

Montana DEQ Petroleum Brownfields Guidance

I. Introduction to Montana's Brownfields Program

The DEQ Federal Facilities and Brownfields Section is the primary administrator of Montana's Brownfields Program in Montana. This section is located within the Remediation Division at the Montana Department of Environmental Quality (DEQ). The Brownfields Program divides its funding between two sources of contamination: Hazardous Substances and Petroleum. The Petroleum Brownfields Program possesses unique requirements and receives specific funding to address "petroleum-only" Brownfields sites – sites where the sole contaminant is petroleum. At sites where minor, non-petroleum contamination may exist, remediation of the petroleum contamination may concurrently address all contamination and not be considered a petroleum-only site. This guidance only addresses Petroleum Brownfields sites and does not address Hazardous Substance Brownfields sites or mine-scarred land. DEQ's Petroleum Brownfields strategy is to promote environmental protection, support community revitalization, and promote economic redevelopment through the responsible assessment, cleanup, and sustainable reuse of Petroleum Brownfields sites throughout the State of Montana. DEQ determines whether petroleum-only sites in Montana meet the eligibility requirements for Petroleum Brownfields funding as authorized by federal law ((42 U.S.C. 9601(39)(D)(ii)(II)(bb)).

II. Brownfields Definitions

A Brownfields site is "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of hazardous substances, pollutants, contaminants, controlled substances, petroleum or petroleum products, or is mine-scarred land."

III. Brownfields Program Strategy

Transforming petroleum contaminated or potentially contaminated sites into sustainable commercial businesses, affordable housing, or open space, broadens prospects for a healthy environment for future generations by protecting the quality of the natural environment and safeguarding human health. Addressing these properties also reduces long-term environmental liability for current and future landowners. Reinvesting in an abandoned or underutilized property within Montana communities helps limit sprawling development into valued open spaces and adjacent farmlands. This reduces resource consumption and stimulates economic development through the creation of jobs, providing an increase to the local and statewide tax base. In addition, the assessment, cleanup, and revitalization of petroleum-contaminated properties fosters partnerships between state, local, and private groups that support community efforts while maximizing resource allocations between public and private partnerships. This approach results in the restoration of underutilized and abandoned gas station properties and other petroleum-contaminated sites to sustainable and productive uses within local communities.

Site redevelopment plans may be combined with most community master plans and economic development plans through other state agencies. Specific strategies for environmentally-sound reuse planning may include native landscaping of open spaces to reduce water consumption, smart growth, alternative storm water management plans, or

construction of energy-efficient buildings. Brownfields revitalization funding helps move sites toward these objectives. In addition to achieving local re-development goals, DEQ project managers work with property owners, applicants, non-profits, Economic Development Authorities (EDAs), local governments, and Brownfields grantees on assessment and cleanup plans, ensuring that Montana cleanup standards are met in a responsible manner, and sites are categorized as resolved in accordance with Administrative Rules of Montana (ARM) 17.56.607.

All activities undertaken at Brownfields sites regulated under the Montana Underground Storage Tank Act (MUSTA) (§75-11-501, MCA) or the Petroleum Storage Tank Cleanup Act (§75-11-301, MCA) are required to be submitted to and pre-approved by DEQ regardless of funding source.

IV. Brownfields Grant Types

The EPA offers competitive grants for assessment and cleanup of Brownfields sites; EPA also utilizes Revolving Loan Funds (RLFs) for Brownfields cleanup. These three grant types are briefly discussed below in sections IV (A), IV (B), and IV (C). Guidelines and required application materials for each of these grants are available from EPA's website at <https://www.epa.gov/brownfields/types-brownfields-grant-funding>.

To find a list of Brownfields grants awarded in Montana, visit the EPA's Brownfields Grant Fact Sheet Search at http://cfpub.epa.gov/bf_factsheets/index.cfm. Information on existing Montana economic development corporations, many of which have been awarded these grants, can be found here: <http://deq.mt.gov/Portals/112/Land/brownfields/documents/MontanaEDAsJurisdictionsMonies.pdf>.

