



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5696

FAX (503) 229-6124

TTY 711

February 24, 2025

via electronic delivery

Margaret Olson
Brownfields Project Officer
Office of Environmental Cleanup
US Environmental Protection Agency R/10
805 SW Broadway, Suite 500
Portland, OR 97205

**Re: Petroleum Determination for Cornelius Estby II (former)
1021 E Baseline St, Cornelius, Oregon
Washington County tax lots: 1S304AB00100, 1S304AB00200**

Margaret,

The Oregon Department of Environmental Quality (ODEQ) has reviewed information for the property located at 1021 E Baseline St in Cornelius, Oregon (Site) and referred to as the “Cornelius Estby II (former)” property. The Site is associated with the tax lots mentioned above in Washington County.

The review was performed to determine if the Site would be eligible to receive funding from the State and Tribal Response Program (128(a)) Grant (CA# RP97056616). Based on the review of available information, ODEQ has determined that the Site meets the eligibility criteria and is eligible to receive funding.

In order to determine the Site’s eligibility, ODEQ used the criteria presented in Section 1.3.2 of EPA’s “*Information on Sites Eligible for Brownfields Funding under CERCLA § 104(k)*” as a guide.

Section 1.3.2 *Contamination by Petroleum or Petroleum Product* states:

“For a petroleum contaminated site(s) that otherwise meets the definition of a brownfield site to be eligible for funding, EPA or the state must determine:

1. There is no viable responsible party.
2. The site will not be assessed, investigated, or cleaned up by a person that is potentially liable for cleaning up the site.
3. The site must not be subject to a corrective action order under the Resource Conservation and Recovery Act (RCRA) §9003(h).”

“A Site for Which There is No Viable Responsible Party”

Section 1.3.2 states “A petroleum-contaminated site may be determined to have no responsible party if the site was last acquired (regardless of whether the site is owned by the applicant) through tax foreclosure, abandonment, or equivalent government proceedings, and that site meets the criteria in (1) below. Any petroleum-contaminated site not acquired by a method will be determined to have a responsible party if the site fails to meet the criteria in both (1) and (2) below.

- 1) No responsible party has been identified for the site through:
 - (a) an unresolved judgment rendered in a court of law or an administrative order that would require any party (including the applicant) to conduct the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal;
 - (b) an unresolved enforcement action by federal or state authorities that would require any party (including the applicant) to conduct the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal; or
 - (c) an unresolved citizen suit, contribution action or other third party claim brought against the current or immediate past owner for the site that would, if successful, require the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal to be conducted.
- 2) The current and immediate past owner did not dispense or dispose of, or own the subject property during the dispensing or disposal of any contamination at the site, did not exacerbate the contamination at the site, and took reasonable steps with regard to the contamination at the site.

Response:

- 1) ODEQ has not identified any unresolved judgments rendered in a court of law or an administrative order that would require a party to assess, investigate, or cleanup the Site.

Between 2006 and 2018, ODEQ issued Notice of Civil Penalty Assessment and Order to three past owners of the Site for violations of ODEQ’s underground storage tank and leaking underground storage tank rules. However, the previous owners/businesses are either defunct or demonstrated financial hardship, and civil penalties and liens against prior owners were resolved under a Mutual Agreement and Final Order (MAO) executed January 15, 2025 (enclosed). The MAO resolved all civil claims of DEQ. Therefore, ODEQ does not have any unresolved enforcement actions against any party to assess, investigate, or cleanup the Site.

ODEQ has not identified any unresolved citizen suit, contribution action or other third party claim brought against the current or former owners that would require a party to assess, investigate, or cleanup the Site.

- 2) The current owner of the Site is the City of Cornelius who acquired the property in January 2025. The City of Cornelius and ODEQ entered into a Prospective Purchaser Agreement (PPA) prior to the City taking ownership of the Site. The immediate past owner was Islam

El Masry who purchased the property in 2015 from a collections company that previously foreclosed on the Site in 2009. Transfer of the property to the City of Cornelius was one of very limited options available to return this Site into productive reuse and avoid continued non-compliance by prior owners.

The petroleum underground storage tanks (USTs) associated with the former fueling station were issued a temporary closure status by ODEQ's UST program in 2016. Neither the current nor immediate prior owner have dispensed or disposed of, nor owned the subject property during the dispensing or disposal of any contamination at the Site. The current and immediate prior owner have not exacerbated contamination at the Site.

