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

STATE OF OREGON, ex rel. RICHARD  
WHITMAN, DIRECTOR, DEPARTMENT  
OF ENVIRONMENTAL QUALITY,

Plaintiff,

v.

EUGENE WATER & ELECTRIC BOARD, a  
municipal utility of the City of Eugene;  
PACIFICORP; and CASCADE NATURAL  
GAS CORPORATION,

Defendant.

Case No. 19CV34872

**CERTIFICATION OF COMPLETION**

**1. Findings**

A. On August 9, 2019, Lane County Circuit Court Judge Conover approved a Consent Judgment submitted by Plaintiff Oregon Department of Environmental Quality (DEQ) and Defendant Eugene Water & Electric Board (EWEB), a municipal utility of the City of Eugene; PacifiCorp; and Cascade Natural Gas Corporation (collectively, the “Parties”), in the Circuit Court of the State of Oregon for Lane County, Case No. 19CV34872. The Consent Judgment required that the Parties perform remedial actions to address contaminated soil at the former Eugene Manufactured Gas Plant (the Site) in Eugene in accordance with two Records of Decision (RODs) issued by DEQ on January 5, 2015 (for the “EWEB Owned Portion”) and on January 21, 2015 (the “Cul-de-Sac Portion”).

B. Under the terms of the RODs, the Parties were to complete the following remedial actions:

- 1 (a) Excavation and off-Site disposal of high-concentration residuals or wastes  
2 from the location of the First Plant Building and the foundation of the Small Holder.
- 3 (b) Assessment of two vaults in the foundation of the Large Holder and removal  
4 of high-concentration residuals from the vaults, with proper disposal after removal.
- 5 (c) Installation of an asphalt cap (minimum of 3 inches) over the EWEB-  
6 Owned Portion and the Cul-de-Sac Portion.
- 7 (d) Stabilization of the portion of the bank of the Willamette River that abuts  
8 the northeastern boundary of the EWEB-Owned Portion (the “Riverbank”) by use of vegetation,  
9 natural rock, and bioengineering treatments to contain and prevent or minimize exposure and  
10 migration of contaminants to the Willamette River.
- 11 (e) Preparation and implementation of a DEQ-approved Site Management  
12 Plan for the Site, which covers the following: (i) excavation worker health and safety;  
13 (ii) inspection and maintenance of the asphalt cap; (iii) inspection and maintenance of the  
14 shoreline stabilization measures; and (iv) periodic reporting.
- 15 (f) Recording a DEQ-approved Easement and Equitable Servitudes (EES) on  
16 the EWEB-Owned Portion and the Cul-de-Sac Portion, which includes the following restrictions:
- 17 (i) Groundwater Use Restrictions. The owner of the EWEB-Owned  
18 Portion and the Cul-de-Sac Portion may not extract through wells or  
19 by other means or use the groundwater for consumption or other  
20 beneficial use (except for dewatering wells).
- 21 (ii) Soil Cap Engineering Control. The owner of the EWEB-Owned  
22 Portion and the Cul-de-Sac Portion will maintain the asphalt cap in  
23 accordance with the Site Management Plan.
- 24 (iii) Land Use Restrictions. Residential use of any type is prohibited at  
25 the EWEB-Owned Portion or Cul-de-Sac Portion.
- 26 (iv) No buildings for continuous human occupancy shall be constructed

1 on the EWEB-Owned Portion or Cul-de-Sac Portion (e.g., offices,  
2 shops, retail development) unless additional Site-specific analyses  
3 are conducted.

4 C. Prior to the recording of the EES, the Cul-de-Sac Portion of the Site was transferred to  
5 EWEB so only one EES was recorded for the entire Site, which covered both the former “EWEB-  
6 Owned” and “Cul-de-Sac” portions.

7 D. The EES was recorded on the combined EWEB-Owned Portion and Cul-de-Sac Portion  
8 on August 6, 2020.

9 E. A summary of the work completed at the Site is documented in the April 16, 2020  
10 Remedial Action Construction Completion Report, and the subsequent Completion of Remedial  
11 Activities letter dated September 16, 2020, which are part of the project administrative record.

12 F. On November 1, 2020 DEQ provided public notice and opportunity to comment on a  
13 proposed Certification of Completion in accordance with ORS 465.320 and 465.325(10)(b). Copies  
14 of the remedial action reports completed for the project were available to review at DEQ’s project  
15 website and the entire project file was available at DEQ’s Western Region office in Eugene. A  
16 public notice announcing the 30-day comment period was published on November 1, 2020 in the  
17 Eugene Register Guard newspaper. Notice was also published on DEQ’s website and in the  
18 November 2020 Secretary of State Bulletin. The City of Eugene was also advised regarding the  
19 comment period via email. The comment period closed on November 30, 2020.

