

Certificate of Property Use

Environmental Protection Act, R.S.O. 1990, c.E.19, s.168.6 (CPU) and 197 (Order)

Certificate of Property use number: 5218-CBGKUH

Risk Assessment number: 5776-BD9RZK

Owner: 1939522 Ontario Limited
393 Rymal Road West, Suite 405
Hamilton, Ontario
L9B 1V2

Site: Former Cytec Lands, Parcel C
Part of 4200 Stanley Avenue, Niagara Falls, Ontario
with a legal description as set out in Schedule '1' of the CPU

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 | No |
| b. Monitoring any contaminant | No |
| c. Refraining from constructing any building specified | Yes |
| d. Refraining from using the Property for any use specified | Yes |
| e. Maintaining a barrier to site soils | Yes |
| f. Preparing and implementing a soil management plan | Yes |
| g. Preparing and implementing a health and safety plan | Yes |

- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:
 - a. The barrier to site soils over the entirety of the Property shall be maintained indefinitely until the Director alters or revokes the CPU.
 - b. The soil management plan and the health and safety plan shall be required for the Property during any activities potentially in contact with or exposing site soils for as long as the Contaminants of Concern are present on the Property.
 - c. The growing of fruits and vegetables on in or under the Property is prohibited.
 - d. The installation of potable water wells on the Property is prohibited.
 - e. All other Risk Management Measures shall continue indefinitely until the Director alters 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.

“*Building Code*” means the Ontario Regulation 332/12 (Building Code), made under the *Building Code Act*, 1992, S.O. 1992, c.23.

“*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 causes or may cause an Adverse Effect.

“*Contaminants of Concern*” has the meaning as set out in section 3.2 of the CPU.

“*CPU*” means this Certificate of Property Use as may be altered from time to time and bearing the document number 5218-CBGKUH.

“*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.

“*Grade*” has the same meaning as in the Building Code.

“*LNAPL*” means light non-aqueous phase liquid.

“*Licensed Professional Engineer*” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*, R.S.O. 1990, c. P.28.

“*Ministry*” means the ministry of the government of Ontario responsible for the administration of the Act, currently named the Ministry of the Environment, Conservation and Parks.

“*O. Reg. 153/04*” means Ontario Regulation 153/04, “Record of Site Condition – Part XV.1 of the Act” made under the Act.

“*Reg. 347*” means R.R.O. 1990, Regulation 347 (General - Waste Management) made under the Act.

“*Owner*” means the owner(s) of the Property, beginning with the person(s) to whom the CPU is issued, described in the “Owner” section on Page 1 above, and any subsequent owner(s) of the Property.

“*OWRA*” means the *Ontario Water Resources Act*, R.S.O. 1990, c.O.40.

“*Property*” means the property that is the subject of the CPU and described in the “Site” section on page 1 above.

“*Property Specific Standards*” or “*PSS*” 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 and are the same standards specified in the Risk Assessment.

"*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 subsection 5 (2) of O. Reg. 153/04, namely a person who:

- a. Holds a licence, limited licence or temporary licence under the *Professional Engineers Act*, or
- b. Holds a certificate of registration under the *Professional Geoscientists Act, 2000*, and is a practicing member, temporary member, or limited member of the Association of Professional Geoscientists of Ontario.

"*Risk Assessment*" means the Risk Assessment number 5776-BD9RZK accepted by the Director on February 8, 2022 and set out in the following documents:

- “*Risk Assessment Former Cytec Lands – Parcel C, Niagara Falls, Ontario*”, report prepared by Stantec Consulting Ltd., dated May 12, 2020;
- “*Risk Assessment Former Cytec Lands – Parcel C, Niagara Falls, Ontario*”, report prepared by Stantec Consulting Ltd., dated January 15, 2021;
- “*Risk Assessment Former Cytec Lands – Parcel C, Niagara Falls, Ontario*”, report prepared by Stantec Consulting Ltd., dated September 17, 2021;
- “*Foye, Doug shared the folder "Cytec_C_RA_oct2021_missing_info_req" with you.*”, email from Doug Foye, Stantec Consulting Ltd., received by TASDB on October 22, 2021 with the following attachments:
 - Appendix B; file name: AppB_Tables.pdf
 - Appendix C; file name: AppC_PSFandcomments_resp.pdf
 - Appendix D; file name: AppD_Supp_Docs.pdf
- “*RE: RA for Former Cytec Lands – Parcel C, Niagara Falls; RA1784-19; IDS# 5776-BD9RZK*”, email from Doug Foye, Stantec Consulting Ltd., received by TASDB on January 17, 2022, with following attachments:
 - Cytec Parcel C revised comments/preliminary clarifications from MECP, dated January 14, 2022; file name: Stantec Additional Comments Response.pdf
 - Revised RA report Section 7 Risk Management Plan; file name: Parcel C_RA_Section 7_rev.pdf