The City of Cornelius, under the requirements of the PPA, will be assessing for and addressing any releases from the USTs during decommissioning of the tanks. Under ODEQ oversight, the immediate prior owner took reasonable steps to assess and prevent contamination at the Site; however, due to financial constraints, they were unable to bring the tanks into compliance.

Based on this information, the Site does not have a viable responsible party. This determination is solely for the purposes of determining eligibility for ODEQ's State Response Grant funding.

“Cleaned Up by a Person Not Potentially Liable”

Section 1.3.2 states “Brownfields grant funding may be awarded for the assessment and cleanup of petroleum-contaminated sites provided they meet the requests below:

- 1) the applicant has not dispensed or disposed of or owned the property during the dispensing or disposal of petroleum or petroleum product at the site, and
- 2) the applicant did not exacerbate the contamination at the site and took reasonable steps with regard to the contamination at the site.”

Response:

ODEQ has not dispensed or disposed of or owned the property during the dispensing or disposal of petroleum product at the Site. ODEQ has not exacerbated contamination at the Site. ODEQ's Leaking Underground Storage Tank Program has been providing regulatory oversight of prior assessment and cleanup activities at the Site.

“Is Not Subject to Any Order Issued under §9003(h) of the Solid Waste Disposal Act”

Response: The Site is not subject to a corrective action order under RCRA §9003(h).

Based on the above information, ODEQ has determined that the former Cornelius Estby II property located at 1021 E Baseline St is eligible for funding from the State Response Program Grant.

If you have any questions or need clarification of any of the issues addressed in this letter, please do not hesitate to call me at (503) 229-5585.

Petroleum Eligibility Letter
Cornelius Estby II (former)
Cornelius, Washington County
February 24, 2025

Sincerely,

A handwritten signature in black ink, appearing to read "Kara Master", with a long horizontal flourish extending to the right.

Kara Master
NW Region Brownfields Coordinator

Enclosure: Mutual Agreement and Final Order, signed January 16, 2025

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF	)	MUTUAL AGREEMENT
ISLAM EL MASRY, an individual,	)	AND FINAL ORDER
	)	CASE NO. LQ/UST-NWR-11-104
Respondent.	)	CASE NO. LQ/UST-WR-2017-059

WHEREAS:

1. Respondent purchased the property at 1021 E. Baseline Street in Cornelius, Oregon (the Property) subject to a Department of Environmental Quality (DEQ) lien for DEQ Case No. LQ/UST-NWR-11-104, which was recorded with Washington County on January 12, 2012, as Lien Record No. 2012-003261 (the 2012 Lien) in the amount of \$28,961 plus interest at 9% per annum.
2. The total amount due on the 2012 Lien, including principal and interest for payoff as of December 3, 2024, is \$62,624.
3. On July 13, 2017, DEQ issued Notice of Civil Penalty Assessment and Order (Notice) No. LQ/UST-WR-2017-059 to Respondent. DEQ assessed a \$15,677 civil penalty against Respondent for violations alleged in the Notice that occurred at the Property.
4. Respondent did not request a hearing within the time allowed and the Notice became final by operation of law.
5. After the civil penalty remained unpaid, on July 25, 2018, DEQ filed a lien with the Washington County Clerk, Lien Record No. 2018-051854 (the 2018 Lien) in the amount of \$15,677, plus interest at 9% per annum.
6. The total amount due on the 2018 Lien, including principal and interest for payoff as of December 3, 2024, is \$24,650.
7. On January 25, 2024, DEQ's Underground Storage Tank (UST) Program inspected the Property and subsequently issued Field Citation No. 2024-FC-8956 in the amount of \$950 to Respondent. Respondent did not pay the Field Citation and DEQ's UST Program referred the matter to the DEQ Office of Compliance and Enforcement.

8. Respondent intends to sell the Property to the City of Cornelius for a purchase price that is based on fair market value and current market conditions.

9. On July 31, 2006, DEQ received a report that petroleum had been released from a regulated UST at the Property and established Leaking UST (LUST) File No. 34-06-1375. In January 2012, DEQ issued a Notice of Civil Penalty and Order to Comply to M&G Collections LLC for failure to determine the full nature, magnitude and extent of the contamination caused by the release from the UST. The Property was purchased by Islam R. El Masry on October 5, 2015. Although EVREN Northwest, Inc. on behalf of Islam R. El Masry performed additional investigations at the Property in 2018 and 2019, the presence of five out-of-compliance USTs prevented closure of the UST release. Since July 31, 2006, DEQ has provided oversight of investigation and cleanup work at the Property under Oregon Administrative Rules (OAR) 340-122-0205 through 0360.

