

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

1805 MLK Owner LLC

Order on Consent – PPA

DEQ No. 18-01

CERTIFICATION OF COMPLETION

1. Findings

A. On May 3, 2018, the Oregon Department of Environmental Quality (DEQ) entered into an Order on Consent (Consent Order) under ORS 465.327 with 1805 MLK Owner LLC concerning the property occupied by the Morehouse Building at 1805 SE Martin Luther King Jr. Boulevard in Portland, Oregon. The Site building was subsequently renovated and redeveloped as the Glass Lab, a commercial/industrial building with an address of 350 SE Mill Street in Portland, Oregon (the Site). The Site is also known as the former Morehouse Building in the Cleanup Program Project ID [formerly Environmental Cleanup Site Information (ECSI)] database] 6261.

B. Under the terms of the Consent Order, 1805 SE MLK Owner LLC agreed to complete the following work items:

1. Inspect the interior surface of the existing floor slab for cracks, joints, utility penetrations and other conditions that could provide preferential pathways for entry of vapors from subsurface soil
2. Repair, seal or make other modifications to the concrete floor slab and slab penetrations to mitigate the potential for vapor intrusion

3. Design and construct a DEQ-approved vapor intrusion mitigation engineering control consisting of a sub-slab ventilation system consisting of perforated pipes in gravel lined trenches, a blower, exhaust stack, vapor barrier and sub-slab sampling points
4. Submit a Focused Remedial Action Plan (FRAP) proposing the sub-slab venting system, including plans stamped by an Oregon-licensed Professional Engineer, and describing how preferential pathways will be sealed
5. Beginning six months following construction of the sub-slab ventilation system, complete a minimum of three performance monitoring events to demonstrate its effectiveness, including induced negative pressure measurements at monitoring points installed beneath the slab, sub-slab soil gas sampling, or other actions or monitoring required by DEQ (i.e., in the event that performance criteria are not met)
6. If an active sub-slab ventilation system is constructed, perform appropriate air modeling to ensure the system does not result in unacceptable risk from discharge or down-wash from the stack
7. Prepare a media management plan establishing procedures for identifying, handling, characterizing, and disposing of contaminated soil, if encountered during future construction activities

C. In May 2018, Farallon Consulting (Farallon) on behalf of 1805 MLK Owner LLC submitted a draft FRAP to DEQ. Following DEQ review and comment, Farallon submitted a revised FRAP in October 2018, which was approved by DEQ. In July 2018, an Environmental

Media Management Plan (EMMP) was submitted to DEQ and approved. Between December 2018 and June 2019, Farallon supervised construction of a sub-slab depressurization system (SSDS) which included trenching, soil excavation, installation of perforated piping, restoration and sealing of the concrete floor slab, and installation of system components including the exhaust stack, equipment skid, blower, knockout tank, system controls, electrical conduits, wiring, and sub-slab sampling points.

D. In June 2019, Farallon completed a partial system start-up of the SSDS, which was observed by DEQ. While in passive operation mode, vacuum measurements were collected from selected sub-slab vapor points and SSDS effluent was measured using a photo-ionization detector. In addition, during the partial start-up, Farallon inspected the integrity of sealed construction joints in the concrete floor. Between June 2019 and January 2020, the SSDS operated intermittently in active mode because the Glass Lab building was not continuously occupied by tenants. On January 21, 2020, Farallon performed a complete start-up of the SSDS. Following SSDS start-up, Farallon collected vacuum measurements from the sub-slab sampling points and collected a sample of the SSDS exhaust for laboratory analysis to verify system operation. Air discharge modeling using July 2018 effluent sampling data showed that treatment of the SSDS effluent was not necessary.

E. The first performance monitoring event was performed in January 2020, which was approximately 6 months after the partial start-up. Additional performance monitoring events were completed in October 2020, July 2021, and April 2022. The sub-slab sampling revealed tetrachloroethylene (PCE) above the occupational worker soil gas RBC in eight of 28 samples and trichloroethylene (TCE) exceeding in 19 of 28 samples. Performance criteria established in

the FRAP required concentrations of HVOCs in soil gas below the occupational worker RBCs during three consecutive sampling events to demonstrate that human health risks from soil vapor beneath the Glass Lab building have been reduced to acceptable levels and discontinue operation of the SSDS in active mode (with the blower operating).

F. In June 2023, Farallon submitted a technical memorandum which concluded that continued operation of the SSDS in active mode was not recommended or necessary to demonstrate that human health risks within the Glass Lab building are at acceptable levels. The memorandum included a proposal to perform three indoor air sampling events with the SSDS operating in the passive mode to directly evaluate human health risks. In July 2023, following review and comment, DEQ approved the revised technical memorandum. In accordance with the approved work plan, Farallon or GeoEngineers collected eight indoor air samples and one ambient outdoor air sample during each of three sampling events performed in April 2023, September 2023 and January 2024. The detected concentrations of PCE and TCE did not exceed occupational worker indoor air RBCs, despite variable concentrations in sub-slab vapor. Based on this finding, DEQ concurs the thick and competent floor slab prevents the intrusion of volatile vapors into the Glass Lab building.

