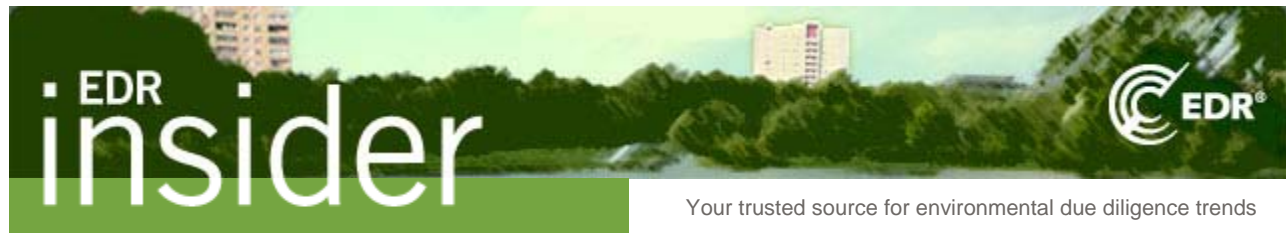


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THIS ISSUE'S TOP STORY

Top five challenges lenders face in environmental due diligence—and how you can help! (Part 2 of 2)



EDR's annual benchmarking survey of financial institutions provided insight into the environmental due diligence (EDD) challenges lenders face. Here are the 819 respondents' top five—plus expert tips and commentary.

Challenge #3: Turnaround time

—Meeting the challenges of efficiently conducting EDD

How you can help

Do as much legwork up front as you can, and never skip steps!

What the experts have to say

"Agency and municipal file reviews are often limiting factors, so schedule those immediately," says [Susan P. Phillips](#), an environmental attorney with [Mintz Levin](#). "Phase I's can be done in two weeks or less when necessary, and you can always call in the findings before the report is actually written. It's not a good idea to move directly to a Phase II on a site with potential issues without first doing the Phase I research."

Challenge #2: Internal education & training

—Understanding the importance of EDD in the context of the overall lending process

—Educating senior management and loan officers

How you can help

Recommend that banks train personnel on the ins and outs of their environmental due diligence policy. Personnel must understand that

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EDR wants to know:

- Three things in environmental due diligence that stood out to you in 2011
- Three things you think will be at the forefront of 2012

Email your thoughts to rsearles@ednet.com!

EVENTS...



[Phase I ESA Liability Protection: Beyond All Appropriate Inquiry](#)

Tuesday, January 24, 2012,
at 2 p.m. (EST)

Join EDR and industry veteran Nick Albergo for an insider's take on:

- The types of issues courts consider during Phase I ESA-related lawsuits
- Practical challenges when addressing diffuse anthropogenic pollution
- Opinions versus recommendations
- When a file review can be deemed complete
- How EPs can avoid common pitfalls in their own practice

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environmental screening is a critical component of the bank's overall risk management practices. Lending personnel should be trained to effectively evaluate whether closed loans were subject to the proper EDD (according to bank policy). That information can be critical to ensuring that future deals get the correct amount of attention.

What the experts have to say

"Educating the various bank personnel/groups who are responsible for complying with the environmental policy is critical," says Steven E. Price, CHMM, principal, VP and senior technical manager, [PM Environmental](#). "We have found that when these people are informed of not only policy requirements but also the potential ramifications if the policy isn't followed, it goes a long way in making the entire environmental review process flow smoothly and efficiently."

Challenge #1: Environmental reports and risk-based decisions

—Interpreting environmental results and knowing which risks to be concerned about

—Finding out what the EP's opinion is and determining whether the subject property has any environmental issues the bank should be concerned about

How you can help

Recommend to banks that they develop a list of approved environmental professionals (according to AAI and ASTM E1527-05 qualifications) who understand both the bank's risk tolerance and its overall lending goals.

What the experts have to say

"Interpreting environmental data and evaluating risk come down to experience," says Alan Agadoni, SVP, [ATC Associates](#). "Making sure your lender clients know the importance of finding support from experienced environmental consultants and counsel who understand commercial real estate transactions and lender risk is the key."

*Missed **Part 1**? No sweat—it's easy to go back in time to review last month's issue! [Click here to visit the Insider Archives page](#). And please feel free to spread the word to colleagues and associates about the value you find in the *EDR Insider*. [Sign up for free here](#).*

A WORD FROM THE LEGAL FIELD

It is my experience that many purchasers (and lenders) are not fully aware of the potential for, and impacts of, vapor intrusion, and thus, they may not be doing enough to address or define this potential concern.

—[Michael A. Francis](#), partner
[Demetriou, Del Guercio, Springer & Francis, LLP](#)

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DID YOU KNOW...

[The University of Maryland School of Law Environmental Law Program](#) uses state funding to provide legal counsel to people who have no or limited access to legal services. The program has come under fire repeatedly for using Maryland tax revenue to build and pursue legal cases against Marylanders.

[Read more about the controversy here.](#)

FROM THE WEB...

commonground

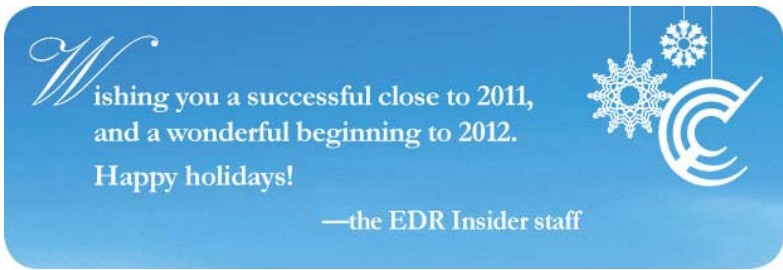
PCBs on subject site

What can be done if/when a client receives an NFA letter after you complete a Phase I that included PCBs as a REC?

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