



VIA EMAIL ONLY

March 31, 2021

File: 26250-20/13015
SITE: 13015

JIM PATTISON DEVELOPMENTS LTD.
1800 – 1067 West Cordova Street
Vancouver, BC, V6C 1C7

Attn: Michael Lee lee@jp-group.com

Dear Michael Lee:

**Re: Contaminated Sites Services Application
Director's Approval under Protocol 6
Part of 9336, 9356 and 9376 River Road, Delta, BC
(Part of PIDs: 002-398-818, 005-245-559 and 005-245-486)**

I am writing further to the Contaminated Sites Services Application (“Application”) referenced above. Specifically, Keystone Environmental Ltd. (Keystone), on behalf of Jim Pattison Developments Ltd. (Jim Pattison; a responsible person under the *Environmental Management Act* (EMA)), seeks the director’s approval to submit a contaminated site instrument application whereby “... *the entire area of contamination, including contamination at the source parcel and contamination which has migrated from that parcel to a neighbouring parcel or parcels, would not be delineated and/or remediated and would not be included in the contaminated site instrument application...*”. The Application has been submitted, and reviewed, pursuant to Protocol 6 - Eligibility of Applications for Review by Approved Professionals (November 1, 2017).

For clarity, the “Site” comprises all of the 3 land parcels identified above; the “Part of Site” comprises that portion of the Site that Jim Pattison intends to seek a certificate of compliance for.

Ministry review and assessment

Attached to this letter is a summary of the ministry’s review and assessment of the Application. Based on the review, it is the ministry reviewer’s opinion that the director consider granting the requested approval under Protocol 6 based on the following:

- The Site is not classified as high-risk pursuant to Protocol 12;
- Landfill closure plans have been approved by the director (ENV Regional Operations Branch) for both the Part of Site and the remainder of the Site; and
- A legal agreement exists between Jim Pattison (the beneficial owner of the Site) and 688147 BC Ltd. (present owner of Site, by land title) that includes commitments to close the landfill on the Part of Site and to close the landfill on the remaining portion of the Site.

Director's consideration and decision

I have considered the ministry reviewer's opinion and find the site risk classification and the pre-existing regulatory oversight due to landfill closure to be supportive factors regarding possible Protocol 6 approval. However, without a thorough and detailed legal review of the private agreement between Jim Pattison and 688147 BC Ltd. – which is beyond the scope of the present application review – I'm unable to assess what assurance, if any, Jim Pattison's commitment letter can provide to the director regarding future landfill closure, site remediation and certification intentions.

Overall, however, I find the Application to be a sufficient basis for granting the requested Protocol 6 approval. Therefore, this confirms my approval that Jim Pattison may submit a future contaminated site instrument application for the Part of Site. In addition to all applicable requirements and expectations in effect at the time of the anticipated future instrument application, please also be advised as follows:

- the future application should include careful consideration of environmental conditions at site boundary locations and the need, if any, for management of dynamic/moving contamination either 'offsite' or 'onsite' of the Part of Site. The ministry reviewer importantly noted that any director's approval would not provide agreement to not delineate contamination off of the Part of Site in any direction other than towards the remaining portion of the Site;
- the future application should include explicit consideration of the possible need for security and/or registration of a restrictive covenant on land title should a risk-based remediation strategy be employed (ref: EMA s. 53(3)); and
- this Protocol 6 decision does not constitute review or acceptance by the director of any other aspect of the investigations and remediation conducted, or planned for, at the Site.

Closure

Please ensure that a copy of this letter accompanies future applications under the professional reliance process.

This letter and attachment are based on the most recent information provided to the ministry with respect to the indicated site. The ministry, however, makes no representation or warranty as to the accuracy or correctness of this information. The ministry expressly reserves the right to change or substitute different requirements where circumstances warrant.

Please contact Janet.Barrett@gov.bc.ca or the undersigned at Alan.McCammon@gov.bc.ca if you have any questions about this letter.

