How can you protect yourself against these potential liabilities?

By hiring a well-qualified environmental consultant to perform an Environmental Site Assessment that, at a minimum adheres to ASTM standards below any sales transaction takes place.

A Phase II Environmental Site Assessment requires one or more visits to the property to collect samples, typically of soil, groundwater, and sometimes well gas, water, and/or air. Sample locations are selected based on your consultant’s evaluation of your property’s use and history. Samples are sometimes obtained in the field and then analyzed by a laboratory. The analytical results help determine what contaminants (if any) are present, their location, and what their characteristics are. If levels of contamination are found to be at or above levels that the Maine Department of Environmental Protection (ME DEP) has established as harmful, you may be required to perform a site assessment and remediation.

After You Hire a Consultant

Make sure the consultant is advised before submitting the application package to VRAP, which will be used to develop an environmental site assessment and to budget and price the project. Inadequate investigation can add thousands of dollars and months of delays to a project.

After You Hire a Consultant

As part of a pending property sale, the owner of a commercial property removed a fuel oil underground storage tank (UST) from behind a building where a dry cleaner had operated. The soil removed was found to contain tetrachloroethylene (also known as perchloroethylene, perc, or PCE). The first consultant the owner hired assumed that the source of the PCE was eliminated when the UST soil was removed from the area and did not further evaluate additional pecipe contamination. When monitoring wells were installed to verify cleanup, additional PCE was detected. The property owner then requested an aggressive short-term cleanup effort so that he could sell the property. The consultant used site chemical information to determine the assumed PCE source area outside the back door—an effort that failed because they were in the wrong location.

Pay for a quality investigation and good report preparation upfront and avoid project delays and cost increases later.

For further information, please contact

Maine Department of Environmental Protection
Bureau of Remediation and Waste Management
Voluntary Response Action Program (VRAP)

17 State House Station
Augusta, Maine 04333-0017
(207) 287-2651
www.maine.gov/dep/vr/wp/index.htm

Online Resources

EPA has developed two handbooks to assist you in performing the scope of work for an environmen
tal site assessment and for hiring an environment
al consultant:

• Assessing Contractor Capabilities for Streamlined Investigations (www.clir.org/download/rfp/contactorcap.pdf)
• Brownfield Technologies Primer: Requesting and Evaluating Proposals that Encourage Innovative Technologies for Investigation and Cleanup (www.clir.org/download/rfp/rftfinal.pdf)

Avoid Problems with Your Environmental Site Assessment Report Submittal

When information is missing or not presented and explained clearly, VRAP is obligated to request clarification—potentially leading to project delays and additional expenses. Make sure your Environmental Site Assessment reports:

1. address each of the VRAP requirements.
2. at a minimum meets the ASTM standards set forth in E1529-00 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment (E1529-00, 2002), Standard Guide for Environmental Site Assessment Process and Environmental Site Assessment Process Submittal (E1903-97(2002)).
3. includes a clear explanation of what potential source areas were addressed and what investigation activities were done at the site, and most importantly—why.
4. presents the technical information clearly—the effective use of maps and tables can improve communication.

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www.maine.gov/dep/rwm/index.htm

(207) 287-2651
Property with a commercial or industrial past can be a great investment, as long as you know what you are getting into beforehand. Both buyers and sellers need to know that state and federal laws hold owners responsible for cleaning up contamination—regardless of whether you created or contributed to the problem. If you are buying a property and are conducting an environmental investigation (also known as completing due diligence), it is important to be thorough. If you miss contamination and it is found later, you will be liable for the cleanup.

For those of you who want to sell a property—complete information about contamination can actually make potential buyers more comfortable. The discovery of contamination problems after the sale can lead the new owners to take up a legal battle—at significant cost to everyone—to force you to pay for the cleanup. Legally, after the sale can lead the new owners to take up a legal battle—at significant cost to everyone—to force you to pay for the cleanup. Legally, if you miss contamination and it is found later, you will be liable for the cleanup.

Ignorance at the time of sale is no excuse for either party.

Find the Expertise You Need

There are five basic steps to identifying an environmental consultant who is likely to complete the environmental site assessment in an efficient and professional manner.

1. Clarify why a site investigation is necessary and what reports the VRAP requires.

2. Request proposals from several companies.

3. Interview at least two companies.

4. Determine who will work on your project.

5. Review past performances and ALWAYS check references.

As you begin your due diligence, keep in mind that you are responsible for cleaning up contamination created by parties prior to your purchase. Maybe your firm needs to clean up contaminants created by another party. Consequently, if the firm you are considering is responsible for the cleanup of your site, you may need to look into the financial ability and long-term interest of the firm to continue caring for the site.

For those seeking to sell a property, complete information about contamination can actually make potential buyers more comfortable. The discovery of contamination problems after the sale can lead the new owners to take up a legal battle—at significant cost to everyone—to force you to pay for the cleanup. Legally, if you miss contamination and it is found later, you will be liable for the cleanup.

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