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SQ'EWÁ:LXW FIRST NATION

ENVIRONMENTAL MANAGEMENT LAW 2017



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PREAMBLE

WHEREAS Sq'ewá:lxw First Nation has an inherent right to self-government which emanates from its people, culture, language, and land, and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

WHEREAS our Nation has chosen to assume control of its Indian Reserve lands pursuant to the First Nation Lands Management Act, S.C. 1999, c. 24 by entering into the Individual Agreement on First Nation Land Management between Sq'ewá:lxw First Nation and Her Majesty the Queen in Right of Canada and by adopting the Skawahlook First Nation Land Code;

WHEREAS under Sections 16 and 75 of the Land Code, Council is authorized to establish Laws policies, and procedures relating to lands, including the Environment;

WHEREAS as stewards of our land Sq'ewá:lxw insists on Environmental sustainability as a foundation for all land use, development, and construction;

THEREFORE BE IT RESOLVED THAT the Sq'ewá:lxw First Nation hereby enacts the following law:

PART 1 - INTERPRETATION

Short Title

- 1 This Law may be cited as the "Sq'ewá:lxw Environmental Management Law 2017".

Purpose

- 2 The purpose of this Law is to ensure that the Sq'ewá:lxw people's vision of a safe, prosperous, and sustainable community is achieved while caring for our land and water.

Definitions

- 3 For the purposes of this Law, terms have the same definitions as in the Land Code;
- 4 In addition, the following definitions apply:
 - (a) "**Contaminant**" means any noise, heat, vibration, or substance and includes such other substances as Council may prescribe that, where discharged into the Environment:
 - (i) injures or is capable of injuring the health or safety of an individual;
 - (ii) injures or is capable of injuring property or any life form;
 - (iii) interferes with or is capable of interfering with visibility or normal enjoyment of life or property or the conduct of business;
 - (iv) causes or is capable of causing material physical discomfort to a Person; or



- (v) damages or is capable of damaging the Environment.
- (b) **“Contaminated Site”** means an area of the land in which the soil or any groundwater lying beneath it, or the water or the underlying sediment, contains a prescribed substance in quantities or concentrations exceeding prescribed levels.
- (c) **“Detailed Site Assessment”** means a Phase III Environmental Site Assessment preparing for and involving remediation, the methodology for which is developed on a site specific basis based on Preliminary Site Assessment.
- (d) **“Discharge”** includes any pumping, pouring, throwing, dumping, emitting, burning, spraying, spreading, leaking, spilling, releasing, or escaping.
- (e) **“Enforcement Officer”** or **“Sq’ewá:lxw Enforcement Officer”**: means any Person or class of persons designated as an Enforcement Officer under section 15 of the Sq’ewá:lxw Enforcement and Ticketing Law.
- (f) **“Environment”** means air, land, water and all other external conditions or influences under which humans, animals and plants live or are developed.
- (g) **“Environmental Permit”** means a Permit issued by Sq’ewá:lxw authorizing activities on Sq’ewá:lxw Lands as per this Law.
- (h) **“Fuel”** means: gasoline, jet fuel, diesel fuel, heating oil, propane and natural gas, kerosene, white gas, camping fuel, and butane.
- (i) **“Industrial Waste”** means Rubbish created by a Person conducting any industry, trade, or business which cannot be recycled, re-used, or composted.
- (j) **“Land Code”** means the Skawahlook First Nation Land Code dated for reference October 18, 2013 and any amendments thereto.
- (k) **“Lands Manager”** means that Person hired by Sq’ewá:lxw First Nation to lead the management or administration of Sq’ewá:lxw Lands;
- (l) **“Laws”** means any applicable Sq’ewá:lxw, federal, or provincial Laws, as those Laws may be amended from time to time.
- (m) **“Manifest”** means a document listing the cargo of a vehicle for the use of officials.
- (n) **“Order”** means an order issued by Sq’ewá:lxw authorizing activities on Sq’ewá:lxw Lands as per this Law.
- (o) **“Person”** includes an entity or corporation.
- (p) **“Preliminary Site Assessment”** means and encompasses Phase I and/or Phase II Environmental Site Assessments as defined by the Canadian Standards Association.



- (q) **“Public Place”** means a park, campground, or place that is open to the air and to which the public is entitled or permitted to have access.
- (r) **“Remediation”** means action to eliminate, limit, correct, counteract, mitigate or remove any Contaminant or the adverse effects on the Environment or human health of any Contaminant.
- (s) **“Reserve”** means the whole of Skawahlook IR No. 1 and Ruby Creek IR No. 2 and any future Reserve additions.
- (t) **“Residual Waste”** means Rubbish not able to be recycled, re-used or composted.
- (u) **“Residential Premises”** means private homes, hospitals, clinics, logging camps, factory and office canteens, and other similar premises.
- (v) **“Retail Food Outlets”** means restaurants, hotels, motels, and premises in which food is prepared and sold by retail sale such as retail bakeries and premises selling takeout food.
- (w) **“Rubbish”** means discarded or abandoned materials, substances or objects.
- (x) **“Site Profile”** means the form found in Schedule 1 of the Contaminated Sites Regulation BC Reg 375/96 as amended or replaced from time to time.
- (y) **“Sq’ewá:lxw”** means Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the *Indian Act*.
- (z) **“Sq’ewá:lxw Lands”** means Skawahlook Indian Reserve No. 1 and Ruby Creek Indian Reserve No. 2 and such lands as are included under the terms of the Land Code.
- (aa) **“Waste”** is synonymous with Residual Waste and means Rubbish not able to be recycled, re-used or composted.

PART 2 - APPLICATION

Where This Law Applies

- 5** The provisions of this Law apply to all of the Sq’ewá:lxw Lands including all Sq’ewá:lxw lands held by Certificate of Possession, community land, and all other interests in Sq’ewá:lxw Lands.
- 6** The provisions of this Law apply to all Persons occupying, living, or working on Sq’ewá:lxw Lands, including Sq’ewá:lxw members, holders of Certificates of Possession, residents, businesses, and visitors.

Paramountcy

- 7** If there is a conflict between this Environmental Management Law and the Land Code, the Land Code will apply.



Authority

- 8** Except as otherwise provided in this Environmental Management Law, the Land Code, or the First Nations Land Management Act, Sq'ewá:lxw acts through Council in exercising its powers and functions under this Environmental Management Law.
- 9** Council must exercise its powers and functions in accordance with this Environmental Management Law, the Land Code, and all other applicable Laws.

PART 3 - ENVIRONMENTAL AND EMERGENCY PLANS

- 10** The Lands Manager must prepare an Environmental Management Plan for Sq'ewá:lxw Lands describing the manner in which Contaminants will be handled, stored, transported, remediated, or discharged into the Environment in order to protect the land and Environment of Sq'ewá:lxw.
- 11** The Environmental Management Plan will:
 - (1) be prepared under the direction of qualified planning officers or qualified planning consultants to be hired by, and responsible to, the Lands Manager;
 - (2) be prepared on the basis of community input and engagement so as to reflect the vision of the Sq'ewá:lxw people;
 - (3) be prepared on the basis of surveys and studies of the biophysical nature of Sq'ewá:lxw Lands and water and any other factors that are relevant to the preparation of the plan;
 - (4) establish Environmental operating procedures to be followed by all persons on Sq'ewá:lxw Lands;
 - (5) include any other written statements, reports, charts and drawings that may be necessary to express and illustrate the contents of the plan.
- 12** Council may, at its discretion, adopt the Environmental Management Plan as recommended by the Land Advisory Committee.
- 13** Council will direct the Lands Manager to prepare an Emergency Management Plan for Sq'ewá:lxw Lands describing the manner in which Sq'ewá:lxw will mitigate risk from, prepare for, respond to, and recover from Environmental and other emergency situations.
- 14** The Emergency Management Plan will:
 - (1) be prepared under the direction of qualified planning officers or qualified planning consultants, to be hired by, and responsible to, the Lands Manager;
 - (2) address roles and responsibilities and procedures for emergency planning, mitigation of risk, response, and recovery.
- 15** Council may, at its discretion, adopt the Emergency Management Plan as recommended by the Land Advisory Committee.



