

Ministry of the Environment,
Conservation and Parks
Ministère de l'Environnement, de la Protection
de la nature et des Parcs

Certificate of Property Use

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

Certificate of Property Use number: 4724-B9BJHJ
Risk Assessment number: 6454-9YPUAP

Owner:

UCANCO General Partners Inc., as general partner for and on behalf of Canure Limited Partnership
1500, 222 3rd Avenue SW
Calgary, Alberta
T2P 0B4

Site:

101 and 115 Second Avenue West
Simcoe, Ontario

Legal Description:

LT 8 BLK 4, PL 182, PT LT 9, BLK 4, PL 182, DESIGNATED AS PT 1 ON 37R10659, NORFOLK COUNTY

LT 7 BLK 4, PLAN 182, DESIGNATED AS PART 2 ON PLAN 37R-10659, NORFOLK COUNTY

Being all of Property Identification Numbers: 50188-0026 (LT) and 50188-0025 (LT)

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in detail in Part 1 below (Risk Assessment). In the event of a conflict between the CPU and the Risk Assessment, the conditions of the CPU take precedence.

Summary: *Refer to Part 1 of the CPU, Interpretation, for the meaning of all the defined capitalized terms that apply to the CPU.*

- i) CPU requirements addressed in Part 4 of the CPU, Director Requirements, are summarized as follows:

- | | |
|---|-----|
| a. Installing/maintaining any equipment | Yes |
| b. Monitoring any contaminant | Yes |
| c. Refraining from constructing any building specified | Yes |
| d. Refraining from using the Property for any use specified | Yes |
| e. Other: see ii below for details | Yes |
- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:
- a. The hard cap and fill cap barriers installed on the Property are required to be maintained for as long as the Contaminants of Concern are present on the Property;
 - b. The restriction on the construction of building(s) on the Property unless the building(s) incorporate a soil vapour mitigation system shall be required for as long as the Contaminants of Concern are present on the Property;
 - c. The restriction on the construction of building(s) with a basement on the Property shall be required for as long as the Contaminants of Concern are present on the Property;
 - d. The health and safety plan for all intrusive work and excavation activities potentially exposing the Contaminants of Concern identified on the Property shall be required for as long as the Contaminants of Concern are present on the Property;
 - e. The soil and groundwater management plan for work that may potentially expose Contaminants of Concern identified on the Property shall be required for as long as the Contaminants of Concern are present on the Property;
 - f. The installation of potable groundwater supply wells on the Property is prohibited for as long as the groundwater Contaminants of Concern are present on the Property; and
 - g. The other Risk Management Measures shall continue indefinitely until the Director amends or revokes the CPU.

Part 1: Interpretation

In the CPU the following terms shall have the meanings described below:

“Adverse Effect” has the same meaning as in the Act; namely,

- (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;

“Building(s)” means an enclosed structure (s) occupying an area greater than ten square metres consisting of a wall or walls, roof and floor.

“Contaminant” has the same meaning as in the Act; namely 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;

“Contaminant of Concern” & “COC” has the meaning as set out in section 3.2 of the CPU;

“CPU” means this Certificate of Property Use Number No. **4724-B9BJHJ** as may be amended from time to time;

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

“EBR” means the Environmental Bill of Rights, 1993, .S.O. 1993, c.28, as amended;

“Environmental Compliance Approval” has the same meaning as set out in the Environmental Protection Act, R.S.O. 1990, Chapter E.19;

“Licensed Professional Engineer” means a person who holds a license, limited license or temporary license under the Professional Engineers Act, R.R.O. 1990, c.P.28, as amended;

"Ministry" means Ontario Ministry of the Environment, Conservation and Parks;

“Owner” means the **UCANCO General Partners Inc.** the current owner of the Property, and any future Property Owner (s);

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

“Property” means the property that is the subject of the CPU and described in the “Property” section on page 1 above, and illustrated in **Figure 1** of Schedule A which is attached to and forms part of this CPU;

“Property Specific Standards” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in section 3.2 of the CPU;

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

“Qualified Person” means a person who meets the qualifications prescribed in O. Reg. 153/04, as amended, made under the Act;

"Risk Assessment" (RA) means the Risk Assessment No. **6454-9YPUAP** accepted by the Director on **March 4, 2019** (“RA”), and set out in the following documents:

- “Human Health and Ecological Risk Assessment, 101 & 115 Second Avenue West, Simcoe, Ontario”, by Arcadis Canada Inc., dated February 29, 2016
- “Human Health and Ecological Risk Assessment, 101 & 115 Second Avenue West, Simcoe, Ontario”, report prepared by Arcadis Canada Inc., dated December 9, 2016
- “Human Health and Ecological Risk Assessment Report for 101 Second Avenue West and 115 Second Avenue West, Simcoe, Ontario”, report prepared by Arcadis Canada Inc., dated December 19, 2017
- Addendum to Risk Assessment Report for 101 and 115 Second Avenue West, Simcoe, Ontario, report prepared by Arcadis Canada Inc., dated October 12, 2018

“Risk Management Measures” means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU;

“Risk Management Plan” means the final version of the risk management plan as set out in section 7 of the “Risk Assessment” report dated October 12, 2018;

“Tribunal” has the same meaning as in the Act; namely, the Environmental Review Tribunal;

“Unimpacted Soil” means soil that meets the soil criteria identified in *Table 1: Full Depth Background Site Condition Standards for Use under Part XV.1 of the Act* for **coarse** textured soils in an **Industrial, Commercial, Community** property use published by the Ministry and dated April 15, 2011.

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 the 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 the 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) is, 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 (RA) was undertaken for the Property to establish the risks that the Contaminants identified in the Risk Assessment may pose to future users and to identify appropriate Risk Management Measures to be implemented

to ensure that the Property is suitable for the intended uses: **Industrial, Commercial, Community** as defined in O. Reg. 153/04, as amended, made under the Act.

- 3.2 The Contaminants on, in or under the Property that are present either above **Table 1: Full Depth Background Site Condition Standards** of the *Soil, Ground water and Sediment Standards for Use under Part XV.1 of the Act* published by the Ministry and dated April 15, 2011 or for which there are no such standards, are set out in the Risk Assessment (Contaminants of Concern). The Property Specific Standards for these Contaminants of Concern are set out in **Table 1A and Table 1B of Schedule 'A'** which is attached to and forms part of the CPU.
- 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 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property.
- 3.4 The Risk Assessment indicates the presence of Contaminants of Concern in soil and groundwater which require on-going restriction of land use and pathway elimination. As such, it is necessary to restrict the use of the Property and impose building restrictions and implement Risk Management Measures as set out in the Risk Assessment and in Part 4 of the CPU.

