

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

Directions: Complete the application and apply to and request assistance and review from the Utah Department of Environmental Quality staff for an Enforceable Written Assurance under the Hazardous Substance Mitigation Act. The Applicant must meet all requirements of the Act and supporting regulations. Complete all sections. If you have questions, please call (801) 536-4100.

General Information

Property/Site Name _____

Address _____

City _____ State _____ Zip Code _____

Property Size (acres) _____

Property Tax Identification Number _____

Applicant

Applicant: (A person who has applied to receive an Enforceable Written Assurance based upon his status as a bona fide prospective purchaser). The Applicant is responsible for payment of UDEQ costs of review.

Applicant _____

Contact Person _____

Address _____

Phone _____ E-mail address _____

City _____ State _____ Zip Code _____

Current Property Owner

Owner(s) _____

Contact Person _____

Address _____

Phone _____ E-mail address _____

City _____ State _____ Zip Code _____

Other Contacts

Name(s) _____
Organization _____
Address _____
Phone _____ E-mail address _____
City _____ State _____ Zip Code _____

Name(s) _____
Organization _____
Address _____
Phone _____ E-mail address _____
City _____ State _____ Zip Code _____

Historical and Current land use

Proposed future land use

Historical/Present Ownership and Operator Information

Please identify current and past owners and operators of the site. In addition, please describe their use of the property and identify their affiliates.

Applicant Information

1. Is the Applicant an individual or an entity? If the Applicant is an entity, identify the type of entity and the state in which the entity was created and identify the entity's affiliates.

2. What involvement, if any, has the Department or the EPA had with the property or the Applicant?

Applicant Information (cont'd)

3. Does the Applicant represent that it qualifies as a bona fide prospective purchaser as defined under the Hazardous Substance Mitigation Act? Please provide documentation that the Applicant meets and will continue to meet the requirements.

4. Please indicate the date the Applicant plans to acquire ownership or take control of the property.

5. 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.

6. Does the Applicant represent that it has made All Appropriate Inquiries into the previous ownership and uses of the property in accordance with the regulations promulgated by the EPA for All Appropriate Inquiries – 70 Federal Regulation 66070 (11/1/05) 40 CFR 312?

7. 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 to continue to provide all legally required notices with respect to the discovery or release of any hazardous substances or hazardous materials at the property?

Applicant Information (cont'd)

8. Describe and support, in detail, what the Applicant has done and 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 release;
- b) Prevent any threatened future release; and
- c) Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance or hazardous material.

9. 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)?

10. 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?

11. 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?

Applicant Information (cont'd)

12. Does the Applicant represent that it is not:

a) Potentially liable or affiliated with any other person 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.

13. Does the Applicant propose to complete additional characterization and response actions through the VCP to satisfy its due care and reasonable steps obligations as a bona fide prospective purchaser? If so, has the applicant filed a VCP application?

Site Eligibility Report

A Site Eligibility Report must be attached to this application and include:

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, 70 Fed. Reg. 66070 (11/1/05) to be codified at 40 C.F.R. 312.

b. Sufficient information demonstrating compliance with the principles in R319-100-3, including information identifying whether the release is on-going or likely to be on-going.

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

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.

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

Application Fee

The Applicant must submit with this application a fee in the amount of \$500.00 made payable to: Utah Department of Environmental Quality.

Billing Information

The UDEQ will bill for any costs that exceed the initial \$500.00 application fee in accordance with the UDEQ's approved fee schedule. The Applicant is responsible for any costs in excess of the application fee for the Enforceable Written Assurance to remain valid, if previously issued.

Name(s) _____

Organization _____

Address _____

Phone _____ E-mail address _____

City _____ State _____ Zip Code _____

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
P.O. Box 144840
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. 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

If the Applicant is a business entity, the undersigned represents that h/she is legally authorized to sign this application on behalf of the business entity. If the Applicant is an individual, the Applicant is required to sign the application.

By _____ Name _____

Date _____ Title _____

Company _____ Phone _____

Enclosure(s)

- Application Fee
- Site Eligibility Report
- Legal Property Description