Yours truly,



Alan W. McCammon
for Director, *Environmental Management Act*

attach: Ministry Review and Assessment Memo dated March 25, 2021

cc: Sumeet Dogra, Keystone Environmental Ltd. sdogra@keystoneenvironmental.ca
Luc Lachance, ENV Authorizations South Luc.Lachance@gov.bc.ca
Janet Barrett, ENV Land Remediation Janet.Barrett@gov.bc.ca
CSAP Society c/o Anna Popova apopova@csapsociety.bc.ca
Client Information Officer, ENV Land Remediation csp_cio@Victoria1.gov.bc.ca

March 25, 2021

File No.: 26250-20/13015

To: Alan McCammon
Delegate of Director, *Environmental Management Act*
Land Remediation Section, Surrey

From: Janet Barrett
Senior Contaminated Sites Officer
Land Remediation Section, Surrey

Re: **Application for Approval to Apply for a Part-Site Instrument for a Site
Portion of 9336, 9356 and 9376 River Road, Delta, BC**

An application for approval to apply for a legal instrument for a portion of 9336, 9356 and 9376 River Road, Delta, BC was submitted to the Ministry of Environment and Climate Change Strategy (ENV) on January 30, 2020. The application was submitted by Keystone Environmental Ltd. (Keystone) on behalf of Jim Pattison Developments Ltd. (Jim Pattison). The application included the following document: “*Request for Preapproval to Apply for Use of Metes and Bounds Site Boundary for Ministry Instrument Application, Portion of 9336, 9356 and 9376 River Road, Delta, BC*”, prepared by Keystone and dated January 24, 2020 (“Keystone Report”). The document summarized the site background and presented Keystone’s rationale for their request to obtain a legal instrument for part of a contaminated site. Additional information regarding the application was provided in emails from Keystone dated June 24 and September 22, 2020. Note that this application is being evaluated based on the previous version of Protocol 6 (prior to February 2021; v. 10.0, effective November 1, 2017).

In this memorandum, “Site” refers to the entire site located at 9336, 9356 and 9376 River Road, Delta, BC and “Part of Site” refers to the portion of the Site that has been presented for the Protocol 6 request. The Part of Site is the central portion (South of River Road and north of Burlington Northern Santa Fe (BNSF) Railway) of the Site (see Figure 1).

The Keystone application was inconsistent regarding the reason for submitting the request for approval. The Protocol 6 application form submitted by Keystone indicated that the approval is required because “...*the application refers to a parcel currently subject to a preliminary or detailed site investigation order (excluding an order in response to the submission of a site profile under section 7.1 of the Contaminated Sites Regulation), remediation order, pollution prevention order or pollution abatement order under the Act*”. However, the Keystone Report indicated that the application was submitted “*to support a request for preapproval for use of a metes and bounds site boundary for a Ministry Instrument for a portion of the property...*”.

Therefore, the Protocol 6 application should also have indicated that the approval is required because “... *the entire area of contamination, including contamination at the source parcel and contamination which has migrated from that parcel to a neighbouring parcel or parcels, would not be delineated and/or remediated and would not be included in the contaminated site instrument application...*”.

Site Description and Background

The Site is described as follows:

Civic Address	9336 River Road	9356 River Road	9376 River Road
PID	002-398-818	005-245-559	005-245-486
Legal Description	Lot 8 except: Firstly: Part on Plan 24821; Secondly: Lot “C” Plan 22258; Thirdly: Plan EPP357 District Lot 133 Group 2 New Westminster District Plan 852	Lot 27 except: Firstly: Part on Plan 63382; Secondly: Parcel 1 (Bylaw Plan 58389); Thirdly: Plan EPP357 District Lot 133 Group 2 New Westminster District Plan 24821	Lot 10 Except: Firstly: Lot “C” Plan 22258; Secondly: Part on Plan 63382; Thirdly: Parcel A (Bylaw Plan 58389); Fourthly: Plan EPP357 District Lot 133 Group 2 New Westminster District Plan 852

Please note that full legal descriptions were not provided by the applicant; the above-listed legal descriptions are based on the PIDs provided.

