

CSAP Member Update Summer 2021

Message from the President:

Welcome to mid-summer. Our industry seems to be experiencing a combination of unusually high activity from all sectors, along with even higher than usual vacation draw from hours which have been squirreled away during the pandemic. The result is both relaxing and stressful all at the same time. It is not surprising that submissions have been down in the summer, but we are forecasting a return to relative normal in the fall.

New board members are settling into new committee assignments and will bring a fresh perspective and energy to the board. Welcome and thank you for putting your hands up and contributing, it is appreciated.

Enjoy the rest of summer. See you in the fall.

Ministry Updates

A summary of previous Ministry Clarifications is available [here](#).

Performance Assessment and Detailed & Administrative Committee Updates:

1. A reminder that questions and requests for information must be submitted to through ENV's Enquiry Management System. The following tips are provided to ensure the timeliest response:
 - To get detailed information about a site you must provide the Site ID number, and if it the enquiry will require more than 1 hour of ENV's time, you must submit a CSSAF.
 - A generic question may not receive a detailed response and a site-specific request may be required.
 - ENV may decide that it is not best to respond in email; ENV is being careful with how they respond in email and may decline to give instructions.
 - Theoretical policy questions don't fit with ENV's records system and ENV will not respond to policy questions by email. Questions re: Protocols may be answered.
 - ENV's goal is to respond as quickly as possible – current average response time is 2 weeks.
 - All requests must be written/emailed. Site-specific phone calls/meetings with ENV can be scheduled by sending a CSSAF with an agenda to the Client Information Officer, which includes information about the site/situation and a site ID.

- If there is a question that is not appropriate for the enquiry management system (i.e., policy question), the question could be brought forward to the CSAP Executive who will determine if a formal question should be submitted to ENV.
2. Members are reminded to use the ENV's current Summary of Site Condition fillable pdf for all submissions to CSAP/ENV. A link to the most recent version of the form was provided in the June 16, 2021 Site Remediation News titled 'Revised site identification webpages and new Site Disclosure Statement online form now available' and is provided here for your convenience: <https://www2.gov.bc.ca/gov/content/environment/air-land-water/site-remediation/guidance-resources/forms>.
 3. In a recent submission, the potential requirement for a covenant was raised. During a discussion, ENV indicated that the Director has to consider CSR Section 48/EMA Section 53(3) and may require a covenant. Examples may include a Section 219 covenant under the Land Title Act, such as a covenant related to ongoing operations and maintenance of a risk mitigation system at a site.

A summary of previous PAC Updates is available [here](#)

Screening Updates

Preliminary Screening

Both CSAP and ENV submission fees cheques should be sent to CSAP together with the submission. Cheques sent directly to ENV, or prior to submission, or missing CSAP reference number will not be accepted. Please instruct your clients and accountants.

The Ministry is moving to having all enquiries regarding applications, whether they be from APs, QPs, clients/industry or even internal to government, be submitted to the Client Information Officer at csp_cio@victoria1.gov.bc.ca .

Please note that any other enquiries are to be sent to the email addresses specified on our [Contact Us webpage](#). For examples SiteID related questions go to SiteID@gov.bc.ca and technical questions would be submitted to remediationFAQs@gov.bc.ca

Please subscribe to the Ministry Site Remediation News. You will find the instructions here, <https://www2.gov.bc.ca/gov/content/environment/air-land-water/site-remediation/site-remediation-news>

Detailed Screening

Scope Of Review Completed by Approved Professional

APs are reminded to include under the SoSC "SCOPE OF REVIEW COMPLETED BY APPROVED PROFESSIONAL" all reports that have been reviewed as part of the regulatory submission. Such a list may include the Stage 1 PSI, Stage 2 PSI, DSI, CoR, HHERA and PVP's as appropriate.

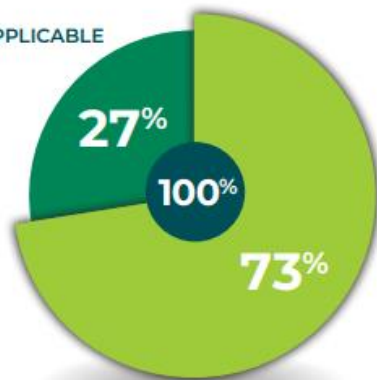
Professional Communications

Written communication, unlike face-to-face interactions, do not allow you to assess audience reaction in real time and is something we all had to get used to under COVID. We, as professionals, must be more careful in written communication, particularly emails, that we are responding in an appropriate manner. This applies to all professionals whether AP's, consultants or regulators and requires that we maintain civility and social graces. We all tend to adjust our behavior to our surroundings and if we deal with those who are unable to maintain civility and social graces, and this can affect our judgement in these matters. Always take a second look and think what the recipient might interpret into your comments. More simply said, you get more flies with honey than with vinegar and always remember to take the high road.

