

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL  
AND  
THE STATE WATER RESOURCES CONTROL BOARD  
AND  
THE REGIONAL WATER QUALITY CONTROL BOARDS  
AND  
THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
FOR THE  
OVERSIGHT OF INVESTIGATION AND CLEANUP ACTIVITIES  
AT BROWNFIELD SITES**

**March 1, 2005**

The purpose of this Memorandum of Agreement (MOA) is to improve coordination between the Department of Toxic Substances Control (DTSC), the State Water Resources Control Board (State Board) and the Regional Water Quality Control Boards (Regional Boards) (collectively “the agencies”) regarding the oversight of investigation and cleanup activities at brownfield sites. This MOA has been developed to ensure effective and expeditious investigation and cleanup of brownfield sites in a manner that is protective of public health and safety and the environment.

**DTSC, THE STATE BOARD AND THE REGIONAL BOARDS AGREE  
TO THE FOLLOWING:**

**I. Scope**

This MOA applies to the regulatory oversight of sites generally defined as “brownfield sites.” The federal Small Business Liability Relief and Brownfields Revitalization Act (federal Brownfields Act) defines brownfield sites as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” Generally, brownfield sites are those contaminated and potentially contaminated sites where some type of development or redevelopment is planned. The MOA generally applies to those brownfield sites that are overseen by DTSC under its Voluntary Cleanup Program or the Regional Boards under their Spills, Leaks, Investigation and Cleanup Program.

The MOA does not apply to sites in the following programs where a statute designates a lead or oversight agency, where the statute authorizes actions by DTSC or a regional board, but not both, where a lead or oversight agency has been designated through a process defined or provided in statute, or

where a lead or oversight agency has been designated or specified as a result of statutory direction or separate agreement between DTSC, the State Board and the Regional Boards:

- Existing or Proposed Schools
- Department of Defense or Department of Energy Sites
- Unified Agency Review of Hazardous Materials Release Sites (Chapter 6.65, Health and Safety Code (AB 2061 or Site Designation Process))
- Burn Dumps
- Petroleum Underground and Above Ground Storage Tank Sites
- Expedited Remedial Action Program (SB 923)
- Hazardous Waste Facility Regulation and Permitting Consolidation Program (SB 1082) sites
- Sites listed on the federal National Priorities List (NPL Sites)

In addition, the MOA does not apply to existing sites: Existing sites are those at which DTSC or a Regional Board is currently serving as lead or oversight agency. Existing sites include sites that generally fit into the following categories:

- A site where DTSC or a Regional Board is conducting, or has conducted, oversight of an investigation and cleanup. In cases where DTSC or Regional Boards have historically overseen an investigation and cleanup at the site, the site would be considered an existing site only if a new request for oversight is related to the release or discharge that was the subject of the prior investigation and cleanup activities.
- A site where the source of the release is a facility or an activity that has received a permit or other authorization under any of the following authorities, and/or the release is a result of a violation of such permit or authorization:
  - Toxic Injection Well Control Act of 1985 (Health and Safety code, Division 20, Chapter 6.5, Article 5.5 (commencing with Section 25159.10))
  - Toxic Pits Cleanup Act of 1984 (Health and Safety code, Division 20, Chapter 6.5, Article 9.5 (commencing with Section 25208))
  - Bay Protection and Toxic Cleanup program (Water Code, Division 7, chapter 5.6 (commencing with section 13390))
  - Waste Discharge Requirements (Water Code, Sections 13263 or 13172)
  - Federal Water Pollution Control Act, including National Pollutant Discharge Elimination System Permits (Water Code, Section 13160 or 13377)
  - Hazardous Waste Control Law (Health and Safety code, Division 20, Chapter 6.5 (commencing with Section 25100))
  - Solid Waste Facility Permits (Public Resources Code, Division 30, Part 4 (commencing with Section 43000))

This MOA applies to all requests for regulatory decisions at brownfield sites, including requests for “No Further Action” determinations as well as review and approval of site investigation plans, cleanup plans or remedial action plans.

Nothing in this MOA is intended to interfere with or prevent oversight agency selection procedures that may be otherwise specified in statute.