Part 4: Director Requirements

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

Risk Management Measures

- 4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.
- 4.2 Without restricting the generality of the foregoing in Section 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:
 - 4.2.1 Prior to first occupancy, fill cap and hard cap barriers shall be installed on the Property, or portion (s) of the Property under development as set out on **Figures 2 and 3** of Schedule 'A' of this CPU and in the Risk Management Plan. New fill cap and hard cap barriers shall consist of the following, at minimum:
 - i. a fill cap cover for landscaped areas comprised of Unimpacted Soil with a minimum thickness of 1.0 m, placed immediately on top of a geotextile material.

- ii. capping of impacted soil on the Property not covered by at least 1.0 m of Unimpacted Soil for parking areas, sidewalks, driveways and other hard surfaces. The hard cap will consist of a minimum of 75 mm of hard surface (i.e., hot mix asphalt or poured concrete) underlain by a minimum of 150 mm of granular base or other suitable material; and
 - iii. capping of impacted soil on the subject RA Property for such surfaces as floor slab, building footings or foundations or any other concrete surface will consist of capping with a hard surface with minimum thicknesses of 75 mm and no minimum requirement for granular base.
- 4.2.2 Refrain from planting trees and shrubs on the Property unless the root balls of the trees and shrubs are planted in a minimum of 1.5 m of Unimpacted Soil.
- 4.2.3 The design and placement of future utilities and infrastructure shall incorporate utility trench dams and conduit seals on the Property.
- 4.2.4 Within 90 days of completion of the installation of the barriers described by Part 4.2.1, 4.2.2 and 4.2.3 of this CPU, the Owner shall submit to the Director written confirmation signed by a qualified Licensed Professional Engineer that the barriers have been installed in accordance with the requirements of the Risk Management Plan and this CPU along with final design specifications/drawings and or as-built drawings.
- 4.2.5 An inspection and maintenance program shall be implemented to ensure the continuing integrity of the barriers described by Parts 4.2.1, 4.2.2 and 4.2.3 of this CPU for as long as the COC are present on the Property. The inspection program shall include semi-annual (spring and fall) inspections of the barrier's integrity in accordance with the inspection and maintenance program set out in the Risk Management Plan. Any barrier deficiencies shall be repaired forthwith in accordance with the Risk Management Plan. If cracks, breeches or any loss of integrity in the barriers cannot be repaired or addressed in a timely manner, contingency measures shall be implemented to ensure no exposure to the COCs that have been identified on the Property. The restoration of any damaged portions of the barriers shall meet the specifications set out, at minimum, in Part 4.2.1, 4.2.2 and 4.2.3 of this CPU and the Risk Management Plan. In the event of a repair to a barrier, the Owner shall submit to the Director written confirmation prepared and signed by a Licensed Professional Engineer that the barriers have been repaired in accordance with the requirements of this CPU and the Risk Management Plan. The written confirmation shall also include a description of any contingency measures put in place and shall be submitted to the Director within 30 days of the completion of any barrier repairs and/or restorations. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.

4.2.6 Refrain from using groundwater on the Property as a source of potable water, including:

- a. the abandonment of any well(s) defined by section 35. (1) of O. Reg. 153/04, in accordance with Ontario Regulation 903, as amended, made under the Ontario Water Resources Act, R.S.O. 1990, c. O.40; and
- b. not constructing any new well(s) defined by section 35. (1) of O. Reg. 153/04.

4.2.7 The construction of any new Building(s) on the Property is prohibited unless the Building(s) are constructed as slab-on-grade and include a soil vapour intrusion mitigation system (SVIMS) as described in the Risk Management Plan and shown conceptually on **Figure 4** of Schedule 'A' of this CPU. This vapour mitigation system shall be operated, monitored and maintained by the Owner for as long as the COC on the Property are at concentrations above the criteria referenced in Section 7.1.2.4. of the Risk Management Plan. The system shall be designed by an appropriately qualified Licensed Professional Engineer in consultation with a Qualified Person. The design, installation and commissioning of the vapour mitigation system shall give consideration to the following components:

- i. In the event that a passive vapour mitigation system design is selected, the passive system shall be designed and installed such that it can be converted to an active ventilated system;
- ii. The installation of the vapour mitigation system shall be completed under the supervision of a qualified Licensed Professional Engineer and a Qualified Person;
- iii. A quality assurance/quality control (QA/QC) program shall be undertaken during the installation of the vapour mitigation system and shall be completed by, and clearly documented in a report prepared by, a qualified contractor and overseen by a qualified Licensed Professional Engineer and Qualified Person; and
- iv. The Owner shall obtain an Environmental Compliance Approval, as necessary, and any other permits or approvals as may be required.

4.2.8 Within 90 calendar days of the installation of the vapour mitigation system as described by Part 4.2.7 of this CPU, the Owner shall submit to the Director, the following information prepared by the qualified Licensed Professional Engineer:

- i. As-built drawings and detailed design specifications of the vapour mitigation system, including any verification and QA/QC reports;

- ii. A written statement from the qualified Licensed Professional Engineer indicating that the vapour mitigation system has been installed in accordance with the design specifications and that it has been designed to meet the requirements and objectives of the Risk Assessment and Risk Management Plan; and
- iii. An operation, monitoring, maintenance program and contingency plan report to be implemented by the Owner, prior to first occupancy.

4.2.9 An inspection, monitoring and maintenance program shall be implemented to ensure the continued integrity of the building floor slab and vapour mitigation system for as long as the COCs are present on the Property above the levels referenced in Section 7.1.2.4. of the Risk Management Plan. The inspection program shall be conducted semi-annually for the first year and annually thereafter. The inspection program shall include, at minimum, inspections of the integrity of the building floor slab and monitoring of the vapour mitigation system in accordance with the monitoring and maintenance program specified by Part 4.2.8 iii. of this CPU. Any cracks, breaches or loss of integrity observed in the building floor slab or any observed deficiencies or necessary maintenance requirements with the vapour mitigation system shall be repaired forthwith to the original design specification, at minimum. Repairs or maintenance shall be made by an appropriately qualified contractor, under the supervision of a qualified Licensed Professional Engineer as necessary. If repairs to the building floor slab or the vapour mitigation system cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a qualified Professional Engineer, as specified in Part 4.2.8 iii. of this CPU, are implemented. All repairs are to be inspected by a qualified Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a qualified Licensed Professional Engineer, that the vapour mitigation system has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the vapour mitigation system. The Owner shall keep records of the inspections, monitoring and maintenance program, along with documentation of all repairs that were required to be undertaken and these records shall be made available by the Owner to the Ministry for review upon request.