PART 4 - PROHIBITIONS AND OPERATING PROCEDURES

Waste Disposal and Recycling

- 16** A Person must not dispose of any material as Residual Waste destined for landfill or incineration that may be segregated for composting or recycling.
- 17** Anyone disposing of Waste must comply with the Sq'ewá:lxw Environmental Management Plan and Environmental operating procedures and utilize composting, recycling, and Waste disposal facilities provided by Sq'ewá:lxw or available locally.
- 18** Materials that must be composted or recycled include:
- (1) refundable items including beverage containers;
 - (2) organic garden Waste;
 - (3) organic kitchen Waste and uncooked food;
 - (4) recyclable products including cardboard, paper, plastic containers, glass packaging, and polyethylene and polystyrene packaging;
 - (5) hazardous Waste including electronics, painted wood, solvents, pesticides, herbicides, poisons, gasoline, diesel, propane tanks, light bulbs, tires, motor oil, anti-freeze, batteries, and thermometers; and
 - (6) biohazardous Waste including medications, needles, and swabs.
- 19** For further clarity, if the opportunity exists within Sq'ewá:lxw Lands or locally to recycle a material a Person must not dispose of that material into Residual Waste.
- 20** A Person must not dispose of any Waste by burning, burying, or dumping of that Waste on Sq'ewá:lxw Lands unless permitted to do so.
- 21** A Person must not dispose of hazardous Waste including contaminated wood Waste and contaminated soil, on Sq'ewá:lxw Lands, unless Permitted to do so.

Industrial Waste

- 22** In conducting any industry, trade, or business, a Person must not dispose of Waste, including land clearing and construction and deconstruction Waste, on Sq'ewá:lxw Lands without an Environmental Permit.
- 23** In conducting any industry, trade or business a Person must comply with the Law, must obtain an Environmental Permit and must submit a waste management plan.
- 24** For clarity, it is the responsibility, and financial responsibility, of the Person conducting industry, trade, or business to properly dispose of all Waste materials.



Land Filling and Soil Conservation

- 25** No Person will move contaminated soil onto Sq'ewá:lxw Lands, or export clean soil from Sq'ewá:lxw Lands without an Environmental Permit.
- 26** No Person will import to, or deposit soil, gravel, or other material in excess of 6 cubic metres of volume on, Sq'ewá:lxw Lands without an Environmental Permit.
- 27** The Lands Manager will establish standards and requirements in environmental operating procedures for testing for Contaminants of any soil permitting process for the movement of soil, gravel, and other fill material within or onto reserve.
- 28** Anyone conducting land filling and soil movement activities must be compliant with this Law, the Sq'ewá:lxw Environmental Management Plan, and Sq'ewá:lxw Environmental operating procedures.

Discharge of Contaminants

- 29** For the purposes of this Part, the conduct of industry, trade, or business includes the operation by any Person of facilities or vehicles for the collection, storage, treatment, handling, transportation, Discharge, destruction or other disposal of Contaminants in relation to the industry, trade or business.
- 30** Subject to Section 33, a Person must not introduce or cause or allow Contaminants to be introduced into the Environment in the course of conducting an industry, trade, or business.
- 31** Subject to Section 33, a Person must not introduce or cause or allow to be introduced into the Environment, Contaminants produced by a prescribed activity or operation.
- 32** Subject to Section 33, a Person must not introduce Contaminants into the Environment in such a manner or quantity as to cause pollution.
- 33** Nothing in Sections 29 through 32 prohibits any of the following:
 - (1) the disposal of Contaminants in compliance with this Law and with all of the following that are required or apply in relation to the disposals:
 - (a) a valid and subsisting Environmental Permit;
 - (b) a valid and subsisting approval from the Lands Manager;
 - (c) a valid and subsisting Order;
 - (d) a regulation made under this law;
 - (e) a Contaminants management plan approved by the Lands Manager.
 - (2) the Discharge into the air of a Contaminant from an incinerator or other discharge source operated under an authority or Environmental Permit issued by the Lands Manager;



- (3) the disposition of human remains in designated areas according to the Sq'ewá:lxw Land Use Plan;
 - (4) use of pesticides or biocides in compliance with federal or provincial law governing their use;
 - (5) fires set or controlled by a Person Permitted under the Outdoor Fires Law; or
 - (6) fires set or controlled by a Person Permitted under the Outdoor Fires Law, and:
 - (a) carried out for fire control under section 9 of the Wildfire Act (British Columbia); or
 - (b) if the fires are resource management open fires under the Wildfire Act (British Columbia) and are lit, fueled, or used in accordance with that Act.
 - (7) discharge into the air of a Contaminant from internal combustion engines in compliance with the Motor Vehicle Act (British Columbia); or
 - (8) discharge into the air of soil particles or grit in the course of agriculture, road construction or maintenance;
 - (9) discharge into the air of a Contaminant from combustion of wood or fossil fuels used solely for the purpose of comfort heating of domestic, institutional, or commercial buildings;
 - (10) discharge into the air of a Contaminant from food preparation in
 - (a) residential premises; or
 - (b) retail food outlets.
- 34** The exceptions set out in Sections 33(8), 33(9), and 33(10) do not apply where a Person Discharges a Contaminant that a Sq'ewá:lxw Enforcement Officer has reasonable grounds to believe is not usually associated with a Discharge from the excepted activity.
- 35** Nothing in this Part authorizes the use of an incinerator or domestic, institutional, or commercial heating equipment for the purpose of destroying Contaminants by means of combustion.
- 36** Noise contamination is regulated by the Skawahlook Noise Control Law.

Confinement of Contaminants

- 37** A Person who produces, stores, transports, handles, treats, recycles, deals with, processes or owns Contaminants must keep the Contaminants confined in accordance with Sq'ewá:lxw Environmental operating procedures, an Environmental Permit, or an Order.
- 38** Except to the extent expressly authorized by an Environmental Permit, an approval, or an Order, a Contaminants management plan or Sq'ewá:lxw Environmental operating



procedures, a Person must not release Contaminants from the confinement required by Section 37.

- 39** A Person must not construct, establish, alter, enlarge, extend, use, or operate a facility for the treatment, recycling, storage, disposal, or destruction of Contaminants except in accordance with Sq'ewá:lxw Law and Environmental operating procedures.

Contaminants Storage and Disposal

- 40** A Person must not store more than a prescribed amount of Contaminants except in accordance with any of the following that apply:
- (1) Sq'ewá:lxw Environmental operating procedures;
 - (2) an Order that requires the Person to store that kind of Contaminant; or
 - (3) an approved Contaminant management plan that provides for storage of Contaminants.
- 41** A Person who is storing a quantity of a substance at the time that the substance is prescribed to be a Contaminant does not contravene Section 40 by continuing to store the same or lesser quantity of that substance if the Person notifies the Lands Manager, in accordance Sq'ewá:lxw Environmental operating procedures, of the location, quantity, and type of substance that the Person is storing.
- 42** Despite Section 41, the Lands Manager:
- (1) may, by Order, require a Person referred to in that Section to comply with Sq'ewá:lxw Environmental operating procedures and the approved Contaminant management plan in the period specified in the Order, and
 - (2) must deliver in accordance with Section 74 a copy of the Order to that person.
- 43** If a Person who is served with an Order under Section 42 does not comply with the regulations and the approved Contaminant management plan in the period specified by the Lands Manager, the Person must dispose of the Contaminant as directed by the Lands Manager.

