

APPLICATION FOR AN ENFORCEABLE WRITTEN ASSURANCE LETTER

Application should be mailed to:

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control
PO Box 144880
Salt Lake City, Utah 84114-4880

Application should include the following information based Utah Code Ann. § 19-6-108.3. Missing or inaccurate information may be grounds for denial of the application for an Enforceable Written Assurance Letter or revocation of the same.

In tailoring the Application for your request, please use the paragraph headings that are in bold letters and underlined. Please delete the words that are in bold letters, in all CAPITAL LETTERS, and not underlined. Please replace the words that are italicized, in all CAPITAL LETTERS, but not bolded, with the words that apply to your request. For example, you may write your first paragraph similar to:

1. **Description and Location of the Property.** Dave's Auto Body is acquiring Lot 1 of Car Repair Plaza, plat recorded on October 4, 2015 with the Utah County Recorder's Office as Entry 347982:2015, Tax I.D. Number 123321, located at 800 North 1500 West, Vineyard, Utah. A legal description is attached as Attachment 1.

Dear Mr. Hansen:

(APPROPRIATE INTRODUCTORY LANGUAGE)

1. **Description and Location of the Property. PROVIDE DESCRIPTION OF AND LOCATION OF PROPERTY. FOR EXAMPLE:**

(NEW PROPERTY OWNER) is acquiring *(PROPERTY DESCRIPTION: LOT NUMBER, PLAT NAME OR NUMBER)*, plat recorded on *(DATE RECORDED)* as *(ENTRY NUMBER)* with the *(LOCATION OF RECORDED DEED e.g., Utah County Records Office)* and located *(LOCATION OF PROPERTY)*, Utah (the "Property"). AS APPROPRIATE, ATTACH LEGAL DESCRIPTION, MAP.

2. **Current Ownership of the Property. PROVIDE NAME OF CURRENT PROPERTY OWNER. SUBMIT A COPY OF THE RECORDED DEED SHOWING THE CURRENT OWNER OF THE PROPERTY. THE DIRECTOR MAY ALSO REQUIRE A TITLE REPORT.**

3. **Contact Information. PROVIDE CONTACT NAME AND FULL MAILING ADDRESS OF NEW PROPERTY OWNER.**

4. **Coverage by an Operation Plan. IDENTIFY THE PERMIT TO WHICH THE PROPERTY IS CURRENTLY SUBJECT. FOR EXAMPLE:**

The property is subject to the _____ (*STATE THE NAME OF THE PERMIT*), dated _____ (*DATE OF PERMIT ISSUANCE*) (the "Permit"), issued by (THE PERMIT MAY HAVE BEEN ISSUED BY THE EXECUTIVE SECRETARY OF THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD, THE DIRECTOR OF THE DIVISION OF SOLID AND HAZARDOUS WASTE, OR THE DIRECTOR OF THE DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL. PLEASE IDENTIFY THE PERMIT TO THE BEST OF YOUR ABILITY. THE DIVISION WILL VERIFY THE OFFICIAL WHO ISSUED IT.) The Permit constitutes an "operation plan" within the meaning of Utah Code Ann. § 19-6-108.3(1)(a) and § 19-6-102(16).

5. **Permittee Status. INDICATE STATUS OF NEW PROPERTY OWNER. FOR EXAMPLE:**

(*NEW PROPERTY OWNER*) is not a "Permittee" under any "operation plan" within the meaning of Utah Code Ann. § 19-6-108.3(1)(a)(i).

6. **Certification Regarding Compliance. PROVIDE CERTIFICATION REGARDING COMPLIANCE STATUS. FOR EXAMPLE:**

(*NEW PROPERTY OWNER*) certifies that it has not violated any provision of the Solid and Hazardous Waste Act, Utah Code Ann. § 19-6-101 et. seq., or any other environmental statute with respect to the Property.