20 G. DEQ did not receive any comments on the proposed Certificate of Completion.

21 H. Based on the reports and other information submitted by the Parties, and DEQ’s  
22 inspection and oversight of activities, DEQ finds that the Parties have satisfactorily completed the  
23 Consent Judgment scope of work on the Site.

24 **2. Conclusions**

25 A. Defendants Eugene Water & Electric Board, PacifiCorp and Cascade Natural Gas  
26 Corporation have satisfactorily completed the soil cleanup, bank stabilization and other remedial

1 actions required at the Site by the Consent Judgment and no further action is required to remediate  
2 the Site.

3 B. Ongoing inspection and maintenance activities are required by the 2020 Easement and  
4 Equitable Servitudes (Attachment A), which are described in Section 1.B, above.

5 **3. Conditions**

6 A. This Certification of Completion applies only to the soil cleanup, bank stabilization and  
7 other remedial actions at the Site that were required under the Consent Judgment.

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

11 C. DEQ does not, by this Certification, assume liability for any claim arising from acts or  
12 omissions of Defendants Eugene Water & Electric Board, PacifiCorp, and Cascade Natural Gas  
13 Corporation or its officers, employees, agents, successors, subsidiaries, or assigns relating to actions  
14 pursuant to the Consent Judgment.

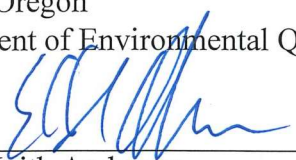
15 **4. Notice**

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

18 **Issued By:**

19 State of Oregon  
20 Department of Environmental Quality

State of Oregon  
Department of Justice

21 By:   
22 Keith Andersen  
Western Region Administrator

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

23 \_\_\_\_\_  
24 12/22/2020  
Date

\_\_\_\_\_  
Date

1 actions required at the Site by the Consent Judgment and no further action is required to remediate  
2 the Site.

3 B. Ongoing inspection and maintenance activities are required by the 2020 Easement and  
4 Equitable Servitudes (Attachment A), which are described in Section 1.B, above.

5 **3. Conditions**

6 A. This Certification of Completion applies only to the soil cleanup, bank stabilization and  
7 other remedial actions at the Site that were required under the Consent Judgment.

8 B. DEQ’s determination that no further action is required at the Site may be withdrawn  
9 upon discovery of new information showing that public health, safety, and welfare or the  
10 environment are not being protected.

11 C. DEQ does not, by this Certification, assume liability for any claim arising from acts or  
12 omissions of Defendants Eugene Water & Electric Board, PacifiCorp, and Cascade Natural Gas  
13 Corporation or its officers, employees, agents, successors, subsidiaries, or assigns relating to actions  
14 pursuant to the Consent Judgment.

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17 appealed by any aggrieved person in accordance with ORS 465.325(10)(c).

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19 State of Oregon  
20 Department of Environmental Quality

State of Oregon  
Department of Justice

21 By: \_\_\_\_\_  
22 Keith Andersen  
23 Western Region Administrator

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

24 \_\_\_\_\_  
Date

December 22, 2020  
Date

**CERTIFICATE OF SERVICE**

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I certify that on December 22, 2020 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:

**For Defendant Cascade:**

Howard Jensen, OSB No. 080285  
Veris Law Group PLLC  
1809 Seventh Avenue, Suite 1400  
Seattle, WA 98101

- Hand Delivery
- Mail Delivery
- Overnight Mail
- Telecopy (fax)
- E-Mail

**For Defendant EWEB:**

Laura Maffei, OSB No. 993177  
James Kincaid, OSB No. 872773  
Cable Huston LLP  
1455 SW Broadway, Suite 1500  
Portland, OR 97201

- Hand Delivery
- Mail Delivery
- Overnight Mail
- Telecopy (fax)
- E-Mail

**For Defendant PacifiCorp:**

Louis Ferreira, OSB No. 902602  
Stoel Rives LLP  
760 SW Ninth Ave., Suite 3000  
Portland, OR 97205

- Hand Delivery
- Mail Delivery
- Overnight Mail
- Telecopy (fax)
- E-Mail

*/s/ Gary Vrooman*

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Gary Vrooman, OSB #075832  
Assistant Attorney General  
Of Attorneys for Plaintiff  
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100 SW Market Street  
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