

MEMORANDUM

W. H. a.

DATE: November 1, 2004
TO: Board of Commissioners
FROM: Jeff Turk, Property Management Officer
SUBJ: Supplemental to 11/3 Agenda Item for EPA Grant Application
CC:

SUPPLEMENTAL MATERIAL

At the suggestion of county counsel, language on the EPA grant application for the property on McVay Hyw. has been modified. The modification is to sections 8f, 8g and 8h on page 4 of the application. The modification is as follows.

The words "Per information from ODEQ (Oregon Dept. of Environmental Quality)" were added to the beginning of the first sentence for each of the modified sections. The noted sections address identification of "viable responsible parties" for contamination of the property and whether they are subject to enforcement actions.

The modification was made to clarify that it is ODEQ, per ODEQ policies, that does not recognize any prior owners as being a "viable" responsible party. While it is known that the prior owner, Franko Oil, was responsible for the contamination and ODEQ did take enforcement actions against them, Franko Oil, and subsequent owners of the property, are not considered "viable" parties by ODEQ with respect to ODEQ being able get these parties to clean up the property or secure funds from these parties through fines.

trespass and leave additional solid waste at the property. In addition, Lane County will also consider fencing the property.

- 8e. The site is considered by ODEQ to be of relatively low risk compared to other petroleum or petroleum product-only contaminated sites in Oregon.

The site is not receiving or using Leaking Underground Storage Tank (LUST) Trust Fund monies.

- 8f. Per information from ODEQ, there is no viable responsible party for contamination at the site that has been identified through:

- 1) a judgment or an administrative order
- 2) An enforcement action by federal or state authorities
- 3) A citizen suit, contribution action or other third party claim.

- 8g. Per information from ODEQ, the site is not subject to any order under section 9003(h) of the Solid Waste Disposal Act.

- 8h. N/A. Per information from ODEQ, no current or immediate past owners have been identified as responsible parties.

E. Cleanup Authority and Oversight Structure

1. Lane County and the Oregon Department of Environmental Quality have an established working relationship on this site. Prior to receipt of the property by Lane County through tax foreclosure, the Oregon Department of Environmental Quality provided oversight of underground storage tank decommissioning and tank removal at the property.

The Oregon Department of Environmental Quality has reviewed the results of environmental assessment work that has been conducted to date at the site. To further delineate the magnitude and extent of the groundwater contamination, the Oregon Department of Environmental Quality is concurrently seeking approval for use of existing EPA funds to conduct a Site Specific Assessment on the property. If EPA approves this proposal, ODEQ will conduct assessment actions at the site between January and March, 2005. This additional site assessment work will allow for further definition of existing contamination to enable the installation of appropriately sized and located cleanup and remediation equipment, assuring the efficient and effective removal of contaminated groundwater.

Lane County has consulted extensively with the Oregon Department of Environmental Quality during the development of this cleanup grant application. On award of cleanup grant funds, Lane County will continue to work closely with ODEQ to assure the effectiveness of remedial actions in the protection of human health and the environment. A memorandum of agreement will be developed by both parties highlighting individual and joint responsibilities as part of the site being enrolled in either ODEQ's Voluntary Cleanup Program or ODEQ's Leaking UST Program. Both of these programs assure ODEQ oversight.

In addition, because of the substantial public benefits anticipated from the site's cleanup and redevelopment, ODEQ and the future site developer – SeQuential Biofuels – are expected to enter into a Prospective Purchaser Agreement. The agreement will limit the purchaser's liability to ODEQ for environmental cleanup at the property in return for a