The Part of Site presented for the Protocol 6 request is described by the following metes and bounds:

Starting at the northwest corner of Lot 8 of Subdivision Plan of Portions of Lots 8 and 9 of Lot 133, Group 2, New Westminster District, Plan 24821: The Point Of Commencement.

- Thence $104^{\circ} 55' 42''$ for 26.404 metres;
- thence $103^{\circ} 53' 50''$ for 12.987 metres;
- thence southerly being an arc of a 343.081 meter radius curve having a radial bearing of $193^{\circ} 54' 13''$ to the centre of said curve and a radial bearing of $200^{\circ} 29' 18''$ to the end of said curve an arc distance of 39.493 metres;
- thence southerly being an arc of a 343.763 metre radius curve having a radial bearing of $200^{\circ} 29' 18''$ to the centre of said curve and a radial bearing of $204^{\circ} 11' 54''$ to the end of said curve an arc distance of 22.185 metres;
- thence southerly being an arc of a 635.346 metre radius curve having a radial bearing of $204^{\circ} 34' 06''$ to the centre of said curve and a radial bearing of $206^{\circ} 18' 38''$ to the end of said curve an arc distance of 19.305 metres;
- thence $180^{\circ} 11' 57''$ for 355.695 metres;
- thence $270^{\circ} 12' 48''$ for 37.990 metres;
- thence $270^{\circ} 12' 46''$ for 38.010 metres;
- thence $270^{\circ} 12' 47''$ for 38.013 metres;
- thence $000^{\circ} 12' 46''$ for 393.590 metres;

returning to the Point of Commencement.

The current registered owner of the Site is 688147 B.C. Ltd.; however, Jim Pattison became the beneficial owner of the Site in February 2019. The purchase and sale agreement (provided as Attachment 1 in the Keystone Report) indicates that Jim Pattison will transfer portions of the Site not including the Part of Site back to 688147 B.C. Ltd. once the Site has been subdivided into separate legal parcels. The purchase and sale agreement also indicates that Jim Pattison is responsible for securing a Certificate of Compliance (CoC) for the Part of Site. The former director of 688147 B.C. Ltd., Mr. Bernie Kooner, will be implementing the landfill closure plan for the portions of the Site not including the Part of Site (i.e., south of BNSF railway).



Figure 1: Location of the Site (the “Property” in the figure) and the Part of Site (the “Site” in the figure)

The northernmost portion of the Site between River Road and the Fraser River consists of the north portion of 9336 River Road. This portion of the Site was occupied by single family residences from the late 1950s to mid-1970s, after which time it has been vacant and/or vegetated.

South of River Road, demolition and construction waste was deposited on the north and south portions of the Site (north and south of the BNSF railway) from 1987 to 2001. The landfill stopped accepting and discharging refuse in 2001.

Regulatory Oversight by ENV Regional Operations Branch (ROB)

Landfilling activities took place at the Site under landfill permit PR-07709, which was issued on June 11, 1987 and amended on August 13, 2012. 7437 Holdings Ltd. was the company operating the landfill at the time the permit was issued. PR-07709 authorized the discharge of refuse to the land at 9356 and 9376 River Road. In 2007, the company name changed from 7437 Holdings Ltd. to 688147 B.C. Ltd.

On May 20, 1994, a Pollution Abatement Order OR-12441 was issued as a result of the discharge of waste onto 9336 River Road, which was not authorized under the permit. OR-12441 required 7437 Holdings Ltd. to discontinue discharging waste to 9336 River Road and to develop a plan to remove all waste discharged.

On May 29, 1998, Pollution Abatement Order OR-15467 was issued to replace and supersede OR-12441. OR-15467 indicated that there was reason to believe that discharge of waste onto 9336 River Road was causing pollution through the release of leachate. The order required 7437 Holdings Ltd. to comply with eight requirements, including the following: discontinue discharge of waste at the site; perform weekly site inspections; inform the regional waste manager of any pollution or risk of pollution; inform the regional waste manager of risk of pollution related to geotechnical stability or fire; immediately implement a monitoring program; and prepare and implement a waste removal or remedial plan.

