

Environmental Real Estate Newsletter

IN THIS ISSUE

- **Technical Evaluations of Phase 2 Recommendations**
- **Environmental Issues and Condominiums**
- **Phase 2 Soil and Groundwater Investigation Services**



Hazardous waste cleanup site in Hayward

Technical Evaluations of Phase 2 Recommendations

Key Conclusions: A Phase 2 investigation, if not conducted properly with proper focus and justification, can present a potential to severely devalue a property and cause long term financial liability for the property owner. If the reason for, and the goals of, a recommended Phase 2 investigation are not very clear to all the interested parties, a second opinion should be requested.

One of ERAS most important services is that we can provide **Technical Evaluation** projects to review reports by other consultants when initial or additional Phase 2 investigations are commonly recommended. In ERAS experience, there are excessive and unfocused recommendations being commonly made for Phase 2 subsurface soil and groundwater investigations.

ERAS strongly cautions the interested parties to consider the implications of conducting a Phase 2 subsurface investigation whether recommended by a consultant or requested by a bank for the following reasons.



Soil Remediation Site in Hayward

- Did the Phase 1 research or Phase 2 proposed scope identify specific locations of concern? "Long history of commercial or industrial uses" IS NOT a target location that justifies a Phase 2 investigation
- Most unfocused and random investigation do not comply with environmental regulations
- Did the initial research identify specific chemicals that were used that could have caused contamination? "Previous uses of the Property could have involved the use of solvents, hydrocarbons and metals" IS NOT sufficient justification for a Phase 2 investigation and could identify spurious, unrelated contaminants

- Very low concentrations of chemicals (speck of asphalt in soil, sediments left in water samples) can cause detections well above regulatory concentrations (ESLs). This may open a toxic release case on the Property. At the very least, it will cause significant delay for the real estate transaction

- It is probable any proposed non-focused investigation will lead to one or more additional phases of investigation in an attempt to explain the findings of the initial investigation, resulting in additional costs of tens of thousands of dollars
- Did the consultant, buyer and bank notify the owner that if contamination is found, it is the responsibility of that owner to report to the government environmental agencies within 30 days?
- Was the owner informed that if contamination is found for any reason from any source including off-site sources they will not be able to sell or refinance their property? Once contamination is found, the findings become a disclosure issue

Often our Technical Evaluations question the validity of and justification for the Phase 2 recommendation. Sometimes additional information can be obtained to provide further justification for a Phase 2 or to focus the Phase 2 investigation to reduce the cost and/or the potential liability for the owner.

Recommendation - ERAS recommends that interested parties strongly consider the implication of a Phase 2 investigation PRIOR to agreeing to do that significant step in the property sale process. Please contact ERAS if we can help you with this process.

Environmental Issues and Condominiums

Key Conclusion: Environmental due diligence for condominium complexes present a special challenge because the environmental liability of the individual condominium as well as the entire complex must be considered.

Commercial condominiums present unique challenges for environmental due diligence. The assessor must consider the uses of the individual unit or Property as well as the uses of businesses and parcels adjacent to the entire commercial complex which might impact common areas. Therefore the lender and buyer must be concerned with both individual and shared legal and environmental liabilities.



Recommendations - ERAS recommends that interested parties do not take the attitude that the Property is "only a condominium" and not assume that only the minimal due diligence investigation is necessary. In addition the interested parties should recognize that any recommendations for additional investigation may be very difficult to execute because of complications with the condominium association.

Phase 2 Soil and Groundwater Investigation Services

ERAS has over 25 years of experience in performing Phase 2 soil and groundwater investigation services. Our low overhead and focus on clear efficient goals for our sampling and investigation projects provides a blend of quality and value unique in the industry.

ERAS has considerable experience with current environmental regulations and negotiating skills with environmental regulators. We can provide sampling services for the following: 1) waste characterization and disposal, 2) shallow soil sampling for redevelopment, 3) soil and groundwater investigation for due diligence, 4) workplan preparation, soil boring and monitoring well installation, 5) soil vapor and sub-slab sampling, 6) risk assessment and case closure, 7) monitoring well monitoring and sampling, 8) remediation planning and oversight.

Recommendations - ERAS recommends you contact us for a free initial evaluation if you suspect that Phase 2 environmental sampling monitoring or remediation is required.

ERAS is dedicated to solving and resolving environmental issues and problems.

If you have any questions regarding the information in this newsletter, ERAS services, or if you have a subject you would like to read about in a future newsletter, please call David Siegel at 510.247.9885 (ex. 304) or send us email at info@eras.biz