

Due-Diligence Miniseries

DATE

March 6, 2014

Join Barnes & Thornburg's Environmental Transactional Diligence team to learn information that your client and your client's lawyer want you to know about using ASTM's new Phase I ESA Standard.

On November 6, 2013, ASTM announced its newest edition of a Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process (often referred to as the new Phase I ESA or E1527-13). The new Phase I ESA replaces and supersedes the previous Phase I ESA standard (E1527-05). The E1527-05 standard automatically sunsets after 8 years, which was in 2013, and the ASTM Committee E50 worked hard to clarify many aspects of good commercial and customary practices for conducting environmental due diligence using the new Phase I ESA. Tim Haley has been an active member on this Committee since 2008 and participated in negotiating and drafting the new ASTM standard.

This miniseries focuses on six (6) substantive topics that are creating uncertainty and confusion in the new Phase I ESA and offers unique perspectives on how these important topics could affect your clients' due diligence practices.

Series Overview:

- **March 6**

Session #1: What the heck is a REC? This session discusses the new CREC definition, and revised HREC and REC definitions under the new Phase I standard. Learn what your clients may be looking for as they try to comply with AAI and/or evaluate environmental risks.

- **April 10**

Session #2: What are the legal implications of the related rulemaking process? This session discusses US EPA's All Appropriate Inquiry (AAI) regulatory updates and how it impacts use of Phase I ESA standards (i.e., 1527-05 and 1527-13) for purposes of asserting CERCLA defenses. Learn key issues to consider when evaluating standard of care impacts resulting from two ASTM standards that may qualify as equivalent to AAI.

- **May 8**

Session #3: Two key changes help to level the playing field. Learn how new File Review and User responsibility requirements affect an Environmental Professionals findings, opinions, conclusions, and recommendations.

- **June 12**

Session #4: How should vapors be addressed? This session discusses the role of vapor migration in the new standard, and potential issues relating to identification of vapor encroachment issues in connection with a target property.

- **July 10**

Session #5: Is a Phase I ESA really necessary? This session provides a Business Environmental Risk (BER) refresher and discusses the potential interaction and interplay with non-scope ESA considerations, and why your client may care.

Webinars will run: 2 - 3:30 p.m. (EST)

Clients: May attend courtesy of Barnes & Thornburg's Environmental Law Group

Others: \$50 per session or \$200 for all five. We accept cash, check or wire transfer payments. Please mail payment to Jodie Daugherty at 11 S. Meridian Street | Indianapolis, IN | 46204

Login Information will be provided upon registration.

Featured Speakers:

- David Gillay is a partner in the Indianapolis office of Barnes & Thornburg. He heads the Brownfields and Environmental Transactional Practice Groups and provides environmental counseling in connection with assessing environmentally challenged properties. Over the last decade, David has focused on the legal, regulatory, and technical impact and implications related to the vapor intrusion pathway. He also represents an influential multi-state environmental consultants' association and works closely with leading technical experts on a wide array of environmental matters, including rapidly evolving vapor intrusion guidance. Prior to joining Barnes & Thornburg, he obtained an advanced environmental engineering degree and practiced as an environmental consultant on various projects across the country. David can be reached at (317) 231-7474 or dgillay@btlaw.com.
- Timothy A. Haley is a partner in the Environmental Department in Barnes & Thornburg LLP's Indianapolis, Indiana office. Mr. Haley focuses his practice on environmental issues including: remediation of impaired properties, cost recovery for environmentally impaired properties, Title V and NPDES permitting appeals, administrative enforcement, administration adjudication, wetlands issues, and environmental issues associated with real estate transactions. Mr. Haley also serves as Barnes & Thornburg's representative to the American Society for Testing and Materials E50 Committee, where he actively participates in negotiating and drafting ASTM stands and guides. Tim can be reached at (317) 231-6493 or thaley@btlaw.com.

Questions? Contact jodie.daugherty@btlaw.com or 317-261-7922.