Quantum Murray LP operated a hydrocarbon soil remediation cell in the northeast section of the Part of Site Between 1998 and 2018. Regional Operations Branch issued letters to 688147 B.C. Ltd. in July and September 2011 identifying non-compliance with director's requirements for the storage and treatment of hydrocarbon contaminated soils classified as hazardous waste. Keystone reported that Teal Solutions Ltd. observed and reviewed the closure of the storage and treatment facility in 2018. Teal Solution Ltd. reportedly indicated that the closure followed the closure plan and complied with the HWR, and residual material was not present on the Site at closure completion.

Mr. Cam Webster with ROB provided an email to the technical reviewer on January 25, 2021 indicating that the OR-15467 was cancelled in March 2020. Therefore, the Site is no longer subject to an active pollution abatement order. As a result, the approval is only required for obtaining a legal instrument for part of a contaminated site.

Landfill Closure Plans

Sperling Hansen Associates prepared a landfill closure plan in 2016 entitled "*Consolidated South Gracia and 688147 BC Ltd. Landfill Closure Plan*" (2016 Closure Plan). The closure plan was prepared for the portion of the Site south of the BNSF railway and for properties located west of the Site (9294 and 9322 River Road). ROB approved the 2016 Closure Plan on July 10, 2017, as shown in this [letter](#). Sperling Hansen Associates has reportedly been engaged by the Site owner to implement the 2016 Closure Plan. In addition, a September 22, 2020 email from Keystone indicated that the former director of 688147 B.C. Ltd. (Mr. Bernie Kooner) has retained Keystone to secure a separate Certificate of Compliance for the portion of the Site south of the BNSF railway.

Sperling Hansen Associates prepared a landfill closure plan in 2019 for the Part of Site, entitled "*688147 BC Ltd. Landfill Closure Plan Update, Final Report*" (2019 Closure Plan). The 2019 Closure Plan was submitted to ROB on November 1, 2019. ROB approved the 2019 Closure Plan on August 7, 2020, as shown in this [letter](#). Sperling Hansen Associates has reportedly been engaged to implement the 2019 Closure Plan, and Keystone further stated that "*Jim Pattison is*

committed to execute the Landfill Closure Plan and obtain Certificate of Compliance to facilitate redevelopment at the Site¹".

Environmental Investigations

Keystone has completed a partial Stage 1 Preliminary Site Investigation (PSI) for the Part of Site. The Stage 1 PSI identified the following three areas of potential concern (APEC):

- APEC 1: On-Site [*on the Part of Site*] historical landfilling of construction demolition waste;
- APEC 2: On-Site [*on the Part of Site*] historical contaminated soils storage and treatment; and
- APEC 3: Off-Site [*off the Part of Site*] historical landfilling activities to the west (9394 and 9322 River Road) and south (south of the BNSF railway) of the Part of Site.

Keystone completed a combined Stage 2 PSI and Detailed Site Investigation (DSI) in 2019. The Stage 2 PSI and DSI results reportedly indicated that soil and groundwater contamination originating from the on-site (Part of Site) activities was horizontally and vertically delineated within the Part of Site boundaries². In addition, the breathing zone (attenuated) vapour concentrations of potential contaminants of concern were reportedly less than the applicable standards. Based on the investigation results, Keystone indicated that the Part of Site is not a high risk site.

According to Keystone, surface water investigation and delineation, groundwater contamination plume stability investigation, and additional vapour characterization will be completed for the CoC application for the Part of Site.