Transportation of Contaminants

- 44** A Person who produces, stores, or transports Contaminants on Sq'ewá:lxw Land:
- (1) must not cause or allow more than a prescribed quantity of the Contaminants to be transported from the property where they produce or store the Contaminants unless the Person first:
 - (a) completes, in the prescribed form and manner, the part of a manifest that applies to them; and
 - (b) files the manifest in the prescribed manner.
 - (2) must ensure that the Person transporting more than the prescribed quantity of the Contaminants from the place where it is produced or stored on or off Sq'ewá:lxw



Lands has an Environmental Permit for that purpose from the appropriate agency for that jurisdiction; and

- (3) must not cause or allow more than the prescribed quantity of the Contaminants to be transported to a place on Sq'ewá:lxw Lands unless:
 - (a) an Order, Contaminant management plan, or Sq'ewá:lxw Environmental operating procedure authorizes or requires it to be stored at that place;
 - (b) an Environmental Permit, approval, Order, Contaminant management plan, or Sq'ewá:lxw Environmental operating procedure authorizes or requires it to be introduced into the Environment or treated at that place; or
 - (c) storage of the Contaminants at that place is otherwise not prohibited under Sections 40 through 43.

45 A Person must not transport on Sq'ewá:lxw Lands more than a prescribed quantity of a Contaminant unless the person

- (1) carries with them
 - (a) a manifest completed as required by Section 44; and
 - (b) if required by Sq'ewá:lxw Environmental operating procedures; an Environmental Permit, and
- (2) has completed, in accordance with Sq'ewá:lxw Environmental operating procedures, that part of the manifest that applies to them.

46 A Person must not accept delivery of more than a prescribed quantity of a Contaminant unless the person:

- (1) receives from the transporter a manifest that has been completed as required by Sections 44 and 45;
- (2) completes the part of the manifest that applies to them and files the manifest in the prescribed form and manner; and
- (3) has an Environmental Permit or an approval authorizing the Person to introduce into the Environment that kind and quantity of Contaminant, is authorized under Sq'ewá:lxw Laws to treat or recycle that kind and quantity of Contaminant or is not prohibited under Sections 40 through 43 from storing that kind and quantity of Contaminant.

47 In a prosecution for a contravention of this Part, the burden of proving compliance with Sections 44 and 45 is on the defendant.

Discharge of Contaminants from Recreational Vehicles

48 A Person must not Discharge domestic sewage or other Contaminants from a trailer, camper, transportable housing unit, boat or house boat onto Sq'ewá:lxw Lands and,



into any reservoir or into any lake, pond, stream, or other natural body of water, except:

- (1) in compliance with an Environmental Permit, an approval, an Order; or
- (2) if disposal facilities are provided in accordance with proper and accepted methods of disposal and in accordance with the *Public Health Act* (British Columbia).

Littering

- 49** A Person must not throw down, drop, or otherwise deposit, or leave Rubbish in a public place.
- 50** The prohibition in Section 49 does not apply if the Person was authorized by Sq'ewá:lxw or acted with the consent of the interest holder, occupier, or other Person having control of the public place.
- 51** In a prosecution for contravention of this Part, the burden of proving compliance with Section 49 is on the defendant.

Safe Fuel Handling and Storage

- 52** Anyone handling, transporting, storing or dispensing Fuel must meet be compliant with this Law and the Sq'ewá:lxw Environmental operating procedures.
- 53** Anyone transporting, handling, or storing Fuel of volumes more than 100L (or 22 gallons) will:
- (1) prepare a spill prevention and response plan to be approved by the Lands Manager; and
 - (2) once designed and implemented the spill prevention and response plan shall be posted and people be trained in how to use it.
- 54** Any Person handling Fuel is responsible for the effective remediation of any spills or leaks.
- 55** In the case of a Fuel spill the Person responsible must comply with this Law and the Sq'ewá:lxw Environmental operating procedures.
- 56** The following individuals may be considered responsible for cleaning up a Contaminated Site or an adjacent site: the current land interest holder(s), owner(s) or operator(s) of the site; the previous land interest holder(s), owner(s) or operator(s) of the site; and the producer or transporter of a substance that caused the contamination.

Unightly Land

- 57** Land is unsightly where an Enforcement Officer believes, on reasonable grounds and in comparison to land used for a similar purpose, that Rubbish or things placed on the land cause the land to be unsightly.



- 58** No interest holder or occupier of Sq'ewá:lxw Lands may allow that land to become unsightly.
- 59** Where an Enforcement Officer believes on reasonable grounds that any Sq'ewá:lxw Lands are unsightly, the Lands Manager may, by Order, require the interest holder or occupier of the land or the last Person to hold interest in or occupy the land to improve the condition of the land in such a manner and to such extent as may be set out in the order.
- 60** Where a Person fails to comply with an Order under Section 59, the Lands Manager may, at that person's own expense, take such action as they consider necessary to improve the condition of the land in accordance with the Order.
- 61** No directive may be made under Section 59 to a Person who is the last Person to be an interest holder, own, or occupy land that is unsightly more than five years after that Person ceased to be an interest holder, own, or occupy the land.

PART 5 - ENVIRONMENTAL EMERGENCIES

- 62** Where a Discharge of a Contaminant into the Environment in contravention of this Law or an Environmental Permit occurs or a reasonable likelihood of such a Discharge exists, every Person causing or contributing to the Discharge or increasing the likelihood of such a Discharge, and the interest holder, owner, or the Person in charge, management, or control of the Contaminant before its Discharge or likely Discharge, must immediately:
- (1) report the Discharge or likely Discharge to the Lands Manager;
 - (2) take all reasonable measures consistent with public safety to stop the Discharge, repair any damage caused by the Discharge and prevent or eliminate any danger to life, health, property or the Environment that results or may be reasonably expected to result from the Discharge or likely Discharge; and
 - (3) make a reasonable effort to notify every member of the public who may be adversely affected by the Discharge or likely Discharge.
- 63** Where a Discharge of a Contaminant into the Environment in contravention of this Law or an Environmental Permit occurs or a reasonable likelihood of such a Discharge exists, the Lands Manager will initiate response under the Sq'ewá:lxw Emergency Management Plan.

Environmental Protection Order

- 64** Where the Lands Manager believes on reasonable grounds that it is necessary or advisable for the protection of the Environment to do so, the Lands Manager may, by Order, require any person:
- (1) to install safeguards to prevent the Discharge of Contaminants into the Environment;
 - (2) to place, transport, or store any Contaminant in the manner set out in the Order; or



- (3) to have on hand at all times the equipment and material necessary to alleviate the effect of any Discharge of Contaminants that may be specified in the Order.

Order of Enforcement Officer

- 65** Where a Sq'ewá:lxw Enforcement Officer believes on reasonable grounds that a Discharge of a Contaminant in contravention of this Law or an Environmental Permit is likely to occur, the Enforcement Officer may, by Order, require any Person whose actions may increase the likelihood of a Discharge or the interest holder, owner, or Person in charge, management or control of the Contaminant to take the preventive measures that the Enforcement Officer considers necessary.
- 66** Where an Enforcement Officer believes on reasonable grounds that a Discharge of a Contaminant in contravention of this Law or an Environmental Permit has occurred or is occurring, the Enforcement Officer may, by Order, require any Person causing or contributing to the Discharge or the interest holder, owner, or the Person in charge, management or control of the Contaminant to stop the Discharge by the date specified in the Order.
- 67** Where an Enforcement Officer believes on reasonable grounds that a Discharge of a Contaminant in contravention of this Law or an Environmental Permit has occurred, the Enforcement Officer may, by Order, require any Person causing or contributing to the Discharge or the interest holder, owner, or the Person in charge, management or control of the Contaminant to remediate any injury or damage to the Environment that result from the Discharge.
- 68** For certainty, the issue of an Order under Section 66 does not preclude the prosecution of an offence under Section 184 of this Law.

Lands Manager May Remediate

- 69** Where a Person fails or neglects to repair or remedy any injury or damage to the Environment in accordance with an Order made under Section 67 or where immediate remedial measures are required to protect the Environment, the Lands Manager may, at that person's own expense, cause to be carried out the measures that they consider necessary to remediate an injury or damage to the Environment that results from any Discharge.

