

Certificate of Property Use

Issued under the authority of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, sections 168.6 (CPU) and 197 (Order)

Certificate of Property use number: 4662-CEZPAE

Risk Assessment number: 3663-ACRLGP

Owner: Dana Canada Corporation
3939 Technology Drive
Maumee, OH 43537
USA

Site: 130 Woodworth Avenue, St. Thomas, Ontario, N5P 3K1

with a legal description as follows:

LT 163 PL 59 YARMOUTH; PT LT 122, 161-162, 164 PL 59 YARMOUTH PT 2, 3
11R4478; ST. THOMAS

35183-0035 (LT)

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

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.

“Applicable Site Condition Standards” means the soil and groundwater criteria for course textured soils on industrial/commercial/community property use in Table 7 Generic Site Condition Standards for Shallow Soils in a Non-Potable Groundwater presented in the MOE “Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act*”, dated April 15, 2011.

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

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

“Competent Person” has the same meaning as set out in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“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” (“COC”) 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 4662-CEZPAE.

“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.

“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 and who has obtained the appropriate education and training and has demonstrated experience and expertise in the areas related to the work required to be carried out in this CPU.

“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.

“OHSA” means the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“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, as amended.

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

"Reg. 347" means Revised Regulations of Ontario 1990, Regulation 347: (General - Waste Management), made under the Act.

"Risk Assessment" and "RA" means the Risk Assessment number 3663-ACRLGP accepted by the Director on June 8, 2022 and set out in the following documents:

- **Risk Assessment Report of 130 Woodworth Avenue, St. Thomas, Ontario, report prepared by BluMetric Environmental Ltd., dated June 23, 2017**
- **Revised Risk Assessment Report for 130 Woodworth Avenue, St. Thomas, Ontario report prepared by BluMetric Environmental Inc., dated July 2018**
- **Revision 2 Risk Assessment Report for 130 Woodworth Avenue, St. Thomas, Ontario report prepared by BluMetric Environmental Inc., dated June 2020**
- **Revision 3 Risk Assessment 130 Woodworth Avenue, St. Thomas, Ontario, report prepared by BluMetric Environmental Inc., dated April 2021**
- **Revision 4 Risk Assessment 130 Woodworth Avenue, St. Thomas, Ontario, report prepared by BluMetric Environmental Inc., dated January 2022**

"Risk Management Measures" and "RMMs" means the risk management measures specific to the Property described in the Risk Assessment and Part 4 of the CPU. In the event of a conflict between the requirements in Part 4 of the CPU and the Risk Assessment, the conditions of the CPU take precedence.

"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: "industrial/commercial/community", 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 in Table 7 Generic Site Condition Standards for Shallow Soils in a Non-Potable Groundwater Condition presented in the MOE "Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act*", dated April 15, 2011, for coarse textured soils or for which there are no such standards are defined as the Contaminants of Concern. The Property Specific Standards for the Contaminants of Concern are set out in Schedule 'A' attached to and forming part of the CPU with the following figure as set out in Schedule C: Figure 1: Plan of Survey.
- 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 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 subsection 168.6(1) and section 197 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:

Soil and Groundwater Management Plan:

- a) A Property-specific soil and groundwater management plan (the "Soil and Groundwater Management Plan") shall be developed for the Property and implemented during all intrusive activities potentially in contact with or exposing COCs in soil or groundwater that exceed the Applicable Site Conditions Standards on the Property. A copy of the Soil and Groundwater Management Plan shall be maintained on the Property for the duration of all planned intrusive activities. Any short term intrusive activities required for the purposes of emergency repairs (i.e. for repairs to underground utilities etc.) will not require the submission of the Soil and Groundwater Management Plan to the Director prior to undertaking the short term emergency repairs. For planned intrusive activities, this Soil and Groundwater Management Plan shall be submitted to the Director by the Owner at least 14 calendar days prior to any such intrusive activities being undertaken and shall be consistent with the measures specified in section 7.2.3 of the RA. The Soil and Groundwater Management Plan shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:
- (i) oversight by a Qualified Person;
 - (ii) include 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;
 - (iv) characterization of excavated excess soils to determine if the excavated excess soils exceed the Property Specific Standards and/or the Applicable Site Condition Standards and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, made under the Act;
 - (v) record keeping, which shall include, but not 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 characterization results

obtained as part of the Soil and Groundwater Management Plan, names of the Qualified Persons, contractors, haulers and receiving sites for any excavated excess soils removed from the Property and any complaints received relating to Property activities; and,

- b) A copy of the Soil and Groundwater Management Plan and any amendments and the records kept thereunder shall be made available for review by a Provincial Officer upon request.

