LIEN PLACEMENT POLICY AND PROCEDURE (EO-96-007-PP)

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California Environmental Protection Agency
Department of Toxic Substances Control

LIEN PLACEMENT POLICY AND PROCEDURE

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LIEN PLACEMENT POLICY & PROCEDURE

1 PURPOSE

The purpose of this document is to set forth policy of the Department of Toxic Substances Control (DTSC) for the placement of a lien pursuant to Health and Safety Code § 25365.6. This policy describes the procedures for the placement of a lien, dispute resolution with the landowner, and removal of a lien by DTSC.

2 BACKGROUND

A lien is one of many tools available to DTSC to obtain reimbursement from responsible parties (RPs) for costs incurred at a site where a response to a hazardous substances release has occurred. A lien may be appropriate when DTSC has incurred any costs payable from the Hazardous Substances Cleanup Fund, the Hazardous Waste Control Account, or the Hazardous Substances Account. Lien placement shall occur only after reasonable billing and collection efforts prescribed in Section 4 are made. Placement of a lien under Health and Safety Code § 25365.6 does not give DTSC title to the property, nor does it make the State an RP. The lien does have the effect of making DTSC a secured creditor, which puts DTSC in a better position to collect the costs incurred, should the RP declare bankruptcy or sell the property. DTSC may exercise all rights under the lien after review and approval is given by a court of appropriate jurisdiction.

3 STATUTORY AUTHORITY

All references herein are to the Health and Safety Code unless otherwise stated.§ 25365.6(a) allows DTSC to place a lien upon real property where DTSC has expended funds to assess and/or remove contamination from that property. § 25365.6(b) indemnifies DTSC from becoming an RP as a result of claim made or lien placed in conformance with this section. § 25365.6(c) limits the duration of the lien until the liability for costs and damages or a judgment is satisfied. This section also allows DTSC to exercise all rights under the lien if a court determines that a judgment will not be satisfied. § 25365.6(d) specifies that a lien imposed will have the effect of, and the priority of, a judgment lien once recorded in the county where the property is located. Requires the lien to contain the

legal description of the real property, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll. If the site boundaries do not correspond to the property boundaries, the lien shall also contain a legal description of the site boundary which is impacted by the hazardous substance release. § 25365.6(e) specifies where the funds recovered as a result of a lien will be deposited.

4 POLICY STATEMENT

As stated above, a lien is a cost recovery tool. A lien is not the sole cost recovery tool and cannot be utilized effectively without employing other cost recovery tools. Prior to initiating the lien process, the following shall occur:

* Identify all RPs, especially the current property owner;

* Present a bill for costs incurred by DTSC to all Rps;

* Provide RPs adequate time to pay the bill, voice reasonable objections, or reach a settlement; and

* Correspond, meet or otherwise contact the RP to let them know that our next step will be to place a lien.

* It is the intent of DTSC to resolve all cost recovery issues in the most reasonable manner. Actions such as lien placement or cost recovery lawsuits should be given consideration but are subordinate to settlement.

A lien may only be placed on property where DTSC has expended funds to assess and/or remove contamination from that property. Liens may not be placed on other property owned by RPs. DTSC may place a lien on a site before or after remediation. Placing the lien before remediation might result in DTSC having priority over other judgment liens (e.g. tax liens, or civil judgment liens). A post-certification lien would be used to ensure DTSC is reimbursed should the property owner sell the property, which, as a result of remediation, has increased in value. A lien protects the interest of DTSC. A lien shall not be utilized to force the sale of property. A court may order the sale of the property if it determines that the lien will not be satisfied otherwise.

In order to provide due process of law to the property owner, DTSC provides the property owner an opportunity to object to lien placement within fourteen (14) days of receipt of "Notice of Intent to Place a Lien" letter and request to have the decision reviewed by a DTSC neutral official who was not involved in the original decision to impose a lien.

5 LIEN PROCEDURE

The following steps shall be taken when placing a lien on a site:

5.1 Identify Current Owner and Property Description

Conduct a file review at the local County Assessor's or County Recorder's office to determine who the current property owner is and their mailing address. Obtain a legal description for the property from the County Recorder's office or from the potentially responsible party search report for the site.

5.2 Notify Property Owner of Intention to Place Lien

Prepare a Notice of Intent to Place a Lien letter using the form letter in Appendix A. Circulate this letter to the Unit Chief and the Office of Legal Counsel (OLC) for review, comment, and approval prior to being forwarded to the Branch Chief for review and signature. Include a copy of the completed Lien Form (Appendix B) when sending the Notice of Intent to Place a Lien letter to the property owner. Specifications and format for the Lien Form are included in Appendix B.

