



Indiana Brownfields Program Comfort/Site Status Letter Request Supplemental Information

**Please include the following information in a transmittal letter with your
Comfort and Site Status Letter Request Form to facilitate the review of your request:**

1. Identify the basis in statute or enforcement discretion policy for the Comfort Letter request:
 - *the Stakeholder is a government entity exempt from liability under IC 13-25-4-8(e), IC 13-11-2-150(d), or IC 13-11-2-151(b);*
 - *the Stakeholder is a creditor, lender, or fiduciary exempt from liability under IC 13-23-13-14 (IC 13-11-2-150(b)), IC 13-23-13-15, IC 13-24-1-10 (IC 13-11-2-151(d)), IC 13-24-1-11, or IC 13-25-4-8(c);*
 - *the Stakeholder is not the statutory owner of an underground storage tank pursuant to IC 13-11-2-150(a) because the tank was not used after November 8, 1984 and the Stakeholder was not the person who owned the tank immediately before the discontinuation of the tank's use;*
 - *the Stakeholder is exempt from liability or eligible for a defense to liability as a bona fide prospective purchaser (BFPP), contiguous property owner (CPO) or innocent landowner (ILO) pursuant to IC 13-25-4-8(b), IC 13-11-2-150(f), IC 13-11-2-150(g), IC 13-11-2-151(g), or IC 13-11-2-151(h);*
 - *the Stakeholder is a nonprofit corporation exempt from liability under IC 13-25-4-8(h), IC 13-11-2-150(e), or IC 13-11-2-151(f); or,*
 - *the Stakeholder satisfies the conditions of IDEM Nonrule Policy Document W-0047, "Property Containing Contaminated Aquifers" (20 IR 1674, January 30, 1997), or IDEM Nonrule Policy Document W-0038 "Property Containing Contaminated Aquifers/Underground Storage Tanks" (23 IR 2141, April 20, 2000).*
2. Identify the parcel(s) comprising the site and the corresponding 18-digit parcel number(s)
3. A legible copy of the recorded deed(s) or a surveyed legal description(s) for the parcel(s) comprising the site*
4. The date of property acquisition (or proposed property transfer/closing date)
5. A black & white site map (no aerial photos) depicting property boundaries, parcel(s) & parcel number(s)
6. Description of redevelopment project including a site redevelopment/design plan (if available)

If the basis for a Comfort Letter request is the BFPP liability exemption, please complete the attached checklist of additional information required to be submitted with your Comfort Letter request.

**The following additional information *may* be requested following Program review
of available site investigation data/reports:**

1. Data table(s) with sample results compared to applicable IDEM screening levels (e.g., residential, commercial/industrial, recreational)
2. A black & white map (no aerial photos) with contaminant locations above applicable IDEM screening levels
3. A table with GPS coordinates of sample locations at which contaminants of concern have been detected above applicable IDEM screening levels
4. A Site map with survey or GPS coordinates establishing the boundaries of any "Affected Area" to which a land use restriction will be tied

**Note: if you are a prospective purchaser, and an environmental restrictive covenant is required to be recorded on the deed(s) for the site, your new deed(s) will be utilized at the time of recording.*



Indiana Brownfields Program

BFPP (Bona Fide Prospective Purchaser)

Comfort Letter Request Checklist

Date of Phase I report: ____/____/____

Entity for which the Phase I report/Phase I Update was prepared (User): _____

Which of the following describes the User? (check the applicable box):

- Prospective Purchaser (has not purchased)
- Prospective Tenant (has not executed lease)
- Current Owner (seller or already purchased)
- Current Tenant (seeking liability protection under existing lease or intending to buy)

Buying on land contract? Yes No Date land contract executed: _____

Is the User the stakeholder requesting the Comfort Letter? Yes No

Who answered the User-specific questions in the Phase I/Phase I Update? _____

- Were the questions answered on behalf of the BFPP seeking comfort? Yes No

If the User identified above is not the BFPP, has the BFPP obtained a Phase I Update in its name and/or a reliance letter to utilize the Phase I report? Yes No

- If yes: Date of the Phase I Update or reliance letter obtained for the BFPP? ____/____/____
- If yes: Did the BFPP complete a User-questionnaire for itself when obtaining the Phase I Update or reliance letter? Yes No

Phase I report completed within 180 days of (prior to) acquisition (clock on 180 days and one-year shelf life of Phase I report begins ticking from the date on which the earliest report information is collected, NOT the date of the report)?¹ Yes No

- If no: Has the User/BFPP obtained a Phase I Update? Yes No
- If yes: Date of the Phase I Update: ____/____/____