Health and Safety Plan:

- c) A Property-specific health and safety plan (the "Health and Safety Plan") shall be developed for the Property and implemented during all planned intrusive activities undertaken potentially in contact with COCs in soil and groundwater that have been identified in the RA at concentrations that exceed the Applicable Site Condition Standard as detailed in the RA and a copy shall be maintained on the Property for the duration of all intrusive activities. The Owner shall ensure that the Health and Safety Plan takes into account the presence of the COCs and is implemented prior to any intrusive activities being undertaken on the Property or portion (s) of the Property in order to protect workers from exposure to the COCs. The Health and Safety Plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, along with all potential risks identified in the RA and RMP and include, but not limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. Prior to initiation of any Project (on the Property or portion (s) of the Property), the local Ministry of Labour office shall be notified, where so prescribed under the OHS Act, of the proposed activities and that COCs have been identified in soil and groundwater on the Property. The Health and Safety Plan shall be overseen by a Competent Person to review the provisions of the plan with respect to the proposed work and conduct daily inspections. The Owner shall retain a copy of the Health and Safety Plan to be made available for review by a Provincial Officer upon request.

Building Elements to Mitigate Vapour Intrusion:

- d) Refrain from constructing any enclosed buildings or structures on, in or under the Property.
- e) The building currently on the RA property shall not be modified to have a partial or full basement. As noted in the RA, the building on the RA property does not have a basement. Some of the exposure and risk calculations in this RA are premised upon the building being slab-on-grade construction. Furthermore, the RA relies heavily on indoor air quality measurements that would have been influenced by numerous physical characteristics of the building. Modifying the building by adding a full or partial basement could change the rates at which COC vapours migrate from the subsurface into the building. This prohibition is intended to prevent modifying the characteristics of the building in any way that could increase the intrusion of vapours into the building or reduce the rates at which those vapours are diluted once they enter the building or are removed/vented/exhausted from the building.
- f) Any modifications to building dimensions or operational characteristics (including HVAC systems) at the RA property are prohibited until such a time that the Director, upon application by the Owner, has reviewed a report, prepared by a Qualified Person that assesses how the modifications could affect indoor air concentrations and the report shall be in accordance with the contingency measures as outlined in section 7.5 of the RA, and either alters or revokes the CPU.

Groundwater Monitoring Program

- g) A ground water quality monitoring program shall be undertaken as follows:
- i. At a minimum, the locations to be sampled are those at MW1, MW2, MW3, MW6, MW10-15, MW13-15, MW14-15, MW16-15, MW17-16, MW18-16, and MW23-19. The wells shall be sampled twice a year (preferably spring and fall), as a minimum. The samples are to be analyzed for all the COCs in ground water as per the RA. The groundwater monitoring program shall continue for at least three years and for every year thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.
 - ii. Four of the selected wells (MW2, MW3, MW13-15, and MW14-15) are to be used to characterize the quality of ground water migrating onto the RA property from the south.
 - iii. Five of the selected wells (MW1, MW10-15, MW17-16, MW18-16, and MW23-19) are to be used to characterize the quality of ground water migrating from the RA property to adjacent lands to the north and east.
 - iv. If after three years (i.e., six rounds of sampling), any well where concentrations are decreasing is a candidate for being dropped from the program.
 - v. If at any time during sampling, two consecutive rounds of sampling show increasing concentrations, sampling at that well should increase to quarterly for at least one year.
 - vi. If at any time, concentrations at MW1, MW10-15, MW18-16, and MW23-19 are more than the "Action Levels" listed in Table 1 below, the owner shall immediately notify the Ministry, undersigned Director, with a plan prepared by a Qualified Person for the additional steps that are necessary to assess conditions at adjacent lands north or east of the RA property.

