Managing Environmental Liabilities During Due Diligence

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Success

[sək'ses]

NOUN

The accomplishment of an aim or purpose.

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A good team increases chance for success

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What Matters in Due Diligence Projects?
✓ Cost
✓ Schedule
✓ Quality of Assessment
✓ Future Liability

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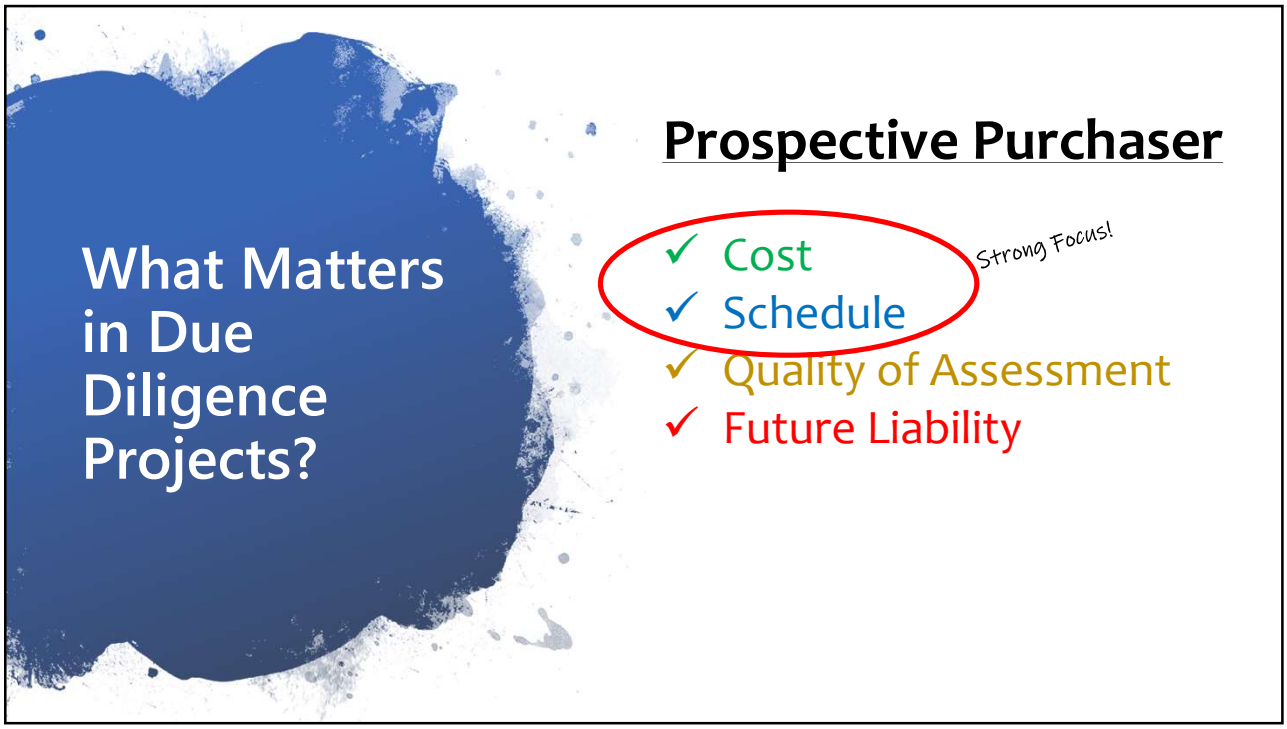
What Matters in Due Diligence Projects?
Prospective Purchaser
✓ Cost
✓ Schedule
✓ Quality of Assessment
✓ Future Liability
Strong Focus!

