



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Northwest Region

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January 5, 2024

via electronic delivery

Madison Sanders-Curry
Brownfields Project Manager
Land, Chemicals & Redevelopment Division
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave. Suite #155
Seattle, Washington 98101

**Re: Petroleum Determination
Former Mill Site
Highway 101 at Marine Drive
Tillamook, Oregon
Tillamook County Tax lots: 2N1002BB00300, 2N1002BB00301, 2N1002BB00400,
2N1002BC04700, and 2N1002BC04800**

Madison,

The Oregon Department of Environmental Quality (DEQ) has reviewed information for the approximate 7.79-acre property located off Highway 101 at Marine Drive in Wheeler, Oregon (Site) and referred to as the "Highway 101 Former Mill Site". The review was performed to determine if the Site would be eligible to receive funding from the Tillamook County's Brownfield Assessment Grant. Based on the review of available information, DEQ has determined that the Site meets the eligibility criteria and is eligible to receive funding.

In order to determine the Site's eligibility, DEQ used the criteria presented in Section 1.3.2 of EPA's "Information on Sites Eligible for Brownfields Funding under CERCLA § 104(k)" as a guide.

Section 1.3.2 *Contamination by Petroleum or Petroleum Product* states:

"For a petroleum contaminated site(s) that otherwise meets the definition of a brownfield site to be eligible for funding, EPA or the state must determine:

1. There is no viable responsible party.
2. The site will not be assessed, investigated, or cleaned up by a person that is potentially liable for cleaning up the site.
3. The site must not be subject to a corrective action order under the Resource Conservation and Recovery Act (RCRA) §9003(h)."

"A Site for Which There is No Viable Responsible Party"

Section 1.3.2 states "A petroleum-contaminated site may be determined to have no responsible party if the site was last acquired (regardless of whether the site is owned by the applicant) through tax foreclosure, abandonment, or equivalent government proceedings, and that site meets the criteria in (1) below. Any petroleum-contaminated site not acquired by a method will be determined to have a responsible party if the site fails to meet the criteria in both (1) and (2) below.

- 1) No responsible party has been identified for the site through:
 - (a) an unresolved judgment rendered in a court of law or an administrative order that would require any party (including the applicant) to conduct the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal;
 - (b) an unresolved enforcement action by federal or state authorities that would require any party (including the applicant) to conduct the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal; or
 - (c) an unresolved citizen suit, contribution action or other third party claim brought against the current or immediate past owner for the site that would, if successful, require the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal to be conducted.
- 2) The current and immediate past owner did not dispense or dispose of, or own the subject property during the dispensing or disposal of any contamination at the site, did not exacerbate the contamination at the site, and took reasonable steps with regard to the contamination at the site.

Response:

- 1) DEQ has not identified any unresolved judgments rendered in a court of law or an administrative order that would require a party to assess, investigate, or cleanup the Site. DEQ does not have any unresolved enforcement actions against any party to assess, investigate, or cleanup the Site. DEQ has not identified any unresolved citizen suit, contribution action or other third party claim brought against the current or former owners that would require a party to assess, investigate, or cleanup the Site.
- 2) The current owner of the Site is Botts Marsh LLC (Kenneth Ulbricht) who acquired the property in 2016 from the immediate past owner, Vern Scovell. The former Wheeler Lumber Company operated onsite from at least the 1920s through 1950s or 60s. The Site has been primarily vacant since at least 1970. The owner has not dispensed or disposed of, or owned the Site during dispensing or disposal of any contamination at the Site. To our knowledge, the owner has not exacerbated contamination at the Site.

Based on this information, the Site does not have a viable responsible party. This determination is solely for the purposes of determining eligibility for Tillamook County's Brownfield Assessment Grant funding.

"Cleaned Up by a Person Not Potentially Liable"

Section 1.3.2 states "Brownfields grant funding may be awarded for the assessment and cleanup of petroleum-contaminated sites provided they meet the requests below:

- 1) the applicant has not dispensed or disposed of or owned the property during the dispensing or disposal of petroleum or petroleum-product at the site, and
- 2) the applicant did not exacerbate the contamination at the site and took reasonable steps with regard to the contamination at the site."

Response:

Tillamook County (applicant) has not dispensed or disposed of or owned the property during the dispensing or disposal of petroleum product at the site. Tillamook County has not exacerbated the contamination at the Site.

Petroleum Eligibility Letter
Highway 101 Former Mill Site
Wheeler, Tillamook County
January 5, 2024

“Is Not Subject to Any Order Issued under §9003(h) of the Solid Waste Disposal Act”

Response: The Site is not subject to a corrective action order under RCRA §9003(h).

Based on the above information, ODEQ has determined that the Highway 101 Former Mill Site located off Highway 101 at Marine Drive in Wheeler is eligible for funding from the Tillamook County Brownfield Assessment Grant.

If you have any questions or need clarification of any of the issues addressed in this letter, please do not hesitate to call me at (503) 229-5585.

Sincerely,



Kara Master
NW Region Brownfields Coordinator
Oregon DEQ

Cc: Sarah Absher, Tillamook County
Chris Chiola, Tillamook County
Sarah Lu Heath, ColPac
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