4.2.10 The Owner shall ensure that all individuals/contractors intending to undertake work which could potentially come into contact with or interfere with the vapour mitigation system described by Part 4.2.7 of this CPU are made aware of the presence of the vapour mitigation system and the need to take appropriate precautions to ensure the integrity of the vapour mitigation

system at all times. If the vapour mitigation system is damaged at any time, the Owner shall ensure that it is repaired in accordance with Part 4.2.7 of this CPU.

4.2.11 Prior to first occupancy of a Building(s) described by Part 4.2.7 of this CPU, the Owner shall implement an indoor air quality monitoring program in accordance with the Risk Management Plan. All indoor air quality monitoring shall be in accordance to USEPA Method TO-15 for the trigger values set out on **Table 1C**, Schedule 'A' of this CPU. For the first year of the program, each indoor air monitoring event shall also include the collection of an outdoor air sample in accordance with The Ministry's "Operations Manual for Air Quality Monitoring in Ontario", dated March 2008 for the COC set out on **Table 1C**, Schedule 'A' of this CPU. Specifically, the indoor air quality monitoring program shall include, but not be limited to, the following components:

- i. Be overseen by a Qualified Person.
- ii. Be carried out quarterly for the first year and twice per year thereafter.
- iii. In each calendar year, one indoor air quality monitoring event is conducted in either January or February.
- iv. The indoor air samples shall be collected from at least three locations within each Building(s) as identified by an industrial hygienist or other appropriately qualified person to be representative of potential exposures to any persons using or occupying the Building(s) on the Property.
- v. The outdoor air sample is to be collected contemporaneously with the indoor air samples collected as described by Parts 4.2.11 i., ii., iii. and iv. of this CPU and shall be located on the Property to be representative of ambient air occurring on the Property as identified by an industrial hygienist or other appropriately qualified person.
- vi. If a measured concentration exceeds the values set out on **Table 1C**, Schedule 'A' of this CPU, at any of the locations described by Parts 4.2.11 iv. and v. of this CPU, the Owner shall notify the Director in writing within 30 days of receipt of the analytical results.
- vii. If a measured air concentration exceeds the values set out on **Table 1C**, Schedule 'A' of this CPU, at any of the locations described by Part 4.2.11 iv. of this CPU, then the Owner shall collect an additional (confirmatory) sample at the locations described by Parts 4.2.11 iv. and v. of this CPU, for all COC listed on **Table 1C**, Schedule 'A' within 30 days of receipt of the analytical results and undertake the following as applicable:

1. If none of the air concentrations of the COC exceed the values set out on **Table 1C**, Schedule 'A' of this CPU on the confirmatory monitoring event, then monitoring shall be carried out as described by Parts 4.2.11 i., ii., iii., iv. and v. of this CPU;
 2. If any of the air concentrations of the COC exceed the values set out on **Table 1C**, Schedule 'A' of this CPU, on the confirmatory monitoring event, then an appropriately qualified Licenced Professional Engineer shall be retained and within 30 days of the receipt of the analytical results, shall:
 - a. Develop and submit a work plan with timelines to the Director for further investigations and recommendations (contingency actions) to minimize/mitigate vapour intrusion into the occupied areas of the Building(s); or
 - b. Develop and submit a report to the Director confirming that the indoor air exceedances are due to ambient (outdoor) air sources and continue sampling as directed by Parts 4.2.11 i., ii., iii., iv. and v. of this CPU.
 3. Upon the Owner receiving written approval from the Director regarding the contingency plan submitted as required by Part 4.2.11 vii. 2 a. of this CPU, the Owner shall forthwith implement the plan and provide confirmation to the Director. The contingency plan shall be completed under the supervision of an appropriately qualified Licensed Professional Engineer.
- viii. Upon the occurrence of two consecutive years of indoor air monitoring results that are less than the values set out on **Table 1C**, Schedule 'A' of this CPU, at the locations described by Part 4.2.11 iv. of this CPU; the Owner may apply to the Director to alter the frequency or revoke the indoor air quality monitoring program in accordance with Part 5.2 a) of this CPU.
- ix. The Owner shall keep a copy of all sampling data available for inspection by a Provincial Officer upon request.
- 4.2.12 Upon issuance of this CPU, the Owner shall implement a groundwater monitoring program in accordance with the Risk Management Plan. Specifically, the groundwater monitoring program shall include, but not be limited to, the following components:
- i. Be overseen by a Qualified Person;

- ii. Be conducted at the groundwater wells specified on **Figure 1**, Schedule 'A' of this CPU, namely, BH34, BH106B, BH109B, BH123, BH126B, BH127, BH128, BH/MW201, BH/MW202, BH/MW203, BH/MW210, PW2, PW2A, PW3A, PW4A, P6, and VE11.
- iii. Consist of the quarterly monitoring of the presence of free product and the elevations of groundwater at the locations described by Part 4.2.12 ii. of this CPU for the first two years;
- iv. Consist of the semi-annual collection of groundwater samples from the locations described by Part 4.2.12 ii. of this CPU for the first two years;
- v. Groundwater samples shall be sent to an appropriately qualified laboratory and analyzed for the COC identified in **Table 1D**, Schedule 'A' of this CPU;
- vi. The results of the groundwater samples shall be compared to the Property Specific Standards set out on **Table 1D** of Schedule 'A' of this CPU;
- vii. At the occurrence of two years of groundwater monitoring results for the monitoring carried out in accordance with Parts 4.2.12 i., ii., iii., iv., v., and vi. of this CPU indicating the absence of free product and that the measured levels are less than the Property Specific Standards set out on **Table 1D** of Schedule 'A' of this CPU, a request can be made to the Director in accordance of Part 5.2 a) of this CPU;
- viii. In the event that a monitoring well is observed to contain free product as set out in Parts 4.2.12 i., ii., and iii., confirmatory groundwater monitoring at the locations where the free product was measured shall be undertaken within 10 days of the initial free product measurement and the following shall occur:
 - 1. If free product is not observed during the confirmatory monitoring required by Part 4.2.12 viii., then the monitoring program set out in Parts 4.2.12 i., ii., and iii. shall resume.
 - 2. If free product is observed during the confirmatory monitoring required by Part 4.2.12 viii., then the well shall be immediately purged until the free product has been removed. Confirmatory groundwater monitoring at the locations where the purging occurred shall be undertaken 7 days after the purging event and the following shall occur:
 - a. If free product is not observed during the confirmatory monitoring required by Part 4.2.12. viii. 2., then the monitoring program set out in Parts 4.2.12 i., ii., and iii. shall resume.

