

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

ENVIRONMENTAL PROTECTION ORDER NO. EPO-2018/01-SSR

Sears Canada Inc. [Sears]
C/O
Lloyd McLellan
FTI Consulting Canada Inc.
1900, 520 – 3rd Avenue SW,
Calgary, Alberta T2P 0R3

And

Concord North Hill GP Ltd. [Concord]
4000, 421 – 7 Avenue SW
Calgary, Alberta T2P 4K9

[Collectively the "Parties"]

WHEREAS Sears or one of its predecessor companies (Contill Realty Ltd.), was the registered owner of the lands legally described as Plan 8210266, Block 21 [the "Lands"] located in the City of Calgary, Alberta from October 31, 1958 until June 18, 2015;

WHEREAS Sears operated both a retail clothing store and an automotive repair/Gas Bar [the "Service Station"], which were located in two separate buildings on the Lands;

WHEREAS Sears owned and/or operated the Service Station from 1958 until the decommissioning in 1995;

WHEREAS in a SEACOR Environmental Engineering Inc. ("SEACOR") report titled "Environmental Activities Synthesis Report – October 1995 To August 1997 – North Hill Sears Gas Bar", dated August 1997 [the "SEACOR August 1997 Report"], the Service Station was identified as commencing operation in 1958 and ceasing operation in 1995;

WHEREAS the SEACOR August 1997 Report identified that an underground storage tank at the Service Station leaked gasoline sometime between the late 1970's to early 1980's;

WHEREAS the SEACOR August 1997 Report identified exceedances of then applicable provincial guidelines of that time (Alberta Environmental Protection (AEP) Risk Management Criteria (RMC) Level II and Level III coarse grained soil (CGS) criteria) for both the Lands and the adjacent/downgradient properties (the "Off-Site") in both soil and groundwater for hydrocarbon residuals and benzene (the "Substances");

WHEREAS the Lands were purchased by Concord on June 18, 2015 and Concord is the current registered owner of the Lands;

WHEREAS on March 29, 2016, the environmental consultant, Clifton Associates Ltd, (“Clifton”) on behalf of Sears, submitted a report titled “Remedial Action Plan for Mall and Hounsfield Heights Areas Calgary, Alberta” [the “RAP”], which identified in section 4.1 of the RAP, that the Alberta Tier 1 Soil and Groundwater Remediation Guidelines [the “Tier 1 Guidelines”] would be used as remediation targets;

WHEREAS on August 31, 2016, another consultant, Intrinsik Corp. on behalf of Sears, submitted a report titled “Soil Vapour Quality Guidelines for Hounsfield Heights and Mall Areas” [the “Soil Vapour Guidelines”] to Alberta Environment & Parks (“AEP”), which were accepted by AEP as identified in a letter to Mr. Greg Paliouras of Sears, dated January 27, 2017;

WHEREAS Clifton Associates on behalf of Sears, submitted a report to AEP titled, “Revised Soil Vapour Monitoring Program (Update Fall 2016)”, dated October 20, 2016 [the “Soil Vapour Monitoring Program”]. The Soil Vapour Monitoring Program was approved by AEP by letter dated January 27, 2017;

WHEREAS, numerous delineation and sampling events have been undertaken since the SEACOR August 1997 Report. The most recent Annual Summary Report completed by Clifton and dated May 19, 2017 (Annual summary report Hounsfield Heights – Briar Hill Community Calgary Alberta) identified that Substances are still present above the current Alberta Tier 1 Criteria;

WHEREAS there are several data gaps in the information regarding contamination both on the Lands and Off-Site which required additional work including:

- Completion of additional groundwater monitoring wells to characterize benzene and 1,2-DCA in groundwater in the southern extent of the plume in the Off-Site;
- Continue to conduct semi-annual groundwater sampling events to characterize the groundwater plume on the Lands and Off-Site;
- Continue to conduct semi-annual soil vapour sampling events as per the approved Soil Vapour Monitoring Program to characterize soil vapour; and
- Continued operation and maintenance of the DPVE system.