5.3 Respond to Reasonable Objections or Requests by the Property Owner

Objections and requests by the property owner must be promptly considered. The property owner may provide an objection in writing or request a meeting with a neutral official. The neutral official shall be a DTSC Regional Coordinator. The Regional Coordinator should not have had previous involvement with the site. In the event that both Regional Coordinators have had prior site involvement, the Site Mitigation Deputy Director shall appoint another neutral official of DTSC. The neutral official will review the background information and

information presented by the property owner. Following this review, the neutral official will determine if DTSC has met the statutory requirements for lien placement.

An objection or meeting request must be received by DTSC within fourteen (14) days of receipt of the Notice of Intent to Place a Lien letter. Procedures for holding the meeting with a neutral official are found in Appendix C.

5.4 Send the Lien to the County Recorder's Office

Prepare a letter to the County Recorder, using the Lien Transmittal form letter in Appendix D. Include a copy of the lien. Complete the Lien Verification Form in Appendix E. Have the signature on the verification form notarized. (DTSC has staff who are registered notaries whose services are available at no charge for state business. However, if staff use outside notaries, payment may be made from the petty cash fund, through a service authorization, or can be reported for reimbursement on an employee's travel expense claim.) Circulate this letter to the Unit Chief and OLC for review, comment and approval prior to being forwarded to the Branch Chief for review and signature. Contact the County Recorder to obtain schedule of charges for recording. Make it clear to the County Recorder that the lien is being recorded by a state agency; some counties will grant a waiver of fees. DTSC should always request a fee waiver. Send signed letter to the County Recorder. Include payment for recording fees (if they are assessed). Payment for recording fees can be made from the petty cash fund, through a service authorization or can be reported for reimbursement on an employee's travel expense claim.

5.5 File the Lien in DTSC Files

File the original copy of the lien (with County Recorder's mark) in the Site File. Forward a copy of the recorded lien to the Chief Counsel OLC, the Cost Recovery Unit (CRU) Chief, the Regional Site Mitigation Branch (SMB) Chief, and the Case Development Branch (CDB) Chief. Append a comment to the CalSites profile report which notes the amount and date of recording of the lien.

6. SATISFACTION OF LIEN PROCEDURE

A lien is satisfied when DTSC's costs have been paid. The following steps will be taken to nullify the lien:

6.1 Prepare Lien Satisfaction Transmittal Letter, Lien Satisfaction Form and Lien Satisfaction Verification Form

Verify that DTSC has received payment for costs incurred. Modify the Lien Satisfaction form letter in Appendix F to include the appropriate language. Complete the Lien Satisfaction form in Appendix G using the site specific property description contained in the original lien. Prepare a Lien Satisfaction Verification form in Appendix H. Have the signature on the verification form notarized. (DTSC has staff who are registered notaries. The services of these staff are available at no charge for state business. If staff use outside notaries, payment may be made from the petty cash fund, through a service authorization, or can be reported for reimbursement on an employee's travel expense claim.) Circulate this letter to the Unit Chief and OLC for review, comment and approval prior to being forwarded to the Branch Chief for review and signature.

6.2 Send the Lien Satisfaction Transmittal Letter Including the Lien Satisfaction and Lien Verification to the County Recorder

Send these documents with recording fees to the County Recorder's office. Some counties may waive recording fees. DTSC staff should always request a fee waiver. If fees are not waived, payment for recording fees can be made from the petty cash fund, through a service authorization or can be reported for reimbursement on an employee's travel expense claim.

6.3 File Lien Satisfaction in DTSC Files

File the recorded Lien Satisfaction (with County Recorder's mark) in the Site File. Forward a copy of the Lien Satisfaction to the property owner, OLC, CRU

and the CDB Chief. Append a comment to the CalSites Profile Report which notes the date of recording of the Lien Satisfaction.

7. ROLES AND RESPONSIBILITIES

7.1 Site Mitigation Program

7.1.1 Site Mitigation Unit Project Manager

* Obtain legal description of Property.

* Obtain name and address of current property owner.

* Prepare the Notice of Intent to Place a Lien letter and draft Lien Form (Appendices A and B).

* Provide site file or background information to neutral official (Appendix C).

* Attend meeting with neutral official (Appendix C).

* Prepare the Lien Transmittal letter (Appendix D).