DRINKING WATER US APPLICABILITY

56 APPLICABLE

21 NOT APPLICABLE



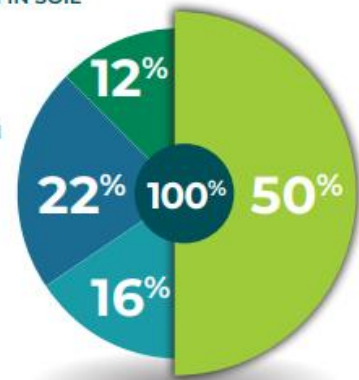
ENV DECISIONS INCLUDED IN CSAP SUBMISSIONS

4 BACKGROUND CONCENTRATION IN SOIL

16 PRE-APPROVAL

5 BACKGROUND CONCENTRATION IN WATER

7 WATER USE DETERMINATION



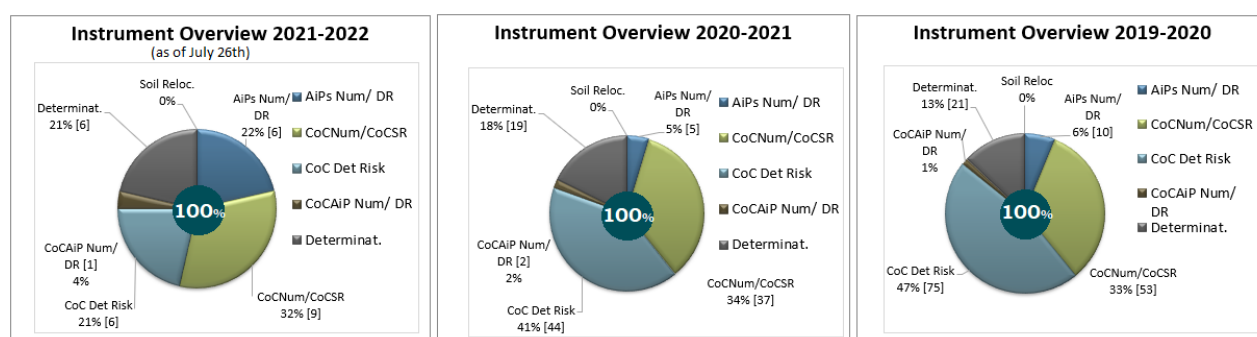
What's new on the CSAP website

- The [CSAP Annual Report 2020-2021](#) is now available.
- A new navigational tool to help locate ENV documents formerly available as PDFs. [ENV Site Remediation Important Links](#)

Now Located inside Member Services

- New capability to key word search ENV PDFs and web pages
- The CSAP map is now available
- You can change your Members Services password

Submission Statistics update



Technical Review Committee Updates:

The TRC has been working on several projects over the past three months:

CSAP Guidance for Assessment of Soil Vapour and Ambient Air Phase 3 – Millennium EMS Solutions Ltd (MEMS) and Hers Environmental were awarded this work in January 2021. The draft report was ready in early May; however, at the request of CSAP, the authors added guidance on the lateral attenuation of vapours to the report. This request originated from suggestions received in the Spring members survey. The guidance document has now undergone internal CSAP review, and a second draft of the report was recently completed. The second draft of the report will now be reviewed by ENV. Look for a presentation on this guidance in one of the upcoming Fall webinars.

Updating CSAP Practice Guidelines Checklists - As a result of the Stage 13 Amendments, the numeric and risk CSAP practice guidelines need to be updated. The TRC is currently working on developing RFPs for undertaking this work. If you are interested in helping with this work, please contact the CSAP office and keep your eye out for the RFP which will be released in September.

Expanding functionality of CSAP web map – As ENV no longer updates the approvals workbook that used to track P4 and P9 approvals that had been issued, CSAP is now looking to take on this responsibility. The CSAP web map is being updated and improved to include more information and search functions. Information that will now be posted includes: P2,

P4, P6, P9, and P21 approvals and pre-approvals starting from 2017 to current. This project is currently in the development phase. Note that the NEW location of the web map is in the members section of the CSAP website.