10. Pursuant to ORS 465.330, Respondent has incurred and owes \$39,325 in cost recovery expenses and accrued interest related to oversight under the LUST Program as of December 3, 2024, to DEQ for account no. T37434.

I. AGREEMENT

Respondent and DEQ hereby agree that:

1. This Mutual Agreement and Final Order (MAO) shall be effective upon the date fully executed.

2. DEQ agrees to reduce the total amount due for the 2012 Lien, at the time of execution of this MAO, from approximately \$62,624 to \$8,000.

3. DEQ agrees to reduce the total amount due for the 2018 Lien, at the time of execution of this MAO, from approximately \$24,650 to \$8,000.

4. The reductions described in Section I, paragraphs 2 and 3 are based on the fact that as of the date of this MAO, DEQ has not been able to collect on the 2012 Lien or the 2018 Lien, the cost to DEQ to pursue collection of those liens, Respondent's current financial hardship, and the

1 public interest in transferring the property to a new owner that will remove the underground storage
2 tanks at the Property to allow for its future beneficial use.

3 5. Upon receipt of full payment of \$16,000, DEQ agrees to file a Release of Lien with
4 Washington County for the 2012 Lien and the 2018 Lien.

5 6. DEQ agrees to take no further action on Field Citation No. 2024-FC-8956.

6 7. Pursuant to OAR 340-012-0030(19) and OAR 340-012-0145(2), the violations
7 alleged in the Notice, will be treated as prior significant actions in the event a future violation
8 occurs.

9 8. Respondent waives any and all rights and objections Respondent may have to the
10 form, content, manner of service and timeliness of the Notice; to a contested case hearing and
11 judicial review of the Notice; and to service of a copy of this MAO.

12 9. This MAO resolves all civil claims of DEQ, based upon the facts alleged, for the
13 violations expressly alleged in the Notice. This MAO is not intended to limit, in any way, DEQ's
14 right to proceed against Respondent in any forum for any past or future violations not expressly
15 settled herein.

16 10. Respondent releases and waives any and all claims of any kind, known or unknown,
17 past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or
18 agents, arising out of the matters and events set out in the Notice and this MAO. Any and all
19 claims includes but is not limited to any claim under 42 USC § 1983 et seq., any claim under
20 federal or state law for damages, declaratory, or equitable relief, and any claim for attorney's fees
21 or costs.

22 11. This MAO shall be binding on Respondent and its respective successors, agents, and
23 assigns. The undersigned representative of Respondent certifies that they are fully authorized to
24 execute and bind Respondent to this MAO.

25 \\\

26 \\\

27 \\\

II. FINAL ORDER

The Environmental Quality Commission hereby enters a final order:

1. Requiring Respondent to pay \$16,000 to DEQ, due on the closing date for Respondent's sale of the Property to the City of Cornelius, as follows:
 - a. Send a check or money order in the amount of \$8,000 made payable to "Department of Environmental Quality" to DEQ - Business Office, 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232. Include Case No. LQ/UST-NWR-11-104 on the check or money order.
 - b. Send a check or money order in the amount of \$8,000 made payable to "Department of Environmental Quality" to DEQ - Business Office, 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232. Include Case No. LQ/UST-WR-2017-059 on the check or money order.
2. Requiring Respondent to pay \$15,000 to DEQ, due on the closing date for Respondent's sale of the Property to the City of Cornelius, as follows:
 - a. Send a check or money order in the amount of \$15,000 made payable to "Department of Environmental Quality" to DEQ-Business Office, 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232. Please include "Account No. T37434" on the check. Please also include, on the paperwork that accompanies the check, or on blank paper accompanying the check, written instructions to contact Dawn Ismerio for instructions on project information.

ISLAM EL MASRY (RESPONDENT)

Date

01/16/2025

Signature

Name (print)

Title (print)

Islam El Masry
Seller

1 *This MAO signed by Becka Puskas and Peter Donahower of DEQ is to be held in escrow until it*
2 *is signed by Islam El Masry.*

3 DEPARTMENT OF ENVIRONMENTAL QUALITY and
4 ENVIRONMENTAL QUALITY COMMISSION

5
6 12/18/2024
7 Date

8 Rebecca Z Puskas
9 Becka Puskas, Interim Manager
10 Office of Compliance and Enforcement

11 12/18/2024
12 Date

13 Peter F Donahower
14 Peter Donahower
15 Northwest Region Petroleum Cleanup Section Manager
16
17
18
19
20
21
22
23
24
25
26
27