Public Notice

Prospective Purchaser Agreement for a portion of the Ken Foster Farm Site in Sherwood, Oregon

Comments due: 5 p.m., Dec. 1, 2019

Project location: 23120 SW Murdock Road in Sherwood, Oregon

Proposal: The Oregon Department of Environmental Quality invites public comment on its proposed consent judgment for a prospective purchaser agreement with JT Roth Construction, Inc. for a portion of the Ken Foster Farm site in Sherwood, Oregon.

Highlights: DEQ created the prospective purchaser agreement program in 1995 through amendments to the state’s Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

JT Roth proposes developing a 9.5-acre property into 23 residential lots and five non-residential tracts. The lots will be remediated to applicable DEQ human-health risk-based concentrations for residential use by capping, soil removal and off-site disposal, or consolidation and capping on non-residential tracts. For non-residential tracts this will be accomplished through soil removal and consolidation. All tracts will meet human health risk-based concentrations for use as open-space.

The soil quality on the property will be verified thorough confirmation soil testing. The entire site will be covered with a protective layer of clean soil or hardscape such as roads, driveways, etc. prior to occupation. If testing shows that soil contamination on any portion of the site remains above applicable cleanup standards after remediation, the area will be covered with an engineered cap equally protective as that described in the Record of Decision. To the extent that the cap requires long-term maintenance, the requirement will be memorialized in a deed notice or easement and equitable servitude recorded on the property deed.

Upon completion of cleanup work DEQ will reimburse JT Roth up to $540,138 based on approximately $57,000 per acre for the 9.5-acre property. The proposed consent judgment also will provide JT Roth with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide JT Roth with third party liability protection.

Background: The 9.5-acre subject property is part of the Ken Foster Farm site, a 40-acre tract of former pasture land at 23000 to 23500 SW Murdock Road in Sherwood, Washington County, Oregon. Between 1962 and 1971, tannery wastes from the former Frontier Leather Tannery were applied to the land at the KFF site as a soil amendment.

In 2011, DEQ entered into a settlement in the form of a consent judgment with former owners and operators of the tannery and several former and current land owners of property at the KFF site. Under terms of the settlement, DEQ was issued a cash payment of approximately 2.6 million dollars for cleanup of tannery-related contamination.
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From 2013 to June 2015, DEQ completed a remedial investigation and feasibility study. The results showed that many samples contained hexavalent chromium levels above the DEQ human health risk-based concentration for residential use. DEQ evaluated remedial alternatives and concluded that soil removal and/or capping could both be protective and effective remedial alternatives for the residential properties. DEQ documented its recommended cleanup alternative in a Record of Decision issued in January 2017.

How to comment: Send comments to DEQ Project Manager, Mark Pugh at 700 NE Multnomah St., Portland, OR 97232 or pugh.mark@deq.state.or.us.

Find more information: Visit DEQ’s Environmental Cleanup Site Information database at https://go.usa.gov/xV3zw

If you do not have web access and want to review the project file, contact the DEQ project manager at 503 229-5587.

Environmental Cleanup Site Information (ECSI) ID: 2516

The next step: DEQ will consider all public comments received by the date and time stated above before making a final decision on whether to enter into the proposed consent judgment. Upon issuance of this Consent Order, DEQ will provide public notice of the consent judgment through posting notice on the DEQ Public Notice webpage, and will make copies of the consent judgment available by posting on the Environmental Cleanup Site Information database.

Alternative formats: DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.