Emergency Order

- 70** Despite Section 74, where, in the opinion of an Enforcement Officer, an emergency exists and an Order must be issued under Sections 64, 65, 66, or 67, the Enforcement Officer may issue a verbal Order to the Person who, in the opinion of the Enforcement Officer is the Person best able to comply with the Order.
- 71** An Order issued under Section 70 will take effect from the time it is issued.
- 72** An Order issued under Section 70 has the same force and effect as a written Order.
- 73** An Order issued under Section 70 must be served in written form in accordance with Section 74 as soon as practicable after it is issued.



Service of Orders

- 74** An Order under Sections 64, 65, 66 or 67 must be served in accordance with the Sq'ewá:lxw Enforcement and Ticketing Law.

PART 6 - CONTAMINATED SITE REMEDIATION

Site Profiles

- 75** A Person must provide a Site Profile to the Lands Manager when the Person applies for or otherwise seeks approval for:
- (1) a change in zoning, or a subdivision of, Sq'ewá:lxw Lands that the Person knows, or reasonably should know, is or was used for industrial or commercial activity;
 - (2) a development Permit for Sq'ewá:lxw Lands that the Person knows, or reasonably should know, is or were used for industrial or commercial activity;
 - (3) removal of soil from Sq'ewá:lxw Lands that the Person knows, or reasonably should know, is or was used for industrial or commercial activity;
 - (4) a development Permit respecting demolition of a structure that the Person knows, or reasonably should know, is or was used for industrial or commercial activity; or
 - (5) a prescribed activity.
- 76** The Lands Manager must assess a Site Profile received under Section 75 to determine if a site assessment is required.
- 77** The Lands Manager may impose reasonable fees for an assessment under Section 76;
- 78** A vendor of an interest in Sq'ewá:lxw Lands who knows or reasonably should know that that land has been used for:
- (1) a prescribed industrial or commercial purpose; or
 - (2) a prescribed purpose or activity
- must provide a Site Profile to a prospective purchaser of the interest and the Lands Manager.
- 79** The Lands Manager may, by Order, require a Person to prepare and provide to the Lands Manager, at that person's own expense, a Site Profile if that person:
- (1) holds or occupies Sq'ewá:lxw Lands that, in the opinion of the Lands Manager, may be a Contaminated Site on account of any past or current use on that or other land; or
 - (2) is a Person referred to in Section 75 or Section 78 and fails to provide a satisfactorily completed Site Profile.
- 80** If the Lands Manager orders the preparation of a Site Profile under Section 79 respecting land that is subsequently determined not to be a Contaminated Site, the Lands



Manager and Sq'ewá:lxw are not liable for any costs incurred by a Person in preparing the Site Profile.

81 Except for the duty of a vendor to provide a Site Profile to a prospective purchaser under Section 78, the duty to provide a site assessment does not apply if a person:

- (1) has been ordered to undertake a site assessment under Section 82;
- (2) seeks and obtains a determination that the site is a Contaminated Site under Section 93; or
- (3) has already provided a Site Profile for the site under Section 75.

Environmental Site Assessment

82 The Lands Manager may, by Order, require an interest holder, owner, or operator of a site, at the interest holder, owner, or operator's own expense, to undertake a Preliminary Site Assessment or Detailed Site Assessment and to prepare a report of the assessment if the Lands Manager reasonably suspects on the basis of a Site Profile or any other information that the site:

- (1) may be a Contaminated Site; or
- (2) contain Contaminants.

83 On receipt of a report of a Preliminary Site Assessment or a Detailed Site Assessment submitted under Section 82, the Lands Manager:

- (1) must determine whether the report and assessment comply with any applicable Laws and Orders;
- (2) must deliver in accordance with Section 74 notice to the interest holder, owner, or operator of the site of the determination under paragraph (1); and
- (3) may require the additional assessment and report if the Lands Manager considers necessary for the report and assessment to comply with any applicable regulations or Orders.

84 The duty to undertake a Preliminary Site Assessment or a Detailed Site Assessment and to prepare a report of the assessment under this section does not apply if a Person seeks and obtains a determination that a site is a Contaminated Site under Section 93.

Site Information

85 The Lands Manager must enter into the First Nation Land Register information respecting:

- (1) all Site Profiles, Preliminary Site Assessments, and Detailed Site Assessments that the Lands Manager receives;
- (2) all Orders, approvals, and decisions, including determinations under Sections 92 or 93, made by the Lands Manager under this section;



- (3) declarations and Orders made by the Lands Manager under Sections 130 through 136; and
- (4) other information required by the regulations.

86 The Lands Manager may enter in the records of the First Nation Land Register information that:

- (1) is already available to the Lands Manager; and
- (2) would normally be obtained through a Site Profile or site assessment;

if, before doing so, the Lands Manager:

- (3) delivers in accordance with Sq'ewá:lxw Law a notice to the holders or operators of the site, if known to the Lands Manager, of the intention to make the entry; and
- (4) provides an opportunity for those holders or operators to show cause to the Lands Manager why the information should not be entered into the records of the first nation land register.

87 The Lands Manager must enter by notation into the records of the First Nation land register information referred to in Sections 85 and 86 and decisions of the dispute resolution process under Section 186 **Error! Reference source not found.** relating to his Part.

88 The Lands Manager must provide for reasonable public access to the information recorded in the first nation land register under this Part.

Determination of Contaminated Sites

89 The Lands Manager may determine whether a site is a Contaminated Site and, if the site is a Contaminated Site, the Lands Manager may determine the boundaries of the Contaminated Site.

90 A Person, within 30 days of receiving notice of the determination of a Contaminate Site, may dispute the determination by delivering or having delivered to the Lands Manager a written notice of dispute.

91 Dispute resolution will be as per the Sq'ewá:lxw Enforcement and Ticketing Law.

92 Subject to Section 93, in determining whether or not a site is a Contaminated Site, the Lands Manager must do all of the following:

- (1) make a preliminary determination of whether or not a site is a Contaminated Site, on the basis of a Site Profile, a Preliminary Site Assessment, a detailed assessment, or other available information;
- (2) deliver in accordance with Section 74 notice of the preliminary determination to:
 - (a) the Person who submitted the Site Profile, Preliminary Site Assessment, or Detailed Site Assessment for the site;



- (b) any Person with a registered interest in the site as shown in the records of the First Nation land register or the land title office at the time the Lands Manager searches the records of the land registry office or land title office; and
 - (c) any Person known to the Lands Manager who may be a responsible Person under Section 96 if the site is finally determined to be a Contaminated Site.
- (3) provide an opportunity for any Person to comment on the preliminary determination;
- (4) make a final determination of whether or not a site is a Contaminated Site;
- (5) deliver in accordance with Section 74 notice of the final determination to:
- (a) the Person who submitted the Site Profile, Preliminary Site Assessment, or Detailed Site Assessment for the site;
 - (b) any Person with a registered interest in the site as shown in the records of the First Nation land register at the time the Lands Manager searches the records of the land registry office;
 - (c) any Person known to the Lands Manager who may be a responsible Person under Section 96 if the site is finally determined to be a Contaminated Site;
 - (d) any Person who commented under paragraph (3); and
- (6) carry out any other prescribed procedures.

93 The Lands Manager, on request by any person, may omit the procedures set out in Sections 92(1), 92(2), and 92(3) and make a final determination that a site is a Contaminated Site if the Person:

- (1) provides reasonably sufficient information to determine that the site is a Contaminated Site; and
- (2) agrees to be a responsible Person for the Contaminated Site.

