ENVIRONMENTAL LIABILITY PROJECTIONS

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BACKGROUND:

IDENTIFYING ENVIRONMENTAL LIABILITIES

A FACILITY THAT USES HAZARDOUS MATERIALS FACES A NUMBER OF POTENTIAL ENVIRONMENTAL ISSUES. INTERNALLY, A CORPORATION NEEDS TO QUALIFY AND QUANTIFY ITS ENVIRONMENTAL PROGRAM TO CONDUCT SHORT- AND LONG-RANGE BUDGET PLANNING, DETERMINE THE LONG-RANGE COST OF MONEY, PRIORITIZE LIABILITY REDUCTION, DETERMINE THE MEANS OF LIABILITY REDUCTION, AND RESPOND TO MANDATED LIABILITY REPORTING TO STATE AGENCIES, THE EPA, AND, IF PUBLICALLY HELD, TO THE SECURITIES AND EXCHANGE COMMISSION (SEC 10K, SARBANES-OXLEY, ETC.).

In addition to liability for contamination caused by a release of hazardous materials, a corporation may face civil and criminal penalties if it fails to obtain required permits and approvals for its storage, use, transportation, discharge and disposal of hazardous materials or if it transfers hazardous waste to an unreliable waste disposal company. A corporation that uses hazardous materials may also face toxic tort suits if it exposes its employees, neighbors, or customers to hazardous materials, fails to provide adequate employee training, or fails to provide required notice of hazardous materials dangers to employees or the public.

The need for environmental liability projections are also necessary on the part of the purchaser when conducting due diligence for potential property purchase as part of hold-harmless agreements, innocent land-owner applications, strategic purchase negotiations, and/or purchase capitalization.

KEY ASPECTS OF ENVIRONMENTAL LIABILITY PROJECTIONS

Although every type of site (refining/chemical, manufacturing, transport, distribution, pipeline, etc.) will have a slightly different approach and the overall goal will have slightly different structure, environmental liability projections involve the following key aspects, all of which Sage addresses.

KNOWN & POTENTIAL LIABILITIES

Determining potential liability involves evaluating both current and historic facility use. We ask:

- What materials were handled on site and in what type of containment and containers?
- How and where was it moved both within and outside the facility?
- Are there any historical issues such as spills, leaks, known environmental impacts, etc.?

Sage's liability evaluation teams key in on the major and minor, existing and potential future liabilities. We then determine the liability costs—ranging from immediate response to the most cost-efficient response possible to eliminate these liabilities.

KNOWN & POTENTIAL RECEPTORS

This involves an evaluation of the possible exposure routes (current and historic) and identification of groundwater flow paths, surface water bodies, industrial and residential neighbors, water wells (public, private, industrial, irrigation, etc.). Based primarily on existing corporate, facility, State, and Federal file data, Sage pinpoints existing and potential receptors for known and potential liabilities, and then develops short- and/or long-term liability reduction programs.

PRIORITIZATION OF IDENTIFIED LIABILITIES

We determine high-medium-low priority liabilities based on the known liabilities, their potential for exposure to humans and the environment, potential effects on human health and the environment, and estimated timeframe for exposure to occur. Based on current and potential future local, State, and Federal rules, Sage prioritizes the identified liabilities for short- and long-term reduction activities and costs.

LIABILITY REDUCTION

Sage determines the timeline priority for liability reduction and their current-dollar costs. Liability reduction may include such actions as regulatory permit(s) modifications, remediation, in situ migration control, changes in liability management procedures, and reassessment of current liability reduction activities. Sage evaluates known and potential liabilities based on their prioritization, and then develops and implements a plan of liability reduction based on regulatory reduction (removal by rule, enhanced reporting, permit modification, physical/regulatory control, or physical controls/remediation).

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ENVIRONMENTAL LIABILITY PROJECTIONS

Sage takes all of the above findings and develops a long-range projection and sequence of liability reduction steps and amortized costs over the required timeframe. The timeframe is generally dependant on the needs of the corporation but is usually 5 years, 10 years or 20 years. Some liabilities, due to their regulatory environment, location, physical setting, extent, and/or financial commitment (both current and future cost of money), require, or are best addressed, through a long-term approach. Sage develops a year-by-year resource allocation plan to address these longer term liability reduction programs.