7. **Certification Regarding Affiliation. PROVIDE CERTIFICATION REGARDING AFFILIATION. FOR EXAMPLE:**

(*NEW PROPERTY OWNER*) certifies that (a) none of its affiliates or agents have violated any provision of the Solid and Hazardous Waste Act, Utah Code Ann. §19-6-101 et. seq., or any other environmental statute with respect to the Property; (b) it is not potentially liable or affiliated with any other person that is potentially liable, for response costs at the Property through: (i) any direct or indirect familial relationship; or (ii) any contractual, corporate, or financial relationship (other than contractual, corporate, or financial relationship that is created by the instruments by which title to the Property is conveyed or financed or by a contract for the sale of goods or services); or (iii) the result of a reorganization of a business entity that was potentially liable.

8. **Certification Regarding Contamination. PROVIDE CERTIFICATION REGARDING ENVIRONMENTAL CONTAMINATION. FOR EXAMPLE:**

(*NEW PROPERTY OWNER*) certifies that it did not cause any environmental contamination on the Property. _____ (*NEW PROPERTY OWNER*) further certifies that none of its affiliates or agents caused any environmental contamination of the Property.

9. **Use of the Property. IDENTIFY PAST, PRESENT AND FUTURE USES OF PROPERTY. FOR EXAMPLE:**

The Property was previously used as a ____ (*STATE THE PREVIOUS USE OF THE PROPERTY, e.g., pipe production plant*) _____. The Property currently is ____ (*STATE THE CURRENT USE OF THE PROPERTY, e.g., a graveled industrial/commercial lot*). ____ (*NEW PROPERTY OWNER*) ____'s planned future use for the Property ____ (*IDENTIFY FUTURE USE OF PROPERTY; e.g., limited to industrial and commercial*).

10. **Compliance with Existing and Future Access Requirements and Institutional Controls.** ***PROVIDE STATEMENT OF INTENT TO COMPLY. FOR EXAMPLE:***

(NEW PROPERTY OWNER) agrees to comply with all access applicable requirements and institutional controls required by an "operation plan" within the meaning of Utah Code Ann. § 10-6-108.3(1)(a) and § 19-6-102(17), as well as other applicable access requirements or institutional controls set forth in a Site Management Plan, Environmental Covenant, or related document.

11. **Appropriate Care.** ***PROVIDE STATEMENT OF INTENT TO EXERCISE APPROPRIATE CARE. FOR EXAMPLE:***

(NEW PROPERTY OWNER) agrees to exercise appropriate care with respect to hazardous substances or hazardous materials found or suspected at the Property and in particular, what reasonable steps ____ (*NEW PROPERTY OWNER*) ____ has determined are necessary to: (a) stop any continuing release; (b) prevent any threatened future release; and (c) prevent or limit human, environmental, or natural resource exposure to any previously related hazardous substance or hazardous material.

12. **Legally Required Notices.** ***PROVIDE STATEMENT OF INTENT TO PROVIDE NOTICES. FOR EXAMPLE:***

(NEW PROPERTY OWNER) agrees to provide all legally required notices with respect to the discovery or release of any hazardous substances or hazardous materials at the Property.

13. **Bonafide Prospective Purchaser.** ***PROVIDE STATEMENT REGARDING QUALIFICATION AS BONAFIDE PROSPECTIVE PURCHASER. FOR EXAMPLE:***

(NEW PROPERTY OWNER) has made all appropriate inquiries into the previous ownership and uses of the Property pursuant to 40 C.F.R. Part 312, and qualifies as a *bonafide* prospective purchaser under 42 U.S.C. § 9601(40).

14. **Request for written assurance.** ***PROVIDE SPECIFIC REQUEST FOR WRITTEN ASSURANCE. FOR EXAMPLE:***

Based on the foregoing ____ (*NEW PROPERTY OWNER*) ____ requests a written assurance that (a) the Director will not commence an enforcement action or cost recovery action against ____ (*NEW PROPERTY OWNER*) ____, and will not otherwise require ____ (*NEW PROPERTY OWNER*) ____ to take corrective action, relating to contamination that existed or for violations of the Utah Solid and Hazardous Waste Act that occurred before ____ (*NEW PROPERTY OWNER*) ____ acquired the Property; and (b) ____ (*NEW PROPERTY OWNER*) ____ is not and will not become a Permittee or responsible party under the Permit

of the Utah Solid and Hazardous Waste Act, Utah Code Ann. §§ 19-6-101 to -125, as amended.