In order to apply for a Brownfields grant, federal law requires the applicant to be one of the following:

- A general purpose unit of local government (e.g. county, city, etc.);
- A land clearance authority or other quasi-governmental entity that operates under the supervision and control of, or as an agent of, a general purpose unit of local government;
- A government entity created by state legislature;
- A regional council or group of general purpose units of local government;
- A redevelopment agency that is chartered or otherwise sanctioned by a state;
- The state;
- A Native American Tribe; or
- A nonprofit agency (MAY APPLY FOR CLEANUP GRANTS ONLY)

A) Brownfields Assessment Grants

Brownfields Assessment Grants provide funding for developing and prioritizing inventories of Brownfields sites, conducting community involvement activities, and conducting site assessments and cleanup planning related to Brownfields sites. Only the eligible entities listed above may apply for Brownfields Assessment Grants from

EPA (nonprofit agencies may only apply for Cleanup grants). Eligible entities can use Assessment Grant funds to perform assessments at Petroleum Brownfields eligible sites. Petroleum Brownfields site eligibility is determined by DEQ in accordance with Section V.

In order to use EPA Assessment grant funding at sites that the grantee does not own, the property owner must grant access to the site, and a “Letter of Intent” from a prospective purchaser should be supplied to DEQ in order to make a Viable Responsible Party determination (see Appendix B for a sample “Letter of Intent”).

B) Brownfields Cleanup Grants

Brownfields Cleanup Grants are used for cleanup activities at specific Brownfields sites owned by the applicant. Unlike Brownfields Assessment and RLF Grants, nonprofit organizations are eligible to apply to EPA for Brownfields Cleanup Grants. According to federal law, Cleanup Grant applicants must be the sole owner of the Brownfields eligible property by October 16 of the grant year. For purposes of eligibility determinations, the term “owner” means the holder of fee simple title to the property. In order to make a Viable Responsible Party determination, DEQ will need a copy of the recorded deed evidencing ownership of the property be submitted with Eligibility Application in accordance with Section V.

C) Brownfields Revolving Loan Fund (RLF) Grants

RLF Grants provide funding to conduct cleanup activities at Brownfields eligible sites, typically in the form of low-interest loans or subgrants. Loans and subgrants are available from Brownfields RLF grantees (i.e. EDAs, municipalities, counties, etc.). Information on existing Montana RLFs can be found here:
<http://deq.mt.gov/Portals/112/Land/brownfields/documents/MontanaEDAsJurisdictionMonies.pdf>.

D) Targeted Brownfields Assessments TBA

In addition to the grants listed above, applicants with Brownfields eligible sites may apply for TBAs from EPA or Montana Brownfields Assessments (MBAs) from DEQ. Applications may be submitted directly to the regional EPA office or DEQ, once DEQ has determined site eligibility. If funding is available, EPA or DEQ will directly contract the work with one of their contractors.

After initial TBA work has been completed, a report is prepared detailing the findings and providing recommendations. Meetings may be held to discuss the results of assessment activities and the potential need for future work.

After a site has been determined by DEQ to be Petroleum Brownfields eligible, parties may contact Bill Rothenmeyer of the EPA Region 8 Montana Office at (303) 312-6045 for TBA information from EPA or Brandon Kingsbury of the DEQ Brownfields Section for MBA information at (406) 444-6547. Owing to limited MBA resources, the criteria outlined in Table 1 below will be applied to determine sites for which MBA-funded assessments may be completed.

V. Petroleum Brownfields Site Eligibility

The federal brownfields law authorizes the State to determine whether petroleum-only Brownfields sites meet the eligibility requirements set forth in the law ((42 U.S.C. 9601(39)(D)(ii)(II)(bb)), and the EPA has deferred this eligibility determinations for all non-tribal Petroleum Brownfields sites in Montana to DEQ.

As a general rule, properties that currently dispense petroleum or petroleum-related products, such as active gas stations, are not be considered eligible to receive Petroleum Brownfields funding in Montana, as these sites typically have a viable responsible party, as defined in Section VI.

DEQ has prepared an Eligibility Determination Form to evaluate whether a site meets Montana Brownfields eligibility criteria (Appendix A). This form generally follows EPA guidelines; however, Montana's requirements include considerations specific to state laws, policies, and conditions. For example, sites may be eligible if:

- the current owner is only one party removed from previous owners who dispensed or disposed of petroleum or petroleum-related products; or,
- EPA Leaking Underground Storage Tank (LUST) Trust funding was previously expended at this site; or,
- a previous owner would have been considered to be a viable responsible party.

