



Oregon

Kate Brown, Governor

Department of Environmental Quality

Western Region Salem Office

4026 Fairview Industrial Dr SE

Salem, OR 97302

(503) 378-8240

FAX (503) 373-7944

TTY 711

January 6, 2023

Susan L. Haider
Simpson Hills LLC
7509 S. 5th Street #101-PMB #A801
Ridgefield, WA 98642

RE: *Conditional* Partial No Further Action Determination
Fairview Training Center II
Tax Lot #400
ECSI #4715

Dear Susan Haider:

The Oregon Department of Environmental Quality (DEQ) has completed a review of the available information for the Fairview Training Center II site, including the August 11, 2021 communication from PBS Engineering and Environmental Inc. regarding the recorded property line adjustment and a formal request for a no further action letter. The Fairview Training Center II property is located at the northwest quadrant of the intersection of Battle Creek Road and Reed Road, on Marion County map and tax lot 083W110000400, in Salem, Oregon.

DEQ has determined that remedial action to address environmental contamination on the Fairview Training Center II site is complete, and no further action (NFA) is required. This *conditional* partial NFA applies only to tax lot #400. A legal description of the tax lot is described in Exhibit A.

This determination is based on the DEQ regulations and the facts as we now understand them including, but not limited to the following:

- The site was used as a State institution from 1907 to 1990. Patients worked the agriculture land (field crops, orchard) which consisted of approximately 44 acres. The crops supplied several other local State institutions in the area.
- Phase I and II Site Assessments detected dieldrin, DDT, DDE pesticides in the shallow soil.
- In 2000, to prepare the site for redevelopment the remedy selected was through an Interim Remedial Action Measure (IRAM) which consisted of excavating the top foot of soil (approximately 70,000 cubic yards) and disposal of the soil in an approved repository (former quarry). All samples above the applicable risk-based concentrations (RBCs) detected after the initial removal were further excavated and disposed of in the repository.
- The repository used for the disposal of the excavated contaminated soil is located on tax lot #400.
- Tax lot #300 and #400 property boundaries were surveyed and re-aligned to reduce the size of tax lot #400 to only contain the repository while enlarging tax lot #300 with the balance of the remediated property.
- There are no drinking water wells on the property. The future development will be serviced with municipal water from the City of Salem.

Remaining contamination on tax lot #400 exceeds the acceptable RBCs and requires an easement and equitable servitudes (EES) to be protective. The EES was recorded with the Marion County Clerk's office on 06-16-2021 under instrument #2021 00035942. The conditions in the EES include the following:

- Soil Cap Engineering Control.
- Notice of Demolition or Cap Disturbance.
- No Residential use or Agricultural (food crop) use of any type.
- Inspection, Sampling, and Reporting.

Based on the available information, tax lot #400 of the Fairview Training Center II site is currently protective of public health and the environment in accordance with Oregon Environmental Cleanup Law, ORS 465.200, provided the conditions in the EES are maintained. The site requires no further action unless new or previously undisclosed information becomes available, or there are changes in site development or land and water uses, or more contamination is discovered. DEQ will update the Environmental Cleanup Site Information System (ECSI) database to reflect this decision.

This letter applies only to tax lot #400 as described in the *Record of Survey* dated 12/8/2020 and attached as Exhibit A. If any contaminated soil is encountered on the property in the future, it must be handled and disposed of in accordance with local, state, and federal regulations.

A copy of this Conditional partial No Further Action decision can be viewed at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp> (enter site ID 4715). DEQ recommends keeping a copy of all the documentation associated with this remedial action with the permanent facility records. For questions, please contact Bruce Scherzinger at 503-378-5038, or via email at bruce.scherzinger@deq.oregon.gov

Sincerely,



Nancy A. Sawka,

Acting Cleanup Manager, Western Region

cc: File

Ecc: Bruce Scherzinger, bruce.scherzinger@deq.oregon.gov
Bret Waldron, Bret.Waldron@pbsusa.com

Att: Exhibit A, Figures 1-3, Record of Survey



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January 6, 2023

Susan L. Haider
Simpson Hills LLC
7509 S. 5th Street #101-PMB #A801
Ridgefield, WA 98642

RE: Partial No Further Action Determination
Fairview Training Center II
Tax Lot #300
ECSI #4715

Dear Susan Haider:

The Oregon Department of Environmental Quality (DEQ) has completed a review of the available information for the Fairview Training Center II site, including the August 11, 2021, communication from PBS Engineering and Environmental Inc. regarding the recorded property line adjustment and a formal request for a no further action letter. The Fairview Training Center II property is located at the northwest quadrant of the intersection of Battle Creek Road and Reed Road, on Marion County map and tax lot 083W110000300 in Salem, Oregon.