## **II. Principles**

DTSC, State Board, and the Regional Boards recognize that coordination, cooperation, communication, mutual trust and confidence between the agencies is essential for the successful cleanup of brownfield sites and is in the best interest of the State.

A primary goal of this MOA and the policies of the agencies is to avoid duplication of efforts in the cleanup of brownfield sites. The agencies agree that public health and the environment will be best served by each party minimizing duplication of effort on the greatest number of brownfield sites possible. The agencies recognize that there are certain situations where one or the other will have the necessary technical resources, expertise, or authority to address the circumstances found at specific brownfield sites. This MOA is intended to provide guidance to the agencies in how to best address the interests of the other while minimizing the need for direct involvement or duplicative efforts. In addition, the MOA is intended to provide guidance to the agencies in identifying situations where mutual involvement may be warranted.

Finally, the agencies recognize that consistency and predictability are essential factors in the expeditious cleanup of brownfield sites throughout California. Both the public and those seeking regulatory agency oversight expect state regulators to apply rational methodologies and standards to site cleanup. The terms of this MOA are intended to eliminate or significantly reduce any apparent inconsistencies between the methodologies and standards used by the agencies. Consistency will be achieved by agreement on technical and procedural requirements, coordination of oversight activities, coordinated and cooperative communication between project staff, and exchange of cleanup standards and requirements for brownfield site cleanup. The agencies agree to involve one another at an early stage in the development of cleanup standards and requirements so that consistency in technical issues can be maintained.

## **III. Objectives**

In light of the above stated principles, this agreement is intended to accomplish the following objectives:

- Limit oversight of brownfield sites to a single oversight agency, except in very limited circumstances.
- Provide procedures for selecting the appropriate oversight agency.
- Provide a uniform site assessment procedure that both agencies are to use to assess environmental and health related issues at brownfield sites.
- Provide procedures to ensure brownfield site cleanups address the standards and requirements of both agencies.
- Facilitate the oversight agency in obtaining the input, advice and expertise of the other party when necessary, or for the oversight to be transferred to the other party if appropriate.
- Ensure ample opportunities for public input and involvement in brownfield cleanups.
- Establish target time frames for achieving investigation and cleanup milestones at brownfield sites.
- Schedule regular meetings to coordinate efforts and improve cooperation and communication between the agencies.

#### **IV. Oversight Agency**

It is the intention of the agencies that whenever possible, only one agency be selected as the oversight agency to oversee the investigation and cleanup of each brownfield site. The identification and selection of a single oversight agency is intended to facilitate expedient and cost effective investigation, cleanup and reuse of brownfield sites while protecting public health and the environment. The oversight agency will be responsible for overseeing and directing all site investigation and cleanup activities in a manner that ensures that the standards and requirements of both agencies are fully addressed. The oversight agency also agrees to facilitate the support agency's collection of funds necessary to reimburse its costs incurred as part of a response to a specific request from the oversight agency for assistance or provision of advice or expertise related to a brownfield site.

The agencies agree to use the procedure for selecting an oversight agency set forth in this MOA before entering into an agreement, executing an order, or actively requiring any significant work at a brownfield site.

##### **A. Procedure for Selecting an Oversight Agency**

Requests to oversee the investigation and/or remediation of potential brownfield sites may be processed by DTSC or a Regional Board. Guidelines for the selection of an oversight agency are identified in Attachment 1. All requests for oversight are to be made on the form identified in Attachment 2, and accompanied by site information described in Attachment 3.

**Within 10 working days** of the receipt of a request for oversight and accompanying site information, the Brownfields Coordinator of the

receiving party agrees to notify the Brownfields Coordinator of the other party in the geographic area where the site is located and transmit a copy of the application and accompanying materials, along with their recommendation regarding the appropriate oversight agency. The recommendation should be in accordance with the selection guidelines in Attachment 1, and should cite the relevant factors that form the basis for the recommendation. A list of the Brownfields Coordinators is found in Attachment 4.