- b. If free product is observed during the confirmatory monitoring required by Part 4.2.12. viii. 2., the Owner must retain a Qualified Person to develop and submit a contingency plan to the Director within 30 days of the confirmatory monitoring event. Additionally, a bail down test shall occur to determine the recovery rate and thickness of the free product.

- ix. If sample(s) collected as set out in Part 4.2.12 i., ii., and iv. of this CPU is greater than the Property Specific Standards set out on **Table 1D** of Schedule 'A' of this CPU, the Owner shall notify the Director within 5 business days of receiving the analytical results and collect an additional sample (confirmatory) within 30 business days of receiving the analytical results at the location(s) where the exceedance(s) occurred. The Owner shall provide copies of the confirmatory results to the Director within 5 business days of receiving the analytical results and undertake the following:
 - 1. If the sample (s) collected as required by Part 4.2.12 ix. of this CPU is equal to or less than the Property Specific Standards set out on **Table 1D** of Schedule 'A' of this CPU, monitoring shall continue as set out by Parts 4.2.12 i., ii., and iv. of this CPU and the Risk Management Plan;
 - 2. If the sample (s) collected as required by Part 4.2.12 ix. of this CPU is greater than the Property Specific Standards set out on **Table 1D** of Schedule 'A' of this CPU, the Owner must retain a qualified person to develop and submit the contingency plan described by the Risk Management Plan to the Director within 30 days of receipt of the analytical results.

- x. Upon the Owner receiving written approval from the Director regarding the contingency plan submitted as directed by Parts 4.2.12 viii. 2. b. and/or 4.2.12 ix. 2. of this CPU, the Owner shall forthwith implement the plan and provide confirmation to the Director. The contingency plan shall be completed under the supervision of a Qualified Person.

- xi. In the event that one or more of the monitoring wells identified in Part 4.2.12 ii. of this CPU are damaged or destroyed, the Owner shall provide written notification to the Director forthwith and the damaged or destroyed monitoring wells shall be either repaired or replaced, as warranted, by a newly installed monitoring well in the same location and be of similar construction, to the extent practicable, as the original monitoring well that was destroyed prior to the next scheduled groundwater sampling event. All damaged monitoring wells that cannot reasonably be repaired shall be decommissioned in accordance with Ontario Regulation 903 as amended from time to time. Monitoring wells may be removed from the groundwater

monitoring program upon the Owner receiving written approval from the Director;

- xii. The Owner shall keep a copy of all sampling data available for inspection by a Provincial Officer upon request.

4.2.13 Upon issuance of this CPU, the Owner shall implement a surface water monitoring program in accordance with the Risk Management Plan. Specifically, the surface water monitoring program shall include, but not be limited to, the following components:

- i. Be overseen by a Qualified Person;
- ii. Consist of the:
 - a. Collection of surface water samples from the locations specified on **Figure 5**, Schedule 'A' of this CPU, namely, SW1, SW2, and SW3, quarterly for the first two years; and
 - b. A visual survey of Davis Creek identified on **Figure 5**, Schedule 'A' of this CPU for the presence of free product, quarterly for the first two years;
- iii. Surface water samples shall be sent to an appropriately qualified laboratory and analyzed for the COC identified in **Table 1E**, Schedule 'A' of this CPU;
- iv. The results of the surface water samples shall be compared to the Property Specific Standards set out on **Table 1E** of Schedule 'A' of this CPU;
- v. At the occurrence of eight consecutive intervals of results for the monitoring carried out in accordance with Part 4.2.13 i., ii., iii. and iv. of this CPU indicating that the measured levels are less than the Surface Water Trigger Levels set out on **Table 1E** of Schedule 'A' of this CPU, a request can be made to the Director in accordance of Part 5.2 a) of this CPU;
- vi. In the event that a sample(s) collected as set out in Parts 4.2.13 i., ii., iii. and iv. of this CPU is greater than the Surface Water Trigger Levels set out on **Table 1E** of Schedule 'A' of this CPU, the Owner shall notify the Director within 30 business days of receiving the analytical results and collect an additional sample (confirmatory) within 10 business days of receiving the analytical results at the location(s) where the exceedance (s) occurred. The Owner shall provide copies of the confirmatory results to the Director within 30 business days of receiving the analytical results;

- vii. If the sample (s) collected as required by Part 4.2.13 vi. of this CPU is equal to or less than the Surface Water Trigger Levels set out on **Table 1E** of Schedule 'A' of this CPU, monitoring shall continue as set out by Part 4.2.13 i, ii, iii and iv of this CPU and the Risk Management Plan;
- viii. If the sample(s) collected as required by Part 4.2.13 vi. of this CPU is greater than the Surface Water Trigger Levels set out on **Table 1E** of Schedule 'A' of this CPU and/or free product is observed during the visual survey as required by Part 4.2.13 ii., the Owner must retain a qualified person to develop and submit the contingency plan described by the Risk Management Plan to the Director within 30 days of receipt of the analytical results.
- ix. Upon the Owner receiving written approval from the Director regarding the contingency plan submitted as directed by Part 4.2.13 viii. of this CPU, the Owner shall forthwith implement the plan and provide confirmation to the Director. The contingency plan shall be completed under the supervision of a Qualified Person.
- x. The Owner shall keep a copy of all sampling data available for inspection by a Provincial Officer upon request.

4.2.14 A property specific Health and Safety Plan shall be developed and implemented prior to all intrusive activities potentially in contact with or exposing COC identified on the Property or portion (s) of the Property and a copy shall be maintained at the Property for the duration of all intrusive activities. The Health and Safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations to mitigate the potential risks identified in the Risk Management Plan and include, but not be limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. The Owner shall retain a copy of the plan to be available for review by the Ministry upon request.