DEQ has determined that remedial action to address environmental contamination on the Fairview Training Center II site is complete, and no further action (NFA) is required. This partial NFA applies only to tax lot #300; the partial NFA is because the ECSI #4715 site includes both tax lots #300 and #400. Tax lot #300 is no longer encumbered by the Easement and Equitable Servitudes (EES), but tax lot #400 is encumbered by the EES. Tax lot #300 receives a partial "unconditional" NFA and tax lot #400 receives a partial "conditional" NFA. A legal description and survey map describing the tax lot is shown in Exhibit A.

This determination is based on the DEQ regulations and the facts as we now understand them including, but not limited to the following:

- The site was used as a State institution from 1907 to 1990. Patients worked the agriculture land (field crops, orchard) which consisted of approximately 44 acres. The crops supplied several other local State institutions in the area.
- Phase I and II Site Assessments detected dieldrin, DDT, DDE pesticides in the shallow soil.
- In 2000, to prepare the site for redevelopment the remedy selected was through an Interim Remedial Action Measure (IRAM) which consisted of excavating the top foot of soil (approximately 70,000 cubic yards) and disposal of the soil in an approved repository (former quarry). All samples above the applicable RBCs detected after the initial removal were further excavation and disposed of in the repository.
- The repository used for the disposal of the excavated contaminated soil is located on tax lot #400.

- Tax lot #300 and #400 property boundaries were surveyed and re-aligned to reduce the size of tax lot #400 to only contain the repository while enlarging tax lot #300 with the balance of the remediated property.
- There are no drinking water wells on the property. The future development will be serviced with municipal water from the City of Salem.
- Remaining contamination on tax lot #300 is below the acceptable risk-based concentrations for current and future residential uses.

Based on the available information, tax lot #300 of the Fairview Training Center II site is currently protective of public health and the environment in accordance with Oregon Environmental Cleanup Law, ORS 465.200. This property requires no further action unless new or previously undisclosed information becomes available, there are changes in site development or land and water uses, or more contamination is discovered. DEQ will update the Environmental Cleanup Site Information System (ECSI) database to reflect this decision.

This letter applies only to tax lot #300 as described in the *Record of Survey* dated 12/8/2020 and attached as Exhibit A. If any contaminated soil is encountered on the property in the future, it must be handled and disposed of in accordance with local, state, and federal regulations.

A copy of this partial No Further Action decision can be viewed at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp> (enter site ID 4715). DEQ recommends keeping a copy of all the documentation associated with this remedial action with the permanent facility records. For questions, please contact Bruce Scherzinger at 503-378-5038, or via email at bruce.scherzinger@deq.oregon.gov

Sincerely,



Nancy A. Sawka,
Acting Cleanup Manager, Western Region

File

Ecc: Bruce Scherzinger, bruce.scherzinger@deq.oregon.gov
Bret Waldron, Bret.Waldron@pbsusa.com

Att: Exhibit A, Figures 1-3, Record of Survey

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
4026 Fairview Industrial Drive SE
Salem, OR 97302
Attention: Bruce Scherzinger

Grantor

Simpson Hills, LLC
3950 Fairview Industrial Drive SE, Suite 240
Salem, OR 97302
Attention: Mathew Harrell

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("EES") is made on May 18, 2022 between Simpson Hills, LLC ("**Grantor**") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("DEQ" or "**Grantee**").

RECITALS

A. Grantor is the owner of certain real property located on the northwest quadrant of the intersection of Reed Road and Battle Creek Road SE Salem, Oregon, Marion County, Tax Map 083W11, Tax Lot 400 (the "**Property**") the location of which is more particularly described in Attachment A to this EES. The Property is referenced under the name Fairview Training Center II, ECSI #4715 in the files of DEQ's Environmental Cleanup Program at the Western Region office located at 4026 Fairview Industrial Drive SE, Salem, Oregon, and telephone 503-378-8240. Interested parties may contact the Western Region office to review a detailed description of the risks from contamination remaining at the Property and described in the Storage Cell Closure Report, Dated April 20, 2010 by LEI Engineering and Surveying.

B. On May 2009, the Director of the Oregon Department of Environmental Quality or delegate selected the remedial action for the Property set forth in the Internal Remedial Action Measure (IRAM) for the Property, DEQ Staff Memorandum May 7, 2009. The remedial action consisted of placing contaminated soil in a permanent storage cell and restricting the site use and access using an Easement and Equitable Servitude.

C. The disposal cell was built in a 3-acre former rock quarry. The quarry was constructed to meet the requirements of a DEQ approved work plan. The disposal cell is surrounded by a curtain drains to remove the potential for any contact with shallow perched groundwater and surrounded by drainage ditches to isolate it from surface water. The base of the cell was constructed of low permeability soil and the top is capped with a minimum of two feet of clean fill. The purpose of the cap is to isolate contaminated soils from direct human contact.

D. The provisions of this Easement and Equitable Servitude are intended to further the implementation of the selected remedial action and thereby protect human health and the environment.

E. Nothing in this Easement and Equitable Servitude constitutes an admission by Grantor of any liability for the contamination described in the Easement and Equitable Servitude.