94 The lack of a determination under Sections 92 or 93 does not mean that a site is not a Contaminated Site.

95 A final determination made under this Part is a decision that may be appealed under Section 182.

Persons Responsible for Remediation of Contaminated Site

96 Subject to Section 100, the following persons are responsible for Remediation of a Contaminated Site:

- (1) a current holder or operator of the site;
- (2) a previous holder or operator of the site;



- (3) a Person who:
 - (a) produced a Contaminant; and
 - (b) by contract, agreement, or otherwise caused the Contaminant to be disposed of, handled, or treated in a manner that, in whole or in part, caused the site to become a Contaminated Site;
- (4) a Person who
 - (a) transported or arranged for transport of a Contaminant; and
 - (b) by contract, agreement, or otherwise caused the Contaminant to be disposed of, handled, or treated in a manner that, in whole or in part, caused the site to become a Contaminated Site;
- (5) a Person who is in a class prescribed to be responsible for remediation.

97 In addition to the persons referred to in Section 96, the following persons are responsible for Remediation of a Contaminated Site that was contaminated by migration of a substance to the Contaminated Site:

- (1) a current interest holder, owner, or operator of the site from which the Contaminant migrated;
- (2) a previous interest holder, owner, or operator of the site from which the Contaminant migrated;
- (3) a Person who:
 - (a) produced the Contaminant, and
 - (b) by contract, agreement, or otherwise caused the Contaminant to be disposed of, handled, or treated in a manner that, in whole or in part, caused the Contaminant to migrate to the Contaminated Site;
- (4) a Person who:
 - (a) transported or arranged for transport of a Contaminant; and
 - (b) by contract, agreement, or otherwise caused the Contaminant to be disposed of, handled, or treated in a manner that, in whole or in part, caused the Contaminant to migrate to the Contaminated Site.

98 A secured creditor is responsible for Remediation of a Contaminated Site if:

- (1) the secured creditor at any time exercised control over or imposed requirements on any Person regarding the manner of treatment, disposal, or handling of a Contaminant and the control or requirements, in whole or in part, caused the site to become a Contaminated Site; or
- (2) the secured creditor becomes the registered interest holder or owner of the Contaminated Site.



99 A secured creditor is not responsible for Remediation if it acts primarily to protect its security interest, including, if the secured creditor:

- (1) participates only in purely financial matters related to the site;
- (2) has the capacity or ability to influence any operation at the Contaminated Site in a manner that would have the effect of causing or increasing contamination, but does not exercise that capacity or ability in such a manner as to cause or increase contamination;
- (3) imposes requirements on any Person, if the requirements do not have a reasonable probability of causing or increasing contamination at the site; or
- (4) appoints a Person to inspect or investigate a Contaminated Site to determine future step or actions that the secured creditor might take.

Persons not Responsible for Remediation

100 The following Persons are not responsible for Remediation of a Contaminated Site:

- (1) a Person who would become a responsible Person only because of an act of God, if the Person exercised due diligence in relation to any Contaminant that, in whole or in part, caused the site to become a Contaminated Site;
- (2) a Person who would become a responsible Person only because of an act of war, if the Person exercised due diligence in relation to any Contaminant that, in whole or in part, caused the site to become a Contaminated Site;
- (3) a Person who would become a responsible Person only because of an act of omission of a third party, other than:
 - (a) an employee;
 - (b) an agent; or
 - (c) a party with whom the Person has a contractual relationship,

if the Person exercised due diligence in relation to any Contaminant that, in whole or in part, caused the site to become a Contaminated Site.

- (4) an interest holder or operator who establishes that:
 - (a) at the time the Person became an interest holder or operator of the site,
 - (i) the site was a Contaminated Site;
 - (ii) the Person had no knowledge or reason to know or suspect that the site was a Contaminated Site; and
 - (iii) the Person undertook all appropriate inquiries into the previous ownership and uses of the site and undertook other investigation, consistent with good commercial or customary practice at that time, in an effort to minimize potential liability.



- (b) if the Person was a holder of the site, the Person did not transfer any interest in the site without first disclosing any known contamination to the transferee; and
 - (c) the interest holder, owner, or operator did not, by any act or omission, cause or contribute to the contamination of the site.
- (5) a holder or operator who
- (a) held or operated a site that at the time of acquisition was not a Contaminated Site; and
 - (b) during the time held or operated, did not dispose of, handle, or treat a substance in a manner that, in whole or in part, caused the site to become a Contaminated Site.
- (6) a Person described in Sections 96(3), or 96(4), or 97(3), or 97(4) who:
- (a) transported or arranged to transport the Contaminant to the site, if the holder or operator of the site was authorized under Law to accept the Contaminant at the time of its deposit; and
 - (b) received permission from the holder or operator referred to in Section 96(1) or 97(1) to deposit the Contaminant.
- (7) Sq'ewá:lxw if it involuntarily acquires an interest or ownership in the Contaminated Site, other than by expropriation, unless it caused or contributed to the contamination of the site;
- (8) a Person who provides assistance respecting Remediation work at a Contaminated Site, unless the assistance is carried out in a negligent fashion;
- (9) a Person who provides advice respecting Remediation work at a Contaminated Site, unless the advice is negligent;
- (10) a Person who holds or operates a Contaminated Site that was contaminated only by the migration of a substance from other real property not owned or operated by the person;
- (11) a holder or operator of a Contaminated Site containing substances that are present only as natural occurrences not assisted by human activity and if those substances alone caused the site to be a Contaminated Site;
- (12) subject to Section 101, Sq'ewá:lxw, if it possesses, owns, or operates a roadway, highway, or right-of-way for sewerage or waterworks on a Contaminated Site, to the extent of the possession, interest or operation; or
- (13) a Person who is in a prescribed class as not responsible for remediation.

101 Subsection 100(12) does not apply in relation to a Contaminant placed or deposited below a roadway, highway, or right-of-way for sewerage or waterworks by Sq'ewá:lxw when it possesses, owns, or operates the roadway, highway, or right-of-way for sewerage or waterworks.



102 A Person seeking to establish that they are not a responsible Person under Section 100 has the burden to prove all elements of the exemption on the balance of probabilities.

General Principles of Liability for Remediation

103 A Person who is responsible for Remediation of a Contaminated Site is absolutely, retroactively, and jointly and separately liable to any Person or Sq'ewá:lxw for reasonably incurred costs of Remediation of the Contaminated Site, whether incurred on or off the Contaminated Site.

104 Section 103 must not be construed as prohibiting the apportionment of a share of liability to one or more responsible persons by the court in an action or proceeding under Section 107 or by the Lands Manager in a Remediation Order.

105 For the purposes of this Part, “costs of remediation” means all costs of Remediation and includes, without limitation:

- (1) costs of preparing a Site Profile;
- (2) costs of carrying out a site assessment and preparing a report, whether there has been a determination under Section 89 as to whether the site is a Contaminated Site;
- (3) legal and consultant costs associated with seeking contributions from other responsible persons; and
- (4) fees imposed by the Lands Manager.

106 Liability under this Part applies:

- (1) even though the introduction of a Contaminant into the Environment is or was not prohibited by any Laws if the introduction contributed in whole or in part to the site becoming a Contaminated Site; and
- (2) despite the terms of any cancelled, expired, abandoned, or current Environmental Permit or approval that authorizes the Discharge of Contaminants into the Environment.

107 Any person, including a responsible Person and the Lands Manager, who incurs costs in carrying out Remediation of a Contaminated Site may commence an action or a proceeding to recover the reasonably incurred costs of Remediation from one or more responsible persons in accordance with the principles of liability set out in this Part.

108 Subject to Section 109, a Person is not required to obtain, as a condition of an action or proceeding under Section 107 being subject to dispute resolution, adjudication, or a decision, determination, opinion or apportionment of liability for Remediation from the Lands Manager.

109 In all cases, the site that is the subject of an action or proceeding must be determined or considered under Section 89 to be or to have been a Contaminated Site before a dispute can be heard.