Table 1: Groundwater Monitoring Actions Levels

Location	Measured Concentrations (µg/L)	Action Level (µg/L)
MW1 (as sampled in June 2015)	1,2-DCE <0.5 TCE < 0.2 Vinyl Chloride < 0.2	1,2-DCE – 1 TCE – 0.4 Vinyl Chloride - 0.4
MW10-15 (as sampled in June 2015)	1,2-DCE <0.5 TCE < 0.2 Vinyl Chloride < 0.2	1,2-DCE – 1 TCE – 0.4 Vinyl Chloride - 0.4
MW18-16 (as sampled 03 July 2019)	1,2-DCE –2.4 TCE – 0.65 Vinyl Chloride < 0.2	1,2-DCE – 4.8 TCE – 1.3 Vinyl Chloride - 0.4
MW23-19 (as sampled 30 July 2019)	1,2-DCE –26 TCE – 2.2 Vinyl Chloride < 0.2	1,2-DCE – 52 TCE – 4.4 Vinyl Chloride - 0.4

Indoor Air Monitoring Program

- h) An indoor air monitoring program shall be undertaken as follows:
- i. Conduct an indoor air monitoring program as specified in section 7.2.6 of the RA. The indoor air monitoring program shall be conducted for a minimum of twice a year to assess seasonal variability.
 - ii. The indoor air samples shall be analyzed for all the COCs in groundwater as presented in the RA.
 - iii. If at any time during the indoor air monitoring program there are two consecutive rounds of sampling show increasing concentrations, sampling at that location shall be increased to quarterly for at least one year.
 - iv. If at any time, concentrations of any indoor air sample exceed industrial HBIAC, then the owner of the RA property shall prepare a plan for additional steps that are necessary to assess conditions and create a plan for making the necessary improvements in indoor air quality at the RA property. This plan shall be submitted to the Director and implemented upon the Director's acceptance of such plan.
 - v. The indoor air monitoring program shall continue for at least two years and for every year thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.

Soil Vapour Monitoring Program

- i) A soil vapour monitoring program shall be undertaken as follows:
- i. Conduct a soil vapour monitoring program as specified in section 7.2.7 of the RA. The soil vapour monitoring program shall be conducted for a minimum of twice a year to assess seasonal variability.
 - ii. At a minimum, each round shall consist of the two soil vapour probes (VP1-19 and VP2-19) installed near the north property boundary.
 - iii. The soil vapour samples shall be analyzed for all the COCs in groundwater as presented in the RA.
 - iv. If at any time during sampling, two consecutive rounds of sampling show increasing concentrations, sampling at that location shall be increased to quarterly for at least one year.
 - v. If any soil vapour sample collected near the north property boundary exceeds 90 µg/m³, sampling at that location shall increase to quarterly for at least one year. If two consecutive rounds of sampling exceed 90 µg/m³, the Director and the nearest property owners shall be notified and the Owner shall have a Qualified Person develop a plan to investigate conditions nearer (or possibly inside) the nearby residences, or to take actions that will improve soil vapour concentrations near the north property boundary. The results of those actions shall be reviewed no more than six months later to determine if they have been successful, or if further action is needed.
 - vi. The soil vapour monitoring program shall continue for at least two years and for every year thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU

Annual Report:

- j) The Owner shall prepare, by March 31 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 related to the inspection and maintenance program for the barrier to site soils;
 - ii. a copy of all records related to the inspection and maintenance program for any soil vapour intrusion control systems installed on the property;
 - iii. a copy of all records related to the soil and groundwater management plans, the health and safety plan on the Property;
 - iv. a copy of all records for the groundwater monitoring program, the indoor air monitoring program and the soil vapour monitoring program; and
 - v. a copy of all signed site plans and cross-sectional diagrams including any alterations.

Restriction on Community Gardens:

- k) Refrain from constructing any community gardens on the Site that would be used as a source of produce for human consumption

Property Use Restriction:

- l) Refrain from using the Property for any use other than the following use(s): 'community use', 'commercial use' and 'industrial use', as defined in O. Reg. 153/04.

Prohibition of Potable Groundwater Wells:

- 4.3 The Owner shall,
- a. refrain from using groundwater in or under the Property as a source of water; and
 - b. except, as may be required for continued use as a monitoring well, as defined in the OWRA:
 - (i) properly abandon on the Property any wells, as described or defined in the OWRA, according to the requirements set out in Regulation 903 of the Revised Regulations of Ontario 1990: (Wells), made under the OWRA; and,
 - (ii) refrain from constructing on the Property any wells as described or defined in the OWRA.

Site Changes

4.4 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, the Owner shall 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. In support of this work, a new risk assessment may need to be completed in accordance with O. Reg. 153/04 and submitted to the Ministry for acceptance. An amendment to the CPU will be issued to address the changes set out in any notice received and any future changes that the Director considers necessary in the circumstances.