- Revised Appendix H “*Risk Management Plan – Parcel C, Niagara Falls, Ontario*”, by Stantec Consulting Ltd., dated, revised January 14, 2022; file name: H_RMP_rev.pdf
- “RE: RA for Former Cytec Lands – Parcel C, Niagara Falls; RA1784-19; IDS# 5776-BD9RZK”, email from Doug Foye, Stantec Consulting Ltd., received by TASDB on February 2, 2022, with following attachments:
 - Revised Appendix H “*Risk Management Plan – Parcel C, Niagara Falls, Ontario*”, by Stantec Consulting Ltd., dated, revised January 31, 2022; file name: Appendix H_Revised_20220131.pdf
 - Revised RA report Section 7 Risk Management Plan; file name: Parcel C_Section7_ Revised_20220131.pdf
 - Revised RA report Section 7 Risk Management Plan (redline version); file name: Parcel C_Section7_ Revised_20220131_redline.pdf

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

“*Tribunal*” has the same meaning as in the Act; namely, the Ontario Land Tribunal.

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 a risk assessment related to the property has been accepted under clause 168.5 (1) (a), the Director may 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 that is specified in the certificate and that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, 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 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.
- 2.8 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.

- 2.9 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.
- 2.10 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 on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: **“commercial and/or industrial use”**, as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in or under the Property that are present above the Industrial/Commercial/Community Property Use Standards within **Table 1** 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 for medium to fine textured soil or for which there are no such standards are defined as the Contaminants of Concern. The Property Specific Standards and the Proposed Fill Cap Standards for the Contaminants of Concern are set out in Schedule “A” attached to and forming part of the CPU and the following figures:
- Plan of Survey of Lots 59 and 74, Part of the Road Allowance Between Lots 74 and 76 by Matthews Cameron Heywood Kerry T. Howe Surveying Limited known as Plan 59R-16433 received and deposited on May 24, 2019;
 - Figure H.1 entitled “*Conceptual Design of Typical Fill Cap Barrier (Generic RMM)*” dated September 17, 2021 prepared by Stantec Consulting Limited;
 - and,
 - Figure H.2 entitled “*Conceptual Design of Typical Hard Cap Barrier (Generic RMM)*” dated September 17, 2021 prepared by Stantec Consulting Limited

- 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.

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 Item 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:
- a. The Property shall be covered by a barrier to site soils designed, installed and maintained in accordance with the Risk Assessment so as to prevent exposure to the Contaminants of Concern. The barrier to site soils shall consist of a hard cap, fill/soil cap and/or fence as specified below and illustrated on Drawings H.1 and H.2 attached:
 - i. Hard caps for floor slabs and building foundations on the Property shall consist of concrete to a minimum thickness of 75 mm followed by 150 mm of Granular "A".
 - ii. All other hard caps on the Property shall consist of asphalt to a minimum of 75 mm depth followed by 150 mm of Granular "A".
 - iii. Any fill caps on the Property shall consist of a minimum depth of 1.0 m consisting of soil meeting the soil cap standards specified in Schedule "A" attached to this Certificate
 - iv. Placement of at least 0.5 metre of Unimpacted Soil immediately on top of a geotextile material, and, above the Unimpacted Soil, may also include up to 0.5 metre of non-soil surface treatment such as asphalt, concrete or aggregate.
 - v. For portion(s) of the Property, not under development or not in use, these areas shall have a fence barrier to prevent the general public from accessing the site and a dust control plan to prevent surface soil from impacting the adjacent properties.

- b. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the barriers to site soils Risk Management Measures (including any fence barrier) as long as the Contaminants of Concern are present on the Property. The inspection program shall include, at a minimum, semi-annual (every six months) inspections of the barrier to site soils integrity. Any barrier to site soils deficiencies shall be repaired forthwith. Inspection, deficiencies and repairs shall be recorded in a log book maintained by the Owner and made available upon request by a Provincial Officer.

- c. A soil management plan shall be prepared for the Property and implemented during any activities potentially coming in contact with or exposing site soils. A copy of the plan shall be kept by the Owner and made available for review by a Provincial Officer upon request. Implementation of the plan shall be overseen by a Qualified Person and shall include, but not be limited to, provisions for soils excavation, stockpiling, characterization, disposal and record keeping specified below:
 - i. Comply with the requirements of sections 30 to 38 inclusive of Schedule “E” of O. Reg. 153/04;
 - ii. Dust control measures and prevention of soil tracking by vehicles and personnel from the Property, which may include wetting of soil with potable water, reduced speeds for on-site vehicles, tire washing stations and restricting working in high wind conditions, as required;
 - iii. Management of excavated materials which may include 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, as required;
 - iv. Characterization of excavated soils to determine if soils exceed the Property Specific Standards shall follow the sampling strategy in the Risk Assessment. Excavated soils and materials requiring off-site disposal as a waste shall be disposed of in accordance with the provisions of Reg. 347, made under the Act. Excavated soil meeting the Property Specific Standards may be placed on-site below the barrier to site soils if deemed suitable by a Qualified Person and in accordance with the Risk Assessment;
 - v. If additional soil is brought to the Site to backfill excavations, outside of the requirements for fill cap soil, the soil quality must meet the Proposed Fill Cap Standards, outlined in Schedule A if the parameter has been identified as a COC or the Table 1 SCS for parameters that have not been identified as COCs at the Site.
 - vi. Sampling of the soil to be received at the Property shall be undertaken in accordance with Section 31 of Schedule “E” of O. Reg. 153/04;
 - vii. Measures to manage stormwater and any groundwater from dewatering at the Property to prevent the movement of entrained soil and Contaminants of Concern within and away from the Property,

- including, in addition to any applicable measures specified pursuant to other applicable law or other instruments, measures such as silt fences, filter socks for catch-basins and utility covers, and provision for discharge to a sanitary sewer or to other approved treatment if needed;
- viii. Management of any LNAPL prior to any excavations activities on the Property and collected LNAPL for disposed off-site at a licenced receiver; and
 - ix. Record keeping including dates and duration of work, weather and site conditions, location and depth of excavation activities, dust control measures, stockpile management and drainage, soil characterization results, names of the Qualified Person, contractors, haulers and receiving sites for any soil or contaminated ground water removed from the Property and any complaints received relating to site activities potentially coming in contact with or exposing site soils and ground water.
- d. The growing of fruits and vegetables on in or under the Property is prohibited.
 - e. The installation of potable water wells on the Property is prohibited.
 - f. A site specific health and safety plan shall be developed for the Property and implemented during all intrusive, below-grade construction activities potentially coming in contact with or exposing site soil or ground water and a copy shall be maintained on the Property for the duration of these intrusive activities. The Owner shall ensure that the health and safety plan takes into account the presence of the Contaminants of Concern and is implemented prior to any intrusive work being done on the Property in order to protect workers from exposure to the Contaminants of Concern. The health and safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, shall address any potential risks identified in the Risk Assessment, and shall include, but not be limited to, occupational hygiene requirements, requirements for personal protective equipment, and contingency plan requirements including site contact information. Prior to initiation of any project (as defined in the *Occupational Health and Safety Act*) on the Property, the local Ministry of Labour office shall be notified of the proposed activities and that the Property contains contaminated soil and ground water. Implementation of the health and safety plan shall be overseen by persons qualified to review the provisions of the plan with respect to the proposed site work and conduct daily inspections. The Owner shall retain a copy of the plan, which shall be made available for review by the Ministry upon request.
 - g. The Owner shall retain a copy of the site plan prepared and signed by a Qualified Person prior to occupancy which will describe the Property, placement and quality of all of the barriers to site soils. The site plan will

include a plan and cross section drawings specifying the vertical and lateral extent of the barriers. This site plan shall be retained by the Owner for inspection upon request by a Provincial Officer. The site plan shall be revised following the completion of any alteration to the extent of the barriers to site soils.

- h. The Owner shall prepare by March 31st each year, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum information requirements:
 - i. a copy of all records relating to the inspection and maintenance program for the barrier to site soils;
 - ii. a copy of all records relating to the soil management plan and to the health and safety plan; and
 - iii. a copy of all signed site plans including any alterations for barriers to site soils.

4.3 Refrain from using the Property for any of the following use(s): any type of property use specified in O. Reg. 153/04, other than “commercial or industrial” use, and uses prohibited by paragraphs (d) and (e) of section 4.2.