110 A dispute resolution panel, justice of the peace, or court may determine in accordance with the regulations, unless otherwise determined or established under this Part, any of the following:

- (1) whether a Person is responsible for Remediation of a Contaminated Site;
- (2) whether the costs of Remediation of a Contaminated Site have been reasonably incurred and the amount of the reasonably incurred costs of remediation;
- (3) the apportionment of the reasonably incurred costs of Remediation of a Contaminated Site among one or more responsible persons in accordance with the principles of liability set out in this Part; and
- (4) such other determinations as are necessary to a fair and just disposition of these matters.

Remediation Orders

111 The Lands Manager may issue a Remediation Order to any responsible person under Sections 96 to 99.

112 A Remediation Order may require a Person referred to in Section 111 to do any or all of the following:

- (1) undertake remediation;
- (2) contribute, in cash or in kind, towards the costs of another Person who has reasonably incurred costs of remediation; and
- (3) provide security, which may include real and personal property, in the amount and form the Lands Manager specifies.

113 For the purpose of deciding whether to require a Person to undertake Remediation under Section 112, the Lands Manager may consider whether Remediation should begin promptly, and must consider each of the following:

- (1) adverse effects on human health or pollution of the Environment caused by contamination at the site;
- (2) the potential for adverse effects on human health or the Environment caused by contamination at the site;
- (3) the likelihood of the responsible persons or other persons not acting expeditiously or satisfactorily in implementing remediation; and
- (4) other prescribed factors.

114 For the purpose of deciding who will be ordered to undertake or contribute to Remediation under Sections 111 and 112, the Lands Manager, to the extent feasible without jeopardizing Remediation requirements, must:



- (1) take into account private agreements between or among responsible persons respecting liability for remediation, if those agreements are known to the Lands Manager, and
- (2) on the basis of information known to the Lands Manager, name one or more persons whose activities, directly or indirectly, contributed most substantially to the site becoming a Contaminated Site, taking into account such factors as:
 - (a) the degree of involvement by the persons in the generation, transportation, treatment, storage, or disposal of any substance that contributed, in whole or in part, to the site becoming a Contaminated Site; and
 - (b) the diligence exercised by persons in relation to the contamination.

115 A Remediation Order does not affect or modify a right of a Person affected by the Order to seek or obtain relief under an agreement, other legislation or common law, including damages for injury or loss resulting from a release or threatened release of a contaminating substance.

116 If a Remediation Order is issued under Section 66 in relation to a site, and the Lands Manager has not yet determined under Section 89 whether the site is a Contaminated Site, as soon as reasonably possible after issuance of the Order, the Lands Manager must determine:

- (1) whether the site is a Contaminated Site, in accordance with Section 89; and
- (2) whether the Person named in the Order is a responsible person.

117 If a Person named in a Remediation Order referred to in Section 116 is determined not to be a responsible person, Sq'ewá:lxw must compensate the person, in accordance with regulations, for any costs directly incurred by the Person in complying with the Order.

118 A Person who receives a Remediation Order under Section 111 or a notice of a Remediation Order under Section 123 must not, without consent of the Lands Manager, knowingly do anything that diminishes or reduces assets that could be used to satisfy the terms and conditions of the Remediation Order, and if the Person does so, the Lands Manager, despite any other remedy sought, may commence an action against the Person to recover the amount of the diminishment or reduction.

119 The Lands Manager may provide in a Remediation Order that a responsible Person is not required to begin Remediation of a Contaminated Site for a specified period of time if the Contaminated Site does not present an imminent and significant threat or risk to:

- (1) human health, given current and anticipated human exposure, or
- (2) the Environment.

120 A Person who has submitted a Site Profile under Section 75 must not directly or indirectly diminish or reduce assets at a site designated in the records of the First Nation Land Register as a Contaminated Site, including, without limitation, by:

- (1) disposing of vehicles, equipment, or real or personal assets; or



(2) subdividing land,

unless they first request and obtain written notice from the Lands Manager that the Lands Manager does not intend to issue a Remediation Order.

121 If the Lands Manager issues or gives notice of the intention to issue a Remediation Order to a Person referred to in Section 120, Section 118 applies.

122 The Lands Manager may amend or cancel a Remediation Order.

123 The Lands Manager, on making a Remediation Order must, within a reasonable time, deliver in accordance with Section 74 notice of the Order to every Person holding an interest in the Contaminated Site if the interest is registered in the land title office or the First Nation Land Register at the time of issuing the Order.

124 A Remediation Order may authorize, subject to the terms and conditions the Lands Manager considers necessary and reasonable, a Sq'ewá:lxw Enforcement Officer or any Person designated by the Lands Manager to enter specified Sq'ewá:lxw Lands for the purpose of ensuring that the Remediation Order is carried out according to its terms.

125 If a Remediation Order authorizes a Person to enter specified Sq'ewá:lxw Lands, the Person who holds or occupies the land must allow the authorized Person to enter in accordance with the authorization.

126 Sections 124 and 125 do not authorize any Person to enter any structure or part of a structure that is used solely as a private residence.

127 Upon completion of the Remediation of the site to the satisfaction of the Lands Manager and in accordance with the Remediation Order, the Lands Manager must, within a reasonable time, deliver in accordance with Section 74 a certificate of compliance to every Person holding an interest in the site if the interest is registered in the land title office or the First Nation Land Register at the time of issuing the certificate of compliance.

Selection of Remediation Options

128 A Person conducting or otherwise providing for Remediation of a site must give preference to Remediation alternatives that provide permanent solutions to the maximum extent practicable, taking into account the following factors:

- (1) any potential for adverse effects on human health or for pollution of the Environment;
- (2) the technical feasibility and risks associated with alternative Remediation options;
- (3) remediation costs associated with alternative Remediation options and the potential economic benefits, costs, and effects of the Remediation options; and
- (4) other prescribed factors.



129 When issuing a certificate of compliance, the Lands Manager must consider whether permanent solutions have been given preference to the maximum extent practicable as determined in accordance with any guidelines set out in the regulations.

Orphan Sites

130 The Lands Manager may determine whether a Contaminated Site is an orphan site.

131 The Lands Manager may declare, in writing, that it is necessary for the protection of human health or the Environment for Sq'ewá:lxw to undertake Remediation of a Contaminated Site that is not otherwise being adequately remediated.

132 If the Lands Manager has made a declaration under Section 131, the Lands Manager may carry out Remediation and recover the reasonably incurred costs of the Remediation and the Lands Manager, or an officer authorized in writing by the Lands Manager may, by Order require any Person to:

- (1) provide labour, services, material, equipment or facilities; or
- (2) allow the use of land for the purpose of undertaking the remediation.

133 If the Lands Manager has made a declaration under Section 131, the Lands Manager, a Sq'ewá:lxw Enforcement Officer, or any authorized officer, may enter the property and carry out remediation.

134 A Person affected by an Order made under subsection 132 must comply with the Order despite any other enactment.

135 A certificate signed by the Lands Manager and showing an amount of money spent by Sq'ewá:lxw under this section is conclusive proof of the amount spent.

136 If the Lands Manager makes a declaration under Section 131 or an Order under Section 132, the Lands Manager must make a notation of the declaration or Order in the records of the First Nation land register against the property that has been remediated under this section.

Cost Recovery if Lands Manager Carries out Remediation

137 Sq'ewá:lxw may recover all or a portion of the cost of Remediation by taking steps to identify and recover costs from responsible persons during or after Remediation.

138 The amount shown on the certificate under Section 135 is a debt due to Sq'ewá:lxw and, subject to Section 132, is recoverable from any responsible person, by action in the Supreme Court.

139 If the Supreme Court is satisfied that the expenditure incurred by Sq'ewá:lxw under Sections 130 through 136 is either:

- (1) excessive, taking into consideration the requirements of the regulations governing remediation, or
- (2) unnecessary, taking into consideration the regulations governing remediation;



the Supreme court may reduce or extinguish the amount of the judgement that it would otherwise have ordered to be entered against the Person against whom the action has been brought.

