

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON, ex rel. LEAH
FELDON, DIRECTOR OF
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

BNSF RAILWAY COMPANY, a Delaware
Corporation, and HOYT STREET
PROPERTIES, LLC, an Oregon limited
liability company,

Defendant

Case No. 0202-01268

CERTIFICATION OF COMPLETION

ORS 20.140 - State fees deferred at filing

1. Findings

A. On February 8, 2002, the Oregon Department of Environmental Quality (DEQ) entered into a Stipulation and Consent Decree with The Burlington Northern and Santa Fe Railway Company, now known as BNSF Railway Company (BNSF) and Hoyt Street Properties, LLC (HSP) and filed it with the Circuit Court of the State of Oregon for Multnomah County, Case No. 0202-01268 (Consent Decree). The Consent Decree required that BNSF perform remedial actions to address contaminated groundwater and HSP perform remedial actions to address contaminated soils at the former Hoyt Street Railyard site (the Site) in Portland in accordance with a Record of Decision (ROD) issued by DEQ on December 15, 2000.

B. Under the terms of the Consent Decree, Defendant HSP is required to record a License and Declaration of Restrictions (LDR) with the Multnomah County Recorder prior to conveying fee title to any portion of the Site. The LDR, in part, requires that an engineered cap of buildings, pavement, and/or three feet of clean soil be installed and maintained on each conveyed property to prevent residents or occupants of the property from coming into direct contact with residual

1 contaminated soils.

2 C. An LDR was recorded with the Multnomah County Recorder for Block 23 of the Site
3 on February 18, 2020. (File No. 2020-018942). Block 23 is a Portland city block bounded in part by
4 an abandoned right-of-way for Northwest (NW) Raleigh Street to the north, NW Quimby Street to
5 the south, and NW 13th Avenue to the west. From March 2021 to May 2022, contaminated soils
6 were removed from Block 23, and Holden of Pearl, a senior living facility, was constructed on the
7 Block by US Alliance Holden of Pearl, LLC. DEQ issued a No Further Action (NFA) determination
8 for the cleanup and development on June 4, 2024, conditioned upon maintenance of the engineered
9 cap and of a passive methane mitigation system.

10 D. The work on Block 23 is documented in the plans and reports in the Administrative
11 Record for this matter.

12 E. On October 1, 2024, DEQ provided public notice and opportunity to comment on a
13 proposed Certification of Completion for Block 23 in accordance with ORS 465.320 and
14 465.325(10)(b). Copies of the work plans and reports completed for the project were posted and
15 available to review electronically online. The public notice was published on October 1, 2024 in the
16 *Oregon Secretary of State's Bulletin* and in *The Oregonian* newspaper. The comment period closed
17 on November 1, 2024. Comments were received and considered as documented in the project file.

18 F. Based on the reports and other information submitted by Defendant HSP and DEQ's
19 inspection and oversight of activities, DEQ finds that Defendant HSP has satisfactorily completed
20 the Consent Decree scope of work on Block 23 of the Site.

21 **2. Conclusions**

22 A. Defendant HSP has satisfactorily completed the management of contaminated media at
23 Block 23 of the Site as required under the Consent Decree.

24 B. No further remedial actions are required at Block 23 of the Site to protect public health,
25 safety, and welfare or the environment.

1 **3. Conditions**

2 A. This Certification of Completion applies only to the satisfactory completion of the work
3 conducted at Block 23 of the Site by Defendant HSP pursuant to the Consent Decree.

4 B. DEQ's determination that no further action is required at Block 23 of the Site may be
5 withdrawn upon discovery of new information showing that public health, safety, and welfare or the
6 environment are not being protected.

7 C. DEQ does not, by this Certification, assume liability for any claim arising from acts or
8 omissions of Defendant HSP or its officers, employees, agents, successors, subsidiaries, or assigns
9 relating to actions pursuant to the Consent Decree.

10 **4. Notice**

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

13
14 **Issued By:**

15 State of Oregon
16 Department of Environmental Quality

State of Oregon
Department of Justice

17 By: Christine Svetkovich
18 Christine Svetkovich, Administrator,
 DEQ Northwest Region

By: Gary Vrooman
Gary Vrooman, OSB No. 075832
Assistant Attorney General

19 5/27/2025
20 Date

06/02/2025
Date

1 **CERTIFICATE OF SERVICE**

2 I certify that on June 2, 2025, I served a true copy of the foregoing of CERTIFICATE OF
3 COMPLETION in BNSF RAILWAY COMPANY and HOYT STREET PROPERTIES, LLC,
4 upon the party hereto by the method indicated below, and addressed to the following:

5
6 Richard H. Allan ☐ Hand Delivery
7 Marten Law ☒ Mail Delivery
8 1050 SW 6th Ave., Suite 2150 ☐ Overnight Mail
Portland, OR 97204 ☐ E-Mail
9 Attorney for HOYT STREET PROPERTIES, LLC

10 Shane DeGross, PG/LG ☐ Hand Delivery
11 BNSF Railway Company ☒ Mail Delivery
12 605 Puyallup Avenue ☐ Overnight Mail
Tacoma, WA 98421 ☐ E-Mail

13 Robert B. Lowry ☐ Hand Delivery
14 Kell, Alterman & Runstein, LLP ☒ Mail Delivery
15 520 SW Yamhill Street, Suite 600 ☐ Overnight Mail
Portland, OR 97204-1329 ☐ E-Mail
16 Attorney for BNSF RAILWAY COMPANY

17
18 *Gary Vrooman*

19 Gary Vrooman, OSB #075832
20 Assistant Attorney General
21 Of Attorneys for Plaintiff
22 Department of Justice
23 100 SW Market Street
Portland, OR 97201
24 Phone: 971-673-1878
25 Fax: 971-673-1886
26 gary.l.vrooman@doj.oregon.gov