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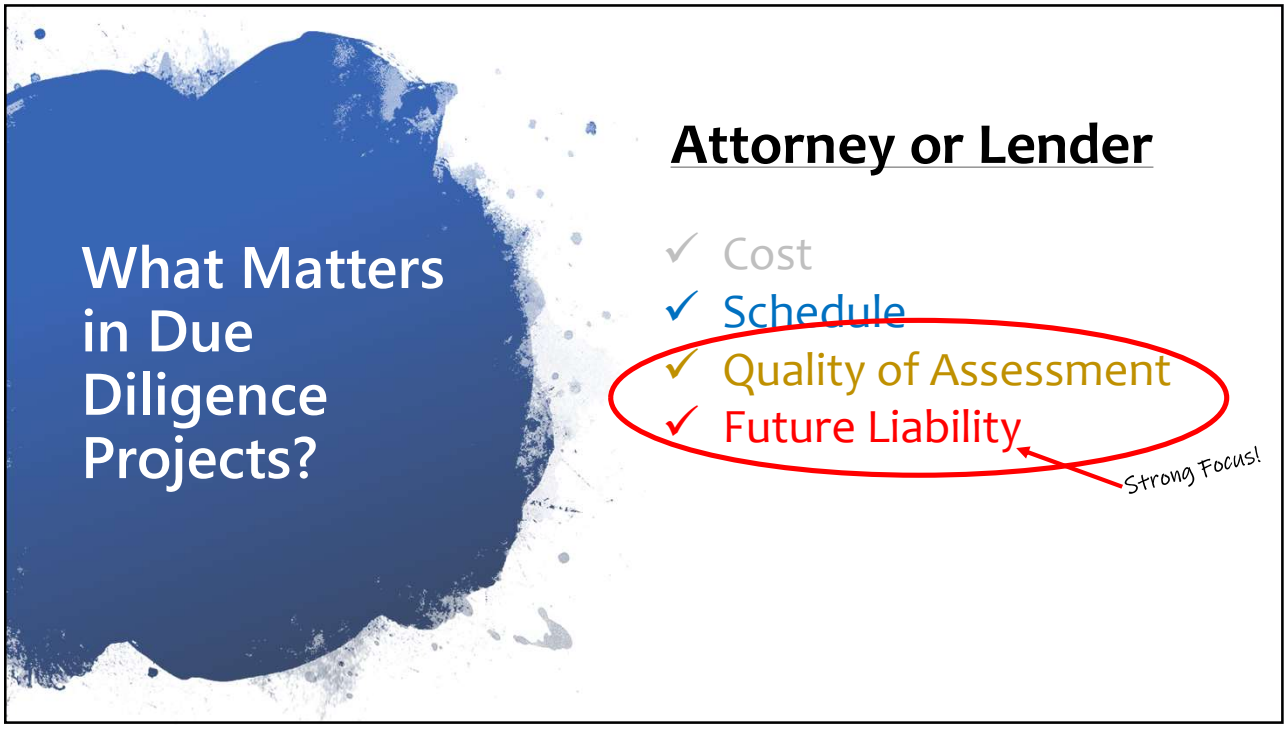
What Matters in Due Diligence Projects?
Attorney or Lender
✓ Cost
✓ Schedule
✓ Quality of Assessment
✓ Future Liability
Strong Focus!

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What Matters in Due Diligence Projects?

Consultant

- ✓ Cost
- ✓ Schedule
- ✓ Quality of Assessment
- ✓ Future Liability

Strong Focus!

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Advice from the Due Diligence Trenches

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Establish a Good Team

Consultant

- Should know the project site area and regulatory context
- Is special knowledge/expertise needed
- Do they have capacity and staff to meet project schedule
- Do they have conflicts

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Attorney

- Understands environmental risks and how to manage
- Understands local/state jurisdiction and regulatory scheme
- Understands client's goals and risk tolerance
- Practical, solutions-oriented

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Ask How Much Time is Needed

- Project goals
- Who will use the assessment
- Complexity of site issues

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Provide Big Picture (& Minutia) to Project Team

- Project goal
- Risk tolerance
- Known or suspected constraints
- Potential red flags

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Facilitate Team Communication

- Let the consultant know how often you want to hear from them
- Consultant-attorney
- Consultant-consultant
- Consultant-lender

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Get Findings Explained

- Deal breakers vs minor issues
- Out-of-scope issues
- Continuing obligations

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Get Next Steps Explained

- What is objective
- Impact on schedule
- Actionable issues

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Other Advice

Understand scope and cost proposal

If a project gets delayed:

- Give the team time to get caught up
- Key elements of the assessment likely need revising

If you have project stakeholders needing reliance letters, alert the consultant early on

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