

The Environmental Corner

*By: Steve Henshaw , P.G., President & CEO,
EnviroForensics*



Choosing an Environmental Consultant For Your Unique Situation

I recently changed real estate agents after he was unsuccessful selling a unique piece of property. I was forced to go through a process of determining what I did or didn't do that got me to the point I was at and to evaluate what I wanted in the person representing me. Let me say that my agent is good guy and I liked him a lot. He seemed to have experience with the local market; good integrity and I believe he had my best interest in mind. Down deep however, I didn't feel like he was the right guy for my unique situation. My unique situation was that my house was nice, but not great. It had an in-law unit that was not connected to the upstairs, it needed some work and it lacked any real pizzazz. What this property did have was a fantastic view, but a buyer had to first get up to the house to see the view. In the end I felt that my original broker didn't have the right ideas to sell my unique situation.

As I thought about what I was looking for in a broker, I thought about the challenges that small business owners deal with when they are choosing an environmental consultant to represent them for their unique situation. There is arguably no bigger issue for a small business owner to deal with than the issue of environmental contamination and liability. Businesses and savings have been lost because the environmental contamination and liability were so expensive. That being said, choosing the right environmental consultant

is an extremely important decision. But as important as this decision is, more times than not, a small business owner selects an environmental consultant one of the following ways: 1) the consultant is a referral from a friend or an associate; 2) the consultant was selected because he happened to be in close proximity; or 3) the consultant was perceived to be the least expensive.

In light of the importance of this decision, choosing an environmental consultant based on referrals,

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location and cost is an armatures approach. This article is intended to point out that selecting an environmental consultant should be one of the most important business decisions you are faced with and that there are important differences between consultants. Let's face it, if a business owner doesn't know that there are differences between environmental consultants, countless hours and dollars may be wasted, projects could drag on for years and site closure or settlement may not be achieved.

Let's first discuss the difference between environmental consultants. Most consultants have areas of focus or specialty areas. A specialty area might be due diligence projects for banks on the property transaction and refinancing side. Another might be in cleaning up contaminated gasoline stations. Some consultants specialize in wetlands and endangered wildlife, others on permitting and compliance and still others on zoning. Some consultants, like me, specialize in the remediation and site closure of sites contaminated by cleaning solvents and the vapor intrusion that accompanies those contaminated sites. So, a business owner needs interview potential consultants to find out what their area of focus is. If your site involves the release of cleaning solvents like PCE (Perc) or TCE (Trichlor) you need to make sure that consultant has that experience and ask how many sites they have worked on, how many they have closed and how long the process took.

Now let's discuss the issue of cost. While it's easy to get caught up on the labor rates being charged by a consultant, the bigger issue is always, how much out of pocket will

this cost your business and over what period of time. Selecting the lowest cost is foolhardy and rarely works out in the end to your advantage. If you go out to bid what are you looking at? If you start a phase of work, such as a work plan, the collection of soil or groundwater samples, the installation of monitoring wells, reporting and the like, it is difficult to change plans. A low bid could end up being accompanied with numerous change orders, negating any savings anticipated. I'm not suggesting that business owners select the lowest bid, but I would go to the cheapest dentist and you shouldn't choose your environmental consultant on the cheapest basis either.

Another question to ask is who will be paying for the investigation and cleanup? Are there any funding sources besides your business? Our firm specializes in finding alternative funding to pay for environmental liabilities. Because we specialize in the area of finding alternative funding sources, we always look for these opportunities. We may not always be able to find the funding, but we are successful more times than not and we always look for alternative funding sources.

Often times, business owners have little interest in the science side of environmental liability, so ask the consultant for a road map of the process. Why are you being targeted? Are others contributing? What are the steps to resolve your liability? A consultant doesn't have a crystal ball and cannot tell you precisely what they will find as the investigation proceeds, but they need to have a road map and a plan of action.

Discuss with the consultant what your financial resources are, because if you cannot afford to get to the

end game, you may be better off not starting at all. I believe that business owners need to know what they are facing so they are not surprised. This means you might hear things you do not want to hear. I don't advocate for bankruptcy, but I've seen business owners spend their life savings and then also go bankrupt.

In summary, selecting an environmental consultant may be the biggest decision for your business, so treat it very seriously. Select your consultant like you would select your doctor. You wouldn't have a foot doctor working on your heart and you should not have a tank removal contractor working on a solvent spill. Evaluate the consultant's experience and find out how many sites they have worked on and how many they have closed. Don't choose a consultant on price alone and don't choose a consultant because they tell you what you want to hear. Be strong and ask tough questions about the investigation and remediation process. Find out if there are alternative sources of funding other than just your business. If the consultant doesn't have a clue as to what you are asking, run the other direction. Understand why you are doing the work and whether you need the site closed to sell the property or the business. Ask for a road map and plan of action. Find out how committed they are to you. Will they work with you on a payment plan? Will they put their money where their mouth is and conduct work for a lump sum? Will they work around your schedule to minimize business interruption? In the end, an environmental consultant works

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for you and they need to have all of your interests in mind and they need to fight for you as if you're family. If your consultant is not working out like you believe that they should be, you can change consultants. There are plenty of good environmental consultants to work with, but there may be only a select few that are right fit for your unique situation.

With 30 years of experience, Steve Henshaw holds professional geology registrations in numerous states. As President and CEO of EnviroForensics, Henshaw serves as a client and technical manager on projects associated with site characterization, remedial design, remedial implementation and operation, litigation support and insurance coverage matters. He has acted as Project Manager or Client Manager on several hundred projects involving dry cleaners, manufacturers, landfills, refineries, foundries, metal plating shops, food processors, wood treating facilities, chemical blenders and transportation facilities. Henshaw has built a leading edge environmental engineering company that specializes in finding the funding to pay for environmental liabilities.

By combining responsible party searches with insurance archeology investigations, EnviroForensics has been successful at remediating and closing sites for property owners and small business owners across the country, with minimal capital outlay from clients. He is a regular contributing writer for several dry cleaning trade publications on environmental and regulatory issues and remains active with dry cleaning associations by providing insight on changes in law and policy. Contact www.enviroforensics.com; e-mail: shenshaw@enviroforensics.com.