Jim Pattison Letter

The Keystone application included a letter entitled "*Request for Preapproval for Use of Metes and Bounds Site Boundary for Ministry Instrument Application, Portion of 9336, 9356 and 9376 River Road, Delta, BC, BC ENV SITE ID: 13015, Keystone Project No. 14596*", signed by Michael Lee, Vice President of Jim Pattison and dated January 23, 2020. The letter states that as part of a purchase and sale agreement between Jim Pattison and 688147 B.C. Ltd., Jim Pattison is responsible for securing a CoC for the Part of Site. The letter also states that as part of the purchase and sale agreement the former director of 688147 B.C. Ltd. will be implementing the landfill closure plan for the remaining portion of the Site.

Applicant's Rationale

Keystone's rationale in support of the application is summarized as follows:

- Separate legal parcels are currently not present at the Site;

¹ In this quote, Keystone refers to the "Part of Site" as the "Site".

² The PSI 2 and DSI results were not provided in the Protocol 6 application.

- Commitment from Jim Pattison (beneficial owner of the Site) to close the landfill located on the Part of Site and subsequently secure a CoC for the Part of Site to facilitate redevelopment. This commitment stems from the terms of the above-referenced purchase and sale agreement between Jim Pattison and 688147 B.C. Ltd.; and
- Commitment from former Director of 688147 B.C. Ltd. (Mr. Bernie Kooner) to implement the approved landfill closure plan for the remaining portions of the Site (portions not including the Part of Site). This commitment also stems from terms of the above-referenced purchase and sale agreement.

Reviewer's Assessment and Conclusion

Keystone, on behalf of a responsible person for the Part of Site, seeks the director's approval to submit a contaminated site instrument application whereby "*... the entire area of contamination, including contamination at the source parcel and contamination which has migrated from that parcel to a neighbouring parcel or parcels, would not be delineated and/or remediated and would not be included in the contaminated site instrument application...*" as per Protocol 6. Keystone has described this as an application for approval for use of a metes and bounds site boundary for an instrument for the Part of Site.

Keystone presented the rationale discussed previously in this memorandum to support the approval request. With respect to the information provided by Keystone, the following issues were noted by the reviewer:

- Keystone indicated that separate legal parcels are currently not present at the Site. However, there are currently three separate legal parcels present at the Site. Keystone is presumably referring to the future subdivision of the Site into two separate legal parcels (the Part of Site and the remainder of the Site) once ownership of the remainder of the Site is transferred back to 688147 B.C. Ltd. and the application for subdivision is accepted; and
- The letter from Jim Pattison referenced by Keystone as a commitment letter and included as Attachment 4 in the Keystone Report references the agreements made in a purchase and sale agreement between two parties (see Attachment 1 of the Keystone Report). The wording of the letter does not otherwise provide assurance that a CoC will be obtained for the remainder of the Site (i.e., apart from referring to an agreement between two parties, there is no "commitment" proffered to obtain a CoC for the remainder of the Site).

Upon review of the information presented by Keystone for the approval application, I also considered the following to be pertinent:

- The Site is not classified as a high-risk risk site; and
- A copy of the purchase and sale agreement that makes issuance of a CoC for the Part of Site a condition of sale was provided. Although the agreement was not reviewed in any detail, Keystone indicates that Jim Pattison has committed to close the landfill on the Part of Site according to the 2019 Landfill Closure Plan and has committed to secure a CoC for the Part of Site. Keystone further states that the purchase and sale agreement indicates that 688147 B.C. Ltd. has made a

commitment to implement the 2016 Landfill Closure Plan for the remaining portion of the Site.

It is my opinion that the director consider issuing the requested approval under Protocol 6 based on the following:

- The Site is not classified as a high-risk risk site;
- Landfill closure plans have been approved by ROB for both the Part of Site and the remainder of the Site.
- A legal agreement exists between Jim Pattison (the beneficial owner of the Site) and 688147 B.C. Ltd. that includes commitments to close the landfill on the Part of Site and to close the landfill on the remaining portion of the Site.

It is important to note that the approval would not provide agreement to not delineate contamination off of the Part of Site in any direction other than towards the remaining portion of the Site.



Janet Barrett, M.Sc., P.Eng.
Senior Contaminated Sites Officer