	Date Conducted	Expiration Date
(i) interviews with owners, operators, and occupants;	_____	_____
(ii) searches for recorded environmental cleanup liens;	_____	_____
(iii) reviews of federal, tribal, state, and local government records;	_____	_____
(iv) visual inspections of the <i>property</i> and of <i>adjoining properties</i> ; and,	_____	_____
(v) declaration by the environmental professional	_____	_____

Report Viability Date (based on earliest expiration date from above-listed items): _____

¹ The "continuing viability" component of the ASTM standard requires updates after 180 days from the earliest date of collection of interviews with owners, operators & occupants; environmental lien search; government database search; visual inspections/site reconnaissance; and, the Environmental Professional declaration. In any case, if a different User relies on the report, the new User must satisfy the User Responsibilities.



Indiana Brownfields Program
BFPP (Bona Fide Prospective Purchaser)
Comfort Letter Request Checklist (*continued*)

Do the Phase I User name and the name of the purchasing entity (to be) listed on the deed match exactly?

Yes No (If no, need to obtain a reliance letter or a Phase I Update and a complete a new User Questionnaire on behalf of the correct entity)

Phase I/Phase I Update completed in accordance with ASTM E1527-13 or 40 CFR Part 312? Yes No

Phase I signed by qualified Environmental Professional with the required certification statement? Yes No

Is the BFPP “affiliated with” another party who is potentially liable at the site? Yes No

1. *Direct or indirect familial relationship?*
2. *Any contractual, corporate, or financial relationship (other than property transfer instrument)?*
3. *Reorganization of a business entity that was potentially liable?*

For sites already acquired, has the BFPP satisfied continuing obligations since acquisition?

1. *Provided all legally required notices with respect to discovery/release of hazardous substances²* Yes No Not Applicable
2. *Taken reasonable steps to stop continuing releases, prevent any threatened future releases, prevent or limit exposure to any previously released hazardous substances* Yes No Not Applicable
3. *Provided full cooperation, assistance and access to persons conducting response actions* Yes No Not Applicable
4. *In compliance with any land use restrictions already established and not impeding the effectiveness or integrity of any institutional control employed at the site in connection with a response action* Yes No Not Applicable
5. *Complied with any request for information or administrative subpoena issued by the U. S. EPA* Yes No Not Applicable

² If applying for comfort based on BFPP status for a petroleum-contaminated site, evaluate these criteria for petroleum releases rather than/in addition to hazardous substances.



Indiana Brownfields Program
Lender Liability (Secured Creditor)
Comfort Letter Request Checklist

Potential lender or actual lender? _____

If financial transaction has already closed, what is the date of the financial instrument: _____

Pre-foreclosure or post-foreclosure? _____

If pre-foreclosure, please answer the following questions regarding “participation in management” of the facility on the Site:

Does the Lender exercise decision-making control regarding environmental compliance related to the facility, and, in doing so, undertake responsibility for hazardous substance and/or petroleum handling or disposal practices? Yes No

Does the Lender exercise control at a level similar to that of a manager of the facility and, in doing so, assume or manifest responsibility with respect to:

- day-to-day decision-making on environmental compliance? Yes No
- all, or substantially all, of the operational (as opposed to financial or administrative) functions of the facility other than environmental compliance? Yes No

If post-foreclosure, please answer the following:

On what date did the Lender/Owner take title to the property? _____

Does the Lender/Owner exercise decision-making control regarding environmental compliance related to the facility, and, in doing so, undertake responsibility for hazardous substance and/or petroleum handling or disposal practices? Yes No

Does the Lender/Owner exercise control at a level similar to that of a manager of the facility and, in doing so, assume or manifest responsibility with respect to:

- day-to-day decision-making on environmental compliance? Yes No
- all, or substantially all, of the operational (as opposed to financial or administrative) functions of the facility other than environmental compliance? Yes No

Has the Lender/Owner been actively marketing the Site for sale or re-lease or otherwise divesting itself of the property at the earliest practicable, commercially reasonable time using commercial reasonable means? (Please elaborate). _____

Has the Lender/Owner ever rejected a reasonable purchase offer for the property? Yes No



Indiana Brownfields Program
Lender Liability (Secured Creditor)
Comfort Letter Request Checklist (*continued*)

- Has the Lender/Owner provided any Phase I and/or Phase II ESA reports to prospective purchasers? Yes No
- Does the Lender/Owner use a third party broker to manage the Site? Yes No
- Does the Lender/Owner have any direct lease relationships with any of the Site tenant(s)? Yes No