



MULTNOMAH COUNTY

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

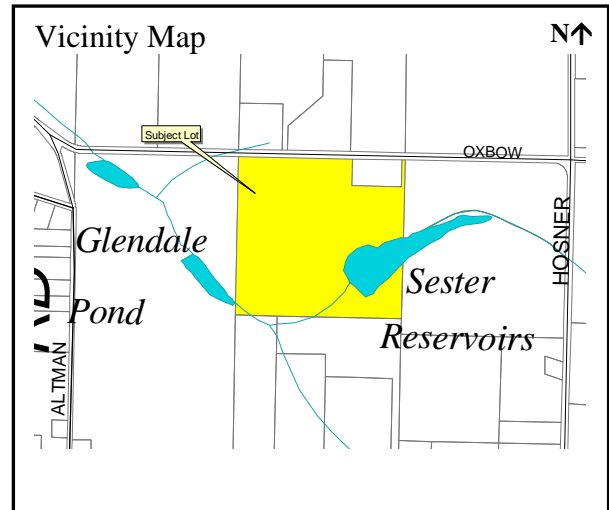
Case File: T2-07-030

Permit: Alteration to a Non-Conforming Use, Hillside Development Permit and Significant Environmental Concern Permit to replace 2 sections of municipal water pipelines.

Project Location: Located on the south side of Oxbow Dr. between Altman Rd. and Hosner Rd.
Tax Lot 300, Section 16D,
Township 1 S, Range 4 E, W.M.
R994160110

Applicant: Tim Collins
Portland Water Bureau
1120 SW 5th Ave, #500
Portland, OR 97204

Owners: G&F Sester Family LLC
33205 SE Oxbow Dr.
Gresham, OR 97080



Summary: The applicant proposes replacing a portion of two municipal water pipelines passing through the subject property. The development request is subject to the Significant Environmental Concern permit for Water Resource, Hillside Development Permit, and Alteration of a Non-Conforming Use Permit.

Decision: **Approved, with conditions.**
Unless appealed, this decision is effective March 21, 2008 at 4:30 PM.

Issued by:

By:

Kevin C. Cook
Planner

For: Karen Schilling - Planning Director

Date: March 7, 2008

Instrument Number for Recording Purposes: 00175622

Opportunity to Review the Record: A copy of the Planning Director's Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Kevin Cook, Staff Planner at 503-988-3043 x 26782.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of **MCC 37.0640**. An appeal costs \$250 and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is **March 21, 2008 at 4:30 pm**.

Applicable Approval Criteria: **Multnomah County Code (MCC): MCC 36.5500 – 36.5525**, Hillside Development and Erosion Control; **MCC 36.7210 – MCC 36.7215** Verification and Alteration, Expansion or Replacement of Nonconforming Uses; **MCC 36.4540 – 36.4560**, Significant Environmental Concern (SEC); **MCC 36.2600 – 36.2690**, Exclusive Farm Use; **Chapter 37**, Administration and Procedures.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at: <http://www.co.multnomah.or.us/landuse>

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two (2) years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 or 37.0700, as applicable. A request for permit extension may be required to be granted prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **The property owners shall record a copy of the Notice of Decision cover sheet and conditions of approval (pages 1-4) with the Multnomah County Recorder prior to building permit signoff. A copy of the recorded document shall be submitted to the Land Use Planning Office prior to the building permit sign-off (MCC 37.0670).**