* Prepare and complete the verification form and have signature notarized (Appendix E).

* File original of recorded lien in site file, send copy to OLC, CRU, the Regional SMB Chief, and the CDB Chief.

* Try to obtain waiver of fees from County Recorder.

* Arrange for payment of recording fees.

* Update the CalSites Profile Report for the site to include the lien amount and date of recording.

* Verify payment or settlement received to satisfy the lien.

* Prepare and circulate for review the Lien Satisfaction letter, the Lien Satisfaction form, and the Lien

* Satisfaction Verification form (Appendices F, G and H).

* File original of Recorded Lien Satisfaction in site file, send copy to OLC, CRU, the Regional SMB Chief and the CDB Chief.

* Update the CalSites Profile Report for this site to include the date of payment and date of recording lien.

7.1.2 Site Mitigation Unit Chief

* Identify sites where lien placement is appropriate and recommend lien placement to the Branch Chief.

* Review the Notice of Intent to Place a Lien letter and draft Lien Form.

* Attend meeting with neutral official (Appendix C).

* Review the Lien Transmittal letter.

* Review the Lien Satisfaction letter, the Lien Satisfaction form, and the Lien Satisfaction Verification form.

7.1.3 Site Mitigation Branch Chief

* Approve sites recommended for lien placement.

* Review and sign the Notice of Intent to Place a Lien letter and draft Lien.

* Review and sign the Lien Transmittal letter.

* Review and sign the Lien Satisfaction letter, the Lien Satisfaction form, and the Lien Satisfaction Verification form.

* Maintain a list of sites where liens have been filed.

* Maintain a list of sites where liens have been satisfied.

7.2 Office of Legal Counsel

7.2.1 Staff Attorney

* Review case and determine if statutory elements for filing a lien are satisfied.

* Review the Notice of Intent to Place a Lien letter.

* Review the draft Lien.

* Respond to any requests made by property owner.

* Arrange for neutral official to review decision when requested by property owner.

* Forward any documentation submitted by property owner to neutral official.

* Attend meeting with neutral official (Appendix C).

* Review the Lien Transmittal letter.

* Review the Lien Satisfaction letter, the Lien Satisfaction form, and the Lien Satisfaction Verification form.

7.2.2 Chief or Assistant Chief Counsel

* Assign a neutral meeting official within 14 days of DTSC receiving request for meeting (Appendix C).

* Ensure that neutral official prepares summary of meeting and issues determination.

7.3 Regional Coordinator-Neutral Official

* Arrange meeting with property owner within thirty days of DTSC receiving request for meeting (Appendix C).

* Conduct meeting with property owner and DTSC staff.

* Prepare summary of meeting.

* Issue determination of whether or not DTSC has met statutory requirements for placement of a lien.

7.4 Cost Recovery Unit

* File recorded lien in site cost recovery file maintained by CRU.

* File recorded Lien Satisfaction form in site cost recovery file maintained by CRU.

APPENDIX A
NOTICE OF INTENT TO PLACE A LIEN LETTER

[**DATE**]

[**NAME**]
[**ADDRESS**]
[**CITY, STATE ZIP CODE**]

NOTICE OF INTENT TO PLACE A LIEN ON PROPERTY KNOWN AS [**SITE NAME**]

Dear [**NAME**]:

The Department of Toxic Substances Control (DTSC) intends to place a lien upon the property known as the [**SITE NAME**]. This property is identified as Assessor's Parcel Number(s) [**APPROPRIATE NUMBER OR NUMBERS**], and a legal description is enclosed. This property is the site of a hazardous substance release and was subject to remedial action taken or overseen by DTSC. This notice contains procedures for objecting to DTSC's intention.

DTSC's authority to place a lien against the property is provided by section 25365.6 of the California Health and Safety Code. The lien is intended to secure payment to the State for costs and/or damages incurred and payable from State funds for which you, as a responsible party, are liable under Health and Safety Code section 25360 and section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. **'**9607(a).

The lien in favor of the State will continue until the liability for the costs is satisfied. If a court determines that a judgment against the liable parties will not be satisfied, then DTSC may exercise its rights under section 25365.6(c) of the Health and Safety Code. You may avoid having a lien placed on your property by paying all costs and damages for which you are liable.

(Revised November 2001)

Based on the information in DTSC's records pertaining to this site (including title search documents, reports of DTSC expenditures on the site, prior enforcement and remedial orders, and a Remedial Action Plan) [**MODIFY THIS PARENTHETIC STATEMENT TO REFLECT THE SITE FILE**], DTSC believes it has a reasonable basis for its determination that the statutory elements for lien placement are satisfied.