4.4 Refrain from constructing the following building(s): Any buildings with basements.

4.5 The Owner shall ensure that every occupant of the Property is given notice that the Ministry has issued this CPU and that it contains the provisions noted above in Items 4.2 (d) and (e), 4.3 and 4.4, unless noted. For the purposes of this requirement, an occupant means any person with whom the Owner has a contractual relationship regarding the occupancy of all or part of the Property.

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 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

- 4.7 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

- 4.8 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

- 4.9 Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act and as set out in Schedule 'B', register the certificate of requirement on title to the Property, in the appropriate land registry office.
- 4.10 Within five (5) days after registering the certificate of requirement provide to the Director a copy of the registered certificate and of the parcel register(s) for the Property confirming that registration has been completed.

Owner Change

- 4.11 While the CPU is in effect, the Owner shall forthwith report in writing, to the Director by email at Kim.groombridge@ontario.ca, with a copy to Environment.Niagara@ontario.ca, any changes of ownership of the Property, except that while the Property is registered under the *Condominium Act, 1998*, S.O.1998 c.19, no notice shall be given of changes in the ownership of individual condominium units or any appurtenant common elements on the Property.

Financial Assurance

- 4.12 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, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of the CPU.
- 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 alter 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 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 failure to comply with the requirements of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve the Owner 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. The Director shall also alter the CPU where the approval or acceptance of the Director is required in respect of a matter under the CPU and the Director either does not grant the approval or acceptance or does not grant it in a manner agreed to by the Owner.
- 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 the Owner 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 the provisions of Items 4.9 and 4.10 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, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU can be carried out by the condominium corporation on behalf of the new Owners of the Property

Part 6: Information regarding a Hearing before the Ontario Land Tribunal

With respect to those provisions relating to my authority in issuing a certificate of property use under section 168.6 and an order under section 197 of the Act:

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Ontario Land 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. The contact information for the Director and the Tribunal is the following:

Registrar

Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5
Email: OLT.Registrar@ontario.ca

and

Kim Groombridge, Director
Ministry of the Environment, Conservation and Parks
301 St. Paul Street, 9th Floor, Suite 15
St. Catharines, Ontario
L2R 7R4
Fax: 905-704-4015
Email: Kim.groombridge@ontario.ca
Email: Environment.Niagara@ontario.ca

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at:

Tel: (416) 212-6349 or Toll Free 1 (866) 448-2248 or www.olt.gov.on.ca.

[Further information regarding service can be obtained from e-Laws at www.ontario.ca/laws. Please note that where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and choosing service by mail does not extend any timelines.](http://www.ontario.ca/laws)

- 6.4 Unless stayed by 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 Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds for the appeal.

The notice must be delivered to the Minister of the Environment, Conservation and Parks who will place it on the Environmental Registry of Ontario. The notice must be delivered to the Minister of the Ministry of the Environment, Conservation and Parks, College Park 5th Flr, 777 Bay St, Toronto, ON M7A 2J3 by the earlier of:

(a) two (2) days after the day on which the appeal before the Tribunal was commenced; and

(b) 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 Pursuant to section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Pursuant to section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:

(a) fifteen (15) days after the day on which notice of the decision to issue the CPU is given in the Environmental Registry of Ontario; and

(b) if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.

6.8 The procedures and other information provided in this Part 6 are intended as a guide. The legislation should be consulted for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws.

Issued this 5th day of August, 2022.



Kim Groombridge
Director, section 168.6 of the Act

Schedule '1'

Legal Description

Former Cyttec Lands, Parcel C

Part of Township Lots 59 and 74, Stamford, and Part of the Road Allowance between Township Lots 74 and 76 (as closed by bylaw ST16882), being Parts 1 and 2 on Reference Plan 59R-16433 and part of PIN 64269-0610 (LT).

Schedule 'A'

Property Specific Standards for each Contaminant of Concern

Contaminant of Concern	Recommended PSS (µg/g)	Proposed Fill Cap Standard (µg/g)
General Chemistry		
Cyanide (Free)	9.2	0.051
Electrical Conductivity, Lab (µS/cm)	10100	1400
Sodium Adsorption Ratio (SAR) (unitless)	11.7	2.4
pH	NA	5-9
PHC F1 (>C6-C10 range)	32.4	25
PHC F2 (>C10-C16 range)	310	250
PHC F3 (>C16-C34 range)	2316	240
PHC F4 (>C34-C50 range)	2076	120
Metals		
Antimony	2.5	1.3
Arsenic	263	18
Barium	1440	670
Beryllium	7.6	2.5
Boron	99.8	36
Cadmium	2.2	1.2
Chromium	NA	70
Chromium (Hexavalent)	1.3	0.66
Cobalt	NA	21
Copper	205	92
Lead	481	120
Mercury	0.5	0.27
Molybdenum	71.9	40
Nickel	NA	82
Selenium	6.1	1.5
Silver	1.2	0.5
Thallium	2.4	1
Uranium	6.0	2.5
Vanadium	131	86
Zinc	2004	340
Polychlorinated Biphenyls	NA	0.3
Acenaphthene	1.2	0.072
Acenaphthylene	1.4	0.17