- 2. All proposed landscaping illustrated in Exhibit A-5 shall be installed, and grass seed spread, within 14-days of project completion. The persons controlling the easement areas delineated in Exhibit A-5 are responsible for replacing any landscaping that does not survive with like type species to assure permanent site stabilization (MCC 36.5520(A)(2)(b));**
- 3. Rajiv Ali, P.E., shall periodically observe the site during construction and verify in writing that the geotechnical recommendations outlined in the GeoDesign, Inc. March 4th, 2005 geotechnical memorandum were followed (MCC 36.5515(F)(3)) - (Exhibit A-7). The use of services from a different Oregon Licensed Professional Engineer, or from a Certified Engineering Geologist will first need to be authorized by the County in order to meet this condition of approval.**
- 4. The property owners shall install erosion control measures before the site is disturbed and maintain best erosion control practices through all phases of development (MCC 36.5520(A)(2)(b)). Erosion control measures are to include the installation of sediment fences below the project area, installation of straw bales and bio bag barriers downhill and downstream of the active work area and covering stockpiled soils with straw mulch or 6-millimeter thick plastic sheeting. All erosion control measures are to be implemented as prescribed in the current edition of the City of Portland's *Erosion Control Manual*, copies of which are available for purchase at our office, or through the City of Portland.**
- 5. The applicants are responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within adjacent public right-of-way are disturbed, the applicants shall be responsible for returning such features to their original condition or a condition of equal quality.**
- 6. On-site disposal of construction debris is not authorized under this permit. Spoil materials removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e.tires), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects.**
- 7. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts result from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects.**
- 8. The applicant shall replant the site according to the submitted surface restoration plan (Exhibit A-5).**
- 9. No more than 4,999 cubic yards of fill may be imported to the property from offsite as part of this project unless first approved through a Conditional Use Permit for Large Fill (MCC 36.6700 -36.6720)**
- 10. All permanent slopes, shall be no greater than 3:1.**
- 11. No work authorized under this permit is to be initiated until any required approvals from the Oregon Department of Fish and Wildlife, Army Corps of Engineers and Division of State**

Lands have been obtained (if applicable). Submit copies of approval letters to the Land Use Planning office, referenced to case file #T2-07-030.

- 12. The applicant shall restore the water resource area to good condition as illustrated in MCC 36.4555(E)(2)(b). The area required to be restored is the water resource area (Exhibit A-24) as well as the area of development referenced in Exhibit A-23.**

Note:

Once this decision becomes final, applications for building permits may be made with the City of Gresham. **When ready to have building permits signed off, call the Staff Planner, Kevin Cook, at (503)-988-3043 x 26782 to schedule an appointment.** Multnomah County must review and sign off building permit applications before they are submitted to the City of Gresham. Four (4) sets each of the site plan and building plans are required at the building permit sign-off as well as a \$77 erosion control inspection fee and \$53.00 Building Permit Review Fee.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

DECISION OF THE PLANNING DIRECTOR

Formatting Note: As necessary to address Multnomah County ordinance requirements; Staff provides Findings referenced here. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant or their representative are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments.

Findings of Fact

1.0 Summary of Request

Staff: The Bull Run Watershed is the primary water supply for 800,000 Oregonians living in the Portland Metro area. Three steel pipelines convey water by gravity from the Bull Run Headworks to reservoirs on Powell Butte and Mt. Tabor, east of Portland. Certain exposed, above ground portions of the pipelines have been determined to be at risk to landslides, scour, tree fall, flooding, earthquakes, and other hazards. Occasional failures have occurred since construction of the conduit system in 1925 resulting in lost water supply and emergency repairs.

The City of Portland Bureau of Water Works is undertaking a series of projects to reduce the vulnerability of the conduits. This review concerns two exposed sections of conduit on the subject property. The main purpose of the project is to bury the exposed pipelines where they cross over an unnamed tributary of the Beaver Creek. The project goal is to reduce the vulnerability of this particular section of water conduit resulting in a more secure municipal drinking water supply. The exposed portions of conduits total approximately 144 feet and are proposed to be buried to a depth of approximately 6 feet.

2.0 Vicinity and Property Description

Staff: The project is located on the south side of Oxbow Dr. between Altman Rd. and Hosner Rd. near the toe of a dam that impounds a private pond (Exhibit B-10). The 36.96 tax lot is the site of a large tree nursery operation. The property is zoned Exclusive Farm Use (EFU) with zoning overlays for Significant Environmental Concern (water resources) and Hillside Development within the project area. Properties adjacent to the subject parcel are also zoned EFU.

The construction area is located within a vegetated gully containing an un-named tributary of Beaver Creek. The new sections of conduit will be located underground within reinforced material. Construction access will occur on existing roads used in association with farm use on the subject property by way of Oxbow Drive.

3.0 Noticing Requirements

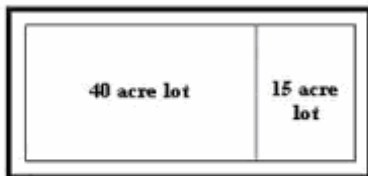
Upon receipt of a complete application, notice of the application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750-feet of the subject tract (MCC 37.0530(B)).

Staff: A 14-day opportunity to comment was mailed on December 19, 2007 in accordance with the noticing requirements of **MCC 37.0530(B)**. As of the writing of this report, no comments have been received.

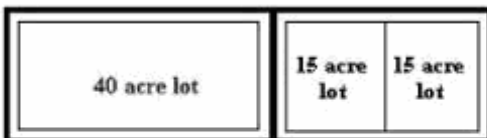
4.0 Lot of Record

MCC 36.2675(A) states, In addition to the Lot of Record definition standards in **MCC 36.0005**, for the purposes of this district a Lot of Record is either:

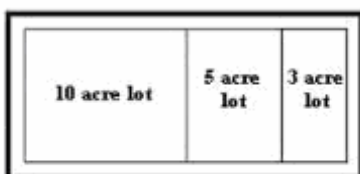
- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**
 - (2) A group of contiguous parcels or lots:**
 - (a) Which were held under the same ownership on February 20, 1990; and**
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.**
- 1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.**
 - 2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.**
 - 3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:**



Example 1:
One 55 acre Lot of Record



Example 2:
**One 40 acre Lot of Record and
one 30 acre Lot of Record**



Example 3:
One 18 acre Lot of Record

- 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to**

contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU),
or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transfer-able, even if the parcel was contiguous to another parcel held in the same ownership of February 20, 1990.

Staff: In addition to the EFU Lot of Record requirements a Lot of Record needed to have satisfied all applicable zoning laws and land division laws at the time of creation (**MCC 36.0005**).

A historical 1962 zoning map shows the subject property in a different configuration as it is seen today. Staff has not identified the exact date(s) that the current property configuration came into existence. The current property configuration does not show up on County zoning maps until 1999. The question as to whether or not the property is considered to be a Legal Lot of Record as defined in **MCC 36.0005** remains.

Because this public project will be located within an easement on private property, a Lot of Record finding is not necessary in this case.

5.0 Ownership Authorization

Proof of record ownership of the tract and the representative's authorization must be demonstrated to process any land use application (**MCC 37.0590(A) & (C)**). The property owner has provided written authorization for the project to occur on the subject property. A copy of the written authorization is contained in the permanent case file (Exhibit A-9). Additionally, a temporary construction easement has been signed by the property owner (Exhibit A-17).

6.0 Access Standards (MCC 36.2690)

All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 36.2675(C).

Staff: The subject lot abuts a public road (Oxbow Drive) and no additional accesses are required or proposed.

7.0 Dimensional Requirements

Minimum Yard Dimensions (MCC 36.2660(C)).

| Front (feet) | Side (feet) | Street Side (feet) | Rear (feet) |
|---------------------|--------------------|---------------------------|--------------------|
| 30 | 10 | 30 | 30 |

Staff: The replaced waterline will be buried underground and therefore these setbacks, which apply to above ground buildings and structures, do not apply.

8.0 Nonconforming Uses (MCC 36.7200(A))

The purpose of this section is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements.

Staff: MCC 36.0005 defines a nonconforming use as a legally established use, structure or physical improvement in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the use regulations of the zoning district in which it is located. The current Exclusive Farm Use (EFU) zoning regulations would require a regional water pipeline to undergo a land-use review if the use (regional water distribution lines) were established today (**MCC 36.2625(A)**). However, the first of the two water conduits was installed on the property in 1923 and the last one in 1925. The first comprehensive zoning ordinance affecting the property went into effect in 1955.

8.1 Verification of Nonconforming Use Status (MCC 36.7215(A)(1))

The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use: Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

Applicant: “The Zoning Code was enacted in 1955. As described in Part One: Project Description, the pipelines were constructed prior to 1955 with the oldest dating from 1925. The conduits have been in use since construction. Documentation of the pipeline’s construction prior to adoption of the County Zoning Code is shown in Attachment F.”

Staff: Information posted on the City of Portland Water Bureau’s webpage¹ indicates that conduit 2 went into service in 1911, and conduit 4 in 1953. This evidence proves the original structure pre-dates Multnomah County zoning regulations which were first applied to the subject property on April 19th, 1955. Since the use was lawfully established and operating when zoning regulations were first adopted, Staff finds this standard has been met.

8.2 Has not been abandoned or interrupted for a continuous two year period (MCC 36.7215(A)(2)).

Applicant: “Since its construction, the three conduits have been in continuous operation by providing drinking water to Portland from the Bull Run headworks.”

¹ <http://www.portlandonline.com/water/index.cfm?&a=28322&c=29461>, accessed 1/17/08, 14:10.

Staff: Staff has discovered no suggesting that the municipal water conduits have not been discontinued for a continuous two year period. Staff finds this standard has been satisfied.

8.3 The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider (MCC 36.7215(B)(1)): Description of the use;

Applicant: "Part One: Project Description describes the proposed project. The two conduits within the project area are between 44 and 56 inch steel pipes. The pipelines have generally remained the same since its construction except for periodic maintenance."

Staff: The nature and extent of the waterline use has not changed since the establishment of the two conduits. The applicant has adequately detailed the nature and extent of the use above. This standard has been met.

8.4 The types and quantities of goods or services provided and activities conducted (MCC 36.7215(B)(2));

Applicant: "No additional goods or services will be provided. The proposed project will replace the existing pipe with the same diameter pipe and will carry the same amount of water as today."

Staff: The services provided by the use have been the same since 1953, being the conveyance of municipal drinking water.

8.5 The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity (MCC 36.7215(B)(3));

Applicant: "The scope of use would not change under the proposed project."

Staff: The volume of water conveyed through a closed, gravity fed system would be largely limited to the diameter of the pipe. It is reasonable to assume the volume and intensity of water conveyance has remained relatively constant throughout time because the diameter of the conduits has not changed since establishment.

8.6 The number, location and size of physical improvements associated with the use (MCC 36.7215(B)(4));

Applicant: "Part One: Project Description describes the project in detail. In general, the proposed project is to reconstruct a section of conduits #2, and #4 water pipelines to make them less susceptible the human and natural actions, essentially burying the currently exposed lines where they cross a small unnamed tributary to Beaver Creek. The conduits cross below an earthen dam and cross a small drainage channel at the toe of the dam. The conduit's crossing site lies 130 feet downstream of the earthen dam that impounds Sester Farms Pond on the unnamed tributary stream. The stream is five to 15 feet wide within the project area. The total span of exposed conduit is approximately 100 feet. The exposed conduits will be replaced with a new 50-inch diameter steel water pipeline for conduit #2, a new 60-inch diameter steel water pipeline for conduit #4. About 120 feet of the pipe will be encased in concrete to reduce the vulnerability to scour from a breached dam event. There will be minimal wetland impacts."

There is approximately a total of 0.07 acres of wetland restoration located at the southern edge of the project area, as shown in Sheet 5.01 of Attachment C.”

Staff: The applicant has adequately summarized the physical improvements associated with the use which have not changed since original construction. The total length of the two exposed sections of conduit to be buried is approximately 144 feet as further shown in the applicants site plan (Exhibit A-5).

8.7 The amount of land devoted to the use (MCC 36.7215(B)(5)); and

Applicant: “The amount of land devoted to the use will not change. The reconstructed pipelines will be located the same general alignment as the existing pipelines with the exception on relocating a portion of the pipelines farther away from the base of the dam to protect the integrity of both facilities.”

Staff: The construction plans (Exhibit A-5) show the proposed alignment in relation to the existing alignment. Although the footprint will be relocated in a slightly new footprint, the previous footprint will be abandoned; thus, resulting in no significant change in area devoted to the use. Because the new alignment allows the conduits to swing farther away from the base of the dam there will be a negligible increase in total area dedicated to the use. However, because the use will now be located entirely below the surface, there will be a measurable decrease in the amount of land, at the surface, dedicated to the use; therefore, this standard is met.

8.8 Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use (MCC 36.7215(B)(6)).

Applicant: “As necessary, the applicant will provide information, if possible, to aid the review of this application.”

Staff: No other factors must be considered because the applicant has demonstrated the nature and extent of the use has not changed since 1953.

8.9 A reduction of scope or intensity of any part of the use as determined under MCC 36.7215 (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered (MCC 36.7215(B)(7)).

Applicant: “No reduction of scope or intensity of use is proposed. This criterion does not apply.”

Staff: Staff has found no evidence indicating the scope or intensity of use has been measurably reduced or discontinued for a period of two years or more.

8.10 In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A

final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance (MCC 36.7215(C)).

Applicant: “The existing pipelines were constructed prior to the County’s Zoning Code that was adopted in 1955 and have been in constant use since their construction. The proposed project would not alter the use because no additional capacity is proposed.”

Staff: The applicant has indicated that the conduits have been in use since at least 1953. Comprehensive zoning first applied to the property in April of 1955. The scope and intensity of the use has not changed since construction because the pipe diameter has not changed. Since this is a gravity driven system, pipe diameter is the limiting factor and is therefore a reasonable benchmark to evaluate the intensity of water conveyance (i.e. the intensity of the use). Staff finds the use is in compliance with all applicable land use procedures and standards.

- 8.11 Except for nonconforming uses considered under MCC 36.7210 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification (MCC 36.7215(D)).**

Applicant: “The applicant is aware that conditions may be imposed as a part of the approval.”

Staff: No such condition is necessary in this case. The project will be considered under the alteration standards of MCC 36.7210(B).

- 8.12 Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37 (MCC 36.7215(E)).**

Applicant: “The applicant is aware that this application will be processed as a Type II application.”

Staff: This Type II decision has been processed in accordance with the administrative procedures outlined in Chapter 37 for Type II decisions.

- 8.13 An applicant may prove the existence, continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application (MCC 36.7215(F)).**

Applicant: “The existing pipelines were constructed in 1925 and have been in constant use since their construction. The City of Portland Water Bureau has used the first pipeline to supply drinking water to Portland residents since it was built 80 years ago.”

Staff: The applicant has exceeded the requirements of this Section by demonstrating that the conduits have been supplying drinking water to the Portland metropolitan region continuously since their construction in 1911 and 1953.

- 8.14 For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the existence, continuity, nature and extent of the use**

for a period exceeding 20 years immediately proceeding the date of application (MCC 36.7215(G)).

Applicant: "The applicant has not provided this documentation."

Staff: The applicant has supplied adequate documentation. Additional documentation is not necessary.

8.15 Alteration, expansion or replacement of a nonconforming use includes a change in the use, structure, or physical improvement of no greater adverse impact on the neighborhood, or alterations, expansions or replacements required for the use to comply with State or County health or safety requirements (MCC 36.7210(A)).

Applicant: "The proposed project would alter the existing nonconforming use by reconstructing the existing pipelines by relocating them below the stream channel. The reconstructed pipelines would remain within the same alignment as the existing facility located above grade. No expansion of the existing system is proposed as the existing pipelines will be replaced with a conduits of the same diameter.

Burying the existing pipelines will protect the health and safety of the public who rely on the pipelines as a water source. Burying the pipelines, as proposed, will improve the safety of them by reducing the potential of damage from natural events such as flooding, washout, falling trees landslides, and from human disturbances that could result in either contamination of drinking water or damage to the facility itself.

The proposed project will reduce the existing visual impact to the stream because it relocates the conduits entirely underground except for access manholes. When construction is complete and the area is regarded and revegetated similar to pre-project conditions, the proposed project will essentially be invisible except for access manholes