140 The Lands Manager may register a lien in the First Nation Land Register against a Contaminated Site for the costs of Remediation incurred by Sq'ewá:lxw at the Contaminated Site that has been remediated under Sections 130 through 136.

141 A lien under Section 140 is payable in priority over all liens, charges, loans, or mortgages of every person, whenever created or to be created, in relation to the site or proceeds of the site.

Lands Manager Retains Right to Take Future Action

142 The Lands Manager may issue further Orders or Permits where:

- (1) additional information relevant to establishing liability for Remediation becomes available;
- (2) activities occur on a site that may change its condition or use;
- (3) information becomes available about a site or a contaminating substance at the site that leads to a reasonable inference that the site poses a threat to human health or the Environment;
- (4) a responsible Person fails to exercise due care in relation to any contamination at the site; or
- (5) a responsible Person directly or indirectly contributes to contamination at the site after previous action.

Immunity in Relation to Contaminated Sites

143 In this Part

- (1) A “protected Person” means:
 - (a) Sq'ewá:lxw;
 - (b) a current or former Sq'ewá:lxw official;
- (2) subject to Section 144, no action lies and no proceedings may be brought against a protected Person because of:
- (3) any:
 - (a) act, advice, including pre-application advice or recommendation; or
 - (b) failure to act, failure to provide advice, including pre-application advice, or failure to make recommendations in relation to this Part, or
- (4) any:



- (a) purported performance of duties or exercise of powers, or
- (b) failure to perform any duties or exercise any powers arising under this Part.

144 Section 143(2) does not provide a defense if, in relation to the subject matter of the action or proceedings;

- (1) the protected Person is a responsible person, or
- (2) the conduct of the protected Person was dishonest, grossly negligent, malicious, or construed as willful misconduct.

PART 7 - ENVIRONMENTAL PERMITS

Issuing Environmental Permits

145 The Lands Manager may issue an Environmental Permit in accordance with this Law.

146 Any Person producing Waste on Sq'ewá:lxw Lands while conducting any industry, trade, or business requires an Environmental Permit.

147 Any Person involved in the handling, treatment, transportation, storage and introduction of Contaminants into the Environment may do so only under Environmental Permit.

148 The Lands Manager may issue an Environmental Permit authorizing the handling, treatment, transportation, storage and Discharge of Contaminants into the Environment subject to requirements for the protection of the Environment that the Lands Manager considers advisable.

149 An applicant for an Environmental Permit must submit a Contaminant management plan and a Waste management plan as part of their application.

150 The Lands Manager may issue an outdoor fires Permit in accordance with the Sq'ewá:lxw Outdoor Fires Law.

151 The Lands Manager, without limiting that power, may do one or more of the following in the Environmental Permit:

- (1) require the permittee to repair, alter, remove, improve or add to works or to construct new works and to submit plans and specification for works specified in the Environmental Permit for the control of Contaminants;
- (2) require the permittee to give security in the amount and form and subject to conditions the Lands Manager specifies;
- (3) require the permittee to monitor, in the manner specified by the Lands Manager, the Contaminants, the method of handling, treating, transporting, discharging and storing the Contaminants and the places and things that the Lands Manager considers will be affected by the Discharge of the Contaminants or the handling, treatment, transportation or storage of the Contaminants;



- (4) require the permittee to conduct studies and to report information specified by the Lands Manager in the manner specified by the Lands Manager;
- (5) specify procedures for monitoring and analysis, and procedures or requirements respecting the handling, treatment, transportation, Discharge or storage of Contaminants that the permittee must fulfill; or
- (6) require the permittee to recycle certain Contaminants, and to recover certain reusable resources, including energy potential from Contaminants.

152 A Environmental Permit does not authorize the introduction of Contaminants into the Environment unless it specifies the characteristics and quantity of Contaminant that may be introduced.

153 Despite Section 148 the Lands Manager may not issue or, subject to Section 154, amend an Environmental Permit authorizing the introduction of Contaminants into the Environment if the introduction is governed by:

- (1) a prescribed code of practice in relation to the industry, trade, or business that applies for the Environmental Permit or amendment;
- (2) a prescribed code of practice in relation to the activity or operation in relation to which the Environmental Permit or amendment is applied for; or
- (3) a regulation, unless the regulation requires that an Environmental Permit be obtained in relation to the Discharge for the industry, trade, or business activity or operation.

154 The Lands Manager, on receipt of an application or on their own initiative, may amend an Environmental Permit authorizing an introduction of Contaminants described in Section 153 if:

- (1) in the opinion of the Lands Manager, the amendment is necessary for the protection of the Environment; or
- (2) the amendment is for one or more of the following purposes:
 - (a) a change of ownership or name;
 - (b) a change of address;
 - (c) a decrease in the authorized quantity of the Discharge, emission, or stored substance;
 - (d) an increase of not more than 10% in the authorized quantity of the Discharge, emission, or stored substance;
 - (e) a change in the authorized quality of the Discharge, emission, or stored substance such that, in the opinion of the Lands Manager, the change has resulted in or will result in an equal or lesser impact on the Environment;
 - (f) a change in a monitoring program; or



- (g) a change to the works, method of treatment, or any other condition of an Environmental Permit or an approval such that, in the opinion of the Lands Manager, the change has resulted in or will result in an equal or lesser impact on the Environment.

Approvals

155 The Lands Manager may approve the introduction of Contaminants into the Environment for a period of up to six months without issuing a permit.

156 In granting an approval under Section 155, the Lands Manager must consider requirements to protect the Environment, and may consider including conditions related to the handling, treatment, transportation, storage or discharge of a Contaminant.

Amendment of Permits and Approvals

157 The Lands Manager may, subject to Section 153, for the protection of the Environment:

- (1) on the Lands Manager's own initiative if they considers it necessary; or
- (2) on application by a holder of an Environmental Permit or approval

amend the requirements of the Environmental Permit or approval.

158 If an Environmental Permit or an approval is subject to conditions imposed pursuant to a decision made in dispute resolution, those conditions must not be amended except:

- (1) by the Panel as defined by the Sq'ewá:lxw Land Code; and
- (2) after the Panel has given the parties to the review an opportunity to be heard on the question of whether the conditions should be amended.

159 The Lands Manager's power to amend an Environmental Permit or an approval includes all of the following:

- (1) authorizing or requiring the construction of new works in addition to or instead of works previously authorized or required for the control of Contaminants;
- (2) authorizing or requiring the repair of, alteration to, improvement of, removal of, or addition to existing works for the control of Contaminants;
- (3) requiring security, altering the security required, or changing the type of security required or the conditions of giving security;
- (4) extending or reducing the term of or renewing the Environmental Permit or approval;
- (5) authorizing or requiring a change in the characteristics or components of Contaminants Discharged, treated, handled, stored, or transported;
- (6) authorizing or requiring a change in the quantity of Contaminants Discharged, treated, handled, stored, or transported;



- (7) authorizing or requiring a change in the location of the Discharged, treatment, handling, storage, or transportation of the Contaminants;
- (8) altering the time specified for the construction of works or the time in which to meet other requirements imposed on the holder of the Environmental Permit or approval;
- (9) authorizing or requiring a change in the method of discharging, treating, handling, storing, or transporting the Contaminants; and
- (10) changing or imposing any procedure or requirement that was imposed or could have been imposed under Sections 148 through 156.

160 The Lands Manager may renew an approval before or after the end of the term of the approval.

161 The Lands Manager may not renew an approval if the term of the approval and the term of renewal, when taken together, would exceed six months.

162 If the Lands Manager amends an Environmental Permit or approval, the Lands Manager:

- (1) may require that the holder of the Environmental Permit or approval supply the Lands Manager with plans, specifications, and other information the Lands Manager requests, and
- (2) must deliver in accordance with Section 74 a notice of the amendment to the holder of the Environmental Permit or approval and publish in accordance with Sq'ewá:lxw Law a notice of the amendment.

