

# Phase I Environmental Site Assessments for Fee to Trust Acquisitions - 101

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# Pre-Acquisition Determination

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- Trust Responsibility
- Strategic Plan
- Assessment and Liability
- Environmental Professional

# Property Acquisitions - Guidance

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- Property acquisition guided by DOI Release #13-90 v.3 – Fee to Trust Handbook.
- 602 DM 2 – Land Acquisition Exchange and Disposal: Real Property Pre-Acquisition Environmental Site Assessments.
- 59 IAM 3 – NEPA Guidebook.
- ASTM Standard E1527-13 – Phase I Environmental Site Assessments Process.
- ASTM Standard E 2247-08 – Phase I Environmental Site Assessment Process for Forestland and Rural Property.

# ASTM Standards

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- E 1527-13
  - Commercial Real Estate
  - Onsite Evaluation
  
- E 2247-08
  - Forestland and/or Rural Property
  - 120 Acres or Greater
  - Onsite Evaluation
  - Remote Methods Available

# Recognized Environmental Condition (REC)

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- The presence or likely presence of any hazardous substances or petroleum products in, on, or at a property:
  - (1) due to any release to the environment;
  - (2) under conditions indicative of a release to the environment; or,
  - (3) under conditions that pose a material threat of a future release to the environment.

# Phase I Environmental Site Assessment Elements

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- Records Review
- Site Reconnaissance
- Interviews
- Report

# Records Review

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- Reasonably Ascertainable
- Practically Reviewable
- Standard Record Sources
- Additional Record Sources

# Records Review (Example)

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MyEnvironment | US Environmental Protection Agency

EPA United States Environmental Protection Agency

Mobile | Español | 中文 | 繁體中文 | Tiếng Việt | 한국어

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**MyAir**

Do I need sunscreen today? Is the air quality safe for me to run outside? Find out by looking in MyAir.

Get Started

**MyMaps**

View maps of EPA and partner data specific to your area of interest. Information on Air, Water, Land, Community, Health and Energy can be visualized on maps, downloaded and printed.

Map Contents

- ☒ Air Emissions (ARSAFS)
- ☒ Toxic Releases to Air (TRI)
- ☒ Clean Diesel Programs
- ☒ NAA PM2.5 24-hr (2006 std)
- ☒ NAA Ozone 8-hr (2006 std)

St. Louis, East 5

2.5 miles

2006 EnviroMapper

**MyAir**

The AQI is an index for reporting daily air quality. It tells you how clean or polluted your air is, and what associated health effects might be a concern for you. Read more about air quality.

Minnesota - St. Paul, MN

Good 5-9

Fair 6-10

Unhealthy 11-15

Unhealthy for Sensitive Groups 16-20

Very Unhealthy 21-30

Hazardous 31-50

October Average Data (2013 - Parts of 2014)

St. Paul, MN

AQI

October Average Data (2013 - Parts of 2014)

Air Quality

Unhealthy

October Average Data (2013 - Parts of 2014)

More pollutant info...

October Historical Data (2008-2013)

St. Paul, MN

AQI

October Historical Data (2008-2013)

Air Quality

Unhealthy

October Historical Data (2008-2013)

More pollutant info...

**MyWater**

The Assessment Total Maximum Daily Load (TMDL) Tracking and Implementation System (ATTAINS) provides information reported by the states to EPA about the conditions in their surface waters. This information is required every two years under Clean Water Act Sections 305(b) and 303(d). Read more about water quality.

Name	Type	Size	Status
Ninemile Creek	460	13.6 miles	Impaired
Ninemile Creek	558	0.0 miles	Impaired

**MyEnergy**

The State Energy Data System (SEDS) is the U.S. Energy Information Administration's (EIA) source for comprehensive State energy statistics. Included are estimates of energy production, consumption, prices, and expenditures broken down by energy source and sector.

State Data Comparisons

Minnesota: 2010 Energy Production vs. Consumption by Source

**MyHealth**

Toxic air pollutants, or air toxics, are those pollutants known or suspected of causing cancer or other serious health problems, such as birth defects. Not all air pollutants are considered - please visit the NATA Web site for more information on the 2005 NATA data.

2005 Cancer Risk Estimates (Inhalation)

Hennepin County, Minnesota

More air toxics info...

