

ACCESS AGREEMENT BETWEEN

YAMHILL COUNTY

AND

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

1. Yamhill County, a political subdivision of the State of Oregon, (“Owner”) and the Oregon Department of Environmental Quality (“DEQ”) (collectively referred to herein as the “Parties”) enter into this Access Agreement (“Agreement”) to facilitate the environmental investigation of, and the performance of removal or remedial actions (as those terms are defined in ORS 465.200 and implementing regulations) at the property located at 17480 SW Muddy Valley Road in McMinnville, Oregon (“Subject Property”).
2. Owner gives permission, to the extent of its possessory interest in the Subject Property and premises and appurtenances at the Subject Property, to DEQ and its officers, agents, authorized representatives, employees, and contractors to enter the Subject Property for the purpose of carrying out actions authorized by ORS 465.200 through 465.992, in accordance with the terms of this Agreement.
3. DEQ’s actions at the Subject property may include:
 - A. Sampling, monitoring and inspecting groundwater, air, and soil;
 - B. Constructing one or more groundwater monitoring wells, soil borings, test pits and/or excavations;
 - C. Installing, using and maintaining other monitoring equipment;
 - D. Removing contaminated soils and groundwater;
 - E. Treating contaminated soils and groundwater;
 - F. Maintaining any monitoring well installed by DEQ on the Subject Property in accordance with Oregon Administrative Rules (OAR) Chapter 690, Division 240; and
 - G. Photographing or videotaping portions of the Subject Property and structures, objects, and materials at the Subject Property as necessary to facilitate environmental investigations or remedial measures.
4. All tools, equipment, and/or other property brought upon the Subject Property by or at DEQ’s direction remain DEQ’s property.
5. When DEQ determines that continued access to the Subject Property is unnecessary, or upon expiration of this Agreement, whichever is earlier, DEQ will abandon any wells installed by DEQ on the Subject Property in accordance with OAR 690-240-0510, remove all tools, equipment, and improvements brought upon the Subject Property, and restore the

surface condition of areas disturbed by DEQ activities, to the maximum extent reasonably practicable, to a condition equivalent to the condition existing before DEQ's activities. Except with the written consent of the Owner, no waste or materials generated by DEQ's sampling or other activities may be disposed or discharged at the Subject Property.

6. The Owner may, at the Owner's own expense and in accordance with Section 9, obtain "split samples" of any samples taken on the Subject Property.
7. DEQ will provide Owner at least 72 hours verbal notice before undertaking any sampling or other investigation activity at the Subject Property. Except in an emergency, DEQ will provide Owner at least 30 calendar days' written notice before commencing any excavation or construction, or implementation of a removal or remedial action at the Subject Property. To the maximum extent reasonably practicable, DEQ will coordinate and schedule all activities authorized under this Agreement that might disrupt or interfere with the use of the Subject Property, through:

<u>Owner:</u>	Name:	Christian F. Boenisch/Yamhill County Council
	Address:	535 NE Fifth Street McMinnville, OR 97128
	Telephone:	503-434-7502
	Fax:	503-435-7553
	E-mail:	boenischc@co.yamhill.or.us

All notices, requests and other communications hereunder shall be in writing (except in emergency situations, which may be telephoned to the Owner herein and then followed in writing) and shall be deemed to have been duly given if delivered by electronic mail, hand delivered, or sent by telex or telecopy (fax), or sent by United States mail, first class, registered or certified, return receipt requested with property postage prepaid, to the above listed contact for Owner.

8. DEQ will comply with all applicable federal, state, and local laws at all times while on the Subject Property and, subject to ORS 465.315(3), secure all necessary permits and authorizations in connection with the activities conducted on the Subject Property under this Agreement. Owner agrees to cooperate fully with DEQ as necessary for DEQ to obtain necessary permits and authorizations. DEQ will perform all activities under this Agreement in a manner that will not cause contamination or exacerbate contamination existing at the Subject Property.
9. Owner may observe DEQ while DEQ is undertaking activities at the Subject Property; provided that any observer must have health and safety training consistent with the requirements of the Health and Safety Plan for DEQ's activities. Upon request, DEQ will provide Owner and, if applicable, Tenant a copy of available test data, final sample results and analysis reports, toxicity evaluations and other written reports of any description that

arise from DEQ's activities at the Subject Property, unless the record is exempt from disclosure under the Oregon Public Records Law.

10. Nothing in this Agreement constitutes an admission of liability by the Owner regarding any release of hazardous substances at or from the Subject Property.
11. Subject to the limitations of Article XI, § 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300), the State of Oregon ("State") shall indemnify, within the limits of and subject to the restrictions in the Tort Claims Act, Owner against any liability for personal injury or damage to life or property arising from the State's negligent activity under this Agreement provided, however, the State shall not be required to indemnify Owner for any such liability arising out of the wrongful acts of Owner, its tenants, its agents, or attributable to contamination already existing on, under or from the Subject Property.
12. This Agreement may be assigned by Owner. If Owner makes such an assignment, it will notify DEQ in writing. This Agreement will be binding upon and inure to the benefit of the Parties' respective representatives, successors, and assigns. Any rights or obligations of the Parties under this Agreement that by their nature are continuing rights and obligations, including but not limited to any indemnification provided in Paragraph 11, survive expiration or termination of this Agreement.
13. This Agreement represents the complete Agreement between the Parties with respect to the subject matter hereof. No modification or waiver of any provision of this Agreement is binding unless made in writing and signed by both Parties. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held invalid.
14. The term of this Agreement is two years from the date of the last signature below.
- 15 This Agreement may be executed in two or more counterparts, by facsimile or otherwise, each of which is an original, and all of which together are deemed one and the same instrument, notwithstanding that all Parties are not signatories to the same counterpart.

(Signature Page Follows)

YAMHILL COUNTY

DEPARTMENT OF ENVIRONMENTAL QUALITY

BOARD OF COMMISSIONERS:

Lindsay Berschauer

Chair

Cory Kolk

Commissioner

[Signature]

Commissioner

10/13/22

Date

[Signature] 10/13/2022

County Administrator

Date

APPROVED AS TO FORM:

[Signature]

10/16/22

Yamhill County Legal Counsel

Date

Michael E. Kucinski

Michael E. Kucinski (Oct 20, 2022 15:05 EDT)

Michael E. Kucinski
Environmental Cleanup Manager
Western Region, DEQ

Date: Oct 20, 2022

Accepted by Yamhill County
Board of Commissioners on
10/13/22 by Board Order
22-319

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Final Audit Report

2022-10-20

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