

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
Enforceable Written Assurance Application - Bona Fide Prospective Purchaser

This is an application for an Enforceable Written Assurance (EWA) as a bona fide prospective purchaser under the Hazardous Substances Mitigation Act (Act). The EWA is issued by the Executive Director of the Utah Department of Environmental Quality (DEQ). The application will be processed by the Division of Environmental Response and Remediation (DERR). Complete all sections and submit the application to the DERR. Please submit the application well in advance of acquiring, developing or occupying the property. The Applicant must meet all the requirements of the Act and supporting regulations.

Property Information

EWA Site Name _____

Address _____

City _____ State _____ Zip Code _____

Property Size (acres) _____

Property Tax Identification Number(s) _____

Legal Description and Site Map are required

Applicant

Applicant: (A person who has applied to receive an EWA based upon his status as a bona fide prospective purchaser). The Applicant is responsible for payment of DEQ costs of review. Provide the legal name of the entity for which the EWA is being requested. Additional applicants are required to complete a separate application.

Applicant _____

Contact Person _____

Address _____

City _____ State _____ Zip Code _____

Phone _____ E-mail Address _____

Applicant is: () Individual () Business

Is the Applicant currently registered to conduct business in the State of Utah? Y N

Type of Business: () Corporation () LLC () Sole Proprietorship
() General Partnership () Limited Partnership

Entity Number and State of Creation*: _____

*Must include proof of current business registration and general information concerning the applicants affiliates as an attachment

Applicant Information

1. Has the DEQ and/or EPA had any involvement with the property or the Applicant?

Y N

If yes, please explain below.

2. Does the Applicant represent that it qualifies as a bona fide prospective purchaser as defined under the Hazardous Substances Mitigation Act? Y N

(Information included with this application must document that the Applicant meets and will continue to meet the bona fide prospective purchaser requirements).

3. Please include a statement and information that demonstrates the Applicant has not caused or contributed to the contamination on the property or the site and is otherwise eligible for an Enforceable Written Assurance.

Current Property Owner

Owner(s) _____

Contact Person _____

Address _____

City _____ State _____ Zip Code _____

Phone _____ E-mail address _____

Other Contacts

Name and Relationship to Applicant _____

Organization _____

Address _____

City _____ State _____ Zip Code _____

Phone _____ E-mail address _____

Land Uses and Owner/ Operator Information

In this section, please identify:

Historical and Current Land Uses:

Proposed Future Land Use:

Historical and Current Ownership and Operator Information:

Property Acquisition Date

1. Please indicate the date the Applicant plans to acquire ownership or take control of the property (Note: The DERR will not evaluate a bona fide prospective purchaser's EWA application under the Act after an applicant has acquired an interest in the property, so the application should be filed well in advance of the closing date, title transfer, lease, etc. The DERR offers pre-application meetings to discuss the EWA process, including current review timeframes, so please contact the VCP/Brownfields coordinator for more information).

All Appropriate Inquiries

1. Does the Applicant represent that it has made All Appropriate Inquiries into the previous ownership and uses of the property before acquisition in accordance with the regulations promulgated by the EPA for All Appropriate Inquiries, 40 CFR 312?

(See optional DEQ/DERR AAI Checklist)

Y N

Is the Phase I Environmental Site Assessment included with the Application? Y N

Evaluation Principles

1. Has information been provided to demonstrate compliance with the Evaluation Principles in Utah Administrative Code R311-600? Y N

(See optional DEQ/DERR EWA Checklist)

Continuing Obligations

1. Has the Applicant provided all legally required notices with respect to the discovery or release of any hazardous substances or hazardous materials at the property **and** does the Applicant represent that it will continue to provide all legally required notices with respect to the discovery or release of any hazardous substances or hazardous materials at the property? Y N

 2. Does the Applicant represent that it will provide full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the property (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the property)? Y N

 3. Does the Applicant represent that it will comply with any land use restrictions established or relied on in connection with the response action at a vessel or facility and will not impede the effectiveness or integrity of any institutional control employed at the vessel or facility in connection with a response action? Y N

