



Oregon

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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
POTB 13-Acre Site
7285 Long Prairie Rd (at Brickyard Rd)
Tillamook, Oregon
Tillamook County Tax lot: 2S09040000600**

Madison,

The Oregon Department of Environmental Quality (DEQ) has reviewed information for the property located at 7285 Long Prairie Road in Tillamook, Oregon (Site) and referred to as the “~13 Acre portion of Tillamook County Tax Parcel 2S09040000600” property. 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 Port of Tillamook Bay who acquired the property from the immediate past owner, Raymond J. Braun. This approximate 13-acre Site is part of the larger parcel listed in DEQ's Environmental Cleanup Site Information (ECSI) database and assigned ECSI #4604. Prior uses of the larger parcel included agricultural and former firing ranges. A 300-gallon diesel underground storage tank (UST) associated with a former radio transmission facility was decommissioned by removal in October 2006 and a release reported to DEQ and assigned LUST #29-06-1942.

According to the May 2007 "Soil Sampling and Underground Storage Tank Decommissioning Report", the UST was determined to be a heating oil tank associated with the former boiler room in the radio transmission building or a backup generator and, therefore, is not believed to have been used for retail fuel or bulk distribution purposes. 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:

It is DEQ's understanding that the Port of Tillamook Bay is an independent entity and separate from the county. 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.

"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 POTB 13-Acre Site located at 7285 Long Prairie Road in Tillamook 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
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