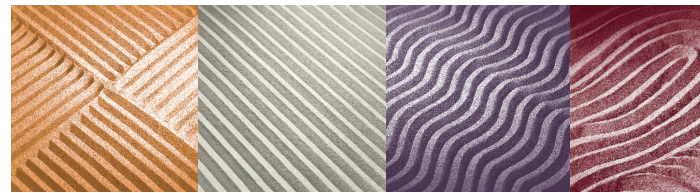


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ENVIRONOTES!

Fall 2008

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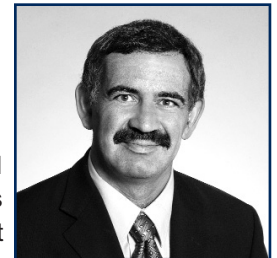
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ONTARIO MOE ANNOUNCES NEW BROWNFIELDS STANDARDS

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The long awaited proposed Brownfield remediation standards were announced on October 6, 2008. The announcement is the follow up to the proposed revisions to Ontario Regulation 153/04 from March 2007. The initial proposal met significant technical criticism that resulted in a re-working of the proposed standards.

While the new version responds to some of the more obvious criticisms, the overall thrust towards more stringent generic standards remains unchanged.

The impact of the new proposed standards will likely be significant and will affect many aspects of brownfield development and property remediation within the province. There is a 120 day comment period through the Environmental Bill of Rights. Given the amount of work that has taken place since the March 2007 announcement, it is not expected that there will be many significant changes to the proposal before the current regulation is formally amended.

Amount of "Contaminated" Land has Increased

An obvious, if often unstated, effect of the adoption of more stringent generic standards is that the inventory of land in the Province that will be considered "contaminated" will increase dramatically. Property owners that have lands that met the former generic criteria who have not filed a Record of Site Condition, will now have to re-assess their plans to use, sell, finance or develop their property in light of the new standards.

Generic vs Risk Assessed Standards – What is the Difference?

Before highlighting some of the new changes, it is worthwhile to remember that Ontario has long recognised two distinct, but legally equal, methods of arriving at appropriate remediation criteria for a site. It is important to recognise that the two are not only legally equivalent but are also based on the same underlying scientific principles. The first and by far the most common, is the use of "generic standards". These standards are based on a set of assumptions of site use and exposure pathways that are then applied to all sites within the province that meet certain broad common elements, such as commercial or residential use, coarse or fine soil, etc. The generic standards are published as 'Tables' to the regulation. The tables follow these broad use distinctions. Any site that can fit within one of the tables is considered to be remediated and suitable for the type of use described.

The Generic Standards are Risk Based. In other words, they are derived from scientific principles of exposure pathways and toxicity levels. They result in value for a chemical that is considered to lead to no adverse effect to human health or ecological receptors.

As the Generic Standards are designed to be applicable to every site within the Province, they are inherently fairly conservative. They do not take into account any unique aspects of a property that may have an effect on exposure pathways. For example, an industrial building that has no basement will be treated the same as one that does have a basement even if in reality, the former may well have a much

less viable exposure pathway. A case could be made from a scientific point of view that a less stringent standard would be equally protective if the fact that there was no basement was taken into account.

The Ontario regulations have long accepted this principle and allowed property owners to develop Risk Assessments specific to their sites that take such unique features into account. The process however is lengthy, and expensive. As long as the generic criteria were reasonably achievable, there was little incentive to attempt to create such tailor made risk assessments for the vast majority of remediations.

This is likely to be the most significant area of change in the way sites will be remediated under the new standards.

Generic Standards to Become More Stringent

As expected, the overall trend towards more stringent generic standards that was proposed in the March 2007 announcement has been continued. The current standards have been in place virtually unchanged in Ontario since 1996. The new numbers are so much more stringent for some contaminants that some consultants have expressed the view that they will be unachievable for most contaminated sites. The inevitable effect will be that more property owners will have to consider Risk Assessments as the only viable alternative.

New Form of Risk Assessment Announced

Anticipating this, the MOE has announced a new form of Risk Assessment, called a “Modified Generic Risk Assessment”. It is in effect a simple, cheaper and one would hope quicker, form of Risk Assessment. Full details have not yet been provided, but the intention is to provide consultants with a limited ability to change some of the variables in the model used to derive the generic standards. By limiting the variables that can be modified, the process of generating new risk assessed numbers will be simpler than a full blown risk assessment and the subsequent review by MOE staff should likewise be quicker.

Greater Flexibility to Implement Risk Management Measures

Further increasing the potential usefulness of this middle-ground risk assessment, are proposed changes to the regulation that would allow easy to implement risk management measures to be adopted and formalised through the Certificate of Property Use process. These measures include capping the property with clean fill and even some alternatives to capping that would still allow elevated concentrations of soil to remain on the property while supporting some biological life on the site that would not be possible in a cement or asphalt capped site. A Certificate of Property Use would then formally restrict the uses of the property to those that are consistent with the adopted risk management measures. While the concept of a CPU is not new and can be found in the existing regulation, the proposed amendments will likely make this method much more attractive to property owners as a legally and scientifically equivalent alternative to the use of generic standards.

Increased Role for Consultants

Another likely consequence of these changes will be an even greater role for consultants in the remediation process. The “Qualified Person” will now be more than ever called upon to exercise independent judgement that is specific to the site in question. Even as Phase I and Phase II reports become more standardised, reports supporting Risk Assessments and Modified Generic Risk Assessments will become more common and place an increased responsibility on the consultant.

Greater Regulatory Certainty

There are numerous other changes contained in the announcement. While the changes will likely receive some criticism from all parts of the spectrum, the overall thrust is to improve regulatory certainty and increase the transparency of the remediation process. Any change that creates better certainty and understanding of the process can only help the process of remediating contaminated sites as efficiently as possible and putting good land back to productive use.

RECENT CLIMATE CHANGE INITIATIVES IN BRITISH COLUMBIA

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It has been a very busy time in BC as the government has passed legislation to fulfill promises made in its Energy Plan and Climate Action Plan, including the formation of a Climate Action Team.

The *Greenhouse Gas Reduction Targets Act* came into operation January 1, 2008 and set targets for the reduction of BC greenhouse gas emissions. By 2020, BC greenhouse gas emissions are to be at least 33% less than 2007 levels and by 2050, emissions are to be at least 80% less than 2007 levels.

In August 2008, the Climate Action Team recommended interim targets for 2012 and 2016, being between 5% and 7% below 2007 levels and between 15% and 18% below 2007 levels respectively.

The Act also sets targets for reductions in greenhouse gas emissions for the public sector and requires the public sector to be carbon neutral in 2010. By 2009, public sector travel is to be carbon neutral.

The next step under this legislation is for emission offset regulations which will set requirements for greenhouse gas reductions, as well as projects or actions that will be recognized as emission offsets for the purpose of assessing the BC government's progress in achieving carbon neutrality. It is anticipated that public sector organizations will rely upon the Pacific Carbon Trust to ensure that the offsets meet the requirements set out in the regulations. The regulations will also set out how the reduction in greenhouse gas emissions are to be measured and such measurement is likely to be in line with the World Resources Institute's GHG Protocol for Project Accounting and/or the ISO Standard. It is also anticipated that there will be a *de facto* "registry" for offset projects in order to keep track of projects and to safeguard against "double counting". The regulations are anticipated to be finalized in the fall of 2008.

Local Government

The BC government also passed amendments to local government legislation, namely the *Local Government (Green Communities) Statutes Amendment Act*, requiring local governments to set greenhouse gas reduction targets, policies and actions in official community plans.

The Climate Action Dividend

The BC government has implemented a one-time \$100 climate action dividend to each BC resident to encourage individuals to work towards a more sustainable lifestyle.

The Cap and Trade System

In April 2007, BC became the first Canadian province to join the Western Climate Initiative, which was created to build and implement a regional cap and trade system.

The *Greenhouse Gas Reduction (Cap and Trade) Act* has been passed, but has yet to come into force. This Act provides the framework for BC to participate in the WCI Cap and Trade System. The BC regime contemplates that the BC government will establish caps for designated large emitters by issuing tradable compliance units.

Each emitter will be required to surrender to the BC government the number of compliance units equivalent to the amount of greenhouse gas emissions from its operations. A compliance unit is equal to one tonne of carbon dioxide or is equivalent.