Contaminant of Concern	Recommended PSS (µg/g)	Proposed Fill Cap Standard (µg/g)
Anthracene	4.8	0.74
Benzo(a)anthracene	15.2	0.96
Benzo(a)pyrene	11.5	0.3
Benzo(b)fluoranthene	13.4	0.96
Benzo(g,h,i)perylene	10.8	0.68
Benzo(k)fluoranthene	6.7	0.96
Chrysene	40.9	9.6
Dibenzo(a,h)anthracene	4.2	0.1
Fluoranthene	10.1	0.56
Fluorene	2.2	0.12
Indeno(1,2,3-cd)pyrene	7.7	0.95
Methylnaphthalene (Total)	13.6	0.59
Naphthalene	5.3	0.09
Phenanthrene	74.5	16
Pyrene	43.2	1

Acetone	NA	0.5
Benzene	0.35	0.02
Bromodichloromethane	NA	0.05
Bromoform (Tribromomethane)	NA	0.05
Bromomethane (Methyl bromide)	NA	0.05
Carbon Tetrachloride (Tetrachloromethane)	NA	0.05
Chlorobenzene (Monochlorobenzene)	NA	0.05
Chloroform (Trichloromethane)	NA	0.05
Dibromochloromethane	NA	0.05
Dichlorobenzene, 1,2-	NA	0.05
Dichlorobenzene, 1,3-	NA	0.05
Dichlorobenzene, 1,4-	NA	0.05
Dichlorodifluoromethane (Freon 12)	NA	0.05
Dichloroethane, 1,1-	NA	0.05
Dichloroethane, 1,2-	NA	0.05
Dichloroethene, 1,1-	NA	0.05
Dichloroethene, cis-1,2-	NA	0.05
Dichloroethene, trans-1,2-	NA	0.05
Dichloropropane, 1,2-	NA	0.05
Dichloropropene, 1,3- (sum of isomers cis + trans)	NA	0.05
Ethylbenzene	0.49	0.05
Ethylene Dibromide (Dibromoethane, 1,2-)	NA	0.05
Hexane (n-Hexane)	2.7	0.05
Methyl Ethyl Ketone (MEK) (2-Butanone)	NA	0.5
Methyl Isobutyl Ketone (MIBK)	NA	0.5
Methyl tert-butyl ether (MTBE)	NA	0.05

Contaminant of Concern	Recommended PSS (µg/g)	Proposed Fill Cap Standard (µg/g)
Methylene Chloride (Dichloromethane)	NA	0.05
Styrene	NA	0.05
Tetrachloroethane, 1,1,1,2-	NA	0.05
Tetrachloroethane, 1,1,2,2-	NA	0.05
Tetrachloroethene (PCE)	NA	0.05
Toluene	2.02	0.2
Trichloroethane, 1,1,1-	NA	0.05
Trichloroethane, 1,1,2-	NA	0.05
Trichloroethene (TCE)	NA	0.05
Trichlorofluoromethane (Freon 11)	NA	0.05
Vinyl Chloride	NA	0.02
Xylenes, Total	3.17	0.05
GROUNDWATER		
Contaminant of Concern	Recommended PSS (µg/L)	
Cyanide (free)	581	
Chloride	29,000,000	
Antimony	2.28	
Arsenic	1049	
Boron	4008	
Cadmium	0.84	
Chromium	14	
Cobalt	30.1	
Copper	38.0	
Molybdenum	100	
Nickel	52	
Selenium	61	
Sodium	13,440,000	
Uranium	41.9	
Vanadium	1692	
Zinc	883	

NA – Not Applicable

Schedule 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to section 4.9 of Certificate of Property Use number 5218-CBGKUH issued by Kim Groombridge, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on August 5th, 2022, being a Certificate of Property Use and order under subsection 197(1) of the Environmental Protection Act relating to the property municipally known as part of 4200 Stanley Avenue, Niagara Falls, Ontario being part of PIN 64269-0610 (LT), namely Parts 1 and 2 on Reference Plan 59R-16433 (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

1939522 Ontario Limited

and any other persons having an interest in the Property, are required before dealing with the Property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the Property

Under subsection 197(3) of the Environmental Protection Act, the requirement applies to each person who, subsequent to the registration of this certificate, acquires an interest in the Property.

