



# Canadian Brownfields Network 2012 Workshop

## Off-Site Liability

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# Environmental Insurance

## Off-Site Liability – What Else Exists

### US Approach to Off-Site Liability:

- Several States (at least three) have implemented legislation that provides broad 3<sup>rd</sup> party liability protection for “innocent parties”.
- Georgia (2002) – Director approves 3<sup>rd</sup> party protections based on State’s acceptance of Corrective Action Plan or Certificate of Compliance (which ever happens first).
- S. Carolina (2005) – 3<sup>rd</sup> party protection afforded once voluntary clean-up (or execution of clean up contract) is completed.



# Environmental Insurance

## Off-Site Liability – What Else Exists

### US Approach to Off-Site Liability:

- Connecticut (2005) – 3<sup>rd</sup> party protection begin once after cleanup is completed (and same is certified).
- In all cases the “release” is very broad – “applicant shall not be liable to the State or any third party for costs incurred in the remediation of, equitable relief relating to, or damages resulting from pre-existing releases”.
- Nothing is perfect: onerous requirements prevent many applicants from obtaining full release and no release is provided re: Federal Liability.

# Environmental Insurance: Off Site Liability

## The Problem:

How does a Brownfield owner overcome the uncertainty associated with the risk of Off-Site Liability?



# Environmental Insurance

## What Risks Can be Transferred

### A Solution - Environmental Insurance:

- Environmental Insurance can not make a “bad” Site good.
- Environmental Insurance can respond to properly managed off-site risk.
- Covered risks include: Property Damage, Bodily Injury and Clean Up due to off-site migration of POLLUTION CONDITIONS. Legal Defense is also included.

