



JAS ENVIRONMENTAL, INC

ENVIRONMENTAL DUE DILIGENCE

Environmental due diligence is the process of investigating the environmental condition of a property so that an assessment can be made regarding potential risk and liabilities associated with its purchase. If done properly, it can provide a buyer with certain legal protections in the event that actual contamination is found either before or after the purchase is made. Some level of due diligence is often required by lenders as a condition of the loan offered on many types of properties as well.

While the due diligence process is designed to protect the buyer of real property, a seller may wish to conduct similar assessment efforts prior to offering a piece of property for sale. This provides the seller with knowledge of the condition of the property; this can enhance the seller's position during negotiations with a buyer, and affords the seller the opportunity, if desired, to mitigate problems prior to offering the property for sale.

A Phase I Environmental Site Assessment or ESA is typically the start of such a process; it is designed to identify conditions that indicate the actual or potential presence of hazardous substances or petroleum products at the property, known as Recognized Environmental Conditions or RECs. An ESA includes a review of site history, interviews with persons knowledgeable about the site, review of environmental records and a site visit or reconnaissance. It does not include actual sampling, although sampling is sometimes done concurrent with the site visit.

The ESA process is defined in the ASTM Standard E-1527-13, and is also codified in federal regulations under the "All Appropriate Inquiry rule" (40 CFR Part 312). More information can be found at the following websites:

<http://www.astm.org/Standards/E1527.htm>

<http://epa.gov/swerosps/bf/aai/index.htm>

A standard compliant ESA must be conducted by or at least overseen by an Environmental Professional (EP). The standard defines various levels of schooling and experience that the EP must possess. If a REC or RECs are identified during the ESA, confirming the presence of contaminants and defining their extent will entail the collection and analysis of samples from the site, referred to as a Phase II site investigation.

A site that is found to be contaminated may undergo clean up or remediation. With the increased use of risk-based remediation, today site clean-up will often incorporate the use of engineered barriers, institutional controls and/or building control technologies to eliminate exposure to site contaminants, in lieu of or addition to a more focused scope of clean up. (see our white paper on Risk Based Site Investigation and Clean-Up).