A determination by DEQ that a petroleum-contaminated site is eligible for Brownfields funding does not release any party from their obligations to remediate petroleum contaminated sites under state or federal law or in any way limit federal or state regulatory enforcement authority.

DEQ's Petroleum Brownfields strategy is to promote environmental protection, support community revitalization, and promote economic redevelopment through the responsible assessment, cleanup, and sustainable reuse of Petroleum Brownfields sites throughout the State of Montana. A Brownfields applicant should be aware that, in many cases, additional cleanup or monitoring of the site may be necessary after Brownfields funding is expended.

Pursuant to the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) of 2002), in order for a petroleum release site to be eligible for Brownfields funding, the site must meet the following four criteria:

- The site is of "relatively low risk" compared with other "petroleum-only" sites in the state;
- There is no viable responsible party;
- The site will not be assessed, investigated, or cleaned up by a person that is potentially liable for cleaning up the site; and,
- The site must not be subject to a corrective action order under the Resource Conservation and Recovery Act (RCRA) §9003(h) or comparable state law (i.e. MUSTA).

DEQ applies these criteria as follows:

A) Relative Risk

DEQ determines that sites are of “relatively low risk” if the site is not currently being addressed by the LUST Trust Fund Program or the Oil Pollution Act.

B) Viable Responsible Party

DEQ determines whether a viable responsible party (RP) exists in a two-step process: DEQ first determines whether a RP exists for the site; then if one does exist, DEQ determines whether the RP is financially viable to conduct the necessary environmental work. If a RP is not found to exist under the first step, there is no need to conduct the second (viability) step.

Step 1 – Responsible Party Determination

If the property was acquired by tax foreclosure, abandonment, or equivalent government proceedings, a responsible party exists if one has been identified through:

- a judgment rendered in a court of law;
- an administrative order;
- an enforcement action; or
- a citizen suit requiring a party to assess, investigate, or cleanup the site.

If the property has been acquired by any other means, a RP exists if:

- an RP has not been identified through a judgment rendered in a court of law, an administrative order, an enforcement action, or a citizen suit;
- The current owner dispensed or disposed of petroleum or petroleum products, or owned the property during the dispensing or disposal of petroleum or petroleum products at the site;
- The current owner exacerbated contamination at the site; or
- The current owner failed to take reasonable steps with regard to the contamination at the site.

If no responsible party is identified by one of the above criteria, then the “no viable RP” eligibility criteria is met for Petroleum Brownfields funding. If a RP is identified, then the site may still be eligible if that party is determined to not be viable through Step 2 below.

Step 2 – Viability Determination

A determination of financial viability will be made by DEQ via an Ability to Pay Analysis. Sites with an RP identified in Step 1 may still be considered eligible if the RP provides DEQ with sufficient financial information to determine that they are not capable of satisfying their obligations under federal or state law to assess, investigate, or cleanup the site. The Forms required for a viability determination are available upon request from DEQ.

- A. If the responsible party is an individual, an INDIPAY analysis will be performed. INDIPAY is an EPA-provided, regulatory, environmental computer model used to evaluate claims of inability to pay from individuals. The INDIPAY model requires

five years of individual tax return data and an Individual Ability to Pay Claim Form. Sole proprietors must submit the last five years of year-end financial statements, including balance sheets, income statements, and statements of cash flow, supplemental notes and auditor's opinion (if available).

- B. If the responsible party is a corporation, an ABEL analysis will be performed. ABEL is an EPA-provided, regulatory, environmental computer model used to evaluate claims of inability to pay from corporations and partnerships. Documents required for an ABEL analysis include tax return data, or if tax return data is not available, analysis of private corporations can be performed using financial statements, loan applications, and Dun & Bradstreet reports.
- C. If the responsible party is a municipality or regional utility, a MUNIPAY analysis will be performed. MUNIPAY is an EPA-provided, regulatory, environmental computer model used to evaluate claims of inability to pay from municipalities, sewer authorities, and drinking water authorities. MUNIPAY performs two different analyses, a demographic comparison, which uses U.S. Census data to compare the municipality to state and national norms, and an affordability calculation, which assesses the amount of currently available funds and, if necessary, funds available through financing.

