

Environmental Law Confidential:
Useful Tips and Urban Myths in Real Estate
Transactions

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Blah Blah
Waa Waaa,
yeah, yeah,
who didn't know that.....



FINALLY, SOMETHING I CAN ACTUALLY USE!

Environmental Responsibilities for the Lawyer

Three General Responsibilities:

- Reviewing/finalizing the environmental consulting engagement contract
- Reviewing/improving the Phase I Environmental Site Assessment and Phase II Environmental Site Investigation drafted by the consultant
- Negotiating Environmental Liability Provisions in Deal Docs



The Importance of the Phase I

What is a Phase I ESA?

- Non-invasive environmental review of property
 - Review current and historical records
 - Past ownership/uses
 - Restrictions
 - Commonly known environmental conditions
 - Walk-through investigation to find obvious visible potential environmental issues
- Does not involve the collection of any samples
- Covers releases of hazardous materials only



Limited Scope! Does the Phase I ESA being offered need to be expanded to cover other environmental concerns?

- Wetlands
- Mold
- Asbestos
- Radon
- Lead paint

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