Total Risk Per Million: 58

**MyClimate**

In response to the FY2008 Consolidated Appropriations Act (P.L. 110-254, Public Law 110-161), EPA launched the Greenhouse Gas Reporting Program (GHGRP). The program requires annual reporting of greenhouse gas (GHG) data and other relevant information from large direct emissions sources and suppliers of certain fossil fuels and industrial gases in the United States. Read More

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8/5/2016



# Records Review (Example)

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Facility Search Results | ECHO | US EPA

### Search Statistics

0 Search Results

- 0 Facilities with a Current Violation/s
- 0 Facilities with Violations in the Last Three Years
- 0 Facilities with Formal Enforcement Actions in the Last Five Years
- 0 CAA Sources
- 0 Facilities with CWA Permits
- 0 Facilities with RCRA IDs
- 0 Facilities with TRI Releases

### Facility Summary

#### Search Criteria

City, State, and/or ZIP Code: 5600 American Boulevard Suite 500 Bloomington MN 55437  
Active/Operating? Yes

[Date Last Updated](#)

[Modify Search](#)

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# Records Review (Example)

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Hennepin County Property Interactive Map

**Interactive Maps**

Find a PID or an address on the map

Search

Welcome

**Results**

**Links**

- [Tax information](#)
- [View oblique imagery \(Ring maps\)](#)
- [Survey documents](#)
- [Recent recording history](#)
- [View natural resource information](#)
- [About the data](#)

**PID: 1611621240016**  
5600 American Blvd W  
Bloomington, MN 55437

Owner/Taxpayer	
<b>Owner:</b>	Rt Norman Pointe II LLC
<b>Taxpayer:</b>	RT NORMAN POINTE II LLC P O BOX 638 ADDITION TX 75001

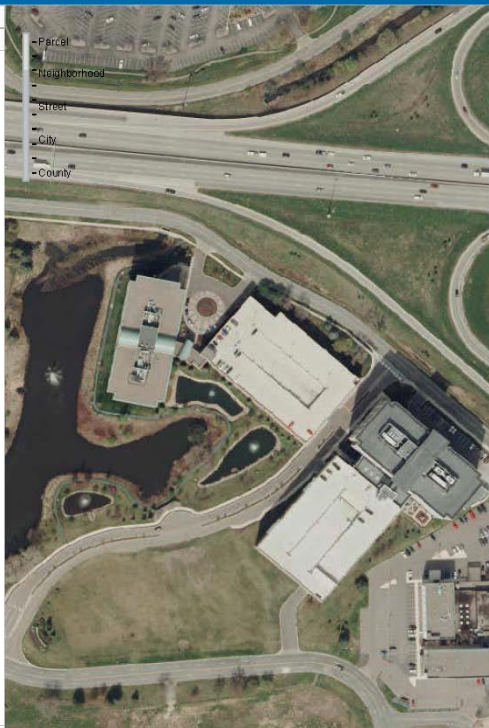
Tax District	
<b>School Dist:</b>	271
<b>Sewer Dist:</b>	
<b>Watershed Dist:</b>	1

Tax Parcel	
<b>Parcel Area:</b>	3.48 acres 151,371 sq ft
<b>Torrens/Abstract:</b>	Both
<b>Addition:</b>	Norman Pointe Business Center 3rd Add
<b>Lot:</b>	002
<b>Block:</b>	001
<b>Metes &amp; Bounds:</b>	

Tax Data (Payable 2015)	
<b>Market Value:</b>	\$41,859,000

Legend

Measure



Parcel  
Neighborhood  
Street  
City  
County

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# Records Review (1971 Example)

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# Site Reconnaissance

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- General Site Conditions
- Current/Past Property Use
- Current Use of Adjoining Properties
- Interior Observation of Structures



# Site Reconnaissance (Example)

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# Site Reconnaissance (Example)

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# Site Reconnaissance (Example)

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# Site Reconnaissance (Example)

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# Site Reconnaissance (Example)

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# Site Reconnaissance (Example)

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# Site Reconnaissance (Example)

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# Interviews

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- Past and Present Owners
- Occupants
- State and/or Local Government Officials
  - Local Fire Department
  - Health Agency
  - Environmental Services Agency
  - Land Use/Permitting Agency
- Adjacent Property Owners

# Interviews (Example)

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## Worksheet 3: SITE VISIT SURVEY; VISUAL ON-SITE INSPECTION OF THE PROPERTY AND OF ADJOINING PROPERTIES; and INTERVIEW(S)

