



Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement , de la
Protection de la nature et des Parcs

Program Approval (Amended)

Sections 10 and 132 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19

This Program Approval is directed to:

1000670439 Ontario Inc.

Part 1: Definitions

For the purposes of this Program Approval (Amended), the interpretation of all terms shall be the same as those contained in the legislation and the regulations made thereupon, unless defined below:

“Approval” means this Program Approval, as is hereby (and in future may be) amended.

“Director’s Order” means Director’s Order No. 3250-8J4J3G, issued July 20, 2011 issued to NNL, Nagata, and other parties.

“EPA” means the *Environmental Protection Act*, R.S.O. 1990, c. E. 19.

“Former Nortel Lands” means all of the real properties formerly owned and occupied by NNL for the operation of its London manufacturing facility that included the Retained Lands and certain adjacent properties.

“Historical Contamination” means the contamination of the Former Nortel Lands, including the presence of elevated levels of volatile organic compounds in the soil and groundwater, which resulted from the operation of NNL’s manufacturing facility previously located on the Former Nortel Lands.

“Ministry” means the Ontario Ministry of the Environment, Conservation and Parks, including any employee in or agent of the Ministry, or any person involved in carrying out a program of the Ministry.

“NNL” means Nortel Networks Limited, prior owner of the Retained Lands who transferred ownership of the Retained Lands to NNIC.

“NNIC” means Nortel Networks International Corporation, prior owner of the Retained Lands.

“Retained Lands” means the real property owned by 1000 as of the date of this Approval, legally described as set out in Schedule “A” hereto.

“Settlement Agreement” means the London Properties Settlement Agreement dated November 6, 2017 and approved by order of the Ontario Superior Court of Justice on November 28, 2017 between NNL, Ernst & Young Inc. in its capacity as Monitor of Nortel Networks Corporation et al. (the “Monitor”), and Her Majesty the Queen in Right of the Province of Ontario as represented by the Minister of the Environment and Climate Change (now the Minister of the Environment, Conservation and Parks).

Part 2: Background and Approval

- 2.0 Between 1959 and 1994, NNL operated a 22.3 hectare manufacturing facility located at the Former Nortel Lands. The company carried out plastic moulding, electronics assembly, metal degreasing and painting.
- 2.1 NNL’s historical site activities were the source of contamination at the Former Nortel Lands. Numerous environmental site assessments carried out between 1993 and 1995 confirmed the presence of elevated levels of volatile organic compounds (“**VOCs**”) in the soil and groundwater.
- 2.2 In 1997, NNL demolished its building on the Former Nortel Lands. The Former Nortel Lands were subsequently subdivided into seven parcels, with NNL retaining ownership of the Retained Lands.
- 2.3 On January 14, 2009, NNL and certain of its Canadian affiliates initiated insolvency protection proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended to such date (the “**CCAA**”) and a stay of proceedings was granted by the Ontario Superior Court of Justice (the “**CCAA Court**”) and Ernst & Young Inc. was appointed as Monitor.
- 2.4 In 2011, the Ministry issued the Director’s Order to NNL and certain other owners of the Former Nortel Lands in relation to the Historical Contamination. The Director’s Order required NNL to, amongst other things, perform further assessment and remediation work in respect of the Historical Contamination.

- 2.5 On August 30, 2012, the Ministry filed a proof of claim (the “**Ministry Claim**”) in the CCAA proceedings against NNL relating to the remediation of various properties in Ontario, including the amounts alleged owing in connection with the remediation of the Former Nortel Lands.
- 2.6 On November 6, 2017, the Ministry, NNL and the Monitor executed the Settlement Agreement which was approved by order of the CCAA Court on November 28, 2017. The Settlement Agreement provides for the full and final settlement of all matters that are or could be at issue between or amongst NNL, the Monitor and the Ministry with respect to the Former Nortel Lands.
- 2.7 At the request of the Ministry and NNL, the Environmental Review Tribunal revoked the Director’s Order against NNL on February 15, 2018 on the basis that the funds to be paid to the Ministry under the Settlement Agreement will be used to address any outstanding environmental work under the Director’s Order.
- 2.8 In accordance with the terms of the Settlement Agreement and the CCAA Plan, the Ministry has received a distribution in the amount of \$3,598,308.65 as of the date of this amended Approval, not including any interest accrued. There may be future distributions pursuant to the CCAA Plan (the total payout received by the Ministry to date plus any future distributions are hereinafter referred to as the “**Settlement Payment**”).
- 2.9 On November 27, 2019, NNL obtained CCAA Court approval to transfer the Retained Lands to NNIC and NNIC obtained approval to consent to the Program Approval (as defined below).
- 2.10 On March 5, 2020, the Approval was originally issued to NNIC. As issued, the Approval required, amongst other things, the development and implementation of a work plan for the monitoring, maintenance and environmental management of Historical Contamination of the Former Nortel Lands. This work included the implementation of risk management measures and long-term monitoring to be conducted at the Former Nortel Lands.
- 2.11 Subject to the Settlement Agreement, NNIC consented to have the Settlement Payment be held by the Crown as financial assurance for the Approval, pursuant to Section 132 of the EPA, with respect to environmental measures on the Former Nortel Lands and to not seek return of the financial assurance pursuant to Section 134 of the EPA.
- 2.12 Since 2020, a number of environmental measures required by the Approval have been implemented, such that there currently remains approximately \$3,068,308.65 (CAD) available for work on the Retained Lands to address Historical Contamination (together with any accrued interest on that amount, the “**Retained Lands FA**”).