Carbon Tax

The BC government has implemented a carbon tax on most carbon fuels (i.e. gasoline, diesel, natural gas, coal and propane). The tax begins at a rate of \$10 per tonne of carbon and will rise by \$5 per year for the following 4 years reaching \$30 per tonne by 2012. This amounts to \$2.41 per litre of gasoline rising to \$7.24 per litre by 2012. For diesel and home heating oil, the tax amounts to \$2.76 per litre rising to \$8.27 by 2012. There are many exemptions and other mechanisms to alleviate the tax burden on some companies within the legislation. A more detailed analysis is beyond the scope of this article.

The Carbon Tax is “Revenue Neutral”

The BC Carbon Tax is designed to be “revenue neutral”, in that the new carbon tax will be returned to taxpayers (individuals and businesses) through reductions in other taxes. In addition, low-income residents of BC will receive an annual climate action credit of \$100 per adult and \$30 per child (which is in addition to the one-time climate action dividend) in order to offset the tax burden.

Renewable Fuels

The BC government’s Energy Plan promises a 5% average renewable fuel standard for diesel fuel and gasoline by 2010.

The *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act* has been passed to create a regulatory framework that enables the BC government to set requirements for the amount of renewable fuel in BC, to reduce the carbon intensity of transportation of fuels, and to be able to adopt a low-carbon fuel standard, similar to California’s.

Renewable Energy

In its 2008 budget, the BC government committed \$57 million to bioenergy and alternative energy solutions. One of those initiatives is the Innovative Clean Energy Fund administered by the BC Ministry of Energy, Mines and Petroleum Resources to showcase BC technologies. The government has committed \$25 million to the fund which is supported by an ICE Fund Levy, which fund applies a levy based on a percentage on the price of energy products sold.

Energy Efficiency

The BC government has announced a number of initiatives and committed funds to address energy efficiency in buildings and energy conservation measures. Changes to the *Utilities Commission Act* passed in 2008 reflect the government’s policy to make conservation an important part of reducing greenhouse gas emissions from energy production. The BC Utilities Commission is now required to consider the government’s energy objectives in its decisions.

Transportation

Recently, the *Greenhouse Gas Reduction (Vehicle Emission Standards) Act* was passed (but is yet to be brought into force) to implement new vehicle emission standards, once again, similar to California’s.

GHGs and Landfills

The BC government is developing the Landfill Gas Regulation under the *Environmental Management Act*, which is anticipated to come into effect at the beginning of 2009. This proposed regulation will establish requirements for the capture of landfill greenhouse gases at certain landfills in the province.

Carbon Capture and Storage

Under the new *Greenhouse Gas Reduction (Emissions Standards) Statutes Amendment Act*, changes were made to the *Environmental Management Act* to require coal-fired electricity plants to capture and sequester greenhouse gas emissions.

'GREEN' LEASES: A PRIMER

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In June 2008, the Real Property Association of Canada (REALpac) released a national standard 'green' commercial lease in response to a real demand on the part of landlords and tenants to implement leases with 'green' components. Green building is the practice of increasing the efficiency with which buildings use resources while reducing building impacts on human health and the environment. The intent of building green is to improve upon efficiencies for energy, water and other resources; protect occupant health and improve employee productivity; and reduce waste, pollution and environmental degradation. This can include using building materials that are sustainable. So, while green buildings may be more expensive to build, their long-term operational costs and environmental impacts are significantly lower relative to conventional buildings. In addition, from a financial perspective, governments have been proposing and, in some cases, implementing incentive programs to encourage landlords and tenants to adapt to a more 'green' way of thinking about commercial space.

Conventional commercial leases may not be sufficient to incorporate these concepts or to ensure that landlords' interests are aligned with tenant usage. They do not establish environmental goals for the building or rules to enable the building to achieve those goals. Nor do they anticipate emerging issues such as emissions trading or greenhouse gas regulatory caps. Green leases, on the other hand, encourage the use of green materials in building improvements and encourage green practices by both the landlord and tenant in the management, use and occupation of the building.