**Within the first 10 working days of each month**, the relevant agencies agree to review and confer on all requests for oversight received in the preceding month. In conferring, the relevant agencies may discuss each recommendation and either concur with the recommendation, or request additional information.

If a request for oversight is incomplete, or if there is insufficient information to accurately select the appropriate oversight agency, the receiving agency may reject an application, or it may make a provisional recommendation based on the available information.

Upon completion of the selection process, the oversight agency agrees to notify the applicant and any other state or local agency, as appropriate, of its selection.

If a dispute arises regarding the selection of an oversight agency, the agencies agree to initiate the Dispute Resolution Process as soon as possible.

#### **B. Oversight Agency Transfer**

If the oversight agency determines that the conditions at the site indicate that the site would be more appropriately overseen by the other party, the oversight agency agrees to contact the other party to discuss whether it may be appropriate to transfer oversight responsibility. If the agencies mutually determine that a transfer of oversight responsibility is appropriate, the existing oversight agency agrees to notify the project applicant of the proposed transfer of oversight responsibilities.

In considering whether or not to transfer oversight responsibilities, the agencies should consider whether the transfer would delay the investigation of the brownfield site or delay the implementation of the schedule established in a remediation plan for the brownfield site, and whether those delays would negatively impact the timing of other aspects of the preparation and development of the brownfield site.

Within 10 calendar days after the transfer of oversight responsibility, the oversight agency first selected agrees to transmit copies of all documents

and information in its possession regarding the subject property to the new oversight agency.

### **C. Support Agency**

The agencies agree to ensure that all standards and requirements (including any other relevant state or local requirement) related to a hazardous materials release or discharge at all brownfield sites are addressed by the oversight agency. In recognition of this goal and the principles and objectives of this MOA, the support agency agrees to not pursue independent regulatory action at a brownfield site overseen by an oversight agency selected under the terms of this MOA, unless the oversight agency fails or refuses to ensure the standards and requirements of the support agency are addressed. This agreement in no way limits or abrogates the ability or authority of either party to fulfill their statutory responsibilities.

The agencies agree to provide information on any applicable standards and requirements that the oversight agency needs to incorporate in its oversight and cleanup decisions. These standards and requirements may be communicated in the following ways:

- Development and provision of general guidance intended to assist an oversight agency in interpreting and implementing investigation and cleanup standards and requirements.
- Regular meetings between the agencies (see Coordination below) where details about brownfield sites are shared and efforts coordinated.
- Response to specific requests from the oversight agency for assistance or provision of advice or expertise.
- Direct communication via telephone, personal contact, memoranda or e-mails

If a support agency is not satisfied that its standards and requirements are being adequately incorporated by the oversight agency into the cleanup activities at a brownfield site, and the support agency has attempted through informal means to communicate its concerns to the oversight agency, the support agency may invoke the Dispute Resolution provisions of this MOA.

### **V. Public involvement**

To accomplish the goal of providing ample opportunities for public input and involvement in brownfield cleanups, the agencies agree to ensure that their site investigation and cleanup activities, agreements, policies and protocols provide the public and other state or local governmental entities with opportunities to participate in decisions. At sites where response actions are being pursued, these opportunities include, at a minimum, the following:

- Notification of major regulatory decisions and proposed/planned activities at the site (in languages other than English, if appropriate);
- Public access to proposed site cleanup plans and site assessment documents at the oversight agency's office and at local repositories (such as public libraries in the area);
- 30 days to comment on proposed site cleanup plans. The oversight agency should consider all comments received prior to taking final action on site cleanup plans;
- A public meeting in the vicinity of the brownfield site during the public comment period if one is requested, if there is significant public interest, or if one is specifically mandated by statute.

Depending on the level of community interest, the oversight agency should also consider the use of fact sheets, direct communication with interested agencies and additional public meetings or workshops.

To the extent possible, the agency should coordinate and integrate its public participation activities with those undertaken by the host jurisdiction and any other public entities associated with the development, investigation or cleanup of the property, to avoid duplication to the extent feasible and to acknowledge the public participation capabilities and procedures of local government.

