
San Francisco Bay Regional Water Quality Control Board

To: Interested Parties

From: Alec Naugle, Toxics Cleanup Division Manager

Date: February 21, 2024

Subject: **Comfort Letter for Source and Non-Source Properties**

This memorandum describes situations in which the Regional Water Board generally will not require a party to take part in the investigation or cleanup of subsurface contamination. We have grouped these specific situations into two categories—source properties and non-source properties. A source property is one where there is substantial evidence of an unauthorized release of pollutants; a non-source property is one that is impacted by off-property releases, without substantial evidence of an on-property release of pollutants.

Source Properties

Specific situations: This comfort letter applies to a source property where one or more responsible parties are actively engaged in the investigation and cleanup of pollution originating on the source property and have the capacity and willingness to continue these activities. These are typically past operators, past property owners, or current property owners. It may be applied to additional parties, such as prospective purchasers, prospective lessees, and prospective lenders, who seek to avoid investigation and cleanup obligations.

Regulatory status: In general, the Regional Water Board does not establish regulatory requirements for the additional parties (prospective purchasers, prospective lessees, and prospective lenders) where the responsible parties have the financial resources necessary to conduct the remediation and are satisfactorily engaged in active remediation, and where the additional parties provide reasonable access for necessary remedial activities and avoid actions that would contribute to or exacerbate the source-property pollution.

Non-Source Properties

Specific situations: This comfort letter applies to a non-source property where we find impacts by pollutants originating on another property, typically via migrating groundwater or soil vapor contamination. The source property may be unknown, known but not subject to regulatory requirements, or known and subject to regulatory requirements. This comfort letter may be applied to parties, such as current property owners, prospective purchasers, current and future lessees, and prospective lenders, who seek to avoid investigation and cleanup obligations.

Regulatory status: In general, the Regional the Water Board does not impose regulatory requirements on current and future property owners, current and future lessees, and prospective lenders at non-source properties. However, the Regional Water Board may hold a non-source property owner responsible for investigation or cleanup tasks on his/her property if (1) they refuses to provide reasonable access to responsible parties seeking to address their off-property pollution (e.g., an upgradient discharger attempting to investigate or cleanup off-property groundwater pollution) or (2) there are no known or viable dischargers for the offsite sources and groundwater pollution beneath the subject property poses an imminent threat to human or ecological receptors.

Property-Specific Comfort Letters

This letter will take the place of a property-specific comfort letter in many situations. The Regional Water Board's primary goal in its site cleanup programs is to protect human health and to restore and protect water quality. Our staff resources are limited, and time spent preparing comfort letters should not diminish our progress toward that goal. Accordingly, it is not possible for us to provide property-specific comfort letters in all situations where they are requested. We are usually willing to provide property-specific comfort letters in the following situations:

- At source properties where such letters will facilitate property transfer and where we can recover associated staff costs
- At non-source properties where the source property is known, where such letters will facilitate property transfer, and where we can recover associated staff costs.

We are generally unwilling to provide property-specific letters in other circumstances.

If you have any questions, please contact the Regional Water Board's cleanup case manager for the specific property of concern or the nearest cleanup case to that property. Cases and case managers can be searched using the [GeoTracker public portal](#).