If you believe DTSC's information or determination is incorrect, you may notify DTSC by writing to [**NAME OF STAFF ATTORNEY**], our staff counsel, at the above address. Your letter must be received no later than fourteen (14) calendar days from the date of receipt of this letter or DTSC will proceed with recording this lien. In your written response, specify your reasons for believing that DTSC does not have a basis for lien placement. You may include any documents that support your contention. If, upon receipt and review of this documentation, DTSC should find in your favor, you will be notified and DTSC will not place a lien on your property. Otherwise, lien placement will proceed without further review.

In addition to, or instead of, a written response, you may contact [**NAME OF STAFF ATTORNEY**] within fourteen (14) calendar days from the date of receipt of this letter to request a meeting with a neutral DTSC official. The neutral official will be a DTSC Regional Coordinator. During this meeting, you may present any information that you have indicating that DTSC does not have a reasonable basis for its determination that the statutory elements for lien placement are satisfied.

You may attend the meeting in person or via telephone. You may be represented by counsel at this meeting. DTSC will be represented by its program staff and/or counsel. The meeting will be informal and will not be conducted using rules of evidence or formal administrative or judicial procedures. The sole issue will be whether DTSC has a reasonable basis for its determination that the statutory elements for lien placement under Health and Safety Code section 25365.6 are satisfied.

Following the meeting, the neutral official will issue a decision which will be furnished to you. By submitting information, or by participating in a meeting, neither you nor DTSC waives, or is prohibited from asserting, any claims or defenses in any subsequent legal

or administrative proceeding. The sole issue at the meeting will be whether DTSC has a reasonable basis to believe that the statutory elements for lien placement are satisfied. Issues such as selection of a remedy, allocation of responsibility, and financial hardship are not relevant to a decision to place a lien and will not be considered at the meeting.

If you have any questions, please contact [**NAME OF STAFF ATTORNEY**], our staff counsel at [**TELEPHONE NUMBER FOR STAFF ATTORNEY**].

Sincerely,

[**NAME OF BRANCH CHIEF**]
[**NAME OF BRANCH**]

Enclosure {**ENCLOSE LIEN FORM**}

Certified Mail No.

cc: [**PROJECT MANAGER**]
[**STAFF ATTORNEY**]
[**OTHER RPs OR THE RPs ATTORNEY IF APPROPRIATE**]

(Revised November 2001)

APPENDIX B
LIEN FORM

RECORDING REQUESTED BY **WHEN RECORDED MAIL TO** **NAME** **MAILING ADDRESS** **CITY, STATE ZIP CODE**	

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

LIEN

The State of California Department of Toxic Substances Control, hereby records this lien in the amount of $[**AMOUNT FROM SBA OR INVOICE**] on the real property in the County of [**COUNTY NAME**], State of California, located at [**ADDRESS**] in [**CITY**], and identified as Assessor Parcel Number [**APPROPRIATE NUMBER(S)**] by the [**COUNTY NAME**] County Assessor. This property is the site of a hazardous substance release. A legal description of the property described on the deed found in Book [**BOOK NUMBER**], Page [**PAGE NUMBER**], of the official records in the [**COUNTY NAME**] County Recorder's office is as follows:

[**INSERT LEGAL DESCRIPTION**]

Owner of Record as shown on the latest equalized assessment roll: [**INSERT OWNER NAME**]

This lien is recorded pursuant to, and its enforceability is governed by, section 25365.6 of the California Health and Safety Code.

The amount secured by this lien, pursuant to section 25365.6, is equal to the costs or damages incurred and payable from the California Hazardous Substances Account, Hazardous Waste Control Account and the Hazardous Substance Cleanup Fund by the Department of Toxic Substances Control and its predecessor agency, the Department of Health Services, with respect to the property described herein. The lien continues until the liability for these costs or damages is satisfied.

The lien has the force, effect, and priority of a judgment lien.

Date: _____

_____

[**NAME OF BRANCH CHIEF**]
[**NAME OF BRANCH**]

(Revised November 2001)

PROPER FORMAT FOR RECORDING LIENS

The amendment of the Government Code 27200 on July 1, 1994 by Assembly Bill (AB) 689 affected the recording of documents in the State. This bill established document fees, the proper format of documents to be recorded, size and length of paper, and the placement of document titles, etc. Specific information regarding conformance with AB689 can be obtained from the County Recorder's Association of California (CRAC). The guidelines below were extracted from CRAC publications. These guidelines are applicable when submitting a lien, lien satisfaction,deed restriction or any other document for recording. DTSC will be charged additional fees if documents are submitted for recording which do not conform with the format prescribed in Government Code section 27200, et seq.

SUMMARY OF IMPACT

An original signature(s) is required by section 27201(c) on all documents presented for recording except as otherwise provided by law. A certified copy is also acceptable.

A "Page" is defined in section 27361.5 to be one printed side of a single piece of paper being 8½ by 11 inches.

A "Sheet" is defined in section 27361.5 to be is one printed side of a single piece of paper which is not exactly 8½ by 11 Inches but not greater than; 8½ by 14 inches.

The "First Page or Sheet" is defined in section 27361.6 as the first page or sheet of a document. The first page or sheet must have the upper left hand 2½ by 3½ inch space used to show the name of the party requesting recording and where to mail the document after it is recorded. The balance of the top 2½ inches of the first page is reserved for the recorder. If the signed document was not originally formatted with this reserved space, a separate page shall be attached prior to submission for recording which meets these specifications.

The attached page shall reflect the title or titles of the document. Applicable recording fees will be assessed for this page.

The "Document Title(s)" are required by section 27324. The title of a lien is "Lien." The recorder will only index titles or captions appearing below the space reserved for the recorder.

Section 27361(a)(2) specifies the additional fee assessed to record a document which contains pages which do not conform to the above referenced sections. If any part of a document does not conform to the definition of a page an additional $3.00 fee will be assessed for every sheet of the document.

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

NAME
MAILING
ADDRESS
CITY, STATE
ZIP CODE
SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

EFFECTIVE JULY 1, 1994

The first page of all documents presented for recording shall conform to the format presented above. If the document you are presenting for recording does not comply with this format you must attach, as the first page of your document, a sheet which meets these requirements. Failure to meet these requirements will result in your document being returned to you.

Requirements for first page of a document: At least the top 2-1/2 inches of the first page shall be reserved for recording information. The left 3-1/2 inches of this space shall be used by the public to show the name of the person requesting recording and the name and address to which the document is to be returned following recording.

All documents submitted for recording shall have at least a 1/2 inch margin on the two vertical sides except in the space reserved for recording information.

Title or titles shall be captioned on the first page of a document immediately below the space reserved for the recorder.

Authority: California State Government Code Sections 27200 et seq.

WANT YOUR DOCUMENT ACCEPTED?

LAY OUT is easy

*8 1/2" x 11" paper is the standard size (Govt. Code 27361.5)

*A document including ANY sheet not exactly 8 1/2" x 11" will cost the regular recording fee PLUS an ADDITIONAL $3.00 PER PAGE to record. (Govt. Code 27361)

*Maximum sheet size is 8 1/2" x 14".

*Exhibits should be on separate pages and properly marked.

FORMAT is critical

*First page should look like this:

If it does not, a separate page with these requirements shall be attached to the front of the document (27361.6)

*Name and address on left. (Govt. Code 27361.6, 27321.5)

*1/2" Margin on all pages. (27361.6)

*Title of the document shall appear on the first page immediately below the spaces reserved for the return address and the recorder (G.C. 27324)

CLARITY is assured if you use:

*Originals
*White paper 16 lb. bond or heavier
*Dark ink of one color
*Print as clear as this page

APPENDIX C

NEUTRAL OFFICIAL MEETING PROCEDURES

1. SELECTION OF NEUTRAL OFFICIAL

The neutral official should be a DTSC Regional Coordinator. The Regional Coordinator should not have had any prior involvement with the site. In the event that both Regional Coordinators have had prior site involvement, the Site Mitigation Deputy Director shall appoint another neutral official of DTSC.

Upon selection of the neutral official, the Project Manager will provide the official with a copy of all documents relevant to the filing of the lien. At a minimum, the Project Manager will provide:

* A copy of the bill for the outstanding costs.
* A site summary describing the actions conducted by DTSC.
* A copy of all correspondence with the property owner regarding the proposed lien placement.

These documents are meant to provide the background information to the neutral official.

2. FACTORS TO REVIEW

The neutral official should consider all facts relating to whether DTSC has a reasonable basis to believe that the statutory elements have been satisfied for the placement of a lien. In particular, the neutral official should consider whether:

* The property owner was sent notice of liability by mail.
* The property is owned by a person who is liable to DTSC for costs related to the property.
* The property was subject to or affected by a removal or remedial action.
* DTSC has incurred costs with respect to a action under H&SC or CERCLA.
* The record contains any other information which sufficient to show that the lien notice should not be filed.

