

ENVIRONMENTAL RISK PROGRAM AND POLICY

Background

The purpose of this program/policy is to establish safeguards and controls to limit the Bank's exposure to potential environmental liability that can be associated with real property held as collateral or acquired by the Bank. The Bank recognizes that environmental contamination and the liability associated with that contamination may negatively impact the value of real estate collateral and, in instances where the bank is an owner or operator of contaminated property, the Bank may incur significant direct liability. Further, the Bank recognizes that, in addition to impairing the value of the collateral, the borrower's liability for contamination may threaten the ability of the borrower to service the debt.

Procedures for Identifying and Evaluating Environmental Risk

The goal of the Bank is to utilize prudent procedures to evaluate potential environmental risk, balancing the interests of the Bank in protecting itself from potential liability against the need to avoid unnecessary expenditures of time and money. Because certain types of real estate collateral pose a higher degree of risk of environmental liability, the level of scrutiny given to real estate collateral will be commensurate with the Bank's perception of the degree of risk posed by the property at issue.

Generally, the Bank's policy will not include performance of an environmental assessment in connection with loans secured by 1-to-4 family dwellings. However, an investigation into possible contamination may be made if the 1-to-4 family dwelling 1) is known to be located upon property which was formerly used for a purpose which could pose an environmental risk, or 2) is situated in a locality of known contamination, or 3) is in close proximity to a high risk industry. Information regarding these risk factors may be obtained from bank employees' personal knowledge of the sites, visual inspection, data collected from the prospective borrower, or any other source which provides sufficient reliable information to enable the Bank to accurately gauge the level of risk.

In cases where the property offered as collateral may pose a higher degree of risk, the Bank shall employ the following approach to analysis of environmental risk.

Step One

The Bank shall perform an initial screening of the property by requiring the prospective borrower to complete the environmental questionnaire which is attached to and made a part of this Policy. The questionnaire is designed to elicit information regarding possible contamination. In reviewing the responses to the questionnaire, the Bank should be alert to:

- Contamination of drinking water if water is supplied either by a well or other nonmunicipal source;

- Contamination of soil, through chemicals of any sort, including, but not limited to, petroleum products, pesticides, herbicides, or PCBs.
- The presence of asbestos in building materials, particularly asbestos that is friable.
- The presence of radon gas;
- The presence of underground storage tanks or above ground storage tanks;
- The presence of hazardous waste sites in close proximity to the property offered as collateral;
- The presence of lead paint;
- The presence of unidentified waste materials or fill dirt of unknown origin.

Step Two

If the responses to the questionnaire either contain a large number of "Unknown" answers or contain a number of responses which indicate a need for environmental concern, the Bank may seek additional information about the site through a site visit, discussions with current occupants of the property (if different from the prospective borrowers) or interviews with adjacent property owners.

Step Three

If the information gathered in step two continues to indicate possible environmental risk, the Bank may perform a government records review to assist it in identifying any known contamination incidents on the property and adjoining properties from the records of federal and state governmental agencies, including, for example, the EPA, the Oklahoma Corporation Commission, and the Oklahoma Water Resources Board.

Step Four

After completing step three, the Bank may choose to conduct a historical records review to determine, from public documents and, where appropriate, historical aerial photographs, the former uses of the subject property and adjacent properties.

Step Five

Where necessitated by responses to individual questions on the environmental questionnaire, the Bank may utilize the assistance of qualified professionals to further determine the degree of potential risk for any specific contaminant. As an example, the Bank may use the services of a water testing professional or a qualified asbestos inspector or a qualified formaldehyde inspector.

Step Six

Where the amount of the loan is large and the Bank believes the initial steps outlined above do not sufficiently guard against risk of potential environmental liability, the Bank may require a Phase I environmental site assessment as defined in the ASTM

subcommittee Phase I Environmental Assessment Standards. A loan is deemed large when it exceeds \$.

Step Seven

Following review of the results of the Phase I Site Assessment, the Bank may determine the potential risk to be sufficiently small to warrant the making of the loan, the Bank may deem it necessary to turn down the loan request or the offer of the property as collateral security, or the Bank may conclude that a Phase U Site Assessment is appropriate.

DOCUMENTATION

Where the Bank has determined that a piece of real estate being taken as collateral poses a potential environmental risk, or where the amount of the loan is large, the Bank shall consider utilizing covenants in its loan documents which' safeguard the Bank against potential environmental losses and liabilities. Possible contractual clauses include:

- Requirement that the borrower comply with environmental laws;
- • Requirement that the borrower disclose information about the environmental status of the real property collateral;
- • Requirement that the borrower grant the institution the right to acquire additional information about potential hazardous contamination by inspecting the collateral for environmental concerns;
- • Provision which enables the Bank to call the loan, refuse to extend funds under a line of credit, or foreclose if the hazardous contamination is discovered in the real property collateral;
- • Provision which requires the borrower and/or guarantors to indemnify the Bank for environmental liability associated with the real property collateral.

TRAINING

An effort will be made to provide training to bank personnel sufficient to ensure that the environmental risk program is implemented and followed and that appropriate personnel have the knowledge and experience to determine and evaluate potential environmental concerns that might affect the institution. The bank's attorneys, environmental consultants and other qualified experts will be consulted if a particular environmental issue is beyond the expertise of the Bank's staff.

MONITORING

During the life of the loan, the Bank shall monitor the borrower and the real property collateral for potential environmental concerns. The Bank should be notified of any changes in the borrower's business which may result in a significant increased risk of environmental liability

and should exercise its rights under the loan agreement to either call the loan, refuse to extend funds under a line of credit, require the borrower to ameliorate the environmental problem or cease the risky activity, or take such other steps as may be necessary to protect the value of the real property and the interests of the bank.

AVOIDANCE OF OWNER/OPERATOR LIABILITY

The Bank is mindful of the fact that under CERCLA, the Bank can incur environmental liability if it goes beyond the status of mere holder of a security interest in real property and becomes an owner or operator of the property. The Bank shall therefore exercise caution in its actions to guard against actions which may be deemed to constitute "participating in the management" of the business located on the real property collateral.

Further, the Bank understands that it may incur direct liability if it takes title to real property held as collateral. Therefore, prior to acquiring ownership of real property collateral either through foreclosure, deed in lieu of foreclosure, or other similar means, the Bank will evaluate the potential for environmental liability risk associated with the property and, if the degree of risk is determined to be significant after an appropriate level of inquiry, the Bank shall abandon the collateral.

Adopted by the Board of Directors this day of _____, 200_.

ENVIROMENTAL RISK ASSESSMENT QUESTIONNAIRE

- | | | | |
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| 1. Is the Property or any Adjoining Property used for an industrial use? | Yes | No | Unknown |
| 2. To the best of your knowledge, has the any Adjoining Property been used for an industrial use in the past? | Yes | No | Unknown |
| 3. Is the Property or any Adjoining Property used as a gasoline station, motor facility, commercial printing facility dry cleaners, photo developing laboratory, junky , or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility? | Yes | No | Unknown |
| 4. To the best of your knowledge, has the Property or any Adjoining Property been used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility? | Yes | No | Unknown |

This tool is from Banker Tools on BankersOnline.com. www.bankersonline.com
It was originally drafted in 1993 by Mary Beth Guard during her tenure at the Oklahoma Bankers Association.

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| 5. Are there currently, or to the best of your knowledge have there been previously, any damaged or discarded automotive or industrial batteries, or pesticides, paints, or of other chemicals in individual containers of greater than five gallons in volume or fifty gallons in the aggregate, stored on or used at the Property or at the facility? | Yes No Unknown |
| 6. Are there currently, or to the best of your knowledge have there been previously, any industrial Drums (typically 55 gallon) or sacks of chemicals located on the Property or at the facility? | Yes No Unknown |
| 7. Has Fill Dirt been brought onto the Property which originated from a contaminated site or which is of an unknown origin? | Yes No Unknown |
| 8. Are there currently, or to the best of your knowledge have there been previously any pits, ponds or lagoons located on the Property in connection with waste treatment or waste disposal? | Yes No Unknown |
| 9. Is there currently, or to the best of your knowledge have there been previously any stained soil on the Property? | Yes No Unknown |
| 10. Are there currently, or to the best of your knowledge have there been previously, any registered or unregistered storage tanks (above or underground) located on the Property? | Yes No Unknown |
| 11. Are there currently, or to the best of your knowledge have there been previously, any vent pipes, fill pipes or access ways indicating a fill pipe protruding from the ground on the Property or adjacent to any structure located on the Property? | Yes No Unknown your |
| 12. Are there currently, or to the best of your knowledge have there been previously, any flooring, drains, or walls located within the facility that are stained by substances other than water or are emitting foul odors? | Yes No Unknown your |
| 13. If the Property is served by a private well or non-public water system, have contaminants been identified in the well or system that exceed | Yes No Unknown |

guidelines applicable to the water system or has the well been designated as contaminated by any government environmental/health agency?

14. Does the Owner or Occupant of the Property have any knowledge of Environmental Liens or governmental notification relating to past or current violations of environmental laws with respect to the Property of any facility located on the Property? Yes No Unknown

15. Has the Owner or Occupant of the Property been informed of the past or current existence of Hazardous Substances or Petroleum Products or environmental violations with respect to the Property of any facility located on the Property? Yes No Unknown

16. Does the Owner or Occupant of the Property have knowledge of any Environmental Site Assessment of the Property or facility that indicated the presence of Hazardous Substances or Petroleum Products on, or contamination of, the Property or recommended further assessment of the Property? Yes No Unknown

17. Does the Owner or Occupant of the Property know of any past, threatened, or pending lawsuits or administrative proceedings concerning a release or threatened release of any Hazardous Substance or Petroleum Products involving the Property by any Owner or Occupant of the Property? Yes No Unknown

18. Does the Property discharge waste water on or adjacent to the Property other than storm water or into a sanitary sewer system? Yes No Unknown

19. To the best of your knowledge, have any Hazardous Substances or Petroleum Products, unidentified waste materials, tires, automotive or industrial batteries or any other waste materials have been dumped above grade, buried and/or burned on the Property? Yes No Unknown

20. Is there a transformer, capacitor or any hydraulic equipment for which there are any recording indicating the presence of **PCBs**? Yes No Unknown

THIS QUESTIONNAIRE WAS COMPLETED BY

NAME
TITLE
ADDRESS

PHONE NUMBER
DATE

Preparer represents that to the best of the preparer's knowledge the above statements and facts are true and correct and to the best of the preparer's actual knowledge no material facts have been suppressed or misstated.

Signature

Date

Signature

Date

Signature

Date

These questions were taken from the working Documents of the ASTM subcommittee on Environmental Assessments for Commercial Real Estate.