In order for DEQ to determine that a viable responsible party does not exist at Petroleum Fund eligible sites, the Brownfields grantee must submit a Petroleum Fund Form 5 designating the Petroleum Brownfields grantee (and no other private entity) to receive reimbursements from the Petroleum Fund.

C) Cleaned Up by a Person Not Potentially Liable

Brownfields funding may be awarded for the assessment and cleanup of petroleum-contaminated sites provided that:

- the applicant has not dispensed or disposed of petroleum or petroleum-product at the site, and
- the applicant did not exacerbate the contamination at the site and took reasonable steps with regard to the contamination at the site.

D) Not Subject to a Corrective Action Order

Brownfields funding may be awarded for the assessment and cleanup of petroleum-contaminated sites provided the site is not subject to a corrective action order under a Resource Conservation and Recovery Act (RCRA) §9003(h) or the Montana Underground Storage Tank Act.

VI. Use of Petroleum Brownfields Funding for Properties that are eligible for the Montana Petroleum Tank Release Compensation Fund (Petroleum Fund) Reimbursement

Petroleum Brownfields funds can sometimes be used in conjunction with Petroleum Fund reimbursement funds to remediate petroleum release impacts – often to help meet co-pay requirements. DEQ encourages the leveraging of other funding sources to address contamination and facilitate development and productive land uses at Brownfields sites. Common state funding sources used at Brownfields sites include the Petroleum Fund and Resource Development Grants managed by the Montana Department of Natural Resources and Conservation. It is important to note that all Petroleum Fund funding determinations are made by the Petroleum Tank Release Compensation Board (Board). If Applicants intend to use other funding sources toward meeting co-payment requirements, they should coordinate with DEQ and Board staff prior to work being conducted.

Petroleum Fund reimburses fund eligible owners/operators for the first half of the initial \$35,000 of actual, necessary, and reasonable expenses. This first \$17,500 is referred to as a “co-payment.” After the co-payment has been met, up to 100% of the actual, necessary, and reasonable costs may be reimbursed, up to a maximum of \$982,500 in total costs.

The Petroleum Fund is a reimbursement fund; therefore, there may be a period of time between the work being completed and the funds being reimbursed by the Petroleum Fund. This may result in owners and operators having to expend funds up-front in order to get work completed and then receive reimbursement of those costs at a later date. When there is a delay in reimbursement from the Petroleum Fund, Brownfields funding may be used to provide gap financing for both Assessment and Cleanup activities. RLFs may also be used as working capital to extend low or no-interest loans to responsible parties. In accordance with EPA guidance, costs above and beyond those reimbursed by the Petroleum Fund may also be eligible for Brownfields funding, so long as they are determined to be reasonable and eligible. To ensure that Brownfields activities are reimbursed by the Petroleum Fund, costs must comply with the Petroleum Fund’s approved rates.

When multiple sources of funding (e.g. Brownfields, Petroleum Fund, and Resource Development Grants) are used on a single project, it is critical to coordinate efforts among the various granting agencies in order to maximize leveraging of funds. Many of these agencies have different eligibility criteria, documentation need, cost structures, or auditing requirements. This can best be accomplished by identifying which tasks are being funded by which funding source as part of the Work Plan that must be submitted and approved by DEQ under authority of the Montana Underground Storage Tank Act (MUSTA) (§75-11-501, MCA) or the Petroleum Storage Tank Cleanup Act (§75-11-301, MCA). Tasks and funding sources can be broken out in a matrix format (See Appendix D). Please note that each granting agency should also be consulted on their specific coordination requirements.