Thanks again to everyone who provided suggestions for TRC topics as part of the spring members survey. We are using this information to focus our projects on topics that are most useful for our members.

Membership Committee Updates:

The Membership Committee has a new member! That's not ironic at all. As a recent addition to the CSAP Board, I am pleased to see the eager momentum of the committee working hard to serve our members and prospective members during this challenging year. Many thanks to Patty Carmichael for smoothly passing the Membership baton to me (been watching the Olympics) as she takes on her new role leading the Governance Committee.

Here are some of the latest happenings at the Membership Committee, hitting the ground running while keeping things on track this summer:

- We revised the definition of a non-voting Associate Member to clarify that former full members of the CSAP Society can maintain an Associate Member status if they are no longer practicing members of their parent professional organization, as long as they pay their fees on time (at a 50% discount).
- The committee is also reviewing ways to streamline and improve the CPD framework that we all use to track professional development hours.
- Whether due to uncertainties related to recent regulatory changes or COVID or other reasons, the number of candidates applying for CSAP membership seems to be trending downward, mirroring the reduced number of instrument submissions received by the Society during the past two years. Is this a short-term blip or a signal that our membership is declining? We are reviewing the results of the recent Member's Survey to help answer these questions and inform our plans.

Important Dates

Examination Application Deadline (Members) – Aug 31st, 2021

In 2022, the exam application deadline for new candidates will be moved ahead a few months to the end of April (i.e., Apr 29th, 2022) so that Applicants will know sooner if they are eligible to write the exams and have more time to prepare.

Last but not least, Updated Membership Guidelines have been finalized as of July 2021 and posted on the CSAP Requirements for CSAP Membership Applicants web page, also

here: <https://csapsociety.bc.ca/wp-content/uploads/Membership-Guidelines-final-version-Jul-2021-v2.pdf>

Professional Development Committee Updates:

CSAP Fall PD Workshop: Adapting to the New Normal

As with so many things these days, we are having to adapt to change. With the recent changes in both regulations and communications between CSAP and ENV and also the difficulty in getting together face to face for meaningful discussion due to Covid, this Fall we are going to adapt our approach to the Fall Workshop. The New Normal will be a series of four weekly Webinar Workshops to communicate and discuss regulatory changes at ENV and the impact of these changes on your practice and CSAP and other regulatory submissions. The format of the Workshops will include a small panel of members who will communicate their recent experiences on each topic, after which an open discussion for all Workshop attendees will follow. Any unresolved questions from the series of Workshops will be provided to ENV who will be invited to respond to questions in the final workshop. Each Workshop will run for approximately 1 hour. The first three Workshops will be for members only and the final Workshop will include ENV staff.

The weekly topics will be:

1. Service Applications / ENV Meetings, Nov 3rd
2. P6 Pre-approvals, Nov 10th
3. Approval in Principles / Release Applications, Nov 17th
4. Wrap Up and ENV responses to questions, Nov 24th

We are asking for members to step forward for the Panel should they have experience in any given topic(s). We anticipate that each panel member would be provided 3 to 5 minutes to speak. Please contact us at pdcom@csapsociety.bc.ca

CSAP Webinars fall series

Please mark in your calendar our upcoming webinar on Protocol P2 as outlined below. This is a powerful but somewhat underused Protocol that can assist you in evaluating contamination at your site.

Title: **Getting to Know the Protocol 2 Site-Specific Numerical Soil Standards**

Date: September 15, 2021

Time: 10 to 11 am

Discussion: How many times have you been nearing delineation only to have a benzene concentration of 0.05 µg/g ruin your plans? Well, if your site is located outside the coastal regions of BC then P2 SSSs are your friends! CSR matrix numerical soil standards are based on the infiltration rate in Vancouver which has higher rainfall than many areas of the province. Were you wondering if the leachate test would help with your SSS? This webinar will outline how the BC ENV Groundwater Protection Model and the Leachate Test Method can be used to develop numerical SSS and provide relief from the listed CSR numerical standards without requiring risk assessment.

Presenters: Cindy Ott, Principal Scientist, SLR Consulting
Erin Robson, Team Lead, Hydrogeology, SLR Consulting

Add to [Google Calendar](#) [Outlook Calendar \(.ics\)](#) [Yahoo Calendar](#)

Please also stay tuned for our next webinar on Vapour Guidance which will assist member in navigating probably on of the most complex media we deal with.

Title: Vapour Guidance Update (TRC project)

Date: To Be Announce

CSAP Guidance for Assessment of the Soil Vapour and Ambient Air - Update

This webinar addresses some critical issues in the soil vapour and ambient air assessment, such as how to evaluate soil vapour/indoor air quality for a future building that will be in contact with groundwater, how to identify “false positive” vapour results, how to apply vapour biodegradation/lateral attenuation adjustment divisors (BAAD/LAADs), what vapour PCOCs should be tested for waste oil, and how to investigate utility vapour intrusion. A review of best practices and published research together with recommended approaches are provided in a CSAP guidance document that will be available for APs/practitioners soon.

[WEBINARS](#) posted to the CSAP Website

Community Updates:

Blueberry River cumulative impacts case

After 160 days of trial and thousands of pages of evidence, the Court determined that the Government of British Columbia’s (the Province) conduct over the past 120 years has infringed the treaty rights of the Blueberry River First Nation (Blueberry). This decision is significant in being the first to consider the legal test for determining whether cumulative

effects arising from provincially authorized developments and regulatory regimes amount to an unjustified infringement of a historic treaty right.

Blueberry is a signatory to Treaty 8 and has a large traditional territory located in northeastern B.C. Treaty 8 promised Indigenous signatories they would have the “right to pursue their usual vocation of hunting, trapping and fishing” throughout the surrendered land, subject to government regulations and land “taken up from time to time” for purposes such as settlement, mining, lumbering and trading. Treaty 8 was supplemented by oral promises to the Indigenous signatories that “the same means of earning a livelihood would continue after the treaty as existed before it”.

Blueberry’s traditional territory has been subject to extensive forestry, oil and gas, hydro-electric, mining and agriculture developments over the past 120 years. The environmental impact in Blueberry’s traditional territory has been significant – less than 14 per cent of Blueberry’s traditional territory consists of intact forest landscape.

The Court reached the following significant conclusions:

A. Treaty 8 protects Blueberry’s way of life

First, the Court ruled that Treaty 8 included a promise to protect Blueberry’s way of life from interference. Treaty 8 would not have been concluded without the Crown’s assurance that Blueberry’s ability to hunt, fish and trap would be protected from interference as part of their way of life. The Province’s right to take up land granted by Treaty 8 is therefore not an absolute and independent right, but rather one that exists in relation to the competing protections of hunting, trapping and fishing rights.

B. Cumulative effects must significantly or meaningfully diminish treaty rights to constitute an infringement

The Court concluded Blueberry was required to establish that there had been a significant or meaningful diminishment of the treaty rights. The Court concluded that Blueberry’s treaty rights (in particular their ability to hunt, fish and trap within the territories) had been significantly or meaningfully diminished when viewed within the way of life in which these rights are grounded. The Province did not demonstrate that the infringement of treaty rights had been justified.

C. The Province did not diligently implement the treaty

The Court determined the Province had failed to diligently implement Treaty 8 by failing to: implement permanent and binding protections for treaty rights; provide decision makers with direction on upholding or implementing treaty rights; and respond to Blueberry’s

repeated assertions that the Province was breaching Treaty 8 by failing to consider cumulative effects.

In reaching this conclusion, the Court considered the extensive evidence introduced, by both Blueberry and the Province, with respect to the provincial regulation of natural resource development, the impact of Economic Benefits Agreements (EBA), and the ongoing development of a provincial cumulative effects framework.

The Court considered the impact of EBAs between Blueberry and the Province. The Province attempted to rely on the fact that Blueberry had previously entered into an EBA with the Province and had, between 2006 and 2013, received over C\$18-million in funding as a result of industrial development within its territory. However, in comparison to the C\$100 - \$175-million the Province earned annually from the same activities, the Court concluded that such agreements did not indicate Blueberry's support.

The Province attempted to rely heavily on a cumulative effects assessment framework that has been under development since 2012. The Court determined this framework was of limited impact because of its delayed development. In addition to this, the framework that has been developed to date did not set out thresholds beyond which decision makers should take action to address cumulative effects.

The evidence also demonstrated that the Province had been aware of Blueberry's concerns with respect to cumulative effects since at least 2012 and had made no meaningful attempt to address Blueberry's concerns. In fact, the Court found "a persistent pattern of redirection on the part of government officials" in response to these concerns.

