

Gas Plus Inc. and Handel Transport (Northern) Ltd. Questions and Answers

Compliance Enforcement

What is an Environmental Protection Order?

Environmental Protection Orders (EPO) are issued under the authority of Alberta's *Environmental Protection and Enhancement Act* (EPEA), and are not an enforcement tool, but are remedial in nature to address restoration or remediation of the environment. They ensure immediate action is taken to correct a situation in which environmental damage has occurred, is occurring or may occur.

Why was Gas Plus issued an Environmental Protection Order in December of 2010?

In May 2010 Environment and Sustainable Resource Development was notified of a release at the retail gas station at 6336 Bowness Road, NW. According to information provided by Gas Plus Inc., a flex line on one of the retail pumps developed a pin-hole leak.

On June 7, 2010 the company informed Environment and Sustainable Resource Development that they had inspected, identified, and corrected the source of the leak. There was no indication from the company that there was a significant release of gasoline to the environment or any potential off-site impacts.

On August 4, 2010, Environment and Sustainable Resource Development was notified by the Calgary Fire Department that gasoline vapours were detected in a residential basement adjacent to Gas Plus. The company then reported to Environment and Sustainable Resource Development that the leak resulted in approximately 7,000 to 9,000 litres of gasoline released over a two month period.

Environment and Sustainable Resource Development, by a designated "Director" under the *Environmental Protection and Enhancement Act*, issued an Environmental Protection Order to Gas Plus Inc. (the owner of the gas station) and Handel Transport (Northern) Ltd. (the owner of the lands on which the gas station was located) (the parties will be hereafter be referred to as "Gas Plus") on December 3, 2010, plus three amendments to the Order in 2011. Gas Plus appealed the original order and each consecutive amendment to the Environmental Appeals Board.

Gas Plus failed to comply with critical requirements of the Environmental Protection Order issued on December 3, 2010, and the subsequent amendments issued on April 21, 2011, June 1, 2011, and September 13, 2011.

What was the outcome of the November 2011 Environmental Appeals Board Hearing?

The Environmental Appeal Board held a hearing from November 22 to 25, 2011, and issued a Report and Recommendations to the Minister of Environment and Sustainable Resource Development. On January 25, 2012, former Environment and Sustainable Resource Development Minister, Diana McQueen issued Ministerial Order 02/2012 against Gas Plus (to both Gas Plus Inc. and Handel Transport (Northern) Ltd.) . The Ministerial Order upheld and varied the Environmental Protection Order issued by the Director, and set out additional specific actions and deadlines by which Gas Plus had to comply.

Gas Plus asked for, and was denied, a reconsideration by the Environmental Appeals Board of its Report and Recommendations made to the Minister. Gas Plus subsequently commenced an application for a Judicial Review (appeal) of the Ministerial Order to the court.

What was Gas Plus required to do under Ministerial Order 02/2012?

The Ministerial Order required that Gas Plus undertake a Source Removal Program on its own site. This Program requires Gas Plus to excavate, remove and dispose of all soil that exceeded the applicable remediation criteria. It also requires Gas Plus to remove and dispose of all groundwater that exceeded the applicable remediation criteria.

The Order further required Gas Plus to conduct an off-site remediation program of contaminated soils and groundwater that exceed the applicable remediation criteria using an "in-situ" (no excavation) approach. This included all areas outside of the Gas Plus property boundaries, including neighbouring properties and City of Calgary lands alleys and roadways impacted by the gasoline spill.

Why was it necessary for the Director to obtain a Court Order in December 2012?

Gas Plus failed to appropriately initiate remediation of contamination, as per the requirements of Ministerial Order 02/2012.

On December 13, 2012, the Court of Queen's Bench (Justice Stevens) heard an application by the Director to force Gas Plus to comply with the Ministerial Order. Justice Stevens issued his decision on December 20, 2012, which found Gas Plus to be non-compliant with parts of the Ministerial Order and specified new deadlines for Gas Plus to comply.

Following this ruling, Gas Plus withdrew their application for Judicial Review.

What is the current status of remediation on the Gas Plus Site?

To date, Gas Plus has conducted limited excavation of contaminated materials (soils) above bedrock. The company has also collected and treated groundwater from the site prior to disposing of it in the City's storm system, installed two vapour extraction system units, removed the underground storage tanks and other infrastructure from the site, and conducted limited soil and groundwater sampling.

What is the current status of remediation off of the Gas Plus site?

To date, Gas Plus has not conducted any remedial work in the off-site areas, other than two unapproved injections of chemical oxidation compounds in 2011 and 2012, and the operation of vapour extraction systems at three residential homes on Bow Crescent that have been affected by subsurface hydrocarbon vapours.