INTEGRATION DATA

OBSERVED REFERENCE POINTS (ORPs): UTM ZONE 17, NAD83 (ORIGINAL).		
COORDINATES TO URBAN ACCURACY PER SECTION 14 (2) OF O.REG 216/10.		
POINT ID	EASTING	NORTHING
ORP (A)	656035.82	4775940.19
ORP (B)	656091.24	4775427.49
COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.		

NOTES

BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83 (ORIGINAL).
DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9998695

SCHEDULE			
PART	LOT	PIN	AREA
1	PART OF 59 & 74		5.132 HA.
2	PART 74 PART OF THE ROAD ALLOWANCE BETWEEN 74 & 76 (CLOSED BY BY-LAW 113)	PART OF 64269-0610(LT)	1.617 HA.

NOTE:
PART 1 IS SUBJECT TO AN EASEMENT AS IN INST. NO. R0696084

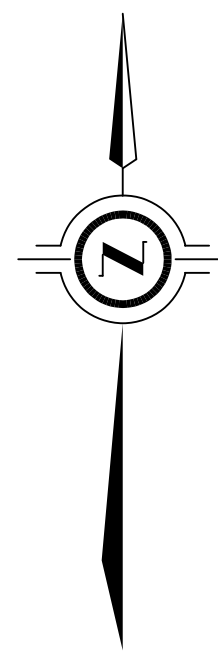
PLAN 59R-16433

Received and deposited

May 24th, 2019

April Sarkany

Representative for the
Land Registrar for the
Land Titles Division of
Niagara South (No.59)



PLAN OF SURVEY OF

**PART OF LOTS 59 AND 74,
PART OF THE ROAD ALLOWANCE
BETWEEN LOTS 74 AND 76**

(CLOSED BY BY-LAW 113 (INST. NO. ST16882)
(GEOGRAPHIC TOWNSHIP OF STAMFORD)