1. DEFINITIONS

- 1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.8 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor, in consideration of Grantee's issuance of a No Further Action letter grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property described in Attachment A is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Soil Cap Engineering Control Use Restriction.** Except upon prior written approval from DEQ, Owner shall not conduct operations involving any soil excavation within the footprint of the Fairview Training Center Disposal Cell exceeding 64 cubic feet. Any soil excavated from the Fairview Training Center Disposal Cell shall be handled as non-hazardous contaminated waste in accordance with Oregon's Solid Waste regulations. Owner shall maintain the "clean fill" cap at a depth of no less than 2 feet.

3.2 **Notice of Demolition or Cap Disturbance.** Except for minor excavation for maintenance, as noted above, Owner shall not remove or disturb the "clean fill" cap over the contaminated soil in the Fairview Training Center Disposal Cell. Prior to any excavation that exceeds the minor excavation guidelines noted above the owner shall obtain prior written approval from DEQ.

3.3 **Land Use Restrictions:** The following operations and uses are prohibited on the Property:

- a. Residential use of any type; and
- b. Agricultural (food crop) use of any type

3.4 **Inspection, Sampling, and Reporting.** Owner shall complete quarterly site inspections and document the inspections on an inspection form. Owner shall sample the outfall of the drainage system on an annual basis, in December. The samples shall be analyzed for Dieldrin by EPA Method 8081A. Owner shall report the results to DEQ along with the four inspections reports, and a description of any maintenance done over the year by January 31, each year.

3.5 **Use of the Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1. Owner may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Subsection 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the City of Salem zoning code or any successor code. As of the date of this EES, the base zone of the Property is Fairview Mixed Use of the Fairview Master Plan.

6.3. **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based

6.4. **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as

the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.5. **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.6. **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Agreement or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

6.7. IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

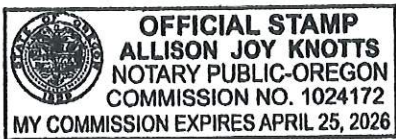
BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

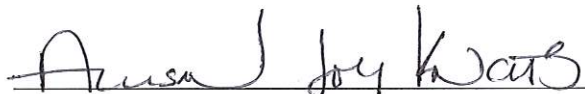
GRANTOR: Simpson Hills LLC, (an Oregon limited liability company): By Premier Management Services Corp., a Washington corporation

By:  Date: 6/9/22
Susan L. Haider, Treasurer


STATE OF OREGON)
) ss.
County of Marion)

The foregoing instrument is acknowledged before me this 9th day of June 2022, by Susan L Haider of Premier Management Services Corp MGR of Simpson Hills LLC, on its behalf.



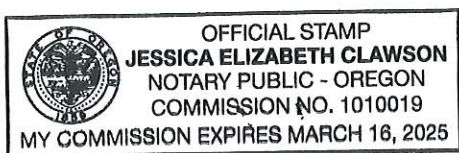

NOTARY PUBLIC FOR OREGON
My commission expires: April 25, 2026

GRANTEE: State of Oregon, Department of Environmental Quality

By:  Date: May 18, 2022
Michael E. Kucinski, Manager
Western Region Cleanup and Emergency Response

STATE OF OREGON)
) ss.
County of Lane)

The foregoing instrument is acknowledged before me this 18th day of May 2022, by Michael E. Kucinski of the Oregon Department of Environmental Quality, on its behalf.





NOTARY PUBLIC FOR OREGON
My commission expires: March 16, 2025

EXHIBIT A

Legal Description of the Property

A tract of land located in the Southeast One-Quarter of Section 11, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon and being more particularly described as follows:

Beginning at the east one-quarter corner of said Section 11, thence South 89°37' 51" West 920.23 feet to the westerly right-of-way line of Reed Road SE (20.00 feet from centerline); thence along said westerly right-of-way line South 14°53'50" West 280.90 feet to the True Point of Beginning; thence continuing along said westerly right-of-way line, South 14°53' 50" West 18.00 feet; thence leaving said westerly right-of-way line, North 75°06'10" West 20.00 feet to a line that is parallel with and 40.00 feet westerly of the centerline of Reed Road SE; thence along said parallel line, South 14°53'50" West 359.81 feet; thence leaving said parallel line, South 25°28'53" West 225.76 feet; thence South 71°25' 16" West 23.40 feet to a line that is parallel with and 65.00 feet northerly of the centerline of Battle Creek Road SE; thence along said parallel line, North 52°01' 13" West 272.21 feet; thence leaving said parallel line, North 25°00'09" East 731.58 feet; thence South 75°06'10" East 183.04 feet to a line that is parallel with and 40.00 feet westerly of the centerline of Reed Road SE; thence along said parallel line, South 14°53'50" West 214.32 feet; thence leaving said parallel line, South 75°06' 10" East 20.00 feet to the True Point of Beginning.

Basis of Bearings is along the easterly line of Parcel 2 of Partition Plat 2018-074.

The above-described tract of land contains 4.43 acres, more or less.