REALpac's Green Lease

REALpac's "National Standard Green Office Lease for Single-Building Projects – 1.01 – 2008" (available at www.realpac.ca) (the "Lease") was developed through the Association's Green Lease Committee, comprised of lawyers, sustainability experts, leasing specialists and Leadership in Energy and Environmental Design (LEED®) Accredited Professionals.

The green elements of the Lease are landlord-centric in that they contemplate that the landlord will drive the green objectives, decision-making and compliance. Of course, the Lease can be revised to a tenant-centric model, or a shared responsibility model. As well, the green elements of the Lease are intended for office projects, but again, the Lease can be used with appropriate modification in retail and institutional scenarios.

The green elements of the Lease are in large part structured through an "Environmental Management Plan" (EMP). The Lease refers to the EMP in a number of instances:

- The Tenant must pay its share of Operating Costs to the Landlord including costs of developing and/or modifying and operating the building to achieve the objectives of the EMP (Article 6).
- The Landlord will permit the Tenant to use electricity, domestic water, sewage disposal and other utility services as the Landlord determines to constitute normal use or as may be specified in the EMP (Article 7).
- The Landlord must manage, maintain, operate and repair the Building in accordance with the EMP. The Tenant must permit the Landlord to take reasonably necessary steps to comply with the EMP (Article 8).
- The Tenant must manage, maintain, operate and repair the Premises and construct, use, operate and maintain Leasehold Improvements and all furnishings, fixtures and equipment so as to comply with the EMP. The Tenant must also perform Alterations in accordance with the EMP (Article 9).
- The Tenant must use the Premises in a manner consistent with the EMP (Article 10).

The EMP can have far reaching consequences to a tenant if an aggressive plan is pursued by the landlord.

Environmental Management Plan (EMP)

In the REALpac version of the Lease, the EMP is set out in Schedule form and includes the following:

1. Environmental Objectives

Both general and specific environmental objectives are set out. General objectives include commitments to reduce energy use, the production of greenhouse gases, and use of potable water, etc. Specific objectives, on the other hand, may include targets that have been identified by the parties as those they intend to achieve and maintain for the Building by a specified date. For instance, the Lease specifies that the Tenant acknowledges that the Landlord's intention is to achieve, and maintain, specific targets for the Building [by the target date] for the following parameters: electricity use, natural gas consumption, water consumption levels, waste diversion rate and indoor CO2 levels.

Although the Lease does not make any reference to the use of third part experts, the parties to the Lease will most certainly need to rely on technical consultants to obtain data on the above parameters prior to the Lease and to advise on the legitimacy and attainability of the proposed environmental objectives for those parameters. Selecting objectives that are so low they are not legitimate, or that are so high as to be unattainable, will simply frustrate the process.

The Lease also contemplates the possibility of regulators imposing a resource reduction target on the Building with a clause deeming the environmental objectives to have been amended so as to stipulate such resource reduction target.

Carbon offsets are mentioned and the Lease states specifically that the Landlord is entitled to the benefit of any carbon offset credits created, credited or recoverable as a result of activities conducted within the Premises or the Building (but of course, not those to which the Tenant is entitled by law).

2. Environmental Management Plan Implementation

The implementation of the EMP is set out in various requirements which include the following:

Subject/Topic	Tenant Requirements	Landlord Rights
Comfortable, Healthy and Productive indoor Environment	<ul style="list-style-type: none">- Consider the Tenant Construction Manual in doing work within the Premises (the manual sets out the rules and regulations which would apply to any Leasehold Improvements and Alterations carried out by the Tenant- Consider the Tenant Procurement Guidelines in procuring furniture, fixtures, materials, supplies and equipment- Ensure that only cleaning products that meet the EcoLogo™ or Green Seal™ standards are used, if the Tenant undertakes cleaning of the Premises	<ul style="list-style-type: none">- Monitor and test greenhouse gas production with notice to the Tenant- Test for volatile organic compounds- Purge Building air during a Tenant move to minimize off gassing, at the Tenant's cost
Reduced Indirect and Direct Energy Consumption and Greenhouse Gas Emissions	<ul style="list-style-type: none">- Install electricity smart meters at its cost- Take reasonable steps to minimize its electrical consumption- May request that its electrical power consumption be sourced or offset from renewable energy sources at its cost	<ul style="list-style-type: none">- Acquire all or part of its electrical power from sources with low carbon output- Install onsite generation capacity, the cost of which will be included in the Operating Costs
Reduced Water Consumption	<ul style="list-style-type: none">- Install water meters at its cost- Consent to the use of treated recycled or treated natural water where potable water usage is not necessary- Consent to rainwater and wastewater collection, treatment and reuse by the Landlord	
Recycled Materials Usage	<ul style="list-style-type: none">- May use recycled materials in its Leasehold Improvements and Alterations, if permitted by the Tenant Construction Manual or Landlord- May use recycled furniture, fixtures and equipment, if consistent with the Environmental Objectives and the Tenant Procurement Guide- Recycle waste created in the demolition of existing Leasehold Improvements or Alteration	<ul style="list-style-type: none">- Use commercial reasonable efforts to cooperate with the Tenant, at the Tenant's cost, in the certification of the Premises pursuant to any rating scheme such as the LEED CI standard (Commercial Interiors standard)

