

Canada's Responsibility for Contamination Before the Land Code Vote

Inventory of Contaminated Land	Liability
<p>Section 6.3 of the Framework Agreement</p> <ul style="list-style-type: none"> • Before a First Nation develops its land code, Canada is supposed to provide a First Nation, at its request, with “all existing information, in Canada’s possession, respecting any potential or actual environmental problems with the proposed First Nation land” (Framework Agreement s. 6.3) 	<p>Canada may be liable for any environmental damages to First Nation Land before the Land Code comes into effect. This will depend on the facts or circumstances of each case.</p>
<p>Phase I Environmental Site Assessment</p> <ul style="list-style-type: none"> • Such existing information may be inadequate to fully describe the condition of reserve lands, so Canada’s policy is to fund the preparation of Phase I Environmental Site Assessments (ESAs), which: <ul style="list-style-type: none"> ➤ review reports on previous use of land to identify potential sources of contamination ➤ conduct site inspections ➤ interview knowledgeable First Nations members about land use and contamination 	<p>Canada’s liability for such “legacy” contamination does not end when a First Nation adopts a Land Code.</p>
<p>Individual Agreement</p> <ul style="list-style-type: none"> • Before approving an <u>Individual Agreement</u>, a First Nations should meet with Indigenous and Northern Affairs Canada (INAC) to resolve responsibility for contamination and remediation. • It is imperative that the nature and scope of further environmental work be included in the Individual Agreement work plan before a First Nation signs off on its Individual Agreement. • Because Phase 1 ESA’s do not identify the entire extent of contamination on reserve land, a First Nation ideally should ensure that it’s Individual Agreement and work plan contain a commitment by Canada to assist the First Nation in identifying contaminated sites on reserve and a timeline to remediate them. 	<p>Canada will not necessarily remediate identified contaminated sites. A variety of studies and ratings must be conducted, and funding must be available.</p> <p>For Canada’s official policy on site remediation, go to: https://www.aadnc-aandc.gc.ca/eng/1100100034643/110010034644</p>