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Environmental Law: Key Strategies for Everyday Practice

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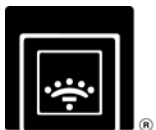
Practical Steps for Environmental Due Diligence in Commercial Transactions

Environmental Law: Key Strategies for Everyday Practice

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PRACTICAL STEPS FOR ENVIRONMENTAL DUE DILIGENCE IN COMMERCIAL TRANSACTIONS

The focus of this discussion will be on commercial transactions such as land purchases, and corporate mergers and acquisitions.

- The key for due diligence is identifying risks and liabilities. The basis for environmental risks and liabilities are often associated with environmental conditions that are either naturally occurring or associated with past or present land uses.
 - Natural features such as wetlands - the presence of a wetland could significantly impact activities and development on a particular property or impose additional regulatory requirements.
 - Wildlife considerations, such as migratory birds that are protected under the *Migratory Birds Convention Act*, or protected species that are protected under provincial or federal legislation such as the *Species At Risk Act*.
- Things to look for:
 - Current land uses
 - Previous land uses
 - Neighboring land uses
 - These factors may be indicators of potential contamination issues, as well as potential third party liabilities.
- Places to look:
 - Government of Alberta Environmental Site Assessment Repository (“ESAR”)
 - This is a public registry of environmental site assessment reports maintained by Alberta Environmental Parks (“AEP”). When technical documents relating to the environmental conditions are submitted to the regulator, they are typically posted on the ESAR Website which is available for public viewing.
 - However, AEP does not guarantee the content on ESAR or that it is comprehensive. While this is a valuable resource, it is important to note that