receiving site and 1.5 km of high-volume receiving sites would be notified at least two weeks in advance of the proposed relocation date (section 4.4.B of the intentions paper).

C.4.2 Do you have any comments or suggestions regarding the ministry's proposed intentions with respect to notification of Indigenous Nations?

C.4.3 Do you have any comments or suggestions regarding the ministry's proposed intentions with respect to notification of Indigenous Nations within 1.5 km of high-volume receiving sites (see table on page 10 of the intentions paper)?

C.5 High-Volume Receiving Sites

The ministry is proposing additional requirements for "high-volume" receiving sites (section 4.5 of the intentions paper).

C.5.1 Do you have any comments regarding the proposed definitions of a "high-volume" site (sites approved to receive 20,000 cubic metres or more of soil) and of "lifetime" (the period during which the deposited soil has the potential to produce contamination)?

C.5.2 Do you have any comments regarding the proposed siting requirements (in relation to environmental receptors), separation distance between high-volume sites, and exemptions from the high-volume receiving site threshold (section 4.5.1 and table on page 13 of the intentions paper)?

C.5.3 Do you have any comments regarding the proposed intention that additional requirements would not apply retroactively to sites that exceed the high-volume threshold – but would apply when new soil deposits reach the high-volume threshold (section 4.5.2 of the intentions paper)?

C.6 Soil Vapour Investigation for Soil Relocation

C.6.1 Do you have any comments regarding the ministry's proposed guidance for the conduct of soil vapour investigations related to the relocation of soil (see section 4.6 of the intentions paper)?

C.6.2 The ministry is considering the option of having no vapour assessment requirements for the relocation of soil that meets receiving site soil standards (see intentions paper text box p. 16). Do you have any comments regarding the effectiveness or suitability of this option?

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C.7 Consequential Amendments

- C.7.1 Do you have any comments regarding the ministry's proposal to amend the Waste Discharge Regulation (WDR) to ensure the appropriate management of waste soil on the site of origin (section 4.7.A of the intentions paper)?
- C.7.2 Do you have any comments or suggestions regarding the ministry's intention to encompass the proposed soil relocation amendments within scope of the Administrative Penalties Regulation – allowing an administrative penalty of up to \$75,000 for non-compliance (see section 4.7.B of the intentions paper)?

D. Additional Comments

Do you have any additional comments for the ministry regarding regulating soil relocation in B.C.?

Please remember to return this response form to the ministry on or before March 15, 2021.

If you wish, you may also provide contact information on the following page. This information will be compiled separate from comments and used by the ministry to inform respondents of subsequent actions related to regulating soil relocation in B.C.

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(Optional) Contact Information

If you wish to receive further information concerning the regulation of soil relocation in B.C., please provide your contact information – **including an email address** – below. Note that all communications will be treated with confidentiality by government staff and contractors. However, information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

Contact Name:

Business or Organization Name (if appropriate):

Email:

Mailing address:

Telephone:

Background and Area of Interest

Please mark an “x” in the appropriate boxes if your primary interest in soil relocation relates to your work or interest as a:

- B.C. citizen or individual**
- Indigenous Nation or community member**
Please describe (e.g., Council, Nation, individual):
- Work in industry that involves relocation of soil:**
Please describe the primary sector or nature of your work (e.g., land development, soil transport, receiving site operator, consulting professional):
- Work for a government regulatory agency:**
Please describe (e.g., federal, provincial, municipal):
- Work for a public sector organization:**
Please describe (e.g., health authority, education institution, Crown corporation):
- Involvement in or work for an environmental or community interest group**
Please describe:
- Other interest:**
Please describe:

Thank you once more for your time and interest in the review process.

If you have any further questions, please contact Cindy Bertram at: site@gov.bc.ca