4.2.15 A property specific Soil and Groundwater Management Plan (Plan) shall be developed for the Property and implemented during all intrusive activities potentially in contact with or exposing COCs identified in on-site soils and/or groundwater on the Property as detailed in the Risk Management Plan. A copy of the Plan shall be maintained on the Property for the duration of all planned intrusive activities and include, but not be limited to, the following components as deemed necessary by a Qualified Person:

- i. oversight by a Qualified Person;
- ii. dust control measures and prevention of soils tracking by vehicles and personnel from the Property;

- iii. management of excavated soils including cleaning equipment, placement of materials for stockpiling on designated areas lined and covered with polyethylene sheeting, bermed and fenced to prevent access, runoff control to minimize contact and provisions for discharge to sanitary sewers or other approved treatment;
- iv. storm water management measures to control the potential transport of COCs off-site during on-site construction/redevelopment activities. This shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary;
- v. characterization of excavated soils to determine if the excavated soils exceed the Property Specific Standards listed in **Table 1A** of Schedule 'A' attached to this CPU and/or the applicable generic site condition standards for parameters other than those identified in **Table 1A** and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, made under the Act;
- vi. procedures for the management, collection and containment of ground water that may be extracted and/or exposed during future sub-surface work on the Property.
- vii. characterization of extracted and/or exposed groundwater to determine if the groundwater exceeds the Property Specific Standards listed in **Table 1B** of Schedule 'A' attached to this CPU and/or the applicable generic site condition standards for parameters other than those identified in **Table 1B** and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, made under the Act;
- viii. record keeping, including but not to be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities/dewatering activities, dust control measures, stockpile management and drainage, all soil and groundwater characterization results obtained as part of the Plan, names of the Qualified Persons, contractors, haulers and receiving sites for any excavated excess soils and groundwater, as a result of dewatering activities, removed from the property and any complaints received relating to site activities; and,
- ix. a copy of the plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

4.2.16 Before April 30th of the year following the year in which this CPU is issued and annually thereafter, the Owner shall prepare an annual report documenting the activities relating to the Risk Management Measures undertaken during the previous calendar year. This report is to be prepared by a Qualified

Person and a copy is to be at the Property for inspection and be made available upon request by the Ministry. The report shall include the following information:

- i. Inspection and maintenance activities in regards to the surface barriers described by Part 4.2.5 of this CPU;
- ii. Inspection and maintenance activities in regards to the soil vapour mitigation system as described by Part 4.2.9 of this CPU;
- iii. Indoor air quality monitoring activities as described by Parts 4.2.11 of this CPU;
- iv. Groundwater monitoring activities as described by Parts 4.2.12 of this CPU;
- v. Surface water monitoring activities as described by Parts 4.2.13 of this CPU;
- vi. Soil and ground water management activities described by Part 4.2.15 of this CPU; and
- vii. Any other information determined to be necessary by the Qualified Person.

Site Changes

4.3 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the Risk Management Measures and/or 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 presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

Reports

4.4 Retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and within ten (10) 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

4.5 For the reasons set out in the CPU 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, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property, as a result of the dealing.

Certificate of Requirement

- 4.6 Within fifteen (15) days from the date of receipt of a certificate of requirement, issued under subsection 197(2) of the Act, register the certificate of requirement on title to the Property in the appropriate Land Registry Office.
- 4.7 Immediately after registration of the certificate of requirement, provide to the Director written verification that the certificate of requirement has been registered on title to the Property.

Owner / Occupant Change

- 4.8 While the CPU is in effect, forthwith report in writing to the Director any changes of ownership, of the Property, except that while the Property is registered under the Condominium Act, 1998, S.O. 1998, c.19, as amended, no notice shall be given of changes in the ownership of individual condominium units or any related common elements on the Property.

Financial Assurance

- 4.9 The Director has not included in the CPU a requirement that the Owner provide financial assurance to the Crown in right of Ontario.

Part 5: General

- 5.1 The requirements of the CPU are severable. If any requirement of the CPU 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 CPU shall not be affected thereby.
- 5.2 An application under sub section 168.6(3) of the Act to,
 - a) alter any terms and conditions in the CPU or impose new terms and conditions; or
 - b) revoke the CPU;shall be made in writing to the Director, with reasons for the request.
- 5.3 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or provided, reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.

- 5.4 Subsection 186(3) of the Act provides that non-compliance with the requirements of the CPU constitutes an offence.
- 5.5 The requirements of the CPU 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 the CPU.
- 5.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 5.7 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU 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.

- 5.8 Failure to comply with a requirement of the CPU by the date specified does not absolve you from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 5.9 In the event that the Owner complies with provisions of Parts 4.6 and 4.7 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act*, 1998, S.O. 1998, c.19, as amended, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.

Part 6: Hearing before the Environmental Review Tribunal

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Environmental Review Tribunal (the "Tribunal"), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.

- 6.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU or to rely on a ground that is not stated in the notice requiring the hearing.
- 6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act as they may be amended from time to time. The address, email address and fax numbers of the Director and the Tribunal are:

The Secretary
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5

Fax: (416) 326-5370
Fax Toll Free: 1(844) 213-3474
Email: ERTTribunalSecretary@ontario.ca

and

Paul Widmeyer
Director
119 King Street West, 9th Floor
Hamilton, Ontario
L8P 4Y7

Fax: (905) 521-7806
Email: Paul.Widmeyer@ontario.ca

- 6.4 Unless stayed by application to the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.
- 6.5 If you commence an appeal before the Tribunal, under section 47 of the Environmental Bill of Rights, 1993 (the “EBR”), you must give notice to the public in the EBR registry. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Minister of the Environment, Conservation and Parks who will place it on the EBR registry. The notice must be delivered to the Minister of the Environment, Conservation and Parks at 777 Bay Street, 5th Floor, Toronto, Ontario M7A 2J3 by the earlier of:

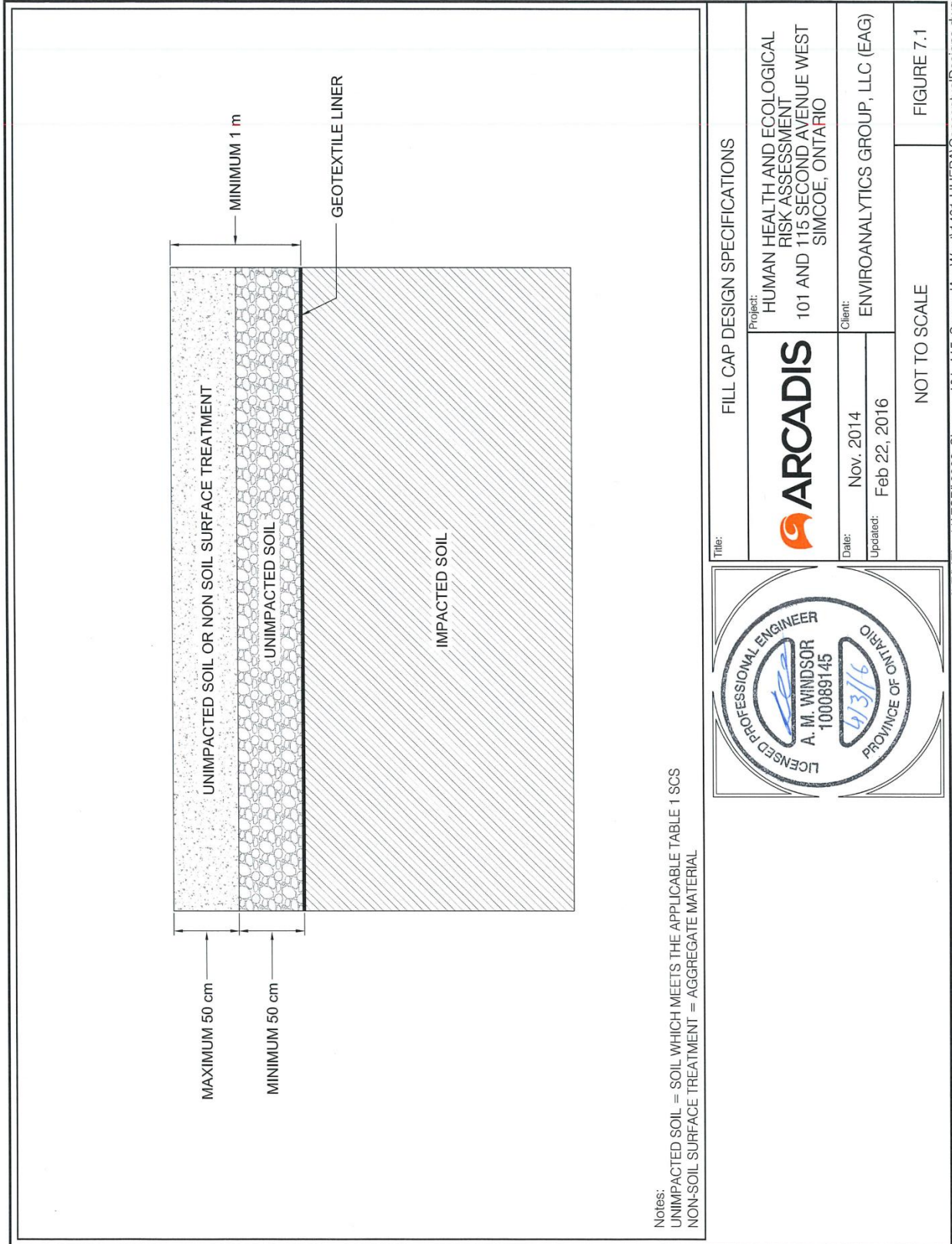
- 6.5.1 two (2) days after the day on which the appeal before the Tribunal was commenced; and
 - 6.5.2 fifteen (15) days after service on you of a copy of the CPU.
- 6.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 6.7 For your information, under section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Under section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:
- 6.7.1 fifteen (15) days after the day on which notice of the issuance of the CPU is given in the EBR registry; and
 - 6.7.2 if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the EBR registry.

Issued at Hamilton this 8th day of August 2019.