The property owner may present information or submit documents to establish that DTSC should not place the lien as proposed. In making a decision, the neutral official should consider all facts established for the lien placement and all presentations made at the meeting.

3. NATURE OF THE MEETING

The persons at the meeting should include: The property owner(and/or an attorney, at the property owner's option); the Project Manager; the Office of Legal Counsel (OLC) staff attorney; and the neutral official. The meeting ordinarily should be held at a DTSC office. As stated above, the neutral official may offer to conduct the meeting by telephone for the convenience of the property owner.

The neutral official should also ensure that a record of the meeting is made. If a summary of the meeting is prepared as a record, it should indicate who was in attendance, what information was presented, and what issues were discussed. Any such summary should be provided to the property owner. The record of the meeting, and any comments submitted by the property owner on the summary, should be included as part of the site file.

The neutral official should conduct the meeting as an informal exchange of information, not bound by judicial or administrative rules of evidence. Because of the informal nature of these proceedings, DTSC will not apply the Administrative Procedure Act provisions for formal adjudication.

The neutral official should begin the meeting by making an opening statement, containing the following elements:

1. The proceeding is informal, and not bound by rules of evidence nor provisions of the Administrative Procedure Act.

2. Neither DTSC nor the property owner waives any claims or defenses by the conduct of the meeting or the outcome.

3. The sole issue at the meeting is whether DTSC has a reasonable basis to believe that the statutory elements for placing a lien are satisfied. The meeting will not be concerned with issues unrelated

to the proposed lien placement, such as, remedy selection, financial hardship, or allocation of responsibility.

4. The neutral official will make a decision, based on the information on file and any new information presented at the meeting, whether DTSC has a reasonable basis to place a lien on the property.

The neutral official should conduct an orderly and fair meeting. Project staff may present DTSC's reason to believe that a lien should be placed upon the property. The property owner or property owner's counsel shall have a reasonable opportunity to address relevant issues and present his or her views. The neutral official may also allow discussion and interchange between the parties, including responses to questions to the extent deemed appropriate. It is not the intent to provide DTSC or the property owner an opportunity to engage in direct examination or cross-examination of witnesses. The neutral official may address questions to the property owner or the property owner's counsel or to DTSC's representatives during the meeting.

While the neutral official should place no limitations other than reasonableness on the type or volume of information presented or issues discussed, he or she may caution that only information and issues which are relevant or material to DTSC's decision as to whether it has a reasonable basis to place a lien will be ultimately considered.

4. DECISION

In a timely manner, the neutral official will issue a written decision. The decision should state whether the property owner has established any issue of fact or law to alter DTSC's intention to file a lien and the basis for the decision. The decision should contain a statement that neither DTSC nor the property owner is barred from any claims or defenses by the decision. The decision will be sent to the property owner with a copy placed in the site file, forwarded to OLC Staff Attorney, the Project Manager, the regional SMB Chief, and the CDB Chief.

Because of the preliminary and informal nature of the proceedings under this guidance, and the fact that the neutral official's decision is limited to whether DTSC has a reasonable basis to place the lien, the neutral official's decision is

not a binding determination of ultimate liability or non-liability. No preclusive effect attaches to any decisions made in the course of any proceeding pursuant to the guidance, nor shall any such decisions be given deference or otherwise constitute evidence in any subsequent proceeding.

DTSC may subsequently provide notice of intent to place a lien with an opportunity to be heard with respect to the same property under these procedures if new information indicates that a previous decision not to file is in error.

APPENDIX D

LIEN TRANSMITTAL LETTER

[TELEPHONE NUMBER]

[DATE]
[COUNTY RECORDER OFFICE]
[ADDRESS]
[CITY, STATE ZIP CODE]

LIEN ON [SITE NAME]

Dear [NAME]:

Enclosed is a lien [AND RECORDING FEES (IF FEES ARE NOT WAIVED)]on the property located at [ADDRESS OF SITE], in the [CITY, COUNTY],California, Assessor's Parcel Number [APPROPRIATE NUMBER(S)]. Pursuantto section 25365.6 of the California Health and Safety Code, the Department of Toxic Substances Control is filing this lien on the abovenamed real property owned by [OWNER'S NAME(S)]. [IT IS OUR UNDERSTANDING THAT RECORDING FEES ARE WAIVED FOR THIS LIEN AS IT IS BEING RECORDED BY A GOVERNMENT AGENCY (IF FEES ARE WAIVED).] The lien shall remain in effect until the liability for costs and damages incurred and payable from the California Hazardous Substances Account,Hazardous Waste Control Account and the Hazardous Substance Cleanup Fund is satisfied, or until a judgment against the responsible party is entered.

