



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

ASTM Environmental Assessment: Is a Plume Migrating Toward a Property (But Not Currently Impacting It) a Recognized Environmental Condition?

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The blog *Commonground* has an April 4th post which addresses a scenario in which an ASTM Phase I Environmental Site Assessment (“Assessment”) on a undeveloped/proposed residential property determined that a “gas station release” (previously a petroleum underground storage leak) resulted in a plume of contamination.

The plume associated with the release may be moving toward the property being assessed but has not impacted it.

The post notes in part:

... currently conducting a Phase I ESA on a (undeveloped, proposed residential) property. A gas station (1999) located approximately 415 feet away has a reported release. I was able to obtain potentiometric surface maps and groundwater analytical maps. The plot maps indicate groundwater flow is toward my property. The groundwater analytical maps indicate a maximum benzene concentration of 9,600 ug/L and show the plume is still on-site but slowing migrating to the southeast. If we were to install groundwater monitor wells on my property as a result of a REC in this Phase I, we may not find anything. However, in a year, the plume may have migrated beneath my property.

The question is whether this scenario is an ASTM Recognized Environmental Condition (“REC”)?

The responses to the query varied.

One response opined that “it could be a REC if you determine the migrating plume is a ‘material threat of a release’.” The commenter also noted vapor encroachment screening may be applicable.

The author of the original post replied noting that he had been told that the standard only applies to “things you can physically observe.” He also cites verbiage from EDR ASTM 1527-13 Q&A which states:

What if contamination is not on the site at the time of the investigation, but off-site contamination is identified that is migrating toward the site (e.g. groundwater contamination) and may become present on the site in the future. Wouldn’t this constitute a REC? Zovic: No. Material threats are “physically observable or obvious threat which is reasonably likely to lead to a release...”

Another commenter expresses skepticism about whether this scenario constitutes a REC noting:

And yet many EPs still think every UST represents a material threat of a release because they might leak at sometime within the next 30 years.

Doesn't sound like a REC. If you want to cover yourself you could recommend that the release documentation be reviewed annually and additional investigation may be warranted prior to any future redevelopment of your site. Or something like that.