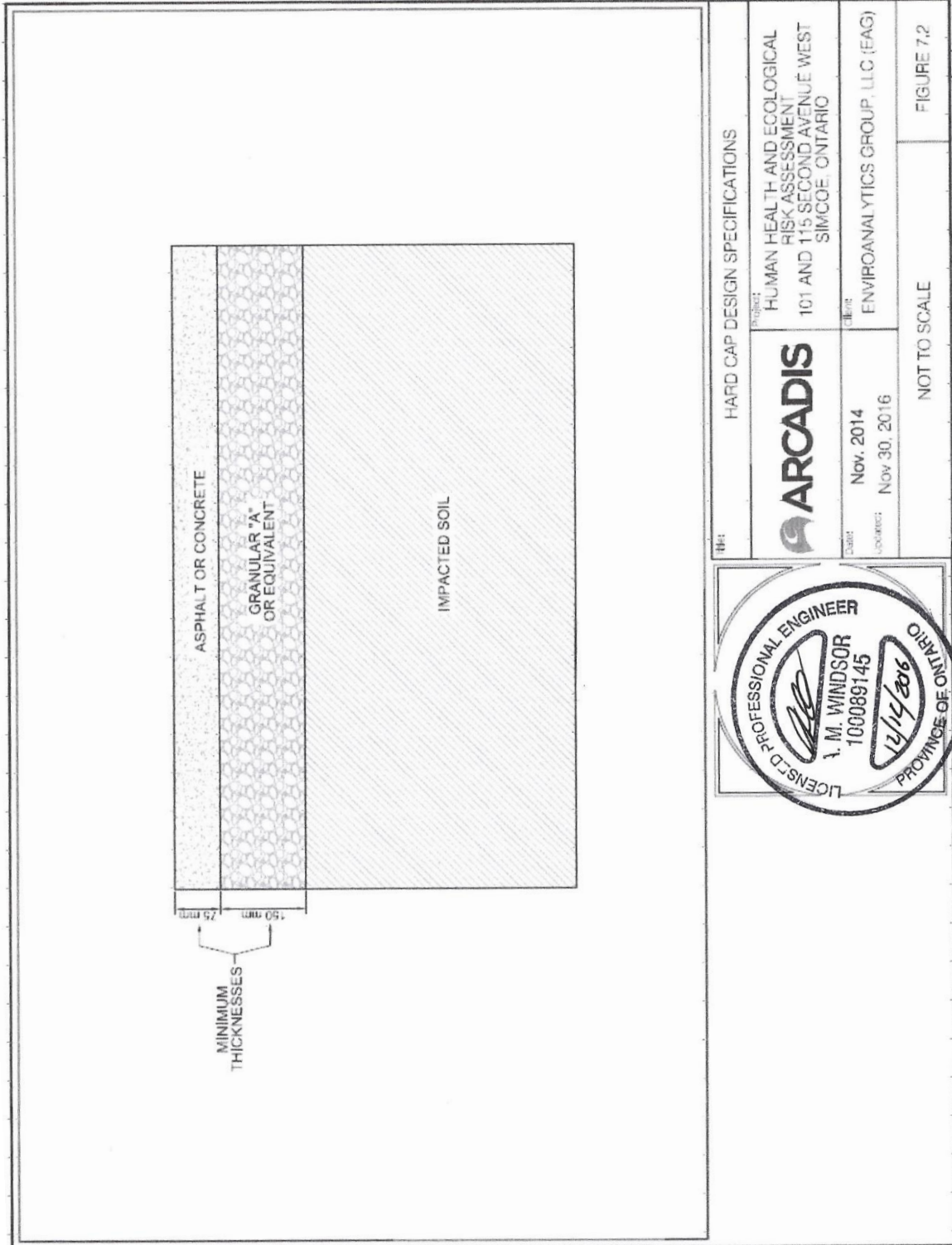
Original Signed by

Paul Widmeyer
Director, section 168.6 of the Act

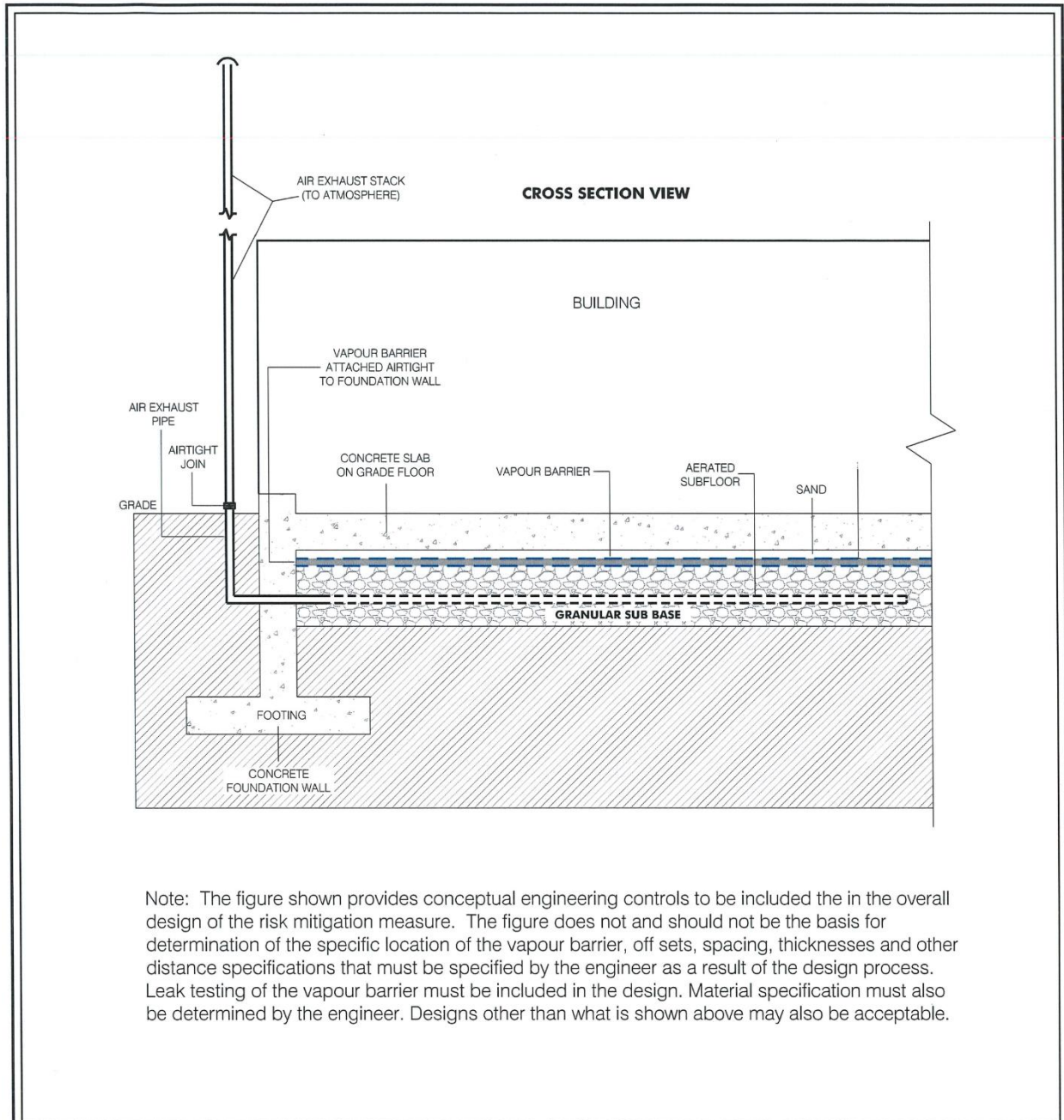
**Schedule 'A': Figure 2 – Fill Cap
(not to scale)**



**Schedule 'A': Figure 3 – Hard Cap
(not to scale)**



**Schedule 'A': Figure 4 – Soil Vapour Mitigation System
(not to scale)**



Note: The figure shown provides conceptual engineering controls to be included in the overall design of the risk mitigation measure. The figure does not and should not be the basis for determination of the specific location of the vapour barrier, off sets, spacing, thicknesses and other distance specifications that must be specified by the engineer as a result of the design process. Leak testing of the vapour barrier must be included in the design. Material specification must also be determined by the engineer. Designs other than what is shown above may also be acceptable.

