By Teresa Meadows, Miller Thomson, LLP

Green Claims

Environmental reporting has gone mainstream

They are starting to pop up in unexpected places — banner ads on the internet, brochures enclosed with your credit card statement, travelling down your street on the side of a bus, silk-screened on that reusable polypropylene bag — they seem to be everywhere. The newest versions of "Environmental Sustainability Reports" are nothing like the stodgy environmental reports of old, they are hip, they are flashy and they are definitely greener than thou. But do they really signal the next wave of corporate reporting or are they a green flash in the pan?

For some companies, particularly those that were subject to extensive environmental regulation, environmental reporting has been a standard practice since the mid-1990s. These reports were considered technical documents, and consulting engineers often prepared them on behalf of client corporations. Typically the reports assessed the mass balance of a company as it did its work, quantifying inputs in the form of energy, materials and resource consumption, outputs in terms of wastes and emissions.

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So what's different now? This next generation of environmental reports is not a response to regulatory pressures, but is being driven by a broader corporate sustainability ethic. The overall question: "Is our current business model sustainable on economic, environmental and social bases?" The range of companies and organizations subjecting themselves to this triple bottom line analysis and producing these new reports has expanded from the first wave of industrial multi-nationals to include retailers, bankers, insurers and professional service providers such as lawyers, and even consulting engineering companies.

However, before your company or your clients embark on developing an environmental sustainability report, consider the decision carefully. Just because "everyone else is doing it" is not a good enough answer. These reports are more than a marketing gimmick. Producing them can have significant economic and legal consequences.

For instance, "green claims" that are unsubstantiated or incapable of measurement may be attacked by competitors, consumers, regulators, and in some cases, all three.

And when making statements on environmental performance, companies need to be aware that the data supporting these statements should also be publicly available upon request. For example, where a new proprietary technology allows for significant waste reductions, the company cannot claim reductions in their environmental status report but hope to protect the data that proves those reductions by claiming that it constitutes a trade secret.

Care should also be taken regarding how the company will choose, express and track environmental, social or economic performance targets in subsequent reports. It does not take long for unmet targets chosen to "one-up" the competition to come back to haunt the company that set them.

This need for accurate reporting is particularly true of environmental disclosures relating to climate change risk. Since 2000, investors have started to demand more complete disclosure of climate change risks and opportunities under the Carbon Disclosure Project ("CDP"), a voluntary survey conducted by investors to request information about climate change and carbon risk management strategies from companies around the globe (http://www.cdproject.net/).

A central issue (especially acute right now given the financial crisis on global stock markets) is the extent to which third parties, including investors, rely on these reports to make funding decisions and so they could suffer losses if the reports are inaccurate, misleading, or false. As with other types of consulting reports, such as financial audits, or site assessments, disclaimers may be used to limit the reliance of third parties on these reports. However, consultants need to be aware that as one of the central purposes of these reports is often public communication, the range of third parties receiving and potentially relying on them is constantly expanding.

Regulators are also reviewing these reports. In February, the Ontario Securities Commission revealed that an audit of the environmental reports provided by 35 companies under securities reporting requirements generally relied upon boilerplate disclosures that were insufficient to enable investors to truly assess the risks posed by environmental issues.

There are other legal issues for the engineering consultants. For example, in some jurisdictions, only those individ-

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uals with specific training in greenhouse gas quantification and carbon offset verification can make claims about greenhouse gas reduction measures. The limits on the representations that consultants can provide are rapidly changing and vary across provinces and countries. As a professional, the bottom line is to identify what you have the qualifications to state and confine your comments to only that. This is sometimes particularly difficult for professionals dealing with greenhouse gas emission issues, as accountants, engineers, meteorologists, economists and legal advisors may all be involved in assessing an organization's carbon risks and opportunities, but generally only one (often the technical lead) writes the report.

The key focus should be on developing a method for collecting and reporting data that yields credible, comparable and verifiable information. You need to choose a method and stay with it.

Recognizing this need for verifiable and comparable information, organizations are using the Global Reporting Initiative ("GRI") Corporate Sustainability Reporting Framework and Guidelines (version 3) [www.globalreporting.org]. The GRI approach includes protocols for reporting on environmental and social factors. It provides a mechanism for "reporting on economic, environmental, and social performance by all organizations [that] is as routine and comparable as financial reporting."

For small and medium sized companies, however, the Global Reporting Initiative's approach with its detailed protocols may seem daunting. The GRI has recently recognized this, and has produced a handbook that demystifies the process for both small and "not so small" organizations. In addition, many industrial associations are developing their own industry-specific tools that keep you and your clients from having to reinvent the wheel.

Organizations of all sizes have indicated that the process of preparing a corporate environmental sustainability report is often as beneficial as the report itself. The key is translating "top of mind" awareness of environmental issues into realistic and achievable action. But if reporting is not backed by a call to action, the public is increasingly cynical about "greenwashed" environmental sustainability reports producing hot air and little else. **CCE**

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