### Pre-Field Interview (Owner, Operator, Occupant(s)) Form

#### Interviewee(s):

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Location: \_\_\_\_\_

#### Property Description:

Property Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Property Use: \_\_\_\_\_

Property Identification Number(s): \_\_\_\_\_

#### Interview Results (to the best knowledge of the Interviewee(s)):

Owner Paid Fair Market Value? ☐ Yes ☐ No ☐ Require Data

Historical Knowledge about Property? ☐ 1 Year ☐ 5 Years ☐ 10+ Years

Historical Use of Property? ☐ Residential ☐ Industrial ☐ Commercial

☐ Agricultural ☐ Rural ☐ Other

Violations/Enforcement Actions? ☐ Yes ☐ No ☐ Require Data

Reason to believe REC(s) Present? ☐ Yes ☐ No ☐ Require Data

Ongoing Concerns about Property? ☐ Permit(s)/Violations ☐ Access/Use

☐ Environmental ☐ Other ☐ None

#### Signature(s):

\_\_\_\_\_  
Signed (Interviewer) Title Date

Other Staff Present: \_\_\_\_\_



# Interviews (Example)

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## Worksheet 2: INTERVIEWS WITH PAST and PRESENT OWNERS, OPERATORS, and OCCUPANTS

Name of person interviewed: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Affiliation with Property:  
(E.g., Owner, operator, caretaker, previous owner, or neighbor) \_\_\_\_\_  
Time frame affiliated with Property: \_\_\_\_\_

Property Name: \_\_\_\_\_  
Property Address: \_\_\_\_\_  
Unique Identification Number : \_\_\_\_\_

*"To the Best of Your Knowledge..."*

### A. Property Use(s)

1. Do you have or know of the existence of any of the following records related to the property? If yes, please provide copies or make them available.

- |  |                             |                                   |  |
|--|-----------------------------|-----------------------------------|--|
| a. Radon, Asbestos, or Lead-Based Paint Surveys  | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |
| b. Environmental Compliance Audit Reports  | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |
| c. Environmental Permits Related to Current or Previous Site Activities<br>(e.g., waste disposal permits, wastewater permits, NPDES permits) | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |
| d. Registrations for underground and above-ground storage tanks.   | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |
| e. Hazardous Materials Management Plans (Emergency Planning and Community Right-To-Know Act (EPCRA))   | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |
| f. Facility safety plans   | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |
| g. Preparedness and prevention plans   | No <input type="checkbox"/> | Attached <input type="checkbox"/> | Not Available <input type="checkbox"/> |

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# Interviews (Example)

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## Worksheet 3: SITE VISIT SURVEY; VISUAL ON-SITE INSPECTION OF THE PROPERTY AND OF ADJOINING PROPERTIES; and INTERVIEW(S)

### Interview (Adjacent Property) Form

#### Interviewee(s):

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Type of Interview: ☐ On-site ☐ Off-site/Telephone ☐ Off-site/Letter or Email

#### Property Description:

Property Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Property Use: \_\_\_\_\_

Property Identification Number(s): \_\_\_\_\_

#### Interview Results (to the best knowledge of the Interviewee(s)):

Historical Knowledge about Property? ☐ 1 Year ☐ 5 Years ☐ 10+ Years

Historical Use of Property? ☐ Residential ☐ Industrial ☐ Commercial

☐ Agricultural ☐ Rural ☐ Other

Reason to believe REC(s) Present? ☐ Yes ☐ No ☐ Require Data

Comment(s): \_\_\_\_\_

#### Signature(s):

\_\_\_\_\_  
Signed (Interviewer)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



# Report

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- Scope of Services
- Findings
- Opinion
- Additional Investigation
- Data Gaps
- Conclusions
- Environmental Professional Certification and Signature
- Non-scope Considerations

# Report (Example)

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innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on CERCLA liability. RECs are defined as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products to the environment. The term includes hazardous substances or petroleum products stored on a subject property in compliance with applicable regulations. RECs however, do not include de minimus conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate government agencies.