Southwind v. Canada

The Supreme Court of Canada (the Court) ruled that the C\$30-million awarded to Lac Seul First Nation (LSFN) by the Federal Court was insufficient compensation for the flooding of parts of its Reserve land in the 1920s. The Court held that the trial judge erred by limiting the value of LSFN's loss to the amount required under expropriation law and by failing to take into account the Crown's fiduciary obligations to LSFN.

In 1929, a dam was constructed to provide hydroelectric power to Winnipeg pursuant to an agreement among Canada, Ontario and Manitoba. As a result of the dam, the water level of Lac Seul was raised by 10 feet.

The project was a "success for the three governments" but a "tragedy for the [LSFN]". Almost one-fifth of the best land on the LSFN Reserve was permanently flooded, including homes, wild rice fields, gardens, hay lands and gravesites. The flooding also impacted fishing, hunting and trapping by LSFN members.

Canada was aware from the outset that flooding Lac Seul would damage LSFN's Reserve. Despite this, it did not keep LSFN informed about the project or obtain its consent; did not compensate LSFN; and did not obtain authorization for the project. Canada's "unlawful and egregious conduct" was described by the trial judge as "inexplicable".

The court held that in cases involving Indigenous interests in land, Canada is "never entitled to proceed in the same manner as an expropriation of fee simple lands". In expropriation cases, the law seeks to provide landowners with compensation to purchase replacement land. Conversely, Indigenous Reserves are not "fungible commodities that can easily be replaced by buying additional fee simple land".

In cases of expropriation of Indigenous land, Canada is required to advance the Indigenous group's best interests to "ensure the highest compensation possible". Canada must keep the First Nation informed, attempt to negotiate a surrender before proceeding to an expropriation, and ensure compensation reflects the nature of the Indigenous interest and the impact on the community. Canada is also required to assess how to minimally impair the protected interest.

In this case, given the impact on LSFN, "the duty here clearly required Canada to capture the full potential value of the land for the LSFN". The Court held that it could be presumed that LSFN would have consented to a negotiated settlement at the best price the Crown could have realistically obtained. The highest and best use of the land at the time was "clearly the land's intended use as water storage for hydroelectricity generation."

This case provides important guidance on how the Crown is required to approach expropriation of Indigenous land, and it will impact the assessment of compensation by the Crown to Indigenous groups moving forward. More broadly, the principles discussed in the case may be brought into negotiations between Indigenous peoples and proponents of projects on Reserves.

Coalspur expansion Impact Assessment designation

A court recently quashed the designation order of the Minister of Environment and Climate Change that the expansion of the Coalspur coal project be subject to an impact assessment under the Impact Assessment Act. The Minister had designated the project at the request of Indigenous nations and environmental groups. The designation order halted all work on the project. Erminskine's application was granted because the Minister failed to consult the Indigenous nation prior to making the designation decision. The Court found that the designation order adversely impacted the Indigenous nation's aboriginal and treaty rights, including economic opportunities created by the Nations agreement with the miner. The

impact benefit agreement was designed to compensate the Nation for the loss of rights, including the taking of some of its land. The delay of the project would adversely affect the Nation.

Jansen Industries v. Victory Motors

A recent decision of the BC Court of Appeal (Jansen Industries 2010 Ltd v Victory Motors (Abbotsford) Ltd, 2021 BCCA 129) addressed important issues under BC's contaminated sites regime. The key takeaways of the decision are:

- Allocation of responsibility: When apportioning remediation costs among those responsible, a Certificate of Compliance by a polluting party should not be perceived as an unfair "benefit" which increases their portion of liability for the remediation costs. Otherwise, this would serve as an additional punishment and disincentive for completing remediation in a timely manner, contrary to the purpose of the scheme.
- Price paid for the property factor: While "the price paid for the property by the person seeking cost recovery" is a mandatory apportionment factor in s. 35(2)(a) of the CSR, it doesn't apply where the contaminated property was acquired through a share purchase, as the owner of the land has not changed.
- Legal costs: Actual, reasonable legal costs associated with remediation are recoverable in a cost recovery action. Litigation legal costs are separate and are calculated in accordance with the Court Rules.
- Who may recover remediation costs: An innocent owner of a contaminated property is a "responsible person", and therefore able to make a cost recovery claim.