These provisions are quite general and will likely apply to most commercial leasing settings. However, further details such as which party will be required to carry the burdens and pay the associated costs, will always be a matter for negotiation between the Landlord and Tenant.

3. Compliance Issues

Compliance will be a tricky area should these leases come under judicial scrutiny. The EMP contains a clause requiring the parties to cooperate “from time to time in determining compliance with the Environmental Objectives... and in refining such Environmental Objectives from time to time.”

The parties will need to determine compliance with the Environmental Objectives likely with some external assistance of technical consultants. Although not explicit in the Lease, the parties will likely be required to rely on third party consultants to measure and report on the environmental performance of the Building to determine if the stated Environmental Objectives have been met. Their assistance will also be helpful in addressing failure to meet the stated Environmental Objectives.

Similarly, there are provisions relating to agreements and general commercial efforts to achieve the Environmental Objectives, to consulting on enhancements that may achieve the Environmental Objectives, and on issues, events and circumstances likely to detract from achieving the Environmental Objectives.

Shortcomings of REALpac’s Green Lease

The REALpac Green Lease is a useful tool for negotiations but may lack a number of elements that practitioners may wish to consider incorporating:

First, the Lease does not include a dispute resolution mechanism. Such a mechanism could deal with both the determination of a breach and resolution of a breach. The provisions of the applicable *Arbitration Act*, may also be of limited assistance.

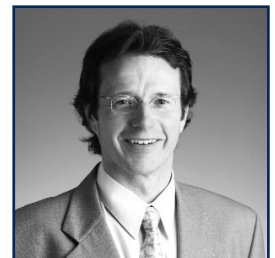
Second, there are no consequences for failing to achieve the environmental objectives. A breach of the EMP by either party does not constitute a default under the Lease. This is intentionally so in the standard lease but may not be appropriate in all cases. In the absence of any consequences to a breach, it will always be uncertain whether the party in breach is likely to actually “use commercially reasonable efforts” to co-operate with the other party and remedy the breach.

Conclusions

While currently green buildings and green leases are not typical in commercial leasing in Canada, their prevalence will certainly grow in the coming years. Australia and the U.K. have been significant sources of practice procedure from which the Canadian market is beginning to draw. The long-term benefits of the green building movement (from lower energy and maintenance costs to potential worker productivity results) will likely lead to an increase in prevalence and creativity in the Canadian real estate market.

CONTAMINATED SITES UPDATE IN BRITISH COLUMBIA

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The British Columbia Ministry of Environment has been busy revising procedures and protocols relating to contaminated site work.

Effective August 1, 2008, Protocol 13: Screening Level Risk Assessment outlines the requirements to complete a Screening Level Risk Assessment for a contaminated site in BC. The intention of the risk assessment is to evaluate if contamination poses an acceptable risk to the environment and human health. Sites that are found to have no unacceptable risks will satisfy the risk-based standards in the Contaminated Sites Regulation and be eligible for a Certificate of Compliance. With Protocol 13 in effect, approved professionals are able to review such applications.

In addition, Protocol 12: Site Risk Classification System (draft 7), establishing the boundaries of a site (version 1, draft 17) and processing site profiles (version 1, draft 32) have been released for public review and comment.