Please file this lien as soon as possible. If you have any questions, please contact me at the above telephone number.

Sincerely,

[NAME OF BRANCH CHIEF]
[NAME OF BRANCH]

Enclosure **{ENCLOSE LIEN, VERIFICATION FORM AND PAYMENT FOR FEES}**

Certified Mail No.

APPENDIX E

LIEN VERIFICATION FORM

VERIFICATION

I, [NAME], the undersigned, say that I am employed as a [TITLE] by the State of California, Department of Toxic Substances Control, the party recording the foregoing lien; that I have been duly authorized by the Department of Toxic Substances Control to execute this verification; that I have read the foregoing lien and know the contents thereof; that the same is true; and that the lien contains, among other things, a correct statement of the interest held in the property described therein by the Department of Toxic Substances Control.

I declare under penalty of perjury that the foregoing is true and correct, and that this verification was executed in [CITY], California on [DATE].

_____
[NAME OF SIGNOR]

_____
NOTARY PUBLIC

[SEAL OR STAMP BY NOTARY]

APPENDIX F

LIEN SATISFACTION LETTER

[TELEPHONE NUMBER]

[DATE]
[COUNTY RECORDER OFFICE]
[ADDRESS]
[CITY, STATE ZIP CODE]

SATISFACTION OF LIEN ON [SITE NAME]

Dear **[NAME]**:

Enclosed is an acknowledgement that the lien on the property located at [ADDRESS OF SITE], in the [CITY, COUNTY], California, Assessor's Parcel Number [APPROPRIATE NUMBER(S)] has been satisfied [AND PAYMENT FOR RECORDING FEES (IF FEES ARE NOT WAIVED)]. Pursuant to section 25365.6 of the California Health and Safety Code, the Department of Toxic Substances Control filed this lien on the above named real property owned by [OWNER'S NAME(S)]. [IT IS OUR UNDERSTANDING THAT RECORDING FEES ARE WAIVED FOR THIS LIEN AS IT IS BEING RECORDED BY A GOVERNMENT AGENCY (IF FEES ARE NOT WAIVED.] The lien is no longer in effect as the liability for costs and damages incurred and payable from the California Hazardous Substances Account, Hazardous Waste Control Account and the Hazardous Substance Cleanup Fund is satisfied.

Please record this acknowledgement as soon as possible. If you have any questions, please contact me at the above telephone number.

Sincerely,

[NAME OF BRANCH CHIEF]
[NAME OF BRANCH]

Enclosure **{ENCLOSE LIEN, VERIFICATION FORM AND PAYMENT FOR FEES}**

Certified Mail No.

APPENDIX G
LIEN SATISFACTION FORM

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

NAME

MAILING
ADDRESS

CITY, STATE
ZIP CODE

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

SATISFACTION OF LIEN ACKNOWLEDGEMENT

The State of California Department of Toxic Substances Control hereby acknowledges that the lien in the amount of $[AMOUNT FROM LIEN]recorded on [DATE] found in Book [BOOK NUMBER], Page [PAGE NUMBER], of the official records in the [COUNTY NAME] County Recorder's office has been satisfied. The real property in the County of [COUNTY NAME], State of California, located at [ADDRESS] in [CITY], and identified as Assessor Parcel Number [APPROPRIATE NUMBER(S)] by the [COUNTY NAME] County Assessor is the subject of this lien satisfaction acknowledgement. A legal description of the property described on the deed found in Book [BOOK NUMBER], Page [PAGE NUMBER], of the official records in the [COUNTY NAME] County Recorder's office is as follows:

[INSERT LEGAL DESCRIPTION]

Date:_____ _____

[NAME OF BRANCH CHIEF]
[NAME OF BRANCH]

PROPER FORMAT FOR RECORDING LIEN SATISFACTIONS

The amendment of the Government Code 27200 on July 1, 1994 by Assembly Bill (AB) 689 affected the recording of documents in the State. This bill established document fees, the proper format of documents to be recorded, size and length of paper, and the placement of document titles, etc. Specific information regarding conformance with AB689 can be obtained from the County Recorder's Association of California (CRAC). The guidelines below were extracted from CRAC publications. These guidelines are applicable when submitting a lien, lien satisfaction, deed restriction or any other document for recording. DTSC will be
charged additional fees if documents are submitted for recording which do not conform with the format prescribed in Government Code section 27200, et seq.

SUMMARY OF IMPACT

An original signature(s) is required by section 27201(c) on all documents presented for recording except as otherwise provided by law. A certified copy is also acceptable.

A "Page" is defined in section 27361.5 to be one printed side of a single piece of paper being 8½ by 11 inches.

A "Sheet" is defined in section 27361.5 to be is one printed side of a single piece of paper which is not exactly 8½ by 11 Inches but not greater than; 8½ by 14 inches.

The "First Page or Sheet" is defined in section 27361.6 as the first page or sheet of a document. At least the top 2-1/2 inches of the first page shall be reserved for recording information. The public may use the left 3-1/2 inches of this space to show the name of the person requesting recording and the name and address to which the document is to be returned following recording. The balance of the top 2½ inches of the first page is reserved for the recorder. If the signed document was not originally formatted with this reserved space, a separate page shall be attached prior to submission for recording which meets these specifications. The attached page shall reflect the title or titles of the document. Applicable recording fees will be assessed for this page.

All documents submitted for recording shall have at least a 1/2 inch margin on the two vertical sides except in the space reserved for recording information.

The "Document Title(s)" are required by section 27324. The title of a lien satisfaction is "Satisfaction of Lien Acknowledgement." The recorder will only index titles or captions appearing below the space reserved for the recorder.

Section 27361(a)(2) specifies the additional fee assessed to record a document which contains pages which do not conform to the above referenced sections. If any part of a document does not conform to the definition of a page an additional $3.00 fee will be assessed for every sheet of the document.

Section 27361.6 specifies that a document which modifies, releases, or cancels a previously recorded document, shall state the recorder identification number or the book and page of the previously recorded document.

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO
NAME

MAILING
ADDRESS

CITY, STATE
ZIP CODE

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

EFFECTIVE JULY 1, 1994

The first page of all documents presented for recording shall conform to the format presented above. If the document you are presenting for recording does not comply with this format you must attach, as the first page of your document, a sheet which meets these requirements. Failure to meet these requirements will result in your document being returned to you.

Requirements for first page of a document:

At least the top 2-1/2 inches of the first page shall be reserved for recording information. The left 3-1/2 inches of this space shall be used by the public to show the name of the person requesting recording and the name and address to which the document is to be returned following recording.

All documents submitted for recording shall have at least a 1/2 inch margin on the two vertical sides except in the space reserved for recording information.

Title or titles shall be captioned on the first page of a document immediately below the space reserved for the recorder.

Authority: California State Government Code Sections 27200 et seq.

WANT YOUR DOCUMENT ACCEPTED?

LAY OUT is easy

*8 1/2" x 11" paper is the standard size (Govt. Code 27361.5)

*A document including ANY sheet not exactly 8 1/2" x 11" will cost the regular recording fee PLUS an ADDITIONAL $3.00 PER PAGE to record. (Govt. Code 27361)

*Maximum sheet size is 8 1/2" x 14".

*Exhibits should be on separate pages and properly marked.

FORMAT is critical

*First page should look like this: If it does not, a separate page with these requirements shall be attached to the front of the document (27361.6)

*Name and address on left. (Govt.Code 27361.6, 27321.5)

*1/2" Margin on all pages. (27361.6)

*Title of the document shall appear on the first page immediately below the spaces reserved for the return address and the recorder (G.C. 27324)

CLARITY is assured if you use:

*Originals
*White paper 16 lb. bond or heavier
*Dark ink of one color
*Print as clear as this page

APPENDIX H

LIEN SATISFACTION VERIFICATION FORM

VERIFICATION

I, [NAME], the undersigned, say that I am employed as a [TITLE] by the State of California, Department of Toxic Substances Control, the party recording the foregoing Satisfaction of Lien Acknowledgment; that I have been duly authorized by the Department of Toxic Substances Control to execute this verification; that I have read the foregoing Satisfaction of Lien Acknowledgment and know the contents thereof; that the same is true.

I declare under penalty of perjury that the foregoing is true and correct, and that this verification was executed in [CITY], California on [DATE].

_____
[NAME OF SIGNOR]

_____
NOTARY PUBLIC

[SEAL OR STAMP BY NOTARY]