**CITY OF NIAGARA FALLS
REGIONAL MUNICIPALITY OF NIAGARA**

SCALE 1 : 1000

20 40 60 metres

THE INTENDED PLOT SIZE OF THIS PLAN IS 610mm IN WIDTH BY 914mm IN HEIGHT WHEN PLOTTED AT A SCALE OF 1:1000

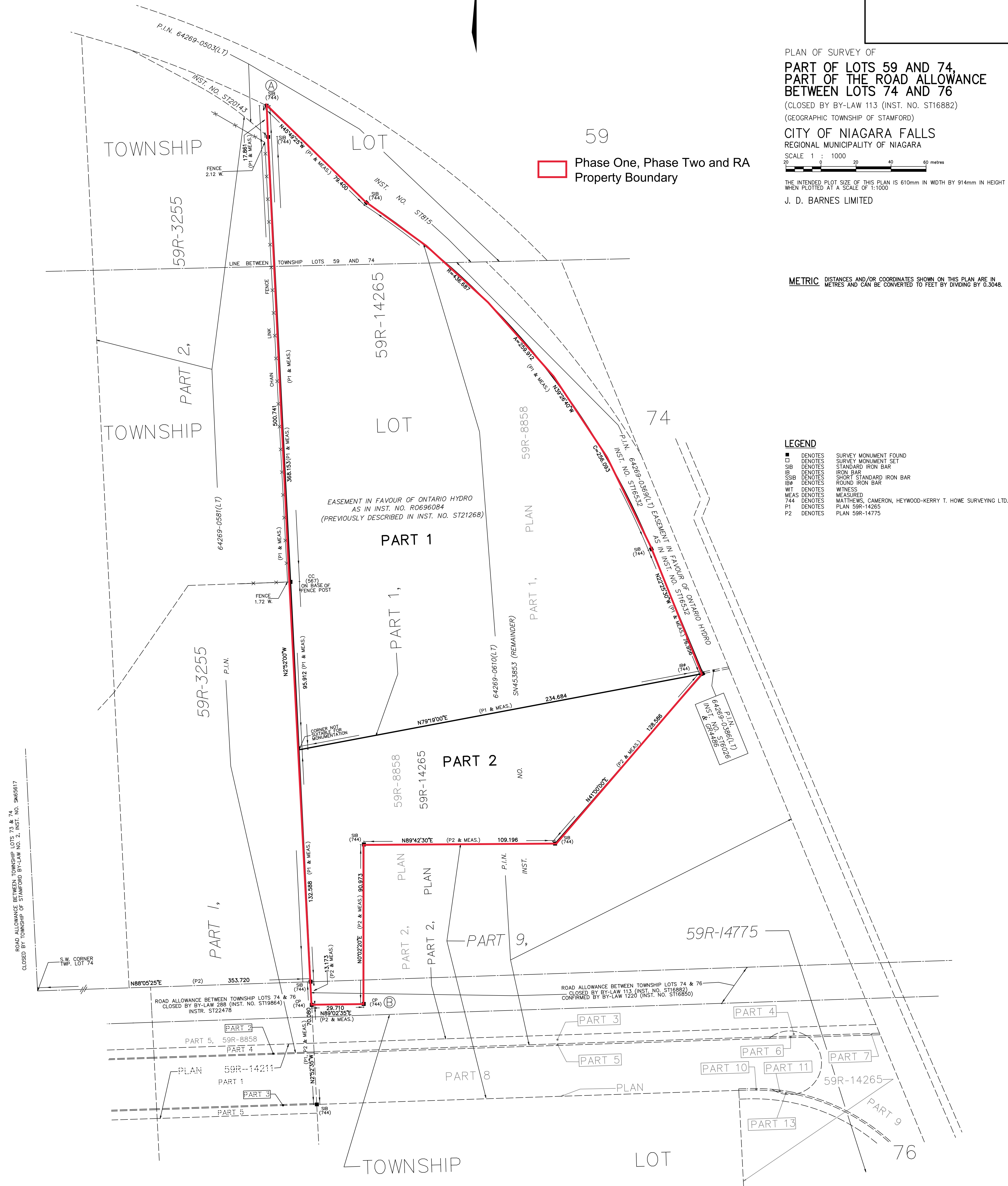
J. D. BARNES LIMITED

Phase One, Phase Two and RA Property Boundary

METRIC DISTANCES AND/OR COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

LEGEND

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT SET
⊕	DENOTES	STANDARD IRON BAR
⊖	DENOTES	IRON BAR
⊗	DENOTES	SHORT STANDARD IRON BAR
⊙	DENOTES	ROUND IRON BAR
⊘	DENOTES	WITNESS
⊚	DENOTES	MEASURED
744	DENOTES	MATTHEWS, CAMERON, HEYWOOD-KERRY T. HOWE SURVEYING LTD.
P1	DENOTES	PLAN 59R-14265
P2	DENOTES	PLAN 59R-14775



SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON MAY 16, 2019

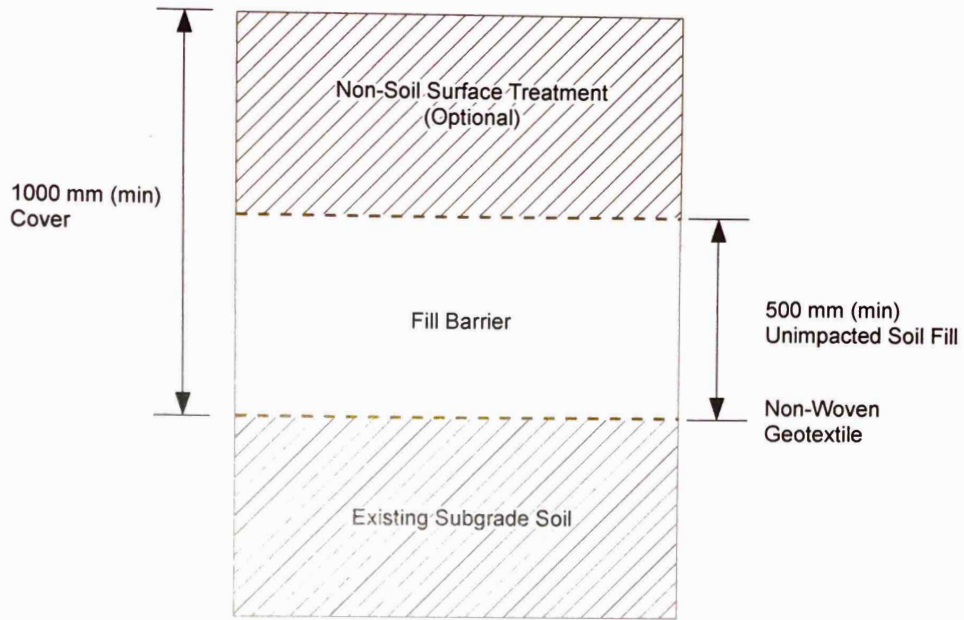
MAY 16, 2019
DATE

[Signature]
DASHA PALE
ONTARIO LAND SURVEYOR

THIS PLAN OF SURVEY RELATES TO A.O.L.S. PLAN SUBMISSION FORM #2079182

**MATTHEWS, CAMERON,
HEYWOOD - KERRY T. HOWE** SURVEYING
SURVEYING LIMITED
A wholly owned subsidiary of
J. D. Barnes Limited
5233 STANLEY AVENUE, UNIT 1, NIAGARA FALLS, ON L2E 7C2
T: (905) 358-3693 F: (905) 358-6224 www.jdbarnes.com

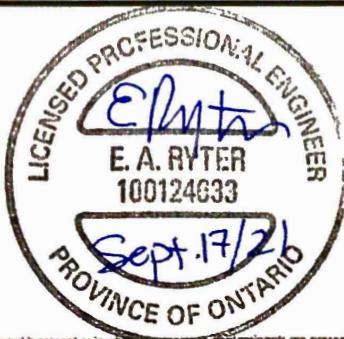
DRAWN BY: S.S. CHECKED BY: A.C. REFERENCE NO.: 18-16-117-00
FILE: G:\2018\18-16-117\00\Drawing\18-16-117-00 REF-C.dgn



Typical Fill Cap Barrier

NOT FOR CONSTRUCTION

Not to Scale



Project Location

122120308 REVA
Prepared by IP on 2019-04-16
Revised by BR on 2021-09-17

Client/Project

1939522 ONTARIO LIMITED
RISK MANAGEMENT MEASURES

Figure No.

H.1

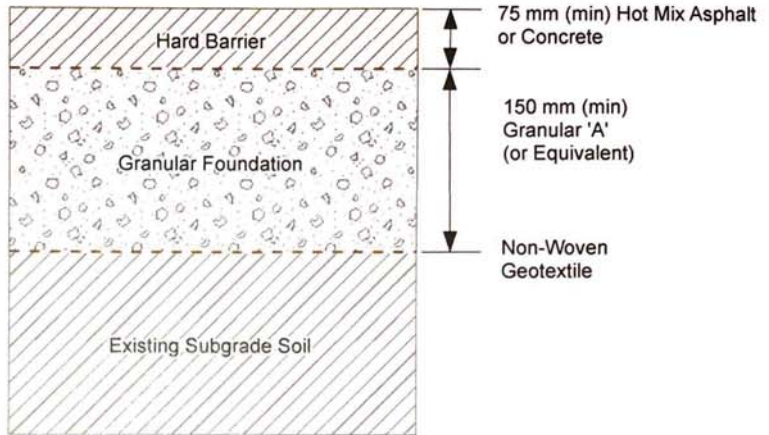
Title

Conceptual Design of Typical Fill
Cap Barrier (Generic RMM)

Notes

1. Unimpacted Soil: Soil in which no contaminant is present or in which all target contaminants are present but at a concentration, in the case of each contaminant present, which is less than the standard for the contaminant as generated by the approved model without incorporation of the risk management measure. Contaminant target concentrations for unimpacted soil to be used for the fill barrier are outlined in Table A - Proposed Fill Cap Standards provided in the document Risk Management Plan, Former Cylec Lands - Parcel C, Niagara Falls, Ontario, prepared by Stantec Consulting U.d., dated September 17, 2021. As outlined in Table A the target concentrations for the fill cap barrier are based on either the Table 1 SCS or Table 3 SCS for medium/fine textured soils and industrial/commercial/community land use as outlined in O.Reg.153/04.
2. Non-Soil Surface Treatment: Asphalt, concrete, or aggregate.

\\csl1215-01\work_group\p1222\active\1222\007\Drawings\MXD7\Remediation\Project\2019\BAP\122120306_rmm_fig02_RCP\capbar.rvt - Released: 2019-04-18 by: EOC/du



Typical Hard Cap Barrier

NOT FOR CONSTRUCTION

Not to Scale



Project Location: 122120306 REV A
Prepared by P on 2019-04-18

Client/Project: 1939522 ONTARIO LIMITED
RISK MANAGEMENT MEASURES

Figure No.: H.2

Title: Conceptual Design of Typical Hard Cap Barrier (Generic RMM)