G. On February 1, 2024, DEQ provided public notice and opportunity to comment on a proposed Certification of Completion determination for the property in accordance with ORS 465.320 and 465.325(10)(b). Copies of the work plans and reports completed for the project were available to review at DEQ's Northwest Region office in Portland. The public notice was published on February 1, 2024, in the *Oregon Secretary of State's Bulletin*, and in The Oregonian newspaper. The comment period was closed on March 1, 2024. No comments were received.

H. Based on the reports and other information submitted by 1805 MLK Owner LLC and DEQ's inspection and oversight of activities, DEQ finds that 1805 MLK Owner LLC has satisfactorily completed the PPA scope of work.

2. Conclusions

A. 1805 MLK Owner LLC has satisfactorily completed the scope of work for the former Morehouse Building property, which included construction of a SSDS to mitigate vapor intrusion risks to building occupants from PCE and TCE in soil gas at concentrations above occupational worker RBCs, performance monitoring to demonstrate SSDS effectiveness, and preparation of a media management plan. While not referenced in the PPA scope of work, 1805 MLK Owner LLC executed and recorded an Easement and Equitable Servitudes on June 5, 2018.

B. No further remedial actions are required at the Site to protect the public health, safety, and welfare or the environment, conditional upon adherence to use restrictions in an Easement and Equitable Servitudes and implementation of the DEQ-approved Operations and Maintenance (O&M) Plan dated June 18, 2024, as described under Subsection 3.B. of this Certification.

3. Conditions

A. This Certification of Completion applies only to the satisfactory completion of the work conducted by 1805 MLK Owner LLC pursuant to the Consent Order.

B. Conditions include a requirement to continue to operate and maintain the SSDS in passive mode and a prohibition on any operations that would disable, penetrate, block or otherwise interfere with the operation of the SSDS, or penetrate without subsequent repair, restoration, or mitigation any vapor barrier or seal's protective function as an engineering control to prevent intrusion of sub-slab vapors including at concentrations exceeding occupational indoor air RBCs,

without limitation, any excavation, drilling, scraping, or erosion. Furthermore, residential use of the Site is prohibited. These conditions are memorialized in an Easement and Equitable Servitudes recorded with Multnomah County on June 5, 2018. Lastly, this Certification of Completion is conditional upon implementation of the DEQ-approved O&M Plan for the passive SSDS dated June 18, 2024. The O&M Plan should be maintained at the Site and conveyed to future owners.

C. DEQ does not, by this certification, assume liability for any claim arising from acts or omissions of 1805 MLK Owner LLC or its officers, employees, agents, successors, subsidiaries, or assigns relating to actions pursuant to the Consent Order.

4. Notice

This order constitutes certification of completion under ORS 465.325(10), and may be appealed by any aggrieved person in accordance with ORS 465.325(10)(c).

ISSUED BY:

State of Oregon

Department of Environmental Quality

By:


Sanne Stienstra
Acting Land Quality Division Administrator

07/03/2024
Date

The foregoing instrument is acknowledged before me this 3rd day of July, 2024, by Sanne Stienstra of the Oregon Department of Environmental Quality, on its behalf.




NOTARY PUBLIC FOR OREGON
My commission expires: August 14, 2026

CERTIFICATE OF SERVICE

I certify that I served a true copy of the above Certification of Completion by depositing it in the United States mail, postage prepaid, and addressed to the following persons:

John Olivier
1805 MLK Owner LLC
810 NW Marshall Street, Suite 300
Portland, OR 97209

(Name)

(Date)

Appendix A – Administrative Record Index

- 1) *Limited Phase II Environmental Site Assessment Summary, Byrum W. Morehouse Building*. Farallon Consulting. January 31, 2018.
- 2) *Phase I Environmental Site Assessment Report and Hazardous Building Materials Survey, Byrum W. Morehouse Building*. Farallon Consulting. February 14, 2018.
- 3) *Easement and Equitable Servitudes*. DEQ. June 5, 2018.
- 4) *Order on Consent*. DEQ. June 5, 2018.
- 5) *Focused Remedial Action Plan, Byrum W. Morehouse Building*. Farallon Consulting. October 23, 2018.
- 6) *Remedial Action Operation and Maintenance, The Glass Lab.*, Farallon Consulting. April 27, 2020.
- 7) *Technical Memorandum, Proposed Scope of Work for Air Sampling and Prospective Purchaser Agreement Closeout, The Glass Lab*. Farallon Consulting. January 23, 2014.
- 8) *Air Sampling and Prospective Purchaser Agreement Closeout*. GeoEngineers. January 30, 2024.
- 9) *Operations and Maintenance Plan*. GeoEngineers. June 18, 2024.