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Positive Impact of Corporate Change Wanted! No New Brownfields

Canadian Brownfields 2009

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Overview

- ▶ **North America = Over 300,000 contaminated sites**
- ▶ **No statistics generally available to separate “historic” and newer sites**
- ▶ **Anecdotally the larger legacy contaminated sites were created 10-40 years ago**
- ▶ **Smaller contaminated sites however seem to be created on a more frequent and current basis (gas stations, dry cleaners, smaller manufacturing operations, etc.)**

Policy Issues

- ▶ **Industry Canada (July 2009) - SMEs employed 6.9 million, or 64% of private sector employees in Canada**

([http://www.ic.gc.ca/eic/site/sbrp-rppe.nsf/vwapj/KSBS-PSRPE_July-Juillet2009_eng.pdf/\\$FILE/KSBS-PSRPE_July-Juillet2009_eng.pdf](http://www.ic.gc.ca/eic/site/sbrp-rppe.nsf/vwapj/KSBS-PSRPE_July-Juillet2009_eng.pdf/$FILE/KSBS-PSRPE_July-Juillet2009_eng.pdf))

- ▶ **What type of entity is more likely to be responsible?**
 - ▶ SME, private sector or publicly held companies
- ▶ **Where should Canada place its emphasis if it does not want to create more brownfields?**

Policy Objectives

- ▶ **Legislation can be an driver of behavioral reform**
 - ▶ web of legislation exists to protect the environment
 - ▶ aimed at changing corporate behaviour
- ▶ **Legislation**
 - ▶ Proactive chemical management
 - ▶ Public reporting about chemical use
 - ▶ How to handle and manage spills
 - ▶ Reduce environmental Impact
- ▶ **Public Companies - shareholder value plays a role**
- ▶ **SME's - may be more innovate and proactive**

Environmental Management Systems (“EMS”)

- ▶ **Numerous Conventions**
 - ▶ Define the objectives of an EMS
 - ▶ Some developed proactively by industry associations

- ▶ **EMS is a systematic approach to dealing with the environmental aspects of an organization.**
- ▶ **A 'tool' that enables an organization of any size or type to control the impact of its activities, products or services on the natural environment.**

Environmental Management Systems (“EMS”)

Impact

- ▶ **Early desire by certain industries to distinguish themselves as leaders in managing environmental risk**
- ▶ **Better understanding of environmental aspects reduces overall environmental risk and increases operational efficiency, cost savings, better relationship with regulatory agencies**
- ▶ **Build consumer confidence and shareholder value**

Environmental Management Systems (“EMS”)

- ▶ **In some provinces, the concept is adopted as a regulatory requirement**
- ▶ **For example in Ontario, a reduction in an Environmental Penalty can be obtained if the company has an EMS**
- ▶ **The interaction between corporate drivers and government policy create a positive influence**

Corporate Reporting and Disclosure Rules

- ▶ **Ontario Securities Commission (OSC)**
 - ▶ National Instrument 51-102 provides
 - ▶ Reporting issuer's annual report must present
 - ▶ information about the financial and operational impact of environmental requirements
 - ▶ on capital expenditure, revenue and competitive position
 - ▶ in both the description of the business and risk factors section.

(http://www.osc.gov.on.ca/documents/en/Securities-Category5/rule_20040402_51-102-cont-disc-ob.pdf)

Corporate Reporting and Disclosure Rules

▶ United States

- ▶ FIN 47 - disclosure should be made where any legal obligation associated with a long-lived asset leads to an ascertainable expense, even though timing may be uncertain.
- ▶ For example: many public companies provide disclosure for end of facility life disposal of in-place asbestos containing materials and legacy contaminated sites.

<http://www.omm.com/disclosure-requirements-for-environmental-liabilities-under-us-securities-laws-02-07-2008/>

Corporate Reporting and Disclosure Rules

- ▶ **Overall Impact = Detailed disclosure of environmental impact and legacy obligations**
- ▶ **Company impact**
 - ▶ Tremendous amounts of resources
 - ▶ Understanding and documenting reporting obligations
 - ▶ Regulatory and public scrutiny
- ▶ **Result proactive handling of materials that can lessen the likelihood of the creation of a contaminated or brownfield site**

Corporate Social Responsibility (CSR)

HISTORY

- ▶ **Corporate social responsibility movement has gained momentum**
 - ▶ **1950/1960s - US - large companies took action to solve the urban problems of racial tension and poverty**
 - ▶ **Development of CSR has taken off**
 - ▶ **Mid-90s - consumer preference forced corporations to start thinking of the environment = GREEN MOVEMENT**

Corporate Social Responsibility (CSR)

- ▶ **CSR - Beyond Environmental Issues**
 - ▶ **DOW JONES SUSTAINABILITY INDEX (DJSI)**
 - ▶ Use of criteria:
 - ▶ environmental (reporting)
 - ▶ economic (corporate governance and codes of conduct)
 - ▶ social (talent attraction & retention)
 - ▶ Focus on long-term shareholder value

Corporate Social Responsibility (CSR)

- ▶ **DJSI reviewed and updated annually**
 - ▶ 2009
 - ▶ Over 1200 world-wide companies were analyzed
 - ▶ Use of criteria (economic, environmental and social)
 - ▶ Significant weight given to industry standards

- ▶ **Current DJSI**
 - ▶ Over 300 companies
 - ▶ 23 Canadian Companies (TransAlta, ScotiaBank and Encana Corporation)

Corporate Social Responsibility (CSR)

- ▶ **Encana Corporation (recognized on 2009 DJSI)**
 - ▶ Even though total number of spills has increased, there is a significant **drop** in total volume spilled
 - ▶ almost 4,000 m³ between 2007 and 2008
 - ▶ Significant increase in the reclamation of lands (over 1,000 hectares from 2007 to 2008)

Corporate Social Responsibility (CSR)

- ▶ **GLOBAL REPORTING INITIATIVE GUIDELINES**
- ▶ **International standard for environmental and social governance reporting**
- ▶ **2008 - over 1,000 companies voluntarily reported their results of initiatives that are greener and more sustainable**

- ▶ **This also includes the Equator Principle which are a benchmark for the financial industry to manage social and environmental issues in project financing**

<http://www.globalreporting.org/Home>

Corporate Social Responsibility (CSR)

- ▶ **Voluntary reporting indexes - more than just “greenwash”**
- ▶ **Companies - taking proactive positive actions**
 - ▶ Positive influences
 - ▶ Reduction in “larger” environmental impacts
 - ▶ Fewer local impacts

Conclusions

- ▶ **Reality – high public expectation that companies demonstrate some form of CSR**
- ▶ **Balancing Act - Shareholder value vs. Corporate responsibility vs. Government enforcement**
- ▶ **Difficulty in the SME sector**
 - ▶ Less public accountability (maybe more awareness and greater proactive measures)
 - ▶ Fewer resources

Conclusions

- ▶ **If government policy objective is to proactively protect against the creation of brownfield sites then must consider the best way to achieve the goal**
- ▶ **The carrot a reward for positive action – difficult to identify, Environmental Leaders programs**
- ▶ **The stick of harsh penal consequences in the event of spills and mismanagement**

QUESTIONS?

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