



STEP Meeting – ASTM Update from D.C.

Fort Worth, TX

Jeff Doerner – ERIS VP of US Sales



Agenda / House Keeping

- ASTM Committee Meeting Update
 - Notes from D.C. Meeting earlier this week
- These are not my thoughts / ideas – I am simply sharing what was said with all of you!
- Next Meeting is April 2nd – 4th in Denver (Sheraton)

Quick Notes

- ASTM Standard is good for 5 years – if committee does not meet within that time frame it ‘sunsets’ for another 5.
- The group that met in D.C. was mostly EP’s and a handful of attorneys. Only 1 lender was present and 1 EPA Member.
- Overall Sentiments: the “Users (Bankers) are upset with the lack of quality and uniformity from BORROWER PROVIDED reports”
- Other than that, only minor tweaks needed

Live from the Meeting room in D.C. ?



Let's hop into it...Database Report / Records Search

- Discussed the need for listing names of all required databases. Require not only names of the database, but also descriptions
 - For those not using a 'commercially prepared report'

Delisted Confirmed and Suspected Contaminated Sites:

DELISTED SHWS

This database contains a list of Confirmed & Suspected Contaminated Sites that were removed from the Washington State Department of Ecology (DEC).

Government Publication Date: Jul 6, 2018

- Actually listing the agency contacts name, phone number, and email address
 - This got a “BIG” NO! from the crowd, and especially the EPA.
 - Concept behind this was so that the user could easily follow up and verify information in the report. Deemed unnecessary.

Table of Contents – Require EP's to follow Same TOC

- The thought was to provide a standard table of contents that all ESA reports would follow
- Changes to have Target Site / Exec Summary listed first (again, having issues reading through different variations of reports)
- Currently most have Physical Settings, Database Report, and Historical info in 1 section –should it be broken out?
- Idea to have Site Recon info included at the beginning of the TOC's

Section 12.6.1 & 12.15 – Drop this sentence and combine under 12.15

Consultants do NOT like how it says “opinion”

12.6.1 *Additional Investigation*—The *environmental professional* should provide an opinion regarding additional appropriate investigation, if any, to detect the presence of *hazardous substances* or *petroleum products*. **This opinion should be provided in the unusual circumstance when greater certainty is required regarding the identified recognized environmental conditions.** A *Phase I Environmental Site Assessment* which includes such an opinion by the *environmental professional* does not render the assessment incomplete. This opinion is not intended to constitute a requirement that the *environmental professional* include any recommendations for Phase II or other assessment activities.

12.6.1 & 12.15 Cont'd – Merging Additional Investigation and Recommendations

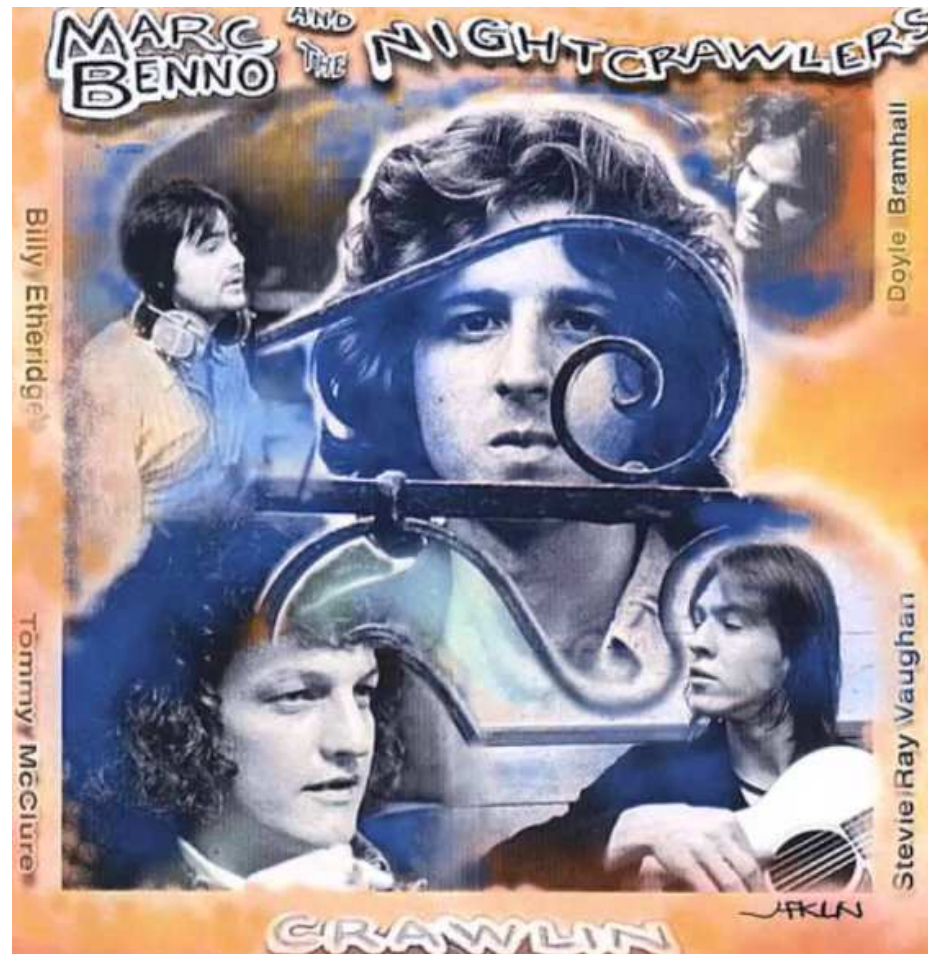
- Goal is to combine these sections. It takes suggestion of 'giving opinion' off of EP and combines similar ideas

12.15 Recommendations—Recommendations are not required by this standard. A *user* should consider whether recommendations for additional inquiries or other services are desired. Recommendations are an additional service that may be useful in the *user's* analysis of LLPs or *business environmental risk*.

Trivia – Stevie Ray Vaughan – What Band did he first Join?



The Nightcrawlers



Data Gaps

- Require EP's to go the 'extra step' when they have a data gap. What would this consist of (going above and beyond to explain it)
- First, more strongly define what a data gap is.
- Next: what is the importance of this data gap. What are the chances of their being a REC (and actually require them to explain).
- Possible new definition and have both "data gaps" and "SIGNIFICANT data gaps"

Land Title Records 3.2.79

3.2.79 *recorded land title records*—records of historical fee ownership, which may include leases, land contracts, and AULs on or of the *property* recorded in the place where land title records are, by law or custom, recorded for the local jurisdiction in which the *property* is located. (Often such records are kept by a municipal or county recorder or clerk.) Such records may be obtained from title companies or directly from the local government agency. Information about the title to the *property* that is recorded in a U.S. district court or any place other than where land title records are, by law or custom, recorded for the local jurisdiction in which the *property* is located, are not considered part of *recorded land title records*. See 8.3.4.4.

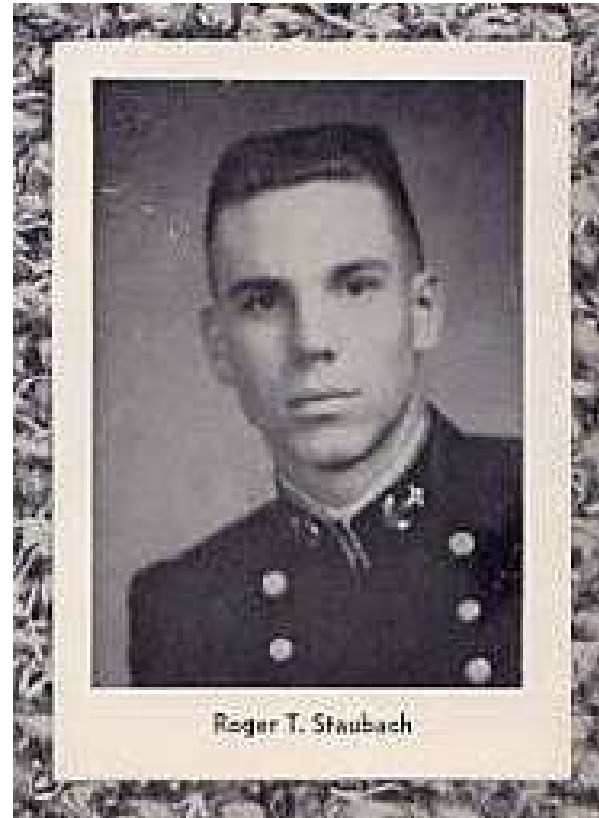
Lien Searches – Going back far enough

- Almost all Lien Searches go back to the most current deed if documented back to 1980.
- Discussion to require Lien Search research to go back further than that.
- Thought is that it may not have transferred to current deeds and could be on more historical documentation.
- Idea that not all Lien Searches include IC's. This is important to conduct AAI.
- Discussion on how "Users" can obtain Lien Search – should they? Many of them are unfamiliar with how to obtain.

Trivia: Where did Dallas Cowboys QB Roger Staubach go to College / University?



The U.S. Naval Academy



Roger T. Staubach

Continued Viability of ESA 4.6

4.6 *Continued Viability of Environmental Site Assessment*— Subject to Section 4.8, an *environmental site assessment* meeting or exceeding this practice and completed less than 180 days prior to the date of acquisition⁵ of the *property* or (for transactions not involving an acquisition) the date of the intended transaction is presumed to be valid.⁶ If within this period the assessment will be used by a *user* different than the *user* for whom the assessment was originally prepared, the subsequent *user* must also satisfy the User's Responsibilities in Section 6. Subject to Section 4.8 and the User's Responsibilities set forth in Section 6, an *environmental site assessment* meeting or exceeding this practice and for which the information was collected or updated within one year prior to the date of acquisition of the *property* or (for transactions not involving an acquisition) the date of the intended transaction may be used provided that the following components of the inquiries were conducted or updated within 180 days of the date of purchase or the date of the intended transaction:

- (i) *interviews with owners, operators, and occupants;*
- (ii) *searches for recorded environmental cleanup liens;*
- (iii) *reviews of federal, tribal, state, and local government records;*
- (iv) *visual inspections of the property and of adjoining properties; and*

Viability of ESA 4.8

- Looking to increase this from 180 days to 1 year.
- Each component currently has 180 clock from when conducted. Only that portion needs to be completed if there is time lapse
 - Interviews, Database Report, Site Recon, Lien Search, Historicals Reports etc.
- Requirement to include data for all components showing when the expire?
- SBA has increased viability for RSRA to 1 year...ASTM would like to follow suit

Current Use of the Property 9.4.1.1

9.4.1.1 *Current Use(s) of the Property*—The current use(s) of the *property* shall be identified in the *report*. Any current uses likely to involve the use, treatment, storage, disposal, or generation of *hazardous substances* or *petroleum products* shall be identified in the *report*. Unoccupied occupant spaces should be noted. In identifying current uses of the *property*, more specific information is more helpful than less specific information. (For example, it is more useful to identify uses such as a hardware store, a grocery store, or a bakery rather than simply retail use.)

Current Use of the Property 9.4.1

- Overall, just getting more precise with what is required. Replace and “should” with “shall”
- Required to look for pits, ponds, piles, lagoons
- If soil disruption is seen, photo is required
- EP must discuss their ‘thoughts’ on what was observed
- Discussion of using GPR to look for tanks or add in acceptance of using Drone for site recon.

What is the official State Sport of TX?



Rodeo (not football?!)



Historical Information 8.3

- Using only 1 source is not enough
- Require that user is able to 're-create' – must be well documented and reviewable
- Should interviews be added under the 8 approved historical components
- Should historical property tax data be looked at? Sometimes they have old photos on record
- Should they prioritize the historicals? Should topos be included? Argument was yes – help identify low lying areas (may have been used for dumping)

HREC and CREC 3.2.42

- Do not discuss HREC or CREC if not on the target site. Must be relevant to the property itself.
- Something like Natural Arsenic would not be CREC...it may be onsite, but there has not been release.
- Include language for Tanks closed with NFA's or Oil Water Separators – these are REC's but do not pose a threat 'as long as'

Reliance Letters

- Differentiation of Reliance Letters?
- Separate letter and wording for the User / Borrower AND the Bank
- Rationale: one needs reliance for AAI and Innocent Landowner
- Other needs it for 'business purposes'
- Room split 50 / 50 on this one..

A little bit about ERIS

- US Headquarters in Austin, TX
- Full Suite of products to complete your ESA
- Xplorer – interactive mapping
- Recently launched Vapor Product and Stitched together Fire Ins Maps
- Garrett Rosenbaum is new Contact
- <https://order.erisinfo.com/xplorer/map.html?q=kixMraxZF0dMTHMbtrAcPWHpBLwQkKmNfsMSeJL>