Note:
1) Drawing is not to scale
2) Use diagram in conjunction with section 7

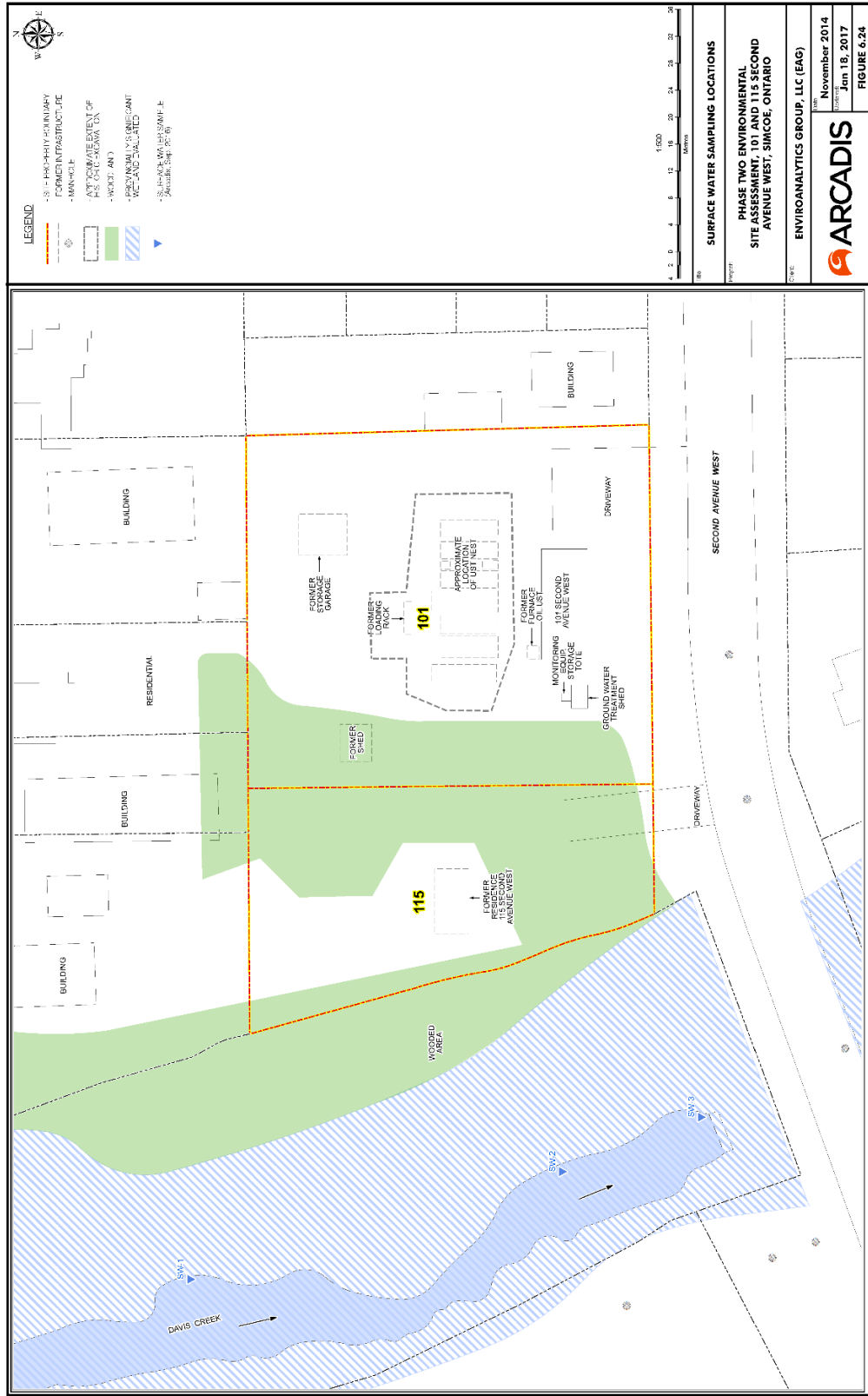


Title:	VAPOUR BARRIER & PRESSURE EQUALIZATION SYSTEM
Project:	HUMAN HEALTH AND ECOLOGICAL RISK ASSESSMENT 101 AND 115 SECOND AVENUE WEST SIMCOE, ONTARIO
Client:	ENVIROANALYTICS GROUP, LLC (EAG)
Date:	Nov. 2014
Last Updated:	Feb 22, 2016
FIGURE 7.3	



{LZ/MZ} V:\ESR\2922_Simcoe_101_115_SecondAveWest\1401-HHERA\ConceptualDesigns.dwg

Schedule 'A': Figure 5 – Surface Water Sampling Locations (not to scale)



Schedule 'A': Table 1A: Property Specific Standards – Soil

All values in micrograms per gram except where indicated

Contaminant of Concern	Property-Specific Standard
1-Methylnaphthalene	63.6
Acenaphthene	1.68
Acenaphthylene	0.228
Anthracene	0.348
Benzene	7.92
Boron (Hot Water Soluble)*	0.984
Dichloroethane, 1,2-	0.48
Ethylbenzene	78
Fluorene	2.52
Hexane	117.6
Methylene Chloride	1.2
Naphthalene	18
PHC F1	6600
PHC F2	15600
PHC F3	4800
Phenanthrene	2.16
Tetrachloroethane, 1,1,2,2-	3
Toluene	44.4
Total Xylenes	516
Trichloroethane, 1,1,2-	0.6

Schedule 'A': Table 1B – Property Specific Standards - Groundwater

All values in micrograms per litre except where indicated

Contaminant of Concern	Property-Specific Standard
1+2-Methylnaphthalenes	51.6
Antimony	1.92
Carbon Tetrachloride	0.48
Dichlorobenzene, 1,2-	1.2
Dichloroethane, 1,2-	1.2
Dichloropropane, 1,2-	1.68
Ethylbenzene	80.4
Hexane	14.4
Naphthalene	27.6
PHC F1	3600
PHC F2	3240
PHC F3	828
Phenanthrene	0.312
Tetrachloroethane, 1,1,2,2-	1.2
Thallium	1.2
Toluene	1.044
Total Xylenes	732
Trichloroethane, 1,1,2-	2.16

Schedule 'A': Table 1C – Indoor Air Trigger Levels

All values in micrograms per cubic metre except where indicated

Contaminant of Concern	Trigger Level
Benzene	1.63
Ethylbenzene	715
Xylene	501
PHC F1	8,540
Aliphatic C6-C8	32,900
Aliphatic C8-C10	1,790
Aromatic C8-C10	358
PHC F2	1,610
Aliphatic C10-C12	1,790
Aliphatic C12-C16	1,790
Aromatic C10-C12	358
Aromatic C12-C16	358
Naphthalene	2.65
1,2-Dichloroethane	0.138
Hexane	1,790
1,1,2,2-Tetrachloroethane	0.0616
1,1,2-Trichloroethane	0.223

Schedule 'A': Table 1D – Ground Water Trigger Levels

All values in micrograms per litre except where indicated

Contaminant of Concern	Trigger Level
Antimony	1.92
1,2-Dichlorobenzene	1.2
1,2-Dichloroethane	1.2
1,2-Dichloropropane	1.68
Carbon Tetrachloride	0.48
Ethylbenzene	80.4
Hexane	14.4
Methylnaphthalene, 2-(1-)	51.6
Naphthalene	27.6
PHC F1	3600
PHC F2	3240
PHC F3	828
Phenanthrene	0.31
Thallium	1.2
Toluene	1.04
Total Xylenes	732
1,1,2,2-Tetrachloroethane	1.2
1,1,2-Trichloroethane	2.16

Schedule 'A': Table 1E – Surface Water Trigger Levels

All values in micrograms per litre except where indicated

Contaminant of Concern	Trigger Level
PHC F1	45
Aliphatic C6-C8	46.5
Aliphatic C8-C10	7.6
Aromatic C8-C10	140
PHC F2	100
Aliphatic C10-C12	1.18
Aliphatic C12-C16	0.074
Aromatic C10-C12	96
Aromatic C12-C16	55.4