163 Despite Section 162, the Lands Manager may give the notice by electronic means to an address provided by the holder of the Environmental Permit or approval.

Transfers of Permits and Approvals

164 Subject to Section 166, a Permit or approval may not be transferred unless the Lands Manager has consented in writing to the transfer.

165 The Lands Manager may consent to a transfer by electronic means to an address provided by the holder of the Permit or approval.

166 For certainty, an Environmental Permit referred to in Sections 44 through 47 is not transferable.

Suspension or Cancellation of Permits and Approvals

167 Subject to this Part, the Lands Manager, by notice delivered in accordance with Sq'ewá:lxw Law to the holder of an Environmental Permit or approval, may

- (1) suspend the Environmental Permit or approval for any period, or
- (2) cancel the Environmental Permit or approval.



168 A notice delivered under Section 167 must state the time at which the suspension or cancellation takes effect.

169 The Lands Manager may exercise the authority under Section 167 in any of the following circumstances:

- (1) a holder of an Environmental Permit
 - (a) fails to complete construction of works for the control of Contaminants specified in the Environmental Permit within the time specified in the Environmental Permit or, if no time is specified in the permit, within two years after issuance of the Environmental Permit, or
 - (b) does not exercise any rights under the Environmental Permit for a period of two years;
- (2) a holder of an Environmental Permit or an approval fails to pay money owing to Sq'ewá:lxw under the Environmental Permit or approval;
- (3) a holder of an Environmental Permit or an approval fails to comply with the terms of the Environmental Permit or approval;
- (4) a holder of an Environmental Permit or an approval fails to comply with an Order issued under this Law and related to the subject matter of the Environmental Permit or approval;
- (5) a holder of an Environmental Permit or an approval or the holder's agent has made or makes a material misstatement or misrepresentation in the application of the Environmental Permit or approval or in the information required under this Law in relation to the Environmental Permit or approval;
- (6) a holder of an Environmental Permit or an approval fails to comply with any other requirements of this Law;
- (7) an Environmental Permit or an approval conflicts with or is replaced by a Contaminant management plan approved by the Lands Manager;
- (8) an Environmental Permit or approval is replaced by a Sq'ewá:lxw Environmental operating procedure; or
- (9) an Environmental Permit or approval is no longer, in the opinion of the Lands Manager, in the interest of Sq'ewá:lxw.

170 In addition to the authority conferred by Section 167, the Lands Manager may, without notice to the holder,

- (1) suspend an Environmental Permit or approval for the length of time requested if the holder requests that the Environmental Permit or approval be suspended, or
- (2) cancel an Environmental Permit or approval if the holder of the Environmental Permit or approval:



- (a) dies;
- (b) is a corporation that is liquidated, dissolved, or otherwise wound up or is an extra provincial company within the meaning of the Business Corporations Act (British Columbia) that has had its registration cancelled under Part 10 to 12 of that Act;
- (c) is a partnership that is dissolved;
- (d) requests that the Environmental Permit or approval be cancelled; or
- (e) has given notice of abandonment under Section 175.

171 For certainty, an Environmental Permit or an approval that is suspended or cancelled is not a valid and subsisting Environmental Permit or approval.

Variance Orders

172 If the Lands Manager considers that a Person should have temporary relief from a requirement of an Order, a permit, an approval, a code of practice or a Contaminant management plan, the Lands Manager may issue a variance Order in relation to a requirement of the Order, Environmental Permit, approval, a code of practice, or Contaminant management plan.

173 If the Lands Manager issues a variance Order, the Lands Manager must:

- (1) specify the requirements in relation to which they grants the relief;
- (2) specify the period during which the variance Order will remain in effect; and
- (3) publish in accordance with Sq'ewá:lxw Law a notice of the variance Order.

174 Despite Section 173, the Lands Manager may:

- (1) cancel a variance Order; or
- (2) renew or extend a variance Order.

Abandonment

175 A Person to whom an Environmental Permit or an approval has been issued, but who has not exercised any right under it to Discharge Contaminants, may abandon the Environmental Permit or approval by sending or delivering to the Lands Manager notice that the Person elects to abandon the Environmental Permit or approval.

176 A Person who elects under Section 175 to abandon an Environmental Permit or an approval does not commit an offence merely because they have not complied with a requirement of the Environmental Permit or approval.

177 Subject to Section 178, a Person to whom an Environmental Permit or an approval has been issued and who has exercised a right under it to Discharge Contaminants may abandon the Environmental Permit or approval by sending or delivering to the Lands



Manager notice that the Person elects to abandon the Environmental Permit or approval.

178 A notice under Section 177 is not effective until it is received by the Lands Manager.

179 A Person who elects under Section 177 to abandon an Environmental Permit or an approval:

- (1) does not commit an offence merely because after the abandonment became effective they have not complied with the requirements of the Environmental Permit or approval; and
- (2) despite the abandonment, is bound by those additional requirements that the Lands Manager imposes respecting restoration of the Environment or the control and monitoring of the Contaminants Discharged or the Contaminants that continue to be Discharged after the abandonment.

Written Reasons

180 Where the Lands Manager refused to issue an Environmental Permit or suspends an Environmental Permit, the Lands Manager must provide written reasons for the refusal or suspension to the applicant or to the Environmental Permit holder as the case may be.

181 The Lands Manager must deliver, in accordance with Section 74, notice of the refusal or suspension under Section 180 and written reasons for the refusal or suspension.

Dispute Resolution

182 A Person whose application for an Environmental Permit is refused, within 30 days of receiving notice of the refusal, may dispute the refusal by delivering or having delivered to the Lands Manager a written notice of dispute.

183 The Law will be enforced under the Sq'ewá:lxw Enforcement and Ticketing Law.

PART 8 - OFFENCES, PENALTIES AND ENFORCEMENT

Offences and Penalties

184 A Person who contravenes this Law, with the exception of Sections 16 through 21, 48, 49, or 50, or an Order made by a Court pursuant to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000 or to imprisonment for a term of not more than three months, or to both.

185 A Person who contravenes Sections 16 through 21, 48, 49, 52, or 58 of this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$250.

186 Enforcement of this Law will be as per the Sq'ewá:lxw Enforcement and Ticketing Law.

PART 9 - REGULATIONS

187 Council may make regulations or pass Council resolutions as follows:



- (1) prescribing any matter that may be prescribed under this Law;
- (2) prescribing industry, trade, or businesses in the collection, storage, treatment, handling, transportation, Discharge, or destruction or other disposal of Contaminants;
- (3) respecting Contaminants or the concentration of Contaminants that may or may not be discharged into the Environment;
- (4) respecting the maximum permissible concentration of a Contaminant in the Environment;
- (5) respecting the reporting of discharges of Contaminants or the likely discharge of contaminants into the Environment;
- (6) prescribing purposes, activities, or operations for the purposes of this Law;
- (7) characterizing Contaminants, the concentration of Contaminants, and/or quantities of Contaminants for the purposes of this Law;
- (8) respecting the methods for sampling and analyzing Contaminants;
- (9) respecting standards for Environmental audits and Environmental site assessments;
- (10) respecting the design, construction, identification, siting, and operation of disposal sites for contaminants;
- (11) respecting the material and equipment required to be on hand to alleviate the effect of any discharge of contaminants;
- (12) respecting the safeguards required to prevent the discharge of contaminants;
- (13) prescribing the form of documents, manifests, and Environmental Permits to be used under this Law;
- (14) respecting the requirements for the application, issuing, refusal, and suspension of permits and public participation relating to this subject matter;
- (15) prescribing fees to be charged under this Law;
- (16) creating classes of Environmental Permits;
- (17) prescribing any classes of persons; or
- (18) respecting any other matter necessary to carry out the purposes and provisions of this Law.

PART 10 - AMENDMENTS

Amendments to this Law

188An amendment or repeal of this Environmental Management Law must only be made by Council, as recommended by the Land Advisory Committee in accordance with the Land Code.







