How can you protect yourself against these potential liabilities?

By hiring a well-qualified environmental consultant to perform a Preliminary Assessment and Site Investigation that complies with the New Jersey Department of Environmental Protection (NJ DEP) Technical Requirements for Site Remediation before any sales transaction takes place.

Site investigations require one or more visits to the property to collect samples, typically of soil, groundwater, and sometimes soil gas, water, and/or air. Sample locations are selected based on the consultant’s evaluation of your property’s use and history. Samples are sometimes removed in the field and then analyzed by a laboratory. The analytical results help determine which contaminants (if any) are present, their location, and what their characteristics are.

At the end of every investigation that finds contaminants at levels above the applicable remediation standards, the consultant must submit a Site Investigation report to NJ DEP. The consultant’s report must include all data collected, compare results to accepted state regulatory standards, and assess potential risks. If the consultant fails to collect data from enough locations, analyze samples for enough parameters, or adequately present and analyze the investigation results, NJ DEP will be compelled to require that more work be done.

Bottom line: Inadequate investigation can add thousands of dollars and months of delays to a project. It’s just good business to hire a well-qualified environmental consultant who has experience and will thoroughly research the property’s historical use; conduct a Site Investigation that is well planned and properly executed; perform the data collection correctly and thoroughly—the first time; and submit technically sound and thorough Preliminary Assessment and Site Investigation reports.

What You Don’t Know Can Hurt You – A Case Study

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 trichloroethene (also known as perchloroethylene, perc, or PCE). The first consultant the owner hired assumed the source of the PCE was eliminated when the UST soils were removed from the area and did not further evaluate specific to the PCE contamination.

But 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 in situ chemical oxidation in the assumed PCE source area outside the back door—an effort that failed because they were in the wrong location.

As a result:

• Sale of the property was lost.
• The failed cleanup effort alone cost $30,000 for enough parameters, or adequately present and

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

Remember—before submitting the Site Investigation report to NJ DEP, make sure it meets all requirements in the Technical Requirements for Site Remediation.

For further information, please contact:

New Jersey Department of Environmental Protection
Site Remediation and Waste Management Program
(609) 292-1250
www.nj.gov/dep/srp

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Site Investigation Matters

Taking the mystery out of dealing with contaminated property in New Jersey

Whether you are buying, selling, or just have ownership in a piece of property, it is in your best financial interest to know what to do about possible site contamination.

Lending institutions often require environmental assessments of properties where there is a potential for contamination before they will get involved. Information about contamination at a property becomes the foundation upon which all future financial and environmental decisions are made. The contamination issues affect the lenders, the buyers, the sellers, and the New Jersey Department of Environmental Protection (NJ DEP).

Site investigation provides the information to answer many key questions:

1. • Is cleanup required?
  • How much needs to be remediated?
  • What are the cleanup options?
  • How much will cleanup cost?
  • What is the appropriate future use?

Not knowing the facts can cost you—not only extra work, but also months of delays. Getting your property’s contamination issues straight is the key to accelerating through NJ DEP’s requirements.

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Property with a commercial or industrial past can be a great investment, but 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 may 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, you may still be liable for cleanup even after you no longer own or operate the site. So developing a comprehensive understanding of the environmental conditions at the property is the best way to ensure a successful property transfer.

Find the Expertise You Need

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

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

2. Request proposals from several companies.

3. Interview at least two companies.

4. Determine who will work on your project.

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For those of you who want to buy a property, it is equally important to understand the environmental conditions at a site. New Jersey environmental law lays out innocent purchaser defenses for buyers of contaminated properties. One of the criteria that must be met in order to assert that defense is the proper due diligence of a site’s conditions. The defense in New Jersey is defined as a pre-cessation and, if necessary, a site investigation pursuant to the NJDEP Technical Requirements for Site Remediation.

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

Innovative Technologies Can Save You Time and Money

Ask the consultants about the innovative technologies their firms have experience with. New Jersey attempts to streamline the site investigation and remediation process by encouraging the “Triad Approach,” which integrates systematic planning, dynamic work plans, and real-time measurements. Real-time measurements are achieved using a variety of innovative technologies that enable data evaluation and clarification in the field, reducing the number of necessary investigations. Innovative technologies previously accepted include:

• direct push technologies such as Geoprobe,
• immunoassay and/or other portable field test kits, and
• soil gas surveys.

For more information on the Triad Approach, visit www.state.nj.us/dep/njdep/regs/oversight.

Geoprobe for soil and groundwater sampling