Links of Interest

Stronger today momentum for Tomorrow

<https://bcbc.com/reports-and-research/stronger-today-momentum-for-tomorrow>

The Professional Governance Act requires Engineers and Geoscientists BC to regulate firms that engage in the practice of professional engineering or geoscience. Effective July 2, 2021, firms are required to register for a Permit to Practice with Engineers and Geoscientists BC. Firms must complete their registration before September 30, 2021.

<https://www.egbc.ca/Practice-Resources/Firm-Practice/Firm-Practice>

Industry Events

Membrane Technologies: Water Treatment Systems – EPIC Training

- A one-day course providing an overview of membrane technologies used in the removal of organic and inorganic water contaminants.
- Takes place online on August 26, 2021 and January 28, 2022. Cost is \$695.

<https://www.epictraining.ca/online-courses/chemical-engineering/membrane-technologies-design-operation-and-application-in-industrial-water-treatment-systems/17125/>

Village Workshop Online Indigenous Training – BCIA

- Four online modules focusing on learning through storytelling.
- Course satisfies the BCIA requirement for Indigenous training, due by December 31, 2022.
- Course runs September 6 – 27, with a virtual group session on September 28. Registration due by September 2, cost is \$75. Only open to BCIA members.

Business Development and Sales Skills For Engineers and Geoscientists – EGBC

- Registrants receive three months of access to myKISON eLearning Program along with monthly 90-minute webinars focusing on case studies and peer discussions related to securing work, conducting sales presentations, building your firm's reputation and better understanding clients' needs.
- <https://www.egbc.ca/Events/Events/2021/21OCTMKP>
- Registration is open until September 17, program runs from October 1 – December 31. Cost is \$250.

Strategic Networking – EGBC

- This is a one-day webinar focusing on networking, conflict resolution, and negotiating strategies.
- <https://www.egbc.ca/Events/Events/2021/21OCTSNZ>
- Webinar is on October 5 and registration closes on September 21. Cost is \$179.

Technical Writing for Professionals – Natural Resources Training Group

- A two-day course to improve the quality of technical writing by engineers, scientists and technicians.
- <https://www.nrtraininggroup.com/nrtg-products/technical-writing-online-september-2021>
- Course runs September 13-14 at a cost of \$600.

EMCON 2021: International Conference on Emerging Contaminants

- Hosted virtually on September 13-14, 2021
- It will cover all aspects of emerging contaminant research while emphasizing research on microplastics, biomolecules, roadway runoff, transformation products, ecotoxicology, advanced mass spectrometry and other new analytical techniques, and new emerging contaminants as conference themes. These topics will be covered over two days of sessions, including scientific talks, posters, lightning talks, and informal meetups, with pre-recorded content allowing both synchronous and asynchronous attendance and interaction.
- <https://cvent.me/7kvWG9>
- Contact: Dr. Ed Kolodziej koloj@uw.edu

Columbia Mountains Institute of Applied Ecology

- CMIAE is making the courses "QGIS Level I" and "QGIS Level II" available at a discounted price of \$250CD for each course to PNW-SETAC members who register for the course by Sept. 16, 2021. If you wish to take advantage of this offer, please send a request to: pnwsetactreasurer@gmail.com
- <https://cmiae.org/event/qgis-introduction-remote-attendance/>

Northwest Environmental Training Center

- NWETC is offering a \$50US discount to PNW-SETAC and SETAC members for all of their currently scheduled courses. If you wish to take advantage of this offer, please send a request to: pnwsetactreasurer@gmail.com. A chronological list of current course offerings is available at:
- <https://nwetc.org/chronological-course-offerings>

Working Effectively with Indigenous Peoples – Indigenous Relations Academy

- A one-day course focusing on the principles of Indigenous awareness and relations, how to cultivate relationships with Indigenous Peoples and achieve cultural competency through practical skills and tools that can be applied everywhere.
- Takes place online on October 26. Cost is \$450.
- <https://www.indigenousrelationsacademy.com/collections/training/products/working-effectively-with-indigenous-peoples-guided-training-ptz>

Clean-Up Information website - <https://clu-in.org/default.cfm>

- Sponsored by the US EPA. Hosts free weekly webinars focusing on contaminated sites-related subjects
- Some appear to be very US-focused from regulatory perspectives but still many technically-focused webinars and has archives of past presentations for free viewing.

Regenesis.com

- Has a searchable archive of free webinars (just requires some basic information from participant)
- Mostly focused around products and case studies of various remediation sites.

GeoEnviroPro

- Free weekly webinars on various topics.
- Also able to access past presentations for a subscription fee.
- <https://geoenviropro.com/>