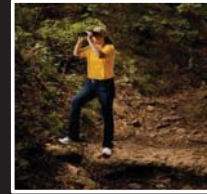


Navigating the Muddy Waters of Environmental Investigations in Land Use

21st Annual Land Use Conference-University of Texas School of Law
April 7, 2017



Phase I/Phase II ESA



Why get a Phase I/II ESA?



What IS and IS NOT in a Phase I ESA



Included

- Review of all available records
- Site inspection-surface only
- Interview with owners, occupants, neighbors, and local government officials

Not Included

- Subsurface sampling and testing
- Waters of the United States delineation
- Endangered species assessment
- Cultural resources investigation
- Asbestos
- Radon
- Noise studies
- Lead paint/Drinking water

Phase I Site Assessments should be conducted pursuant to ASTM E1527-13 standards

When do you need a Phase II ESA?



0.0'-5.5' CLAYEY SAND: Sand with little clay grading into some clay. Brown grading to reddish orange, slightly moist, soft grading to firm. -Grades to a mottled orangish red and yellow, firm, slightly moist.	SC		None	0.0	0
5.5'-6.5' FINE GRAIN SAND: fine grain sand with a trace of clay, firm, slightly moist, light yellow to tan.	SW/SP		None	0.0	0
6.5'-7.5' medium grained sand with shell fragments and coarse sands, poorly sorted, slightly moist.			None	0.0	0
7.5'-8.0' very fine grained sand, some clay, moist, pale yellow to a light tan in color.			None	0.0	0
8.0'-12.5' SILTY SAND: very fine grained, trace of clay, light brown to off-white, slightly moist, soft.	SM		None	0.0	0
-Grading into a pure off-white silty sand with trace clay laminations interbedded.			None	0.0	0
12.5'-14' SILTY CLAY: fat clay and silt with a trace of very fine grain sand, greenish yellow grading to a greenish brown, firm, slightly moist.	CH		None	0.0	0
14'-16.5' SILTY SAND: very fine grained, light brown with greenish grey streaking, moist.			None	0.0	0
-Grades into a silty sand with trace clay laminations, moist, firm.	SM		None	0.0	0
16.5'-19.0' SILTY CLAY: with little very fine grained sand, greenish grey to dark brown, interbedded sand lenses approximately 2 inches thick, firm, slightly moist.			None	0.0	0
-Grades to a light brown.	CL/CH		None	0.0	0

Phase I vs Phase II



Phase I

- Standard research and site investigation
- Records review of known environmental conditions
- Used for liability protection under CERCLA
- Used as a go/no go for property purchase
- Assess *POTENTIAL* for CERCLA and petroleum products to impact property

Phase II

- Intrusive study where physical environmental samples are collected and analyzed
 - ✓ Soil samples
 - ✓ Water samples
 - ✓ Drum testing
- Used to determine whether a release has occurred, extent of release, and provide baseline

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Navigating the Muddied Waters of Environmental Investigations in Land Use

First appeared as part of the conference materials for the
21st Annual Land Use Conference session

"Navigating the Muddied Waters of Environmental Investigations in Land Use"