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CLIENT BRIEFING

June 16, 2006

Federal Regulatory Developments

RE: *EPA's All Appropriate Inquiries Standard*

Effective November 1, 2006, all parties who may potentially claim protection from liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") as an innocent landowner, a bona fide prospective purchaser, or a contiguous property owner must comply with the All Appropriate Inquiries standard published by the U.S. Environmental Protection Agency on November 1, 2005 (the "AAI Rule"). Such parties may use the standards set forth in the ASTM E1527-05 Phase I Environmental Site Assessment Process to comply with the provisions of the AAI Rule.

The term "All appropriate inquiries" is defined by EPA as the process of evaluating a property's environmental condition and assessing potential liability for any contamination. Many of the inquiring activities must be conducted by, or under the supervision or responsible charge of, an individual who qualifies as an environmental professional as defined in the AAI Rule. The inquiry of the environmental professional must include: (a) interviews with past and present owners, operators and occupants; (b) reviews of historical sources of information; (c) reviews of federal, state, tribal and local government records; (c) visual inspections of the facility and adjoining properties; (d) commonly known or reasonably ascertainable information; and (e) the degree of obviousness of the presence or likely presence of contamination at the property and the ability to detect the contamination. Additional inquiries that must be conducted by or for the prospective landowner include: (a) searches for environmental cleanup liens; (b) assessments of any specialized knowledge or experience of the prospective landowner; (c) an assessment of the relationship of the purchase price to the fair market value of the property, if the property was not contaminated; and (d) commonly known or reasonably ascertainable information.

If you wish to obtain further information on the AAI Rule, please contact any of the attorneys in the O'Neill & Borges Environmental Law Practice Group.

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