HOT AIR OR HOT PROSPECTS? CORPORATE ENVIRONMENTAL SUSTAINABILITY REPORTING GOES MAINSTREAM

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They are starting to pop up in unexpected places, banner ads on the internet, brochures enclosed with your credit card statement, travelling down your street on the side of a bus, silk-screened on that re-useable polypropylene bag, they seem to be everywhere. If you watch television, read the newspaper (paper or electronic) or have shopped for anything recently, you have likely crossed paths with some form of corporate environmental report. “Really?” you say sceptically, not recalling receiving a telephone book-sized report packed with unspeakably boring reams of data listing unpronounceable chemicals released in a given day to make X Brand of widgets in Kazakhstan. The newest versions of “Corporate Environmental Sustainability Reports” are nothing like the stodgy reports of old, they are hip, they are flashy and they are definitely greener than thou, but do they really signal the next wave of corporate reporting or are they a green flash in the pan?

For some companies, particularly those that are subject to extensive environmental regulation, corporate environmental reporting has been a standard practice since the mid-1990s. These reports typically focussed on the mass balance of a company as it did its work, quantifying inputs in the form of energy, materials and resource consumption, outputs in terms of wastes and emissions. The focus was on recording, communicating and sometimes tracking the environmental impacts (mostly negative) of a company. The environmental report was often a stand alone report issued by the “environmental/regulatory department,” with no appreciable connection to the corporate strategy, core business decisions or stakeholders other than regulators.

So what’s different now? This next generation of corporate environmental reports is not being driven in response to regulatory pressures, but is being driven by a broader corporate sustainability ethic. The overall question is not “what are our environmental impacts in isolation?”, but rather “is our current business model sustainable on economic, environmental and social bases?” The range of companies and organizations subjecting themselves to this triple bottom line analysis and producing these new reports has also expanded considerably from the first wave of industrial multi-nationals to include retailers, service companies and organizations, bankers, insurers and even law firms.

So if “everyone is doing it”, should your company consider joining the corporate environmental reporting bandwagon? Before embarking on the development of your own corporate environmental report, there are several key questions that you should consider:

- Are regulators or your business partners such as your customers, clients, suppliers, consumers, bankers and insurers requesting information regarding your environmental performance, carbon footprint, etc.?
- Will environmental initiatives give you access to capital markets for existing or planned activities that reduce your environmental impacts (for example carbon offsets/credit projects, LEED® buildings, etc.)?
- Could environmental risks, opportunities or reputational risks affect the value of your company or organization?
- Does my company or organization have disclosure requirements associated with environmental reporting?
- Do environmental risks need to be considered and incorporated into my overall risk management strategy?
- Are my competitors issuing reports?

If you answered “yes” to several of these questions, the time may be right for you to consider the preparation of a corporate environmental report, but where do you start?

Although there are many and various reporting formats, fortunately, you need not reinvent the wheel, as you can learn a great deal from those who have gone down the green path before you. The key focus should

be on developing a method for collecting and reporting data that yields credible, comparable and verifiable information. Early participants indicate that you need to choose a method and stick with it—changing the approach every year yields confusing results and can actually hinder effective communication with your employees, the public and other interested stakeholders.

Recognizing this need for verifiable and comparable information, organizations are using the *Global Reporting Initiative (“GRI”) Corporate Sustainability Reporting Framework and Guidelines* (version 3) [available from the website: <http://www.globalreporting.org>]. The GRI approach includes protocols for reporting on environmental and social factors. As stated by the GRI, the Framework and Guidelines provide a mechanism for “reporting on economic, environmental, and social performance by all organizations [that] is as routine and comparable as financial reporting.”

At first, a review of the GRI’s approach, including detailed protocols may seem daunting for small and medium sized companies. The GRI has recently recognized this, and has produced a handbook that demystifies the process for both small and “not so small” organizations (see the outline of the handbook available at: <http://www.globalreporting.org/WhoAreYou/SmeHandbookContents.htm>). To help small and medium enterprises to share their lessons learned, the GRI has established a discussion forum as well.