- 2.13 On DATE, 1000 purchased the Retained Lands from NNIC (as approved by the CCAA Court on **[date]**) for the purpose of redeveloping the property for commercial and property use. In support of this purchase, 1000 prepared a work plan for the monitoring, maintenance and environmental management of Historical Contamination of the Retained Lands that includes, but is not limited to, proposed interim site utilization and environmental measures to be implemented prior to any site development, a supplementary Phase 2 Environmental Site Assessment, vapour assessments, and the completion of a Screening Level Risk Assessment (the “**Work Plan**”).
- 2.14 As part of its purchase of the Retained Lands, 1000 requested that the MECP Director amend the Approval to reflect its ownership of the property, and its implementation of the Work Plan to address the Historic Contamination at the Retained Lands. As part of the amendment of the Approval, a separate program approval will be issued to the owner of an adjacent portion of the Former Nortel Lands that will include a program focused on addressing the contamination at that site.
- 2.15 The MECP Director and 1000 have agreed that 1000 may submit copies of paid invoices for amounts paid for carrying out work under the Work Plan as requests for the release of financial assurance held under the Approval for the purposes of Part XII of the EPA, up to a maximum amount of the Retained Lands FA.
- 2.16 For the avoidance of doubt, nothing in this Approval will amend the Settlement Agreement or the releases delivered thereunder.

Part 3: Voluntary Agreement

- 3.1 Subsection 11(1) of the EPA provides that the Director shall, in a program approval,
- (a) set out the name of the person to whom the approval is directed;
 - (b) set out the location and nature of the source of contaminant;
 - (c) set out the details of the program; and
 - (d) approve the program.
- 3.2 Subsection 11(3) of the EPA provides that the Director may, by order, amend a program approval with the consent of the person to whom the program approval is directed. NNIC has consented to the amendment and transfer of this Approval to 1000.

- 3.3 As the owner of the Retained Lands, 1000 is a person responsible for a source of contaminant, namely the Historical Contamination, for the purposes of subsection 10(1) of the EPA.
- 3.4 Subsection 10(1) of the EPA provides that a person responsible for a source of contaminant may submit to the Director a program to prevent or to reduce and control the discharge into the natural environment of any contaminant from the source of the contaminant. For the purposes of this Approval, the Work Plan is a program under subsection 10(1) of the EPA.
- 3.5 1000 consents to this amendment of the Approval to provide that 1000 is the person to whom this Approval is directed and to incorporate the Work Plan as a program.
- 3.6 Section 132 of the EPA provides that the Director may include in a program approval in respect of a works a requirement that the person to whom the program approval is issued provide financial assurance to the Crown in right of Ontario for any one or more of the following environmental measures:
- (a) the performance of any action specified in the program approval;
 - (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 the works to which the program approval is related; and
 - (c) measures appropriate to prevent adverse effects upon and following the cessation or closing of the works.
- 3.7 Section 134 of the EPA provides that upon request, part or all of the financial assurance given in respect of a works may be returned or released pursuant to an order in writing by the Director. The MECP confirms that 1000 is the only party permitted to request a return of the Retained Lands FA (or any portion thereof).

Part 4: Approval and Order

- 4.1 I am satisfied that implementation of the program will prevent or reduce and control contaminants on or from the Retained Lands.
- 4.2 For the above reasons, I hereby approve the program. The details of the program are as follows:
- 1. implement the Work Plan, a copy of which is attached as appendix "A" to this Approval (and as may be updated in accordance with 4.2 2.); and
 - 2. update the Work Plan as appropriate, as work under the plan is completed and risk management measures may be identified.

4.3 For the purpose of s. 132 of the EPA, the Retained Lands FA shall be held as financial assurance for the purposes of carrying out some or all of the work described in this Approval.

4.4 For the purpose of s. 134 of the EPA, 1000 agrees to submit paid invoices in respect of work completed under the Work Plan as requests for the release of financial assurance up to a maximum of the amount of the Retained Lands FA and the MECP agrees to consider such requests in a timely manner.

Issued at London, Ontario, Canada this _____ day of _____, 2024.

XXXXXXXX
Director, EPA sections 10 & 132
Ministry of the Environment, Conservation and Parks
Southwest Region, London District Office
733 Exeter Road
London, Ontario
N6E 1L3

Schedule "A"

Retained Lands Legal Description

PIN: 08485-0224 (LT)

PT LOT 15 CON 3 DESIGNATED AS PARTS 3, 4, & 5 33R13850; S/T EASE OVER PART 4, 33R-13850 AS IN ER29687; S/T EASE OVER PART 1, 33R14039 AS IN ER55723; S/T EASE OVER PART 5, 33R-13850 AS IN ER64027; S/T EASE OVER PART 1, 33R-14039 AS IN ER64027; T/W EASE OVER PART 2, 33R13850 AS IN ER64027; T/W TEMP EASE OVER PART 7, 33R-13850 AS IN ER29687; T/W EASE OVER PART 3, 33R-13566 AS IN LT544556; LONDON/WESTMINSTER TWP.

Being the whole of the PIN, and municipally known as 811 Wilton Grove Road, London, Ontario.