Reports

4.5 The Owner shall retain a copy of any reports required under the CPU for a period of seven (7) years from the date the report is created and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the requesting Director or Provincial Officer.

Property Requirement

4.6 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

4.7 Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act, completed as outlined in Schedule "B", register the certificate of requirement on title to the Property, in the appropriate land registry office.

4.8 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 / Occupant Change

4.9 While the CPU is in effect, the Owner shall, 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 no notice shall be given of changes in the ownership of individual condominium units or any appurtenant common elements on the Property.

Financial Assurance

4.10 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 are not affected.
- 5.2 An application under subsection 168.6(3) of the Act to alter any terms and conditions in the CPU, or impose new terms and conditions, or 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 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, complying with any other applicable order, statute, regulation, municipal, provincial or federal law, or 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 relieve the Owner(s) 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 4.7 and 4.8 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

Director, section 168.6 of the Act

Ministry of the Environment, Conservation and Parks

733 Exeter Road

London, ON, N6E 1L3

Fax: (519) 873-5020

Email: Environment.London@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 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.

- 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 of 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 consultant for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws

Issued on this th day of , 2022

Director, section 168.6 of the Act

Schedule 'A'

Property Specific Standards (Soil and Groundwater) for each Contaminant of Concern

PROPOSED STANDARDS FOR THE RA PROPERTY

SOIL COC	Maximum Measured	Units	Applicable Table 7 SCS	Recommended PSS	Is PSS Based on REM?	Dominant Exposure Pathway	Pathway Modifiers	Potential to Exceed Applicable SCS at-Nearest Off-site Receptor
Trichloroethylene	1.5	µg/g	0.91	1.8	Yes	S-IA-2	None	No
Vinyl Chloride	0.19	µg/g	0.032	0.22	Yes	S-IA-2	None	No

GROUND WATER COC	Maximum Measured	Units	Applicable Table 7 SCS	Recommended PSS	Is PSS Based on REM?	Dominant Exposure Pathway	Pathway Modifiers	Potential to Exceed Applicable SCS at-Nearest Off-site Receptor
Benzene	<0.8	µg/L	0.5	0.96	Yes	Industrial GW2	None	No
1,1-Dichloroethane	34	µg/L	11	40	Yes	Industrial GW2	None	No
1,2-Dichloroethane	0.86	µg/L	0.5	1.03	Yes	Industrial GW2	None	No
1,1-Dichloroethylene	1.5	µg/L	0.5	1.8	Yes	Industrial GW2	None	No
cis-1,2-Dichloroethylene	510	µg/L	1.6	612	Yes	Industrial GW2	None	Yes
trans-1,2-Dichloroethylene	9.7	µg/L	1.6	11.6	Yes	Industrial GW2	None	Yes
1,2-Dichloropropane	<0.8	µg/L	0.58	0.96	Yes	Industrial GW2	None	No
Tetrachloroethylene	<0.8	µg/L	0.5	0.96	Yes	Industrial GW2	None	No
1,1,2-Trichloroethane	<2	µg/L	0.5	2.4	Yes	Industrial GW2	None	No
Trichloroethylene	180	µg/L	0.5	216	Yes	Ingest & Dermal	HASP	Yes
Vinyl Chloride	370	µg/L	0.5	444	Yes	Ingest & Dermal	HASP	Yes

Notes:

Applicable Table 7 SCS are those for industrial/commercial/community sites with coarse textured soil and non-potable ground water.

REM = reasonable estimate of maximum measured concentration (=not more than 20% higher than the maximum measured concentration)

S-IA-2 - soil to indoor air exposure pathway (long-term indoor workers)

Industrial GW2 - ground water to indoor air exposure pathway (long-term indoor workers)

HASP – health and safety plan that addresses ways for workers to reduce inadvertent ground water ingestion, dermal contact with ground water, and inhalation of vapours in an excavation or trench.

Schedule 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Item 4.6 of Certificate of Property Use number 4662-CEZPAE issued by XXXXXXXX, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on XXXX, 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 130 Woodworth Avenue, in the City of St. Thomas, Ontario, and with a legal description of **LT 163 PL 59 YARMOUTH; PT LT 122, 161-162, 164 PL 59 YARMOUTH PT 2, 3 11R4478; ST. THOMAS, 35183-0035 (LT)**, (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

Dana Canada Corporation

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.

Schedule 'C' – Figures and Plans
Figure 1: Plan of Survey

Perimeter in red for the
Phase One ESA property =
Phase Two ESA property =
RA property