In addition to ensuring the reporting method chosen is comparable and verifiable, organizations choosing to prepare and issue reports must also be aware of the legal and reputational issues associated with such reports. These reports are more than “hot air” or a marketing gimmick, and are increasingly being closely examined. Recently, the Ontario Securities Commission revealed that an audit of the environmental reports provided by 35 companies under securities reporting requirements generally relied upon boilerplate disclosures that were insufficient to enable investors to truly assess the risks posed by environmental issues (see OSC Notice 51-76).

This focus is particularly true of environmental disclosures relating to climate change risk. In October, 2007 environmental disclosure became the focus of investors in Canada’s 200 most valuable companies by market capitalization, under the aegis of the Carbon Disclosure Project (“CDP”) (for more information see the website: <http://www.cdproject.net/>). Commencing in 2000, the CDP is a voluntary survey conducted by investors to request information about climate change and carbon risk management strategies from companies around the globe. The fifth CDP report released in 2007 requested information from 2,400 companies worldwide on behalf of over 300 institutional investors managing greater than \$41 (US) trillion in assets, including 30 of Canada’s largest investors. The Canadian CDP indicated that the responses of many companies are still lacking important financial data such as contingent emissions liabilities, abatement costs and revenue projections. Consequently, much of the information disclosed in 2007 was deemed to be insufficient to meet investor requirements.

Canadian corporations are not alone in stakeholders finding fault with their current approach to environmental disclosure. Last fall, litigation was commenced in the United States to compel better and more complete corporate disclosure of climate change risks.

Companies need not be motivated solely by the risks of inadequate disclosure. The benefits of improved corporate reporting were also seen in the CDP in 2007, as the Canadian report included a Climate Disclosure Leadership Index, which recognized sixteen Canadian companies as climate disclosure leaders based on the quality of their responses to the CDP information request. As more information becomes available, investors will assert themselves and reallocate their capital accordingly. As such, many companies will need to evaluate the adequacy of their current reporting practices and should likely prepare for the adoption of mandatory requirements in the future.

Regardless of whether an organization chooses the GRI’s approach, or an industry, client or self-made approach, organizations of all sizes have indicated that the process of preparing a corporate environmental sustainability report is often as beneficial as the report itself. The key to effectively using the reporting process to improve environmental performance is translating “top of mind” awareness of environmental issues into realistic and achievable action. Leading companies have learned that when translated into action, corporate environmental sustainability reporting can be transformational, but if not backed by a call to action, the public is increasingly cynical about “green washed” corporate reports producing hot air and nothing else.

WHAT'S HAPPENING AROUND MILLER THOMSON?

Rosanne Kyle has been nominated for the first Award of Excellence issued by the Women Lawyers Forum (CBA). The award is given to women who have made a significant contribution to the advancement of women in the practice of law.

On July 4, **Teresa Meadows** presented a luncheon seminar for the Calgary Oilsands Business Unit at Jacques Whitford AXYS entitled: "From Here to Eternity: Navigating Alberta's Environmental Approvals Landscape in 2008".

In August, **Teresa's** article "Cumulative Effects: Alberta industries face new environmental regulatory approach" was published in the August/September issue of the *Canadian Consulting Engineer Magazine*.

On September 18, **Bryan Buttigieg** spoke at the RealLeasing Conference in Toronto on the topic of "Environmental Liability".

On September 23, **Teresa Meadows** spoke in Toronto at the Miller Thomson breakfast seminar on "Making Green Practical" on the topic of "Greening Health Care".

On October 19-22, Aaron Atcheson spoke on opportunities in international carbon credit markets at the Canadian Wind Energy Association annual conference in Vancouver.

Bryan Buttigieg will be a facilitator at the LSUC "Advanced Roundtable in Environmental Law" on October 28.

Sandra Gogal will be speaking at the 7 Annual Aboriginal Law Forum in Toronto on October 29-30.

Tony Crossman will be chairing and speaking on a panel regarding Federal Environmental Assessment at the Canadian Bar Association meeting with the Federal Department of Justice in Ottawa on November 6.

Miller Thomson will be hosting cross-country seminars on "Understanding Aboriginal and Environmental Issues in Project Development". The seminars will be held in Vancouver on November 19, in Calgary on November 24, in Slave Lake on November 25, in Waterloo on November 26 and in Toronto on November 27, 2008.

John Tidball will be speaking at the Waste-Based Energy Conference in Toronto on December 3.

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