## **VI. Target Timeframes**

To achieve the objective of expedient and cost effective investigation, cleanup and reuse of brownfield sites, the oversight and support agencies agree to timely review draft and final work plans and reports for investigation or cleanup. When possible, the agencies agree to incorporate timeframes for reviewing draft and final work plans and reports for investigation or cleanup into timeframes for redevelopment.

In general, unless timing is specified or extended time frames are negotiated, the agencies agree to review and comment on documents received within 60 days of receipt. If the agencies anticipate not being able to review and comment on documents within this target timeframe, they agree to notify the person who requested the review as soon as possible before the timeframe has been reached.

## **VII. Coordination**

Regular and frequent communication between project staff and management of the agencies is essential to implementing the principles embodied in this MOA and sharing expertise and input of the agencies. Accordingly, pursuant to this MOA, the agencies agree to take the following actions:

- Identify sites of mutual interest and resources of project information (e.g. websites, databases, etc)

- Share organizational charts and contact information for project staff and technical support staff.
- Conduct semi-annual meetings of Brownfield Coordinators.
- Conduct quarterly meetings of appropriate first and second level supervisors, including relevant staff. As determined by the agencies, an ad hoc meeting can be held any time it is appropriate to review an issue to support timely cleanups. The primary purpose of these meetings is to ensure coordination for sites where a support agency is providing active oversight. The quarterly meetings should include discussions to:
  - Define roles and responsibilities for project staff;
  - Identify project schedules and milestones;
  - Track progress and coordinate actions; and,
  - Develop a coordinated strategy to identify and resolve problems.

In addition, the quarterly meetings will:

- Provide a forum to discuss sites of mutual interest;
- Provide an opportunity to review and discuss Site Cleanup Plans for sites of mutual interest prior to public review;
- Identify and share existing policy, procedure, and guidance documents;
- Solicit timely input into developing policy and guidance; and
- Develop opportunities for joint training of project and technical staff.

### **VIII. Dispute resolution**

The agencies agree that disputes will be resolved using the “Formal Dispute Resolution Procedure” described below. For disputes pertaining to the selection of an oversight agency, the agencies agree to implement the “Formal Dispute Resolution Procedure” in an expedited manner.

Prior to invoking the “Formal Dispute Resolution Procedure,” the agencies agree to attempt to resolve disputes, if possible, by seeking consensus through informal discussion and negotiation. Such informal discussions will typically include staff and their immediate and second level supervisors, as necessary. If either party determines that it is necessary to elevate an issue, that party should submit notification to the other initiating the formal dispute resolution process described below. The agencies may resolve the dispute by mutual agreement and withdraw from the formal dispute resolution process at any time.

#### Formal Dispute Resolution Procedure

The agencies agree that formal disputes will be resolved using the following procedure:



1. Within 30 calendar days (10 working days for oversight agency selection), second level supervisors from DTSC and the Regional Board agree to meet to attempt to resolve the dispute.
2. If DTSC and the Regional Board second level supervisors fail to reach agreement on the disputed matter, they agree to prepare a joint memorandum describing the following:
  - a. The nature of the dispute;
  - b. The resolution preferred by each party
  - c. Pros and cons to the preferred resolutions
  - d. Alternative resolutions; and
  - e. A date by which the issue should be resolved, not to exceed 30 calendar days (10 working days for oversight agency selection) from the date it is submitted.The memorandum is to be submitted to the Deputy Director of the Site Mitigation and Brownfields Reuse Program of DTSC and the Executive Officer of the Regional Board within 15 calendar days from the date this second step is initiated. A copy of this memorandum should also be sent to the State Board.
3. If the DTSC Deputy Director (or his or her designee) and the Regional Board Executive Officer (or his or her designee) cannot resolve the dispute within the time requested in the memorandum, they agree to jointly notify and provide all relevant documentation related to the dispute to the State Board Executive Director and the Director of DTSC. Within 30 calendar days (10 working days for oversight agency selection), the Executive Director and Director agree to confer and take such action as they deem appropriate.
4. If the Executive Director (or his or her designee) and the Director (or his or her designee) fail to reach agreement on the dispute, they agree to submit the dispute to the Secretary of the California Environmental Protection Agency (Cal/EPA) (or his or her designee) for resolution. The Secretary of Cal/EPA (or his or her designee) agrees to take such action as he or she deems appropriate within 30 calendar days (10 working days for oversight agency selection).
5. DTSC and the State Board agree to resolve disputes in the same manner as that described above.