The scope of work for this [REDACTED] Phase I ESA includes:

- 1) Data exchange and information sharing with the Fee to Trust Division – Midwest Region Office for the [REDACTED] property.
- 2) The review of the official record and associated material related to the contemplated Fee to Trust acquisition of the [REDACTED] property by the BIA-MRO.
- 3) The review of the [REDACTED] *Application for Fee to Trust Acquisition (On-Reservation)* dossier.
- 4) The review of the [REDACTED] as prepared by BIA-MRO.
- 5) The review of the December [REDACTED] Update as prepared by BIA-MRO.
- 6) A limited review of topographic, geological and hydrogeological information related to the [REDACTED] property and the surrounding area.
- 7) A limited review of the federal, tribal, state and local regulatory information for potential environmental hazards on and within a one-mile radius of the [REDACTED] property.
- 8) On-site interviews with current property owner(s) and other persons that have or might have knowledge of the current or past uses of the [REDACTED] property.
- 9) On-site observation and assessment of the [REDACTED] property and adjacent properties to determine the presence or suspect presence of RECs.
- 10) The preparation of a narrative report summarizing the findings of the [REDACTED] Phase I ESA.

# Report (Example)

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pre-existing mobile home. The [REDACTED]

[REDACTED] An official statement from the [REDACTED] was provided to support the demolition of the [REDACTED] facility and the [REDACTED].

## 9.0 Findings

A review of records reasonably attainable for the purposes of this assessment, visual observations and stakeholder interviews do not identify RECs associated with the [REDACTED] property.

Note that this Phase I ESA does not address other environmental concerns that do not fall within the ASTM's definition of RECs. Examples of other environmental concerns that do not fall under ASTM RECs but may be included in BIA-MRO analysis include:

1. Asbestos-containing materials (ACM) in structure;
2. Lead based point on structures on the property;
3. Wetlands;
4. Regulatory restrictions related to wetlands, aquifer recharge zones, threatened and/or endangered species habitats, or other environmentally sensitive settings; and,
5. Health and safety.

## 10.0 Opinions

### 10.1 Opinion(s) Regarding Findings

The [REDACTED] property, based on available data, has been used as natural and/or rural lands since 1938. Therefore, in our opinion, these uses pose a minimal environmental threat and would not be considered a REC on the [REDACTED] property.

The 6 regulated facilities identified in the My Environment database search are located approximately ½ mile or greater from the subject property. These facilities and/or operations do not have current recorded violation(s) and lack direct access/contaminant pathways to the subject property. Therefore, in our opinion, these listings and site(s) pose a minimal environmental threat and would not be considered a REC on the [REDACTED] property.

The 1 regulated facilities identified in the [REDACTED] database search are located within a one-mile of the subject property. These facilities and/or operations do not have current recorded violation(s) and lack direct access/contaminant pathways to the subject property. Therefore, in our opinion, these uses pose a minimal environmental threat and would not be considered a REC on the [REDACTED] property.

# Report (Example)

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The [REDACTED] identifies the facility as a Hazardous Waste, Small to Minimal QG and remains in compliance for RCRA. Based upon the drainage features of the area surrounding the [REDACTED], the location of the [REDACTED] and the status of RCRA compliance; it is the opinion of the environmental professionals that the [REDACTED] listing poses a minimal threat to the [REDACTED] property and is not be considered an REC.

## 10.2 Data Gaps

Data gaps do not exist that would significantly alter the conclusions and/or recommendations associated with this assessment.

## 11.0 Conclusions

BIA-MRO performed the [REDACTED] Phase I ESA in conformance with the scope and limitations of ASTM Practice E 2247-08 of the [REDACTED] property generally located at [REDACTED] for the [REDACTED] from, this practice are described in [Section 1.0](#) in this report. The assessment revealed no evidence that RECs exist on the [REDACTED] property.

## 12.0 Recommendations

Due to the lack of evidence related to the presence of RECs on the [REDACTED] property during the preparation of this report, the environmental professionals recommend that no further environmental assessments are required at this time.

## 13.0 Qualifications

### 13.1 Environmental Professional(s) Statement

[I, We] declare that, to the best of [my, our] professional knowledge and belief, [I, We] meet the definition of Environmental Professional as defined in 40 CFR Part 312.

[I, We] have the specific qualifications based on education, training and experience to assess a property of the nature, history, and setting of the subject property. [I, We] have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR 312.

# Recognized Environmental Condition (REC)

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**REC**

**Or**

**Not a REC**

# REC?

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8/5/2016

# REC?

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# REC?

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# REC?

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Alamy 1163303

# Questions

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