



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

May 18, 2009

Christine Lombard
U.S. EPA – New England (Mail Code: HIO)
One Congress Street, Suite 1100
Boston, MA 02114-2023

Subject Site: Auburn – Auburn Auto, 692 Londonderry Turnpike, DES Site # 200605093,
Project RSN # 6410

Petroleum Brownfields Eligibility Determination

Dear Ms. Lombard:

The New Hampshire Department of Environmental Services (DES) has completed the following evaluation of the eligibility of the Auburn Auto Site, 692 Londonderry Turnpike in Auburn in accordance with the provisions of Section 101 (39)(d)(II)(bb) of CERCLA. This site is a potential petroleum contaminated site based on the past history as a car dealership with a repair/maintenance garage operation.

Based on information in our files, DES has determined that there is no viable responsible party. DES applied a two-step process where it first determined whether a responsible party (RP) exists and then it evaluated the RP to determine whether the RP was financially viable in terms of their ability to perform site environmental work. The following brief explanation summarizes our findings.

The current owner of the property, Deutsche Bank National Trust, foreclosed on the property. Deutsche Bank National Trust is a qualified holder and has liability protections based on their status as a qualified holder. The owner of the property before Deutsche Bank National Trust, Syed Hussain, is deceased. Since the current and prior owners are either not viable (Syed Hussain) or not a responsible party (Deutsche Bank National Trust), there is no viable responsible party. There are also no parties involved with the property that are subject to either:

- (a) a judgment in a court of law or an administrative order issued by an administrative body that would require that party to assess, investigate, or clean up the site; or
- (b) a filed enforcement action brought by federal or state authorities, or a citizen suit, contribution action or other third party claim that would, if successful, require the assessment, investigation, or clean up of the site.

This site is of “relatively low risk”, as compared with other petroleum sites. EPA guidance suggests that “high risk” sites are sites that are being cleaned up with LUST trust fund money or sites subject to a response under the Oil Pollution Control Act (OPA). No LUST Trust Fund monies are being utilized at this site. Additionally, there is no existing or planned response contemplated under the provisions of the federal OPA 90 requirements.

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This property is not subject to any order issued under 9003(h) of the Solid Waste Disposal Act because the property was never a RCRA TSD facility and, as such, is not subject to RCRA Corrective Action requirements. Based on the above analysis, the property is currently eligible for brownfields funding.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Lynn".

Gary S. Lynn, P.E.
Oil Remediation and Compliance Bureau
Tel: (603) 271-8873
Fax: (603) 271-2181
Email: Gary.Lynn@des.nh.gov

cc: John Munn, Southern New Hampshire Planning Commission (via email)
Bettina Eames, Loureiro Engineering Associates, Inc.
John Liptak, HWRB (via email)