Table 1

Road Map for using Brownfields funds in conjunction with the Petroleum Fund at eligible sites:

1. Submit DEQ Brownfields Eligibility Determination Form. If eligible, site may proceed through this process.
2. If Brownfields Assessment and Cleanup costs are going to be applied toward Petroleum Fund co-payments, owner must submit a Petroleum Fund eligibility request (Form 1R* if new to the Petroleum Fund or Form 1T* if already eligible).
3. If Petroleum Fund eligible, then owner may designate the Petroleum Brownfields grantee as the site's representative by submitting a Form 5*. This action will permit direct invoicing and reimbursement between the designated party (i.e. the grantee) and Petroleum Fund. If the owner does not designate the Petroleum Brownfields grantee to receive reimbursement from the Petroleum Fund, it may hinder DEQ's determination on whether a viable responsible party exists for this site (as described in Section V above).
4. DEQ will submit a Work Plan request to the property owner. The site's environmental professional will then provide the requested Work Plan to DEQ.
5. DEQ and Petroleum Fund staff will review and approve the Work Plan for scope and costs prior to any tasks being undertaken. Failure to acquire pre-approval for work undertaken at a site may result in the Petroleum Fund not reimbursing incurred costs and/or DEQ issuing a letter to the owner expressing that the Work Plan was not scoped by DEQ and therefore not eligible for Petroleum Brownfields funding. To ensure that Brownfields activities are reimbursed by the Petroleum Fund, costs must comply with the Petroleum Fund's approved rates.
6. An environmental professional performs the approved Tasks of the Work Plan and submits a final report to DEQ Brownfields.
7. When the work is complete and invoices are billed to owner/grantee; the grantee should submit a claim for reimbursement (Form 3) directly to the Petroleum Fund.
8. Any co-pay/excess costs not eligible for reimbursement by the Petroleum Fund will be the grantee's or owner's responsibility.

*All Petroleum Fund forms can be found at the following webpage:

<http://deq.mt.gov/DEQAdmin/PET/forms>.

Appendix A:

Petroleum Brownfields Eligibility Determination Form

Montana Department of Environmental Quality Petroleum Brownfields Eligibility Determination Form*

Please check the box below indicating the type of Montana Brownfields grant being requested.

ASSESSMENT CLEANUP REVOLVING LOAN FUND (RLF)

*This form is designed to assist Montana DEQ in site eligibility determinations for Petroleum Brownfields eligible sites; this is not an application for a Brownfields grant or loan. Additionally, a determination of eligibility does not waive any liability or absolve one from compliance with federal or state laws or regulations. This form does not impact or limit EPA or state enforcement authority with respect to any party.

For additional information on eligibility requirements, please refer to the Montana DEQ Petroleum Brownfields Guidance document (“Guidance document”). Answer the following questions completely and accurately. Responses will assist DEQ in determining eligibility, as outlined in the Montana DEQ Petroleum Brownfields Guidance document. Eligibility determinations will be delayed if all information is not provided on or submitted with this form. If assistance with this form is needed, please contact Brandon Kingsbury, DEQ’s Petroleum Brownfields Coordinator at (406) 444-6547.

A Brownfields site is defined as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of hazardous substances, pollutants, contaminants, controlled substances, petroleum or petroleum products, or is mine-scarred land.” **A section for a narrative expressing how this site meets the intent of Brownfields is now included in the application.**

Examples of Petroleum Brownfields eligible sites may include:

- Abandoned gas stations
- Old factories, refineries, mills, and foundries
- Former Auto Repair Shops

Contact Person (This will be the point-of-contact for all DEQ correspondence regarding this application [e.g. EDA, City, County, non-profit, etc.]

Name: _____

Affiliation: _____

Mailing address: _____

E-mail address: _____

City and County: _____

Telephone number: _____

Fax number: _____

Application Submitted on behalf of: _____

Site/Project Location

Current site/business name: _____

Current owner and date of acquisition: _____

Was the site acquired through tax foreclosure, abandonment, quit claim, or equivalent government proceedings? _____

Immediate past owner and date of acquisition: _____

Previous site/business names or aliases: _____

Site address/location (please attach map): _____

City and _____

County: _____

Acreage: _____

Legal description: _____

Facility ID and Release ID numbers, if applicable: _____

Is the site currently dispensing petroleum or petroleum products? _____

Ownership Information

Has there been a reported release at this site? _____

If so, has DEQ requested a Remedial Investigation or Corrective Action Plan? _____

Has the current or past property owner applied for assistance from the Petroleum Tank

Release Compensation Fund (PTRCF)? _____

If eligible, what percent reimbursement has PTRCF allocated? _____

If the site is eligible, has the deductible been met? (Yes/No) _____

Please provide a detailed account of the use of the property under the current owner(s), with approximate dates (attach extra pages if necessary).