#### **IX. Review/Revision**


The agencies will review this MOA and propose revisions as appropriate within one year of its execution. The intent of this provision is to encourage the agencies to evaluate the MOA's provisions and attachments and modify them as appropriate in the course of its implementation.

**X. Savings Clause**

Nothing in this MOA is intended to affect the statutory rights or obligations of DTSC, the State Board or the Regional Boards. Terms used in this MOA are not intended to replace statutory definitions.

**XI. Signatories**

  
Secretary for Environmental Protection \_\_\_\_\_ Date 2/28/05

  
Department of Toxic Substances Control \_\_\_\_\_ Date 2/28/05

  
State Water Resources Control Board \_\_\_\_\_ Date 2-28-05

\_\_\_\_\_  
North Coast Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
San Francisco Bay Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
Central Coast Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
Los Angeles Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
Central Valley Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
Lahontan Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
Colorado River Basin Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
Santa Ana Regional Water Quality Control Board \_\_\_\_\_ Date

\_\_\_\_\_  
San Diego Regional Water Quality Control Board \_\_\_\_\_ Date

**XI. Signatories**

Secretary for Environmental Protection Date

Department of Toxic Substances Control Date

State Water Resources Control Board Date

*Catherine Kullman* 3/1/05  
North Coast Regional Water Quality Control Board Date

San Francisco Bay Regional Water Quality Control Board Date

Central Coast Regional Water Quality Control Board Date

Los Angeles Regional Water Quality Control Board Date

Central Valley Regional Water Quality Control Board Date

Lahontan Regional Water Quality Control Board Date

Colorado River Basin Regional Water Quality Control Board Date

Santa Ana Regional Water Quality Control Board Date

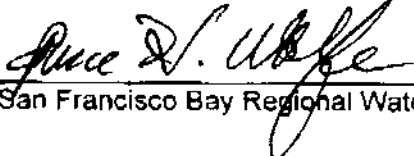
San Diego Regional Water Quality Control Board Date

March 1, 2005

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Brownfields MOA

**XI. Signatories**


Secretary for Environmental Protection	Date
Department of Toxic Substances Control	Date
State Water Resources Control Board	Date
North Coast Regional Water Quality Control Board	Date
	<i>March 1, 2005</i>
San Francisco Bay Regional Water Quality Control Board	Date
Central Coast Regional Water Quality Control Board	Date
Los Angeles Regional Water Quality Control Board	Date
Central Valley Regional Water Quality Control Board	Date
Lahontan Regional Water Quality Control Board	Date
Colorado River Basin Regional Water Quality Control Board	Date
Santa Ana Regional Water Quality Control Board	Date
San Diego Regional Water Quality Control Board	Date

March 1, 2005

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Brownfields MOA

**XI. Signatories**

Secretary for Environmental Protection	Date
Department of Toxic Substances Control	Date
State Water Resources Control Board	Date
North Coast Regional Water Quality Control Board	Date
San Francisco Bay Regional Water Quality Control Board	Date
	2-28-05
Central Coast Regional Water Quality Control Board	Date
Los Angeles Regional Water Quality Control Board	Date
Central Valley Regional Water Quality Control Board	Date
Lahontan Regional Water Quality Control Board	Date
Colorado River Basin Regional Water Quality Control Board	Date
Santa Ana Regional Water Quality Control Board	Date
San Diego Regional Water Quality Control Board	Date

**XI. Signatories**

Secretary for Environmental Protection	Date
Department of Toxic Substances Control	Date
State Water Resources Control Board	Date
North Coast Regional Water Quality Control Board	Date
San Francisco Bay Regional Water Quality Control Board	Date
Central Coast Regional Water Quality Control Board	Date
<i>David A. Becharowski, AEO for JB</i>	<i>3/1/05</i>
Los Angeles Regional Water Quality Control Board	Date
Central Valley Regional Water Quality Control Board	Date
Lahontan Regional Water Quality Control Board	Date
Colorado River Basin Regional Water Quality Control Board	Date
Santa Ana Regional Water Quality Control Board	Date
San Diego Regional Water Quality Control Board	Date

March 1, 2005

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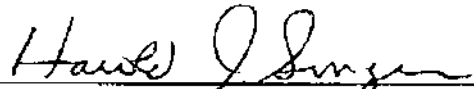
Brownfields MOA

**XI. Signatories**

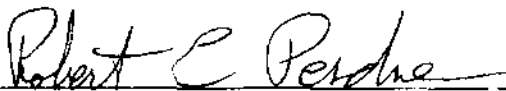

Secretary for Environmental Protection	Date
Department of Toxic Substances Control	Date
State Water Resources Control Board	Date
North Coast Regional Water Quality Control Board	Date
San Francisco Bay Regional Water Quality Control Board	Date
Central Coast Regional Water Quality Control Board	Date
Los Angeles Regional Water Quality Control Board	Date
<i>Thomas R Pinters</i>	<i>2/28/05</i>
Central Valley Regional Water Quality Control Board	Date
Lahontan Regional Water Quality Control Board	Date
Colorado River Basin Regional Water Quality Control Board	Date
Santa Ana Regional Water Quality Control Board	Date
San Diego Regional Water Quality Control Board	Date



**XI. Signatories**

Secretary for Environmental Protection	Date
Department of Toxic Substances Control	Date
State Water Resources Control Board	Date
North Coast Regional Water Quality Control Board	Date
San Francisco Bay Regional Water Quality Control Board	Date
Central Coast Regional Water Quality Control Board	Date
Los Angeles Regional Water Quality Control Board	Date
Central Valley Regional Water Quality Control Board	Date
	Feb 28, 2005
Lahontan Regional Water Quality Control Board	Date
Colorado River Basin Regional Water Quality Control Board	Date
Santa Ana Regional Water Quality Control Board	Date
San Diego Regional Water Quality Control Board	Date

**XI. Signatories**

Secretary for Environmental Protection	Date
Department of Toxic Substances Control	Date
State Water Resources Control Board	Date
North Coast Regional Water Quality Control Board	Date
San Francisco Bay Regional Water Quality Control Board	Date
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Central Valley Regional Water Quality Control Board	Date
Lahontan Regional Water Quality Control Board	Date
	
Colorado River Basin Regional Water Quality Control Board	Date
Santa Ana Regional Water Quality Control Board	Date
San Diego Regional Water Quality Control Board	Date

**XI. Signatories**

Secretary for Environmental Protection Date

Department of Toxic Substances Control Date

State Water Resources Control Board Date

North Coast Regional Water Quality Control Board Date

San Francisco Bay Regional Water Quality Control Board Date

Central Coast Regional Water Quality Control Board Date

Los Angeles Regional Water Quality Control Board Date

Central Valley Regional Water Quality Control Board Date

Lahontan Regional Water Quality Control Board Date

Colorado River Basin Regional Water Quality Control Board Date

 Santa Ana Regional Water Quality Control Board Date *3-1-05*

San Diego Regional Water Quality Control Board Date

**XI. Signatories**

\_\_\_\_\_  
Secretary for Environmental Protection Date

\_\_\_\_\_  
Department of Toxic Substances Control Date

\_\_\_\_\_  
State Water Resources Control Board Date

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North Coast Regional Water Quality Control Board Date

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San Francisco Bay Regional Water Quality Control Board Date

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Central Coast Regional Water Quality Control Board Date

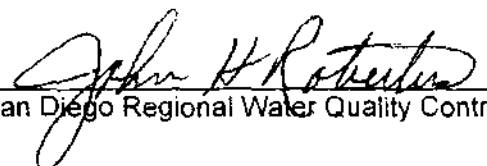
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Los Angeles Regional Water Quality Control Board Date

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Central Valley Regional Water Quality Control Board Date

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Lahontan Regional Water Quality Control Board Date

\_\_\_\_\_  
Colorado River Basin Regional Water Quality Control Board Date

\_\_\_\_\_  
Santa Ana Regional Water Quality Control Board Date

  
San Diego Regional Water Quality Control Board 3/1/2005  
Date

March 1, 2005

## **Attachment 1 Oversight Agency Selection Guidelines**

The agencies agree to select an oversight agency for the cleanup of a brownfield site using the following guidelines. As these guidelines are used and the agencies gather experience in using them under the provisions of the MOA, these guidelines may be revised.

### **DTSC**

The oversight agency should be DTSC if the primary concern is the risk posed to human health.

### **Regional Board**

The oversight agency should be a Regional Board if the primary concern is the threat to existing or potential beneficial uses of waters of the State (groundwater and surface water).

### **Oversight Agency Selection Factors**

The following factors should be considered when selecting an oversight agency for a brownfield site:

1. Is one agency expected to have a greater long-term involvement with the site due to the type of releases present and the media affected?
2. Does one agency have more technical expertise to oversee the case?
  - The risks posed by the discharge, release or threatened release
  - The chemical compound that has been discharged, released or threatened to be released
  - The exposure pathways
  - The level of community interest
  - The probable remedial measures that will be required
3. Does one agency have a more appropriate regulatory mechanism for achieving site cleanup?
4. Does one agency have previous involvement with the site or other sites in the area that might be beneficial to the cleanup?
5. What is the current land use at the site (including the source property and other affected properties)? If it is a sensitive land use – human health concerns may be greater at these sites – then DTSC may be the more appropriate oversight agency. “Sensitive land use” includes residences, schools, day care facilities, and hospitals and hospices.

6. Does the site pose a threat to sensitive water resources or sensitive habitats? Examples include sites located in critical groundwater recharge zones or sites that threaten wetlands or other sensitive habitat. In these situations, a Regional Board may be the more appropriate oversight agency.

**Additional Considerations**

In addition to the above factors, the agencies may also consider the following when selecting an oversight agency:

1. Does the agency have available staff resources to oversee the site activities?
2. Does the applicant or site have an historical relationship with one of the agencies?
3. Has the applicant expressed a preference for one agency?

Form Received by:

- Regional Board #\_\_\_
- DTSC
- State Board
- Cal/EPA

## Attachment 2

### Request for Oversight of a Brownfield Site

The purpose of this form is to provide the Department of Toxic Substances Control and the Regional Water Quality Control Board sufficient information to determine which agency should provide oversight for the assessment or remediation of the project. This form is to be accompanied by site information described in Attachment 3.

A request for Oversight of a Brownfield Site may be submitted by any person, regardless of their relationship to the site. However, the person requesting oversight must possess all necessary rights and access to the site so that they may carry out any and all activities that the oversight agency may require in making its regulatory decision.

Site Name and other names by which the site is known:

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Submitted by:

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#### Contact Information

Mailing address:

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Phone Number (\_\_\_\_) \_\_\_\_\_ Fax(\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Relationship to property: (check one) \_\_\_ current owner or operator \_\_\_ local  
agency \_\_\_ prospective purchaser \_\_\_ developer  
\_\_\_ other (please describe) \_\_\_\_\_

Site Address:

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APN Number: \_\_\_\_\_ Lat/Long (if known) \_\_\_\_\_

**Summary Information**

Evidence that a hazardous material release or discharge occurred:

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Description of known or possible human health impact:

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Description of known or possible water quality impact:

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## Attachment 3

### Site Information Needed for Oversight Agency Selection

Site information is intended to help determine the appropriate lead agency and to focus future investigation and cleanup activities, if needed. The most helpful site information is that which identifies the primary sources of hazardous material releases or discharges as well as exposure pathways of concern in order to determine the predominant risk - whether to public health or to groundwater or both. The site information may include existing information and documents normally used during the property transfer and redevelopment process, such as ASTM Phase 1 and Phase II reports, other "due diligence" reports, and elements of DTSC's Preliminary Endangerment Assessment. The applicant may submit all or part of these documents in addition to any other relevant environmental information and data with the attached application form.

If the information provided with a Request for Oversight for a Brownfield Site is not sufficient to determine the oversight agency, additional information may be requested.

The following are descriptions of the types of site information that are beneficial in determining the appropriate lead agency:

**Regulatory Activity or History:** Specific historic or current regulatory status with DTSC and Water Boards including types of regulatory enforcement actions, orders or agreements or other relevant information including whether listed on the following databases: RCRA, U.S. EPA CERCLIS or RCRIS, DTSC HWMP or CalSites, and/or SWRCB Geotracker or LUFT sites. Include any historic and current regulatory status with the appropriate county or city.

**Project description:** A general description of the nature of the project, including development or redevelopment plans for the site, and the reason for requesting oversight of the assessment or cleanup of the site.

The project description should also indicate if the site or applicant has been the recipient any grants, loans or other incentives, or whether the site is part of any particular pilot project or study, smart growth initiatives, or recipient of LUST funds.

**Site History:** A history of the site including general dates of current or historic activities, previous owners and operators, types of activities, chemicals used at the site, any permits that may have been issued regarding the activities at the site, and the type of activity that is believed to have resulted in a release or potential release of hazardous materials. The history should identify the following:

- The type of releases or spills, sources of release and contaminants of concern, including the approximate date and the estimated quantity of each release or spill;
- The primary human or environmental resources of concern; and
- A description of likely exposure pathways.

**Site Data:** A summary of available site data, including:

- An assessment of the leachable and total concentrations of constituents of concern in soil, soil gas, and groundwater, site hydrogeology including area lithology and associated site boring logs, graphics that plots sample results and other data,
- A comparison of the site data (including background values) with available screening levels (including Cal/EPA's California Human Health Screening Levels (CHHSLs), USEPA Region IX's Preliminary Remediation Goals (PRGs), San Francisco Regional Board's Environmental Screening Levels (ESLs) or other) for soil and groundwater, and identification of any data gaps or additional suspected exposure pathways.
- **Current Activity:** The name of current business and or land use activity at the present location. A description of the current site operations/activities, current owners and operators, types of activity, chemicals being used at the site, any permits that may have been issued regarding the activities at the site, and the activity that is believed to have resulted in a release or potential release of hazardous materials. Provide information on the nature of the current site conditions including sources of contamination that constitutes the primary reasons for assessment or remediation of the site.

**Current Zoning/ Land Use:** A description of the current zoning or land use designation for the site.

**Proposed Future Land Use:** A general description of the approved or planned future land use for the site, such as multi-family residential, commercial, mixed land use, wetland restoration, or recreational open space, and whether this future land use is consistent with the existing zoning or land use designation, or whether the proposed future use would require rezoning or change to the site's use designation. Provide any contact names of local public entities, such as a redevelopment agency or local health department, associated with this project.

Also include information about the redevelopment plans for this project and the relationship of this site with other contaminated sites or redevelopment projects in the area.

**Water Use:** Information about the manner of water supply at the property and municipal, domestic, agricultural, or industrial wells on the property and within a 1-mile radius of the project area.

**Site Maps and Photographs:** A site location map (to scale) that identifies the site in relation to surface waters, sensitive land uses, sensitive habitats, highways or other landmarks, and depict sampling locations and other relevant site features.

**Assessment of community awareness/concern:** Information about any past or ongoing local agency public outreach activities and community interest in the project. For instance, information regarding the community's knowledge of the site, the types of community concerns, media interest or likelihood of interest, and involvement of any community groups.

**Attachment 4  
Brownfields Managers and Coordinators**

The following individuals are designated for their respective offices. The Brownfields Managers are responsible for the overall implementation of this Brownfields MOA, including the implementation of the oversight agency selection procedures described in the MOA. Brownfields Coordinators are designated as the points of contact for each Brownfields Manager to assist in the specific process of oversight agency selection. This attachment will be updated periodically. Updates to Attachment 4 are incorporated by reference.

<b>BROWNFIELDS MANAGERS</b>	<b>BROWNFIELDS COORDINATORS</b>
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