WHEREAS Craig Knaus, Compliance Manager, South Saskatchewan Region, has been appointed a Director for the purposes of issuing environmental protection orders under the Act (the “Director”);

WHEREAS the Director is of the opinion that a release of a Substance has occurred, and that the Substance has caused, is causing or may cause an adverse effect on the environment;

WHEREAS the Director is of the opinion that the remedial actions taken to date by the Parties are not sufficient to confine, manage or remediate the Substances and that further work to delineate remediate and/or manage the Substances is required;

WHEREAS the Parties are a “person responsible” for the Substance, as defined in section 1(tt) of the Act;

THEREFORE, I, Craig Knaus, the Director, pursuant to section 113 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately re-commence the semi-annual soil vapour monitoring (high and low water table events) as described in the Soil Vapour Monitoring Program, including a sampling event prior to March 30, 2018);
2. Immediately recommence the Groundwater sampling and monitoring program as described in most recent program demonstrated in 2017 Second Quarter Groundwater Monitoring and Sampling Report, July 14, 2017.
3. By **July 1, 2018**, complete delineation activities to fully delineate the dissolved gasoline plume based on the data gaps identified in the Clifton Associates report July 2016 titled, “2016 Supplemental Drilling Report Hounsfeld Heights-Briar Hill Community, Calgary, AB”;
4. The Parties shall by **December 15, 2018**, submit a written plan to the Director to remediate the Substances on the Lands or any of the Substances from the Lands that have migrated to the Off-Site areas (the “Remediation Plan”).
5. The Remediation Plan shall be prepared by a qualified environmental professional that meets the requirements for professional sign criteria as established by Remediation and Reclamation Sign Off Advisory Committee.
6. The Remediation Plan shall include, at a minimum, the following:
 - a. A proposal outlining:
 - i. the remediation and/or Risk Management Plan for all Substances in, on or under the Lands including all soil, subsoil and groundwater; and
 - ii. the remediation and/or Risk Management Plan for all Substances in, on or under all Offsite areas, including to the North, South, East and West to which the Substances may have migrated including all soil, subsoil and groundwater.
 - b. A detailed description of the work that will be undertaken for both the Lands and the Off-Site areas to meet the Soil Vapour guidelines as per Soil Vapour Quality Guidelines for Hounsfeld Heights and Mall Areas August 31, 2016 and Alberta Tier 1 Soil and Groundwater Remediation Guidelines, as applicable [the “Criteria”] for all other media; and
 - c. A schedule of implementation to implement the

Remediation Plan, with a completion date of no later than **March 4, 2019**, or as otherwise approved by the Director.

7. The Company shall implement the work set out in the Remediation Plan in accordance with the schedule of implementation that is approved by the Director.
8. The Parties shall submit written status reports to the Director as follows:
 - a. Final, stamped versions of sampling and monitoring reports (for any media – soil, vapour, ground water) are to be submitted to the Director by the end of the 2nd month following the month the sampling and/or monitoring event occurred.
 - b. Annual Report are required to be submitted to the Director by **March 31 of each year** for the previous January 1st to December 31st time period, with the first submission due March 31, 2019.
 - i) At a minimum, each Annual Report all of the following:
 - Summary of the communications with the affect landowners that occurred during the year;
 - List of any concerns that arose from other parties;
 - An explanation of how these concerns were addressed;
 - Any recommended changes to improve communication;
 - A summary description of all assessment, remediation and monitoring work undertaken;
 - A summary of the results obtained within the year;
 - Details on the operation of the Soil Vapour Extraction system and an evaluation of the effectiveness of the system;
 - Identification of data gaps with recommendations to address them, and;
 - Recommendations and commitments for future assessment, monitoring and remediation work.
9. The Parties shall respond to inquiries from Off-Site landowners affected by the release within 3 business days of the inquiry being sent to the Parties individually or collectively.
10. The Parties shall within 30 days of the date of this Order, create, publish and activate a communications website.
11. Within 5 business days of the communications website being activated, the Parties shall provide the web address for the website to the Off-Site landowners affected by the release.
12. The Parties shall post on the communications website:
 - a. regular status updates
 - b. copies of all finalized and stamped sampling and monitoring reports.
 - c. A summary of the results of the posted finalized and stamped reports

DATED at the City of Calgary in the Province of Alberta, this 23 day of February, 2018.



Craig Knalus
Compliance Manager (the Director)
South Saskatchewan Region

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Parties shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.