

Sample Buyer's Environmental Due Diligence Checklist

This checklist is intended to be used only as a suggested template for conducting environmental due diligence. The scope of environmental due diligence is deal-specific and will be dependent upon a variety of factors, including the buyer's knowledge of the site and operations, level of site development, nature of operations, time and cost considerations, risk tolerance, deal structure and seller's viability.

The Team

The first step in conducting environmental due diligence is to assemble the appropriate team to work with the primary deal negotiators, which may include:

- Environmental attorney
- Real estate attorney
- Environmental consultants
- Surveyor
- Internal environmental manager

Scope of Diligence

The following information may be helpful in assessing the environmental condition of the target:

From Seller:

- Reports regarding environmental conditions or testing related to sites owned, leased and/or operated by the company (e.g., Phase I Environmental Site Assessments, Phase II sampling reports)
- Copies of all environmental permits, licenses and/or authorizations
- Summary of all facilities owned, leased and/or operated by the company
- Description of all hazardous substances used
- Description of waste disposal practices and any on-site waste disposal facilities
- Summary of locations of underground storage tanks
- Compliance history and communications with regulatory agencies (e.g., notices of violation, requests for information, administrative orders, consent decrees)
- Environmental recordkeeping (e.g., environmental management system policy, internal reporting procedures, monitoring reports, internal/external environmental audits)
- Estimates concerning future expenditures/reserves for environmental programs/remediation
- Summary of any environmental litigation matters
- Copies of all property surveys, plats or drawings
- Copies of all title policies and endorsements
- Copies of any environmental insurance policies

Acquired by Buyer:

- Reports regarding environmental conditions (e.g., current Phase I Environmental Site Assessment and any appropriate Phase II sampling or testing for other issues, including PCBs, radon, lead, asbestos)
- Environmental agency file review
- Determine whether there are existing or past violations or nonconformance issues relating to any permits
- Determine procedures and timing for obtaining and/or transferring necessary permits
- Survey of land conditions (e.g., wetlands delineation, location of monitoring wells, identification of bodies of water, flood zone designation)
- Title search (e.g., environmental liens, land control declarations/restrictions, mineral and timber rights, storm water easements/detention pond agreements)
- Local planning agencies inquiry (e.g., noise restrictions, compliance with zoning, building and life safety codes)
- Structural inspection of existing improvements
- Determine whether any areas of the property are designated habitat for endangered species or historical sites
- Review adjacent land use and determine whether further examination required of such properties