What work has CH2M Hill been doing in the Bowness neighbourhood?

Environment and Sustainable Resource Development has retained the consulting services of CH2M Hill to provide the Director with an independent assessment of contamination that is persisting both on and off the Gas Plus site.

On-site:

CH2M Hill has been providing technical expertise to the Director since 2011. CH2M Hill is reviewing all reports submitted by Gas Plus for the purposes of verifying the data submitted and identifying gaps. The most recent report submitted (dated December 13, 2013) was reviewed by CH2M Hill, who confirmed that contaminants still remain in sub-soils and groundwater at the site that exceed the applicable provincial remediation criteria (the Alberta Overall Tier 2 Criteria).

Off-site:

From July 23 to July 26, 2013, CH2M Hill conducted an off-site groundwater monitoring and sampling program outside the Gas Plus site. The purpose of this program was to verify and supplement the gaps in data presented by Gas Plus.

CH2M Hill reported ten groundwater monitoring wells with groundwater sampling results that exceeded the Tier 2 Criteria for one or more hydrocarbons. Though hydrocarbon levels are decreasing in some areas (naturally degrading), CH2M Hill confirmed that previous sampling locations that showed the highest levels of contamination still remain above the Tier 2 Criteria.

What is Environment and Sustainable Resource Development doing?

As Gas Plus has displayed a continued unwillingness to undertake the appropriate remedial activities as required by the Ministerial Order, it is Environment and Sustainable Resource Development's intention to take over remediation activities both on and off the Gas Plus site. Due to its extensive knowledge and experience on this site, CH2M Hill, the department's technical consultant, has been asked to undertake these works on behalf of the Government of Alberta.

If Gas Plus isn't going to clean up the site, why didn't the department take over the clean-up efforts sooner?

In Alberta, we believe that those responsible for contamination should be held liable for clean-up. Taxpayers should not foot the bill for cleaning up contamination by private companies.

As per Alberta Environment and Sustainable Resource Development's legislation, a person responsible for the release of a substance is the owner of the substance or the person in care and control of that substance. In this situation, the responsible parties have been identified as Gas Plus Inc., as owner of the retail gas station, and Handel Transport (Northern) Ltd., the landowner.

In Alberta, the polluter pays, therefore, the cost of the activities to delineate and remediate the contamination is the responsibility of the identified responsible parties. Alberta's legislation identifies that the persons responsible are required to and have a duty to remediate any contamination that results from the release of a substance they have control over.

Does the Director have the authority to take over the remedial activities at the site?

Based on the amount of time that has elapsed since the spill occurred, the continued unwillingness on the part of Gas Plus to clean up the contamination appropriately, and the time required by the various appeals and other legal processes, the Director is of the opinion that it is in the public interest for the Department to take over remedial activities as described, both on and off-site, by the Ministerial Order.

The *Environmental Protection and Enhancement Act* states that if the person to whom an Environmental Protection Order is directed fails to comply with the Environmental Protection Order, the Director may take whatever action the Director considers necessary to carry out the terms of the Order.

Is Gas Plus still responsible for the costs associated with the clean-up efforts?

Yes, Gas Plus remains the polluter and remains responsible under the *Environmental Protection and Enhancement Act* for the cost of remediation.

The Government of Alberta is not taking ownership of the site. The *Environmental Protection and Enhancement Act* provides that "Costs incurred by the Director [...] are recoverable by the Government". As such, the Government of Alberta will be seeking reimbursement of its remedial costs from Gas Plus.

Will access to my property be required? If so, who will contact me?

To undertake remedial activities off-site, Environment and Sustainable Resource Development will require access to some private properties. The Director will approach these residents (owners and/or tenants) directly to gain access.

What can I expect to see during the clean-up by Environment and Sustainable Resource Development and its contractor?

63 monitoring wells have been drilled to date. CH2M Hill intends to drill an additional 20 wells in the immediate proximity of the Gas Plus site and associated "hot spots", 15 of which will be located on private land. These wells will include vapour and groundwater monitoring, and a number of injection wells.

When will the work start?

Remediation activities off-site are expected to begin as soon as access to the Gas Plus site and all other required off-site properties can be arranged. There may be some activities occurring in the area prior to then in preparation for the start of the actual remedial phase.

Will I receive regular updates?

Updates will be provided to residents at predetermined milestones. For those residents with properties that are directly impacted by this undertaking, you will be contacted directly before any work is initiated and/or if any significant changes are made to the remediation plan.