**Sample Federal Superfund Interest Letter for CERCLA § 107(r) Windfall Lien**

[**NOTE: This letter is for situations when a party provides information showing that 1) a project found to be in the public interest is hindered or the value of a property is affected by the potential for a CERCLA § 107(r) windfall lien, 2) there is no other mechanism available to adequately address the party’s concerns, and 3) it falls within one of the circumstances identified in the Windfall Lien Policy where EPA would generally not perfect a windfall lien. Instructions in brackets should be replaced with the relevant information and the brackets deleted**.]

[**Insert Addressee**]

Re: [**Insert name or description of property**]

Dear [**Insert name of party**]:

I am writing in response to your correspondence of [**insert date**] concerning the property referenced above. My response is based upon the facts presently known to the U.S. Environmental Protection Agency (EPA).

As you may know, the above-referenced property is located within or near the [**insert name of Superfund site**]. EPA is currently taking [**insert description of any action that EPA is taking or plans to take and any contamination problem**].

The EPA’s *Interim Enforcement Discretion Policy Concerning “Windfall Liens” Under Section 107(r) of CERCLA* (“Windfall Lien Policy”) (July 16, 2003) [“(copy enclosed)” **or provide URL -** [**http://www.epa.gov/enforcement/interim-guidance-enforcement-discretion-concerning-windfall-liens-cercla-section-107r**](http://www.epa.gov/enforcement/interim-guidance-enforcement-discretion-concerning-windfall-liens-cercla-section-107r)], provides that EPA, in an exercise of its enforcement discretion, will generally not perfect a CERCLA § 107(r) windfall lien when the conditions and criteria described in the Windfall Lien Policy are met. Based upon the information currently available to EPA, EPA believes that the Windfall Lien Policy applies to [you/your situation]. Specifically, EPA believes that, consistent with the Windfall Lien Policy, your situation falls under the [**insert reason set forth in the guidance**] section of the guidance [**optional – depending on which reason for not filing windfall lien may want to include the following:** “unless new information not previously known to EPA is discovered”].

EPA hopes that the above information is useful to you. [**Optional –** “In addition, a copy of our latest fact sheet for the [**insert name of site**] is enclosed”[**or provide URL**].] Further, we direct your attention to the [**insert location or URL of site local records repository**] at which EPA has placed a copy of the Administrative Record for this site. This letter is provided solely for informational purposes and does not provide a release from liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly referred to as Superfund). If you have any questions, or wish to discuss this letter, please feel free to contact [**insert EPA contact information**].

Sincerely,

[**Insert regional contact name**]

[**Insert regional contact title**]

[**Enclosures (#)**]

cc: [**Insert EPA OSRE contact**]

[**Insert EPA OLEM contact**]

[**Insert state contact(s), if applicable**]