EPA - Region 10 Brownfields Site Eligibility Worksheet

(Updated: 12/5/17)

This worksheet is intended for EPA Region 10 Brownfields Cooperative Agreement Recipients (referred to as "grantee") as an aid for determining site eligibility. Brownfields funding can only be used on sites that meet the definition of a Brownfield. While this worksheet outlines many factors to be considered in determining eligibility, it does not capture all requirements. As an optional aid, grantee's may submit the completed form to their EPA Brownfields Project Officer. EPA will review the determination and may require additional information. You may contact your Project Officer if you have any questions.

Grantee name: City of Olympia WA

Date submitted to EPA: 2/11/2020

Date of proposed work: March 2020

Grant #: BF01J66201

Grant type:

☒ Assessment ☐ Cleanup ☐ Revolving Loan Fund ☐ State & Tribal Response Program

Activity requested:

☐ Phase I ☒ Phase II ☐ ABCA ☐ Cleanup ☐ Other

Explain if other:

Known or Suspected Contaminant(s):

☐ Hazardous Substance(s) ☐ Petroleum ☒ Commingled

If the site has both hazardous substances and petroleum contamination that is commingled (i.e. not easily distinguishable), select the "commingled" box as well as the predominant contaminant. If the contamination is in distinguishable areas, then select both types of contamination.

Section A - Basic Site Information

Please attach a map of the site to assist with the determination.

A.1) Property Name: Hardel Mutual Plywood

A.2) Property Address: 1210 West Bay Drive NW

A.3) City: Olympia State: WA Zip Code:

A.4) Cross street (if applicable):

A.5) State Facility # (if applicable):

75128579

A.6) Tax Lot Number(s) and County:

A.7) Site Description (acreage, dimensions, GPS coordinates, etc):

Approximately 18 acres including upland and subtidal areas along Budd Inlet

A.8) Who is the current property owner? Hardel Mutual

A.9) Describe your relationship with the owner and their role in the work to be performed:

No relationship other than providing access

A.10) Does the grantee have access to, or an access agreement for, this property? ☒ Yes ☐ No

☐ Copy of signed agreement attached

If no, explain how & when access will be acquired:

A.11 Explain why you want to assess/clean-up this property. What is the desired reuse? Is there a prospective purchaser interested in the property? Is the transaction time sensitive? Include any other details that you believe to be relevant.

Developer interested in purchasing and developing multitenant residential. Phase I has been completed using private funds. This is one of the priority sites listed in the brownfield grant application.

A.12) Describe the type of activities that have been conducted on the property and indicate generally when such activities took place. Identify when and how the site became/may have been contaminated; with what substance(s); the part(s) of the site that are contaminated; and, describe previous known uses. If the land has been vacant for many years or contamination is only suspected, explain why you think it needs assessment or cleanup:

From 1924 – 1996 the site was used for logging and lumber businesses. Hardel ceased operations at the site after a fire severely damaged buildings. Past business activities contaminated soil and groundwater at the site. Contaminants included heavy oil and diesel petroleum hydrocarbons and polycyclic aromatic hydrocarbons (PAHs). Offshore sediment is contaminated with dioxins and pthalates but is not associated with on-site operations. Phase I ESA identified the following RECs:
-fill material of an unknown origin
-potential for impacted groundwater from the south-adjoining Reliable steel site
-impacted off-shore sediment

A lot of the impact has already been cleaned up back in 2010, but some questions remain.

SECTION B - General Eligibility

Complete this section for each site regardless of contamination type.

B.1 - Sites Not Eligible for Funding by Statutes

a) Is the property listed on the National Priority List (NPL) or identified as part of a larger Superfund site under a different name?

☐ Yes ☒ No

b) Is this property located within the boundaries of Superfund site? *If yes, or unsure, check with your Project Officer to determine whether or not it is a contributor.*

☐ Yes ☒ No

c) Is the facility subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA?

☐ Yes ☒ No

d) Is the facility subject to the jurisdiction, custody, or control of the US Government? (Land held in trust by the US government for an Indian tribe *is* eligible)

☐ Yes ☒ No

e) Is any of the work being performed in order to comply with any federal environmental requirements?

☐ Yes ☒ No

B.2 - Sites Only Eligible for Funding with a Property Specific Determination by EPA

NOTE: The following special classes of properties require a "Property-Specific Determination" from EPA to be eligible. EPA's approval of a Property-Specific Determination will be based on whether or not awarding a grant will protect human health and the environment and either promote economic development or enable the property to be used for parks, greenways, and similar recreational or nonprofit purposes.

a) Is the site/facility subject to a planned or ongoing CERCLA removal action?

☐ Yes ☒ No ☐ Unsure

b) Has the site/facility been subject to an order or consent decree, or issued a permit by the U.S. or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SWDA)?

☐ Yes ☒ No ☐ Unsure

c) Is the site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h))?

☐ Yes ☒ No ☐ Unsure

d) Is the site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle of RCRA and is subject to closure requirements specified in a closure plan or permit?

☐ Yes ☒ No ☐ Unsure

d) Has the site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation under TSCA?