The following Criteria are adopted directly from the *Environmental Protection Agency FY15 Guidelines for Brownfields Assessment Grants* document, page 47, Eligibility Criteria.

Criteria 1. Were Petroleum Products dispensed or disposed of at the site?

____ 1.1 Is there reason to believe that petroleum products were dispensed, stored, or disposed of on or immediately adjacent to the property (i.e. gasoline, diesel, waste oil, heating oil, &c.)?

1.2 Describe the locations of any petroleum products that could have potentially been released to the environment (include a map as necessary): _____

Criteria 2. The site must be of “relatively low risk” compared with other “petroleum-only” sites in the state.

____ 2.1 As expressed in the Guidance document, is the site currently receiving or using LUST Trust Fund money?

____ 2.2 Is the site currently subject to a response under the Oil Pollution Act?

If you answered “yes” to either of the questions above, the site is not of relatively low risk and is ineligible for Brownfields funding. If you answered “no” to both questions, please continue to Criteria 3.

Criteria 3. The site must not be subject to any judgment, enforcement action, subject of a suit, or corrective action order issued under §9003(h) of the Solid Waste Disposal Act or comparable state law (i.e. MUSTA).

- ____ 3.1 Is there or has there been a judgment rendered in a court of law or an administrative order requiring any person to assess, investigate, or cleanup the site?
- ____ 3.2 Is there or has there been an enforcement action by federal or state authorities against any party that would require any person to assess, investigate, or cleanup the site?
- ____ 3.3 Is there or has there been a citizen suit, contribution action, or third-party claim brought against the current owner that would, if successful, require the assessment, investigation, or cleanup of the site?

Describe the most recent environmental investigations at the site. Include date, investigation type, and results. This could include investigations for regulatory purposes or environmental assessments conducted to facilitate a property transfer.

If the answer to any questions in Criteria 3 is “yes,” the site is ineligible for Brownfields funding. If you answered “no,” please continue to Criteria 4.

Criteria 4. There is no viable Responsible Party/Parties (RP).

If this Determination is being submitted on behalf of a prospective owner for an Assessment, also complete Criteria 4c.1 - 4c.3 and submit a Letter of Intent (Appendix B). Please note that only actual owners of the subject property may receive Brownfields RLF or Cleanup funding.

Criteria 4a. Is there a RP?

- ____ 4a.1 Has a RP been identified by judgment, administrative order, or enforcement action?
- ____ 4a.2 Did the current owner dispense or dispose of, or own the subject property during the dispensing or disposal of, any petroleum or petroleum products at the site?
- ____ 4a.3 Did the current owner exacerbate contamination at the site?
- ____ 4a.4 Has the current owner taken reasonable steps with regard to contamination at the site? Please explain the reasonable steps undertaken: _____
-

If the answers to any questions in Criteria 4a.1 – 4a.3 are “yes,” then there is a RP for this site and viability must next be determined; please continue to Criteria 4b.

If the answers to all questions in Criteria 4a.1 – 4a.3 are “no” and Criteria 4a.4 is “yes,” then there is not a RP for this site.

If this determination is being submitted on behalf of a perspective purchaser please proceed to 4c otherwise please complete Criteria 4b. If a responsible party has been identified, is that responsible party “viable” (i.e. financially capable of satisfying obligations under federal or state law to assess, investigate, or clean up the site)?

- ____ 4b.1 Name of responsible party: _____
- ____ 4b.2 If the RP is a business entity (e.g., corporation, partnership, or limited liability company) is it still active? (DEQ will verify this.)
- ____ 4b.3 Has an ability to pay analysis been performed? Ability to Pay forms can be requested from DEQ to ensure that adequate information is submitted.
- ____ 4b.4 If an ability to pay analysis has been performed, is the RP able to pay any cleanup costs? If the answer to this question is “no”, the responsible party is not viable. If the answer is “yes,” the responsible party is viable and the site is not Brownfields eligible.

