

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

Lusted Water District

Agreement to Facilitate Cleanup and
Productive Reuse of Property – PPA
DEQ No. 20-03

CERTIFICATION OF COMPLETION

1. Findings

A. On February 29, 2020, the Oregon Department of Environmental Quality (DEQ) entered into an Agreement to Facilitate Cleanup and Productive Reuse of Property (Agreement) under Oregon Revised Statutes (ORS) 465.327 with Lusted Water District concerning the property at the northeast corner of SE 282nd Avenue and SE Powell Valley Road intersection in Gresham, Oregon (the Site). The Site is also known as the former Bergh property, DEQ Cleanup Program (ECSI) No. 6402.

B. Under the terms of the Agreement, Lusted Water District agreed to complete the following scope of work (SOW) to prevent direct contact to exposed surface soils beneath an open-air, pole barn structure that were contaminated by diesel- and heavy oil-range petroleum hydrocarbons at levels above generic risk-based concentrations (RBCs) for direct contact exposure under a residential scenario:

- a. Prepare a Soil Removal Plan (SRP) for DEQ review and approval.
- b. Scrape a minimum of 6 inches of surface soil within the footprint of the pole barn.

The footprint of the pole barn is approximately 40 feet wide by 150 feet long (approximately 6,000 square feet).

- c. Demonstrate through analytical testing of post-removal confirmation soil samples that residual concentrations of diesel- and heavy oil-range petroleum hydrocarbons are below RBCs for direct contact exposure under a residential scenario.
 - d. Dispose of removed, contaminated soils at a permitted Resource Conservation and Recovery Act (RCRA) Subtitle D facility.
 - e. Prepare a Cleanup Completion Report (CCR) for DEQ review and approval.
 - f. If contaminated soils with levels exceeding applicable RBCs are to remain in-place, implement institutional and/or engineering controls reasonably necessary to limit exposure to the contaminated soils, and execute an Easement and Equitable Servitudes with DEQ incorporating appropriate Site restrictions until such time it is demonstrated to DEQ's satisfaction that such controls are no longer necessary to protect human health.
 - g. Prepare a Contaminated Media Management Plan for DEQ review and approval to inform decisions regarding material management if contamination is encountered during future development work at the Site.
- C. The SRP (Geosyntec Consultants, 2020) was approved by DEQ on April 3, 2020. The SRP was amended as approved by DEQ on November 5, 2024, to complete the following work items intended to limit the volume of unimpacted ("clean") soil removed during excavation activities.
- a. Scrape 1 to 2 inches of surface soils initially within the footprint of the pole barn.

- b. Excavate twenty small potholes to a depth of 6 inches across the removal area, including areas of visible surface soil staining, to field screen grab soil samples collected from the bottom of each pothole.
- c. Perform field screening of each grab soil sample for visual or olfactory evidence of contamination, measuring volatile organic vapors using a photoionization detector, and conducting a sheen test.
- d. Scrape additional contaminated soils to 6 inches at areas where field screening results indicated potential contamination was present.

D. Remedial excavation was performed from November 4 to 22, 2024, in accordance with the SRP and DEQ-approved amendments. Field screening results of grab soil samples collected from twenty potholes did not identify evidence of soil contamination. The excavation area was divided into 20'x30' grids (10 grids total). Six grids were scraped to a depth of approximately 2 inches, and four grids were scraped to approximately 4 to 6 inches. Approximately 73.4 tons of contaminated soils were removed and transported to Hillsboro Landfill for disposal. Backfill and restoration of the remedial excavation area was performed on December 12, 2024.

E. Six-point composite confirmation soil samples were collected from each grid. Analytical testing results confirmed that residual concentrations of diesel- and oil-range petroleum hydrocarbons are below generic RBCs for direct contact exposure by residential receptors. In accordance with the SRP, the confirmation soil sample with the highest petroleum hydrocarbon concentrations of in-place soil was further analyzed for total RCRA 8 metals, volatile organic compounds (VOCs), and polycyclic aromatic hydrocarbons (PAHs). RCRA 8

metals concentrations were reflective of background conditions, and VOCs and PAHs were not detected above the laboratory method reporting limits.

F. A CCR (Terracon Consultants, Inc., 2024b) was approved by DEQ on January 6, 2025. A Soil Management Plan (SMP; Terracon Consultants, Inc., 2025b) was approved by DEQ on February 27, 2025. These documents, along with the SRP, are listed in the Administrative Record Index included as Attachment A to this Certification of Completion.

G. Based on the reports and other information submitted by Lusted Water District and DEQ's review and oversight of activities, DEQ finds that Lusted Water District satisfactorily completed the Agreement SOW.

2. Conclusions

A. Lusted Water District has satisfactorily completed the Agreement SOW including removal of petroleum contaminated soils; confirming that residual petroleum hydrocarbon concentrations of in-place soils are below generic RBCs for direct contact exposure by residential receptors; restoring the site by backfilling the removal area with clean fill soil; submitting to DEQ a CCR and SMP.

B. No further remedial actions are required of Lusted Water District at the Site to protect the public health, safety, and welfare or the environment.

3. Conditions

A. This Certification of Completion applies only to the satisfactory completion of the work conducted by Lusted Water District pursuant to the Agreement.

B. A condition includes compliance with the DEQ-approved SMP.

C. DEQ does not, by this certification, assume liability for any claim arising from acts or

omissions of Lusted Water District or its officers, employees, agents, successors, subsidiaries, or assigns relating to actions pursuant to the Agreement.

4. Notice

This agreement 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:

Michael E. Kucinski
Michael E. Kucinski
Land Quality Division Administrator

3/11/2025
Date

The foregoing instrument is acknowledged before me this 11th day of MARCH, 2025, by Michael E. Kucinski of the Oregon Department of Environmental Quality, on its behalf.



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

Appendix A – Administrative Record Index

- 1) Agreement to Facilitate Cleanup and Productive Reuse of Property. DEQ No. 19-11. Between Oregon Department of Environmental Quality and Lusted Water District. February 29, 2020.
- 2) Creekside Environmental Consulting, LLC, 2018. *Phase I Environmental Site Assessment, Bergh Property, 1S4E19BB 6500, Gresham, Oregon*, dated December 2018.
- 3) EVREN Northwest, Inc. (with Creekside Environmental Consulting, LLC), 2019, *Phase II Environmental Site Assessment, Bergh Property, Township 1, Range 1E Section 19BB, Gresham, Oregon*, dated February 27, 2019.
- 4) Geosyntec Consultants, 2023. *Soil Removal Plan, Former Bergh Property, SE 282nd Avenue & SE Powell Boulevard, ECSI Site 6402, Multnomah County, Oregon*, dated April 2, 2020.
- 5) Terracon Consultants, Inc., 2024a. *Draft Cleanup Completion Report, Former Bergh Property, SE 282nd Avenue and SE Powell Valley Road, Gresham, Multnomah County, Oregon*, dated December 20, 2024.
- 6) Terracon Consultants, Inc., 2024b. *Cleanup Completion Report, Former Bergh Property, SE 282nd Avenue and SE Powell Valley Road, Gresham, Multnomah County, Oregon*, dated December 31, 2024.
- 7) Terracon Consultants, Inc., 2025a. *Draft Soil Management Plan, Former Bergh Property, SE 282nd Avenue and SE Powell Valley Road, Gresham, Multnomah County, Oregon*, dated January 28, 2025.
- 8) Terracon Consultants, Inc., 2025b. *Soil Management Plan, Former Bergh Property, SE 282nd Avenue and SE Powell Valley Road, Gresham, Multnomah County, Oregon*, dated February 26, 2025.