☐ Yes ☒ No ☐ Unsure

e) Is the site currently receiving funding for remediation from the leaking Underground Storage Tank (LUST) Trust fund?

☐ Yes ☒ No ☐ Unsure

SECTION C - Hazardous Substance/Commingled Sites

Complete this section based on your response to"known or suspected contaminant" on page 1. Skip to Section D if the property is a petroleum site.

C.1 - Grantee

a) Does the grantee own the site?

☐ Yes ☒ No

NOTE: Grantees may assess (or cleanup if a 128(a) State Response Program) hazardous substance/commingled sites which they do not own where there is substantial public benefit or other compelling reason to use public funds for the assessment, even when the owner could be considered a potential responsible party. In such cases EPA recommends documenting the rationale for doing so.

b) Has the grantee ever leased, used, or accessed, or otherwise conducted or directed activities on the property?

☐ Yes ☒ No

i) Have any of these activities contributed to contamination?

☐ Yes ☒ No

c) Did the grantee generate or transport any waste brought to the site?

☐ Yes ☒ No

NOTE: Grantees cannot use EPA funds to conduct assessment or cleanup activities at sites where they operated, generated, or transported hazardous substances.

d) Is the grantee affiliated with the liable, or potentially liable party?

☐ Yes ☒ No

Explain if you answered "yes" to questions b-d:

C.2 - CERCLA Liability Defense

Complete this section only if the grantee owns the property. If the grantee does not own the property, skip to section "D" or "E" as appropriate.

NOTE: Because current owners of contaminated property are potentially liable under CERCLA, the grantee must demonstrate that they are not a liable party by establishing that they meet the requirements of one of the liability protections or defenses set forth in CERCLA. For more information on these liability protections, please refer to the Brownfields Law, the April 2009 Fact Sheet entitled: "EPA Brownfields Grants, CERCLA Liability and All Appropriate Inquiries," (https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries and the March 6, 2003 EPA guidance entitled Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA ("Common Elements") (http://www2.epa.gov/sites/production/files/documents/common-elem-guide.pdf). Grantees may also call the Regional Brownfields Contact listed in Section VII with questions about eligibility.

a) If the grantee owns the property, indicate whether one of the following bases for determining that the grantee is not potentially liable as an owner under Section 107(a) of CERCLA applies.

☐ The grantee is a recognized tribal government entity and is not a "person" under the definition of CERCLA.

☐ The grantee acquired the property without knowledge of contamination (Innocent Landowner - CERCLA §101(35)(A)(i)).

☐ The grantee satisfies Bona Fide Prospective Purchaser (BFPP) protection (CERCLA §§101(40) and 107(r)).

☐ The grantee satisfies contiguous property owner protection for migrated contamination (CERCLA §107(q)).

☐ The grantee is a state or local government entity that acquired the property involuntarily through bankruptcy, tax delinquency, abandonment, or by exercising its power of eminent domain (Innocent Landowner - CERCLA §101(35)(A)(ii)).

Explain how the grantee qualifies for the defense selected above:

All Appropriate Inquiry (AAI)

b) Has the owner conducted AAI?

☐ Yes ☐ No

c) When was the property acquired?

d) What is the date of the Phase I report?

Phase I "Shelf Life"

For properties acquired on 11/1/06 or later, one of the following must apply:

1) The Phase 1 was conducted within 180 days prior to property acquisition; OR

2) The Phase I was conducted within 1 year AND an updated report is dated within 180 days prior to acquisition.

e) Indicate which Phase I standard was used to conduct AAI?

☐ ASTM e1527-05 or ASTM e1527-13 (sites purchased after 12/31/13)

☐ ASTM E2247-08 (sites purchased on 3/23/09 or later & qualify as Forestland/Rural)

☐ ASTM e1527-05 (sites purchased between 11/1/06 and 12/31/13)

☐ ASTM e1527-00 or 1527-05 (sites purchased between 11/1/05 and 11/1/06)

☐ ASTM e1527-97 or 1527-00 (sites purchased between 5/31/97 and 11/1/05)

☐ Pre-5/31/97 purchaser standard as outlined in CERCLA§101(35)B)(iv)(I)

Reasonable Steps and Continuing Obligations

f) Has the owner taken reasonable steps with respect to hazardous substance releases?

☐ Yes ☐ No

Reasonable steps are actions taken to:

☐ Stop any continuing releases;

☐ prevent any threatened future release;

☐ prevent or limit exposure to any previously released hazardous substance

g) Has the owner complied with all land use restrictions and institutional controls since acquiring the property?

☐ Yes ☐ No ☐ Not applicable

h) Has the owner provided full cooperation, assistance, and access to persons that are authorized to conduct response actions?

☐ Yes ☐ No ☐ Not applicable

i) Has the owner complied with information requests and administrative subpoenas?

☐ Yes ☐ No ☐ Not applicable

j) Has the owner complied with providing legally required notices?

☐ Yes ☐ No ☐ Not applicable

Explain:

SECTION D - Petroleum Contamination Sites

Complete this section if you selected petroleum under "known or suspected contaminants" on page 1. Skip to Section E if your site is not a petroleum site.

Do you have a State determination letter attached?

☐ Yes ☐ No

NOTE: All petroleum sites need a written determination of eligibility by the State Environmental Agency or EPA based on the answers to Section D. Please answer these questions AND attach the State determination. The determination must address the petroleum eligibility criteria outline in the brownfields grant guidelines. States may apply their own laws and regulations to make the petroleum site determination; if they do so, please provide their determination and rationale.

D.1 - "Relatively Low Risk"

The State or EPA will have to determine that this site is of "Relatively Low Risk" compared to other petroleum-only sites in the State. Two key questions for this determination follow:

a) Have Leaking Underground Storage Tank funds been expended at this site?

☐ Yes ☐ No ☐ Unknown

b) Have Federal Oil Pollution Act response funds been expended at this site?

☐ Yes ☐ No ☐ Unknown

D.2 - "A Site for Which there is No Viable Responsible Party"

The State or EPA will have to determine that there is no viable responsible party using the following criteria.

a) Was the site last acquired through tax foreclosure, abandonment, or equivalent government proceedings?

☐ Yes ☐ No

b) Has a responsible party been identified through:

i) a judgment rendered in a court of law or an administrative order that would require any party to assess, investigate, or cleanup the site?

☐ Yes ☐ No

ii) a filed enforcement action brought by federal or state authorities that would require any party to assess, investigate, or cleanup the site?

☐ Yes ☐ No

iii) a citizen suit, contribution action or other 3rd party claim against the current or immediate past owner, that would, if successful, require that party to assess, investigate, or clean up the site?

☐ Yes ☐ No

Explain if you answered "yes" to any of the above:

c) Has the current owner done any of the following:

i) Dispensed or disposed of petroleum or petroleum product at the site?

☐ Yes ☐ No

ii) Owned the property during the dispensing or disposal of petroleum product at the site?

☐ Yes ☐ No

iii) Exacerbated the contamination at the site?

☐ Yes ☐ No

iv) Taken reasonable steps with regard to contamination at the site?

☐ Yes ☐ No

Explain if you answered "yes" to any of the above:

d) Who is the immediate past owner?

e) Has the immediate past owner done any of the following?

i) Dispensed or disposed of petroleum or petroleum product at the site?

☐ Yes ☐ No

ii) Owned the property during the dispensing or disposal of petroleum product at the site?

☐ Yes ☐ No

iii) Exacerbated the contamination at the site?

☐ Yes ☐ No

iv) Taken reasonable steps with regard to contamination at the site?

☐ Yes ☐ No

Explain if you answered "yes" to any of the above:

f) Based on the above, for purposes of brownfields funding, is there a responsible party?

☐ Yes ☐ No

Explain:

g) If answer to f) is yes, is that party viable (has adequate financial resources to pay for assessment of the site)?

☐ Yes ☐ No

Explain:

The petroleum site is ineligible if there is a viable responsible party. If there is no responsible party, or if there is a responsible party who is not viable, continue.

D.3 - "Cleaned Up By a Person Not Potentially Liable"

The State or EPA must also determine that the site will be cleanup up by a person not potentially liable. This applies to cases where the grantee is not the current owner.

a) Has the grantee ever:

i) Exacerbated the contamination at the site?

☐ Yes ☐ No

Explain:

ii) Dispensed or disposed of petroleum or petroleum product at the site?

☐ Yes ☐ No

Explain:

iii) Explain how the grantee/applicant took "reasonable steps" with respect to the contamination:

D.4 - Sites Not "Subject to a RCRA Corrective Action Order"

a) Is the site "subject to any order issued under Sec. 9003 (h) of the Solid Waste Disposal Act?"

☐ Yes ☐ No

Explain if "yes":

SECTION E - Site Eligibility Determination

Complete your eligibility determination based on the information you provided.

Grantee Determination

☒ The Site is eligible for EPA Brownfields Funds.

☐ The Site is not eligible for EPA Brownfields Funds.

☐ The Site is eligible for EPA Brownfields Funds but requires EPA Property-Specific Determination.

If requiring a property-specific determination, explain why Brownfields financial assistance is needed and how it will protect human health and the environment and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways undeveloped property, other recreational property, or other property used for nonprofit purposes:

Name: Joel Hecker

Organization: PIONEER

Date: 2/11/2020

List any attachments that are being included to support your determination:

EPA Review Results

☒ EPA accepts the grantee's determination that the site is eligible for brownfields funds.

☐ EPA has determined that the site is not eligible for Browfields funds.

☐ The site would be excluded from the definition of a Brownfields site in 101(39)(B) but EPA has determined the site is eligible for funding per 101(39)(C) based on the information provided by the requestor.

☐ EPA does not have sufficient or appropriate information to accept the grantee's determination.

Comments:

work to be conducted will be upland

EPA Project Officer: SUSAN MORALES Digitally signed by SUSAN MORALES Date: 2020.02.20 17:11:05 -08'00'

Date:

EPA Staff Enforcement Screen

☒ Confirmed non-contributor to a Superfund site

Date: