



CBN Workshop
June 11-12, 2012
Offsite Liability Panel

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The Three Sources of Offsite Liability

- Regulatory
- Contract
- Tort



Regulatory Liability

- Orders
 - Investigations
 - Prosecutions
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- No RSC immunity for offsite contamination
 - No current mechanism for Regulatory “closure” (more later)



Tort Liability

- Traditional Claims
 - Loss of use – damages in Nuisance/Negligence
 - Cost of clean-up
 - Permanent loss of value – stigma
- Action possible against past and current owner, even if RSC in place
- Successors in title and future occupants will view liability through a future standard of care



Offsite Liability in Contract

- Indemnities
- Remediation Agreements
 - Obligations often tied to future (unknown) standards



Is Regulatory Closure for Offsite Liability Achievable?

- Regulatory vs Civil Concerns
- Regulatory concern premised on impact to human health or ecological receptors?
- Civil (Tort) liability can be broader





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