 4. Does the Applicant represent that it will comply with any request for information or administrative subpoena issued by the Department under the Environmental Quality Code? Y N

 5. Describe and support in detail below or as a separate attachment to this application what the Applicant plans to do to exercise appropriate care with respect to hazardous substances or hazardous materials found or suspected at the property and, in particular, what reasonable steps the Applicant has determined are necessary to:
 - a) Stop any continuing releases;
 - b) Prevent any threatened future releases; and
 - c) Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance or hazardous material.
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Voluntary Cleanup Program

1. Does the Applicant propose to complete additional characterization and response actions through the VCP to meet the Evaluation Principles and satisfy its due care and reasonable steps obligations as a bona fide prospective purchaser? Y N

If so, has the applicant filed a VCP application? Y N

Site Eligibility Report

The Applicant must submit the following information to meet the requirements of the Site Eligibility Report (Utah Administrative Code R311-600-4):

a. The results of the Applicant's All Appropriate Inquiry, including a detailed discussion of each specific activity required by Standards and Practices for Conducting All Appropriate Inquiries under the Comprehensive Environmental Response, Compensation, and Liability Act, 40 CFR 312.

Has the information been provided? Y N

b. Sufficient information demonstrating compliance with the principles in Utah Administrative Code R311-600-3, including information identifying whether the release is on-going or likely to be on-going.

Has the information been provided? Y N

c. Laboratory analytical results from environmental media sampled at the site.

Has the information been provided? Y N

d. Proposed reasonable steps to mitigate potential risk to human health and the environment based on present and future intended land use, including utility corridors.

Has the information been provided? Y N

e. A description of activity and use limitations or engineering controls and how the limitations or controls will be enforced over time.

Has the information been provided? Y N

Applicant Affiliation

1. A Bona Fide Prospective Purchaser cannot be:

a) Potentially liable or affiliated with any other person (e.g., owner, former operator) that is potentially liable, for response costs at the property through:

(i) Any direct or indirect familial relationship; or

(ii) Any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

b) The result of a reorganization of a business entity that was potentially liable.

Is the Applicant affiliated with another party who is potentially liable as described above?

Y N

Application Fee and Billing Information

The Applicant must submit with this application a fee in the amount of \$500.00 made payable to: Utah Department of Environmental Quality. The DEQ will bill for any costs that exceed the initial application fee in accordance with the DEQ's approved fee schedule. By signing this application, the Applicant agrees it will reimburse the DEQ for any costs in excess of the application fee whether or not the EWA is issued (Utah Administrative Codes R311-600-10 and R311-600-13).

Name(s) _____

Organization _____

Address _____

City _____ State _____ Zip Code _____

Phone _____ E-mail address _____

Application Information

Please execute the application in the space below and submit it to:

Utah Department of Environmental Quality
Division of Environmental Response and Remediation
Attention: Brownfields/Voluntary Cleanup Program Coordinator
195 North 1950 West
Salt Lake City, Utah 84116

Correctness of Information

The undersigned is knowledgeable of the representations made in this application and the supporting documentation and affirms that the representations are true and accurate. All signatures must be original on the application. The undersigned acknowledges that untrue or misleading representations or omissions in the application and supporting documentation render the Enforceable Written Assurance void.

Authority to Sign

The undersigned represents that he/she is legally authorized to sign this application. If the Applicant is a Corporation, a corporate officer must sign the application; if the applicant is a Limited Liability Corporation; a managing member must sign the application; if the Applicant is a Sole Proprietorship, the owner must sign the application; if the Applicant is a Partnership, the primary partner must sign the application and if the Applicant is an individual, the Applicant must sign the application.

Signature _____ Name _____

Date _____ Title _____

Company _____ Phone _____

Business Address _____

City, State, Zip code _____

Please Ensure the Following Enclosures are Included with the EWA Application:

- Application Fee Y N
- Site Eligibility Report or Equivalent Information Y N
- Legal Property Description Y N
- Reasonable Steps Y N
- Proof of Business Registration and Affiliation Information Y N