Criteria 4c should be completed for all Assessment Eligibility Determinations submitted on behalf of a prospective property owner.

- ____ 4c.1 Did the prospective owner dispense or dispose of, own the subject property, or have a business interest in the subject property, during the dispensing or disposal of, any petroleum or petroleum products at the site?
- ____ 4c.2 Did the prospective owner exacerbate contamination at the site?
- ____ 4c.3 How is the prospective owner taking reasonable steps with regard to contamination at the site? Please explain the reasonable steps undertaken: _____

Please read the statement below, then sign and date the form:

The information provided on this form is **complete and accurate** to the best of my knowledge.

Applicant’s Signature: _____ Date: _____
(or Brownfields Grantee)

Please return this form with all required supporting documentation, including the requisite narrative (below) expressing how this site meets appropriate Brownfields criteria, to:

Brandon Kingsbury
Montana Department of Environmental Quality
PO Box 200901
Helena, MT 59620

Incomplete or inaccurate applications will be returned to the Preparer with either no eligibility determination made, or a request for supporting documentation.

EPA requires site access for Brownfields Eligibility; therefore, a DEQ “Consent for Entry” form is provided (see Appendix C) and should be signed by the legal landowner and submitted with the application.

Narrative (explain how this site meets the intent of a Brownfields):

References:

DEQ Brownfields Home Page:
<http://deq.mt.gov/Land/brownfields>

DEQ Brownfields FAQ:
<http://deq.mt.gov/Land/brownfields/frequentlyaskedquestions>

EPA, Brownfields Grant Fact Sheet:
http://cfpub.epa.gov/bf_factsheets/index.cfm

EPA, H.R. 2869 Small Business Liability Relief and Brownfields Revitalization Act,
<http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/html/PLAW-107publ118.htm>

EPA Brownfields Grant Information:
<https://www.epa.gov/brownfields/types-brownfields-grant-funding>

EPA Brownfields Grant Announcements and Applications:
<https://www.epa.gov/brownfields/apply-brownfields-grant-funding>

For DEQ Use Only:

Does the site meet Brownfields eligibility requirements? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Petroleum Brownfields Coordinator Review: _____	Date: _____
Agree with eligibility determination? <input type="checkbox"/> Yes <input type="checkbox"/> No	Comments: _____
—	
Supervisor Review: _____	Date: _____
Agree with eligibility determination? <input type="checkbox"/> Yes <input type="checkbox"/> No	Comments: _____
—	
Attorney Review: _____	Date: _____
Agree with eligibility determination? <input type="checkbox"/> Yes <input type="checkbox"/> No	Comments: _____
—	
Bureau Chief Review: _____	Date: _____
Agree with eligibility determination? <input type="checkbox"/> Yes <input type="checkbox"/> No	Comments: _____
—	
—	
—	

Brownfields Eligibility Checklist

Submittal of the following items constitutes a complete eligibility application:

- Completion of all applicable fields within the Eligibility Determination Form.
- A site narrative describing how this project meets the intent of Brownfields.
- A Prospective Purchaser Agreement that includes the signature of the prospective owner or authorized agent and notary (if applicable).
- A signed DEQ Consent for Access to Property Form from the landowner.
- A copy of the deed showing title of clear ownership of the property.
- Cadastral map with attached property descriptions and relevant ownership information.

Appendix B:

Sample “Letter of Intent”

**SAMPLE
LETTER OF INTENT TO PURCHASE REAL PROPERTY**

Date

[Applicant] _____

Subject: Notice of Intent to Purchase **[identify property]**

(Property Description)

(City/County)

(Property Address)

DEQ Facility ID #: _____

DEQ Release #s: _____

Dear _____:

The **[prospective purchaser name]** intends to purchase **[property name]** and requests to retain its eligibility for participation in the Brownfields Program. The undersigned, the **[title]** of **[pp name]**, acknowledges that **[pp name]** did not by act or omission cause or contribute to any release or threatened release of a hazardous substance, including petroleum, on or from the identified site or is otherwise considered to be a responsible party pursuant under applicable state or federal law.

The subject property is located **[city/county]** and is legally described as **[provide legal description]**.

[pp name] intends to acquire the property by **[list date]**. A comprehensive site assessment shall be completed and the results submitted to the Montana Department of Environmental Quality (DEQ) within 60 to 90 days following the purchase date. Upon the review and approval of the site assessment plan by DEQ, **[pp name]** commits to work in cooperation with DEQ to pursue Brownfields and other available funding sources to cleanup and redevelop the site.

Under penalty of perjury, the **[prospective purchaser]** hereby affirms that they are in no way related to current or previous owners of the **[property name]** through family, corporate, or other business relationships.

[Prospective Purchaser Authorized Signatory]

[Notary Public Signature and Stamp]

Appendix C:

Sample Consent for Entry Form

CONSENT FOR ACCESS TO PROPERTY

Name: _____
Property Owner

Address: _____

Property Address where Entry and Access is sought (*if different than above*):

The Montana Department of Environmental Quality (DEQ), acting through its officers, employees, contractors, agents, and authorized representatives (authorized agents), is conducting a remedial investigation to understand the nature and extent of contamination in the area of [site location], located at [site address], in [city, state], State Facility I.D.

No. _____, Release # _____ (herein Facility) pursuant to its release response and corrective action authorities under the Montana Underground Storage Tank Act, § 75-11-501, Montana Code Annotated (MCA), et seq., and rules adopted thereunder.

In the event that DEQ and or its contractors is funding/performing the remedial investigation, corrective action, or cleanup, I hereby authorize DEQ, and its authorized agents, to enter and have access upon the property at the above-written address at all reasonable times to inspect, to install soil borings and monitoring wells, to conduct corrective action activities (including the removal of petroleum-contaminated soil), and to take any and all samples of air, soils, tap water, surface water, groundwater, and soil gas from the premises as DEQ and its authorized agents may determine necessary.

I understand that as the owner, operator, tenant or other person in charge of the property at the above-written address, I am entitled to receive a receipt from DEQ or its authorized agents describing any sample taken and, if requested, a portion of each such sample. DEQ and its authorized agents will promptly furnish me with a copy of the results of any analysis made of such samples. Any entry, inspection and sampling of the property at the above-written address shall be completed with reasonable promptness.

In the event that an entity other than DEQ is responsible for the remedial investigation, corrective action, or cleanup I authorize DEQ, and its authorized agents, to enter and have access upon the property to inspect and oversee as DEQ and its authorized agents may determine necessary.

Date

Signature

Print Name

Appendix D:

Multiple Funding Source Matrix



Petroleum Tank Release Compensation Board

STATE OF MONTANA

P.O. Box 200902 • Helena, MT 59620-0902 • (406) 841-5090

Website: www.deq.mt.gov/pet/default.mcp.x

Please enter budgeted, claimed and reimbursed amounts (if known) for each funding source

MULTIPLE FUNDING SOURCE SPREADSHEET (FORM 10)														Facility ID #		Date:	
			Funding Source(s)														
Release # Work Plan #			Petroleum Tank Release Compensation Board			2nd Funding Source			3rd Funding Source			Total Budgeted, Claimed, and Reimbursed All					
			Funding Recipient:			Funding Recipient:			Funding Recipient:								
Task Number	Task Name- Please choose from drop down list	Date Work Completed	Total Project Budget	Budgeted	Claimed	Expected Reimb.	Budgeted	Claimed	Expected Reimb.	Budgeted	Claimed	Expected Reimb.	Total Budgeted	Total Claimed			
1	Lodging/Per Diem			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
2	Lodging/Per Diem			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
3				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
4	Fieldwork			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
5				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
6	Mobilization			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
7				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
8				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
9				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
10				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
11				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
12				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
13				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
14				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
15				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
16				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
17				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
18				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
19				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
20				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
21				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
22				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
23				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
24				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
25				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
26				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
27				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
28				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Total Activity Costs			\$0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00			
TOTAL PROJECT COSTS			\$0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00			

Please visit our website (<http://www.deq.mt.gov/pet/codesratestasks.mcp.x>) for general information concerning PTRCB's Review of corrective action plans, the allocation of costs to tasks, associated codes, and standard rates associated with reimbursement of claims.