



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Northwest Region

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August 23, 2023

Meredith Lightbody
Brownfields and Land Revitalization Program
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave, Suite 155 (Mail Stop 15-H04)
Seattle, Washington 98101

Re: Petroleum Eligibility Determination
City of Chiloquin Community-wide Assessment Grant
Former Markwardt Brothers Garage
1st Ave at Chocktoot St, Chiloquin, OR 97624
Tax lots: 3407-034DC-00500 & 3407-034DC-00400

Meredith:

The Oregon Department of Environmental Quality (DEQ) has reviewed information associated with the Former Markwardt Brothers Garage Property (Site) located on the northeast corner of 1st Ave at Chocktoot Street in Chiloquin, Oregon. The Site is associated with the tax lots mentioned above in Klamath County.

The review was performed to determine if the Site is eligible to receive funding from the City of Chiloquin's Community-wide Assessment Grant. Based on the review of available information, DEQ has determined that the Site meets eligibility criteria and is eligible to receive funding.

In order to determine the Site's eligibility, ODEQ 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 is unaware of 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 property is currently owned by City of Chiloquin. The immediate prior property owner was Klamath County who acquired the property through tax foreclosure.

“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: The City of Chiloquin (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. The City of Chiloquin has not exacerbated contamination at the Site.

“Is Not Subject to Any Order Issued under Resource Conservation and Recovery Act (RCRA) §9003(h)”

Response: The Former Markwardt Brothers Garage Property is not subject to a corrective action order under the Solid Waste Disposal Act of RCRA.

Petroleum Eligibility Letter
Former Markwardt Brothers Garage
Chiloquin, Klamath County
August 23, 2023

Based on the above discussion, DEQ has determined the Former Markwardt Brothers Garage Property is eligible for petroleum funding from City of Chiloquin's Community-wide Assessment Grant.

If you have any questions or need clarification of any of the issues addressed in this letter, please contact me at (503) 229-5585.

Sincerely,



Kara Master
NW Region Brownfields Coordinator
Oregon DEQ

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