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HAPPY HOLIDAYS

FROM ALL OF US

at

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[ERAS Mission for Environmental Assessment](#)

ERAS personnel have been performing Phase 1 and Phase 2 Environmental Site Assessments (ESA) since 1990.

The purpose of an ESA is to determine the financial risk to owners and lenders to real property based on current, historical and off-site sources of contamination. A secondary purpose is to determine whether additional investigation including Phase 2 investigation is necessary.

It is ERAS philosophy that ESA projects should include all the proper prior planning and complete and appropriate research. Scientific reasoning should be utilized to evaluate the information to assess and document the environmental risks.

ERAS mission is to provide buyers and sellers with conclusions and recommendations that are based on the research, grounded in proper use of the ASTM standards, legally defensible and understandable to the reader. Thus ERAS work will leave no doubt as to why a Phase 2 investigation is or is not necessary.

[Implications of Low Threat Case Closure for Property](#)

Key Conclusions: [Low Threat Case Closure can allow for sales and re-financing of real property. However, the owner must recognize the implications of the closure on future operations and uses.](#)

ERAS has made efficient and effective use of the California regulations that allow for proper low threat case closure of contaminated sites.

Note these closures are granted by regulatory agencies with contamination remaining in the subsurface. These case closures require the preparation of a Site Management Plan (SMP, sometimes called Risk Management Plans) and the recording of a Deed Restriction.

SMP – This is a document that shows the extent and location of remaining contamination and is an operations manual that describes steps to protect occupants and workers at the Property.

The SMP is specific to the site and to the medium that is the environmental issue (soil, groundwater, and vapor). Activities that may be regulated are activities such as the following.

- construction activities such as installation of utility lines where workers could be exposed
- changes in commercial use
- installation of equipment or tenant improvements that could affect the foundation that would cause occupants to be exposed
- construction of new buildings, re-paving or other redevelopment

Deed Restriction – the environmental agency granting case closure will require the recording of a deed restriction for the Property. The deed restriction will reference and include the SMP and will generally restrict the future uses of the Property to non-sensitive commercial uses.

The Property will be restricted from uses including but not limited to, hospitals, schools, children's day care, and elderly care facilities and residential.

Any changes of use will require possible additional investigation, remediation and/or mitigation of the residual contamination. Note it is possible to use Property for almost any purpose if enough money is spent on remediation and/or mitigation.

Faith Based Environmental Site Assessment

Phase 1 or Phase 2 environmental assessments must be based on actual defensible data, documented instances of spillage or leakage and specific locations of risk of subsurface contamination. **Faith based environmental assessment** relies on the faith that there must be an environmental issue somewhere and that if it exists we will find it. Unfortunately, that often leads to the following situations after conducting Phase 2 subsurface investigation.

- 1) a false sense of security to the owner that the Property is clean if nothing is found
- 2) misleading data due to insufficient random investigations
- 3) the opening of a regulatory agency leak case based on the required reporting of limited and insufficiently investigated contamination (think high concentrations of oil and grease in very shallow soil in a parking lot)

Per ASTM and AAI, *recognized environmental conditions* (RECs) are conditions at a property that requires regulatory agency action. In the absence of a “smoking gun”, specific tenants, previous commercial use and routine use of hazardous materials are NOT RECs.



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