



MODEL CERCLA SECTION 107(q)(3) CONTIGUOUS PROPERTY OWNER ASSURANCE LETTER

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

[Date]

[Name of CPO]

[Address]

[City, State, Zip Code]

Re: CERCLA Section 107(q)(3) Contiguous Property Owner Assurance Letter related to the [Site Name] Site

Dear [Name of Requesting Contiguous Property Owner]:

This letter is in response to your request on [Date], seeking an Environmental Protection Agency (EPA) contiguous property owner (CPO) assurance letter under Section 107(q) of the federal Superfund law (the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601, *et seq.*) to address your concerns regarding potential liability for a release or threatened release of [a] hazardous substance[s] at or from the [Site Name] Site (“Site”), which [may/has] contaminate[d] your property. As the owner of the property located at [insert location of property], you have affirmatively attested [insert “through affidavit” or other appropriate, affirmative instrument approved by the Region] to your qualifications as a CPO under CERCLA with respect to the property. Based on this information and pursuant to CERCLA, EPA intends to treat you as a CPO, and as requested, is providing you assurance that no enforcement action under CERCLA will be initiated against you for costs or response actions in connection with releases or threatened releases at or from the Site.

To date, EPA [has conducted/is conducting] [a] response action[s] at the Site [and/or your property] to address contamination [or potential contamination] resulting from a release or threatened release of [a] hazardous substance[s] at the Site. This include[s/ed] **[Describe EPA involvement and/or action at the Site and the CPO’s property that warrants issuance of a CPO assurance letter. For example, address EPA testing conducted on the CPO’s property and its relation to contamination at the Site or the contiguous property - Does it show that the contamination is contained to the Site (e.g., Do monitoring wells on the CPO property demonstrate that the groundwater plume is being contained by the remedy and has not migrated to the CPO’s property?), provide information to EPA about the contamination, or demonstrate there are no exposures to human health and the environment at the CPO’s property?].**

EPA understands that you purchased the property adjacent to [, or similarly situated to,] the Site [in/on Date]. **[Insert relevant, site-specific material providing background and justification for issuing this CPO assurance letter. For example, briefly describe the CPO’s activity on the property and relation to contamination at the Site. If applicable, acknowledge the CPO’s cooperation with EPA in conducting response actions related to the Site.]**

Based on the information available to EPA as of the date of this letter, and the accuracy of the information you furnished to EPA, including **[the affidavit asserting/the affirmative assertion]** that you meet the criteria set forth in CERCLA Section 107(q)(1)(A)(i)-(viii), EPA intends to treat you as a CPO under Section 107(q) of CERCLA. As a result, EPA does not consider you liable as an owner or operator for the release or threatened release at or from the Site, and does not intend to take either a civil or administrative enforcement action against you as the owner or operator of property contiguous to [, or similarly situated to,] the Site to compel the cleanup or payment of the response costs incurred by EPA in connection with the Site.

In addition to EPA’s reliance on the information provided in your request, the assurance provided by this letter is also contingent upon your maintaining compliance with CERCLA’s CPO criteria. You should be aware that, in order to maintain your status as a CPO, you must meet certain obligations set forth in Section 107(q) of CERCLA. These include: (1) taking reasonable steps with respect to hazardous substances at the Site; (2) providing full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration; (3) complying with any land use restrictions established, planned, or relied on in connection with the response action and not impeding the effectiveness or integrity of institutional controls **[(ICs)]**; (4) complying with information requests and subpoenas; and (5) providing legally-required notices with respect to the discovery or release of any hazardous substances. *See* 42 U.S.C. § 9607(q)(1)(A)(i)-(viii). **[If there are specific continuing obligations relating to EPA response actions, insert “Without limitation as to any other such obligations, EPA has identified the following specific obligations that currently relate to your property or are planned: (e.g., ICs, zoning restrictions for groundwater, reasonable steps, fencing, access agreements, orders or consent agreements with others to address offsite responses on the property).”]** **[When appropriate, EPA may also, in its discretion, provide a reasonable steps comfort/status letter, upon request.]**

[OPTIONAL LANGUAGE: If circumstances change and EPA determines that further response actions are necessary, you face the threat of litigation by third parties alleging you are liable for contamination related to the Site, or you are otherwise significantly affected by the status of the Site, EPA may discuss additional steps necessary to provide you with the appropriate protection under those circumstances.]

I trust this information has addressed any concerns you may have regarding potential CERCLA liability for response actions or costs, at or in association with a release or threatened release at or from the Site. If you have questions regarding the contamination or response actions, please contact **[Name]**, EPA’s **[remedial project manager/on-scene coordinator]** for the Site, at **[phone number]**. For any legal questions, please contact **[EPA attorney name]** of EPA’s Office of Regional Counsel, at **[phone number]**.

Sincerely,

[Name]
[Regional Administrator]

cc: **[Name]**, Superfund Division
[Name], Office of Regional Counsel
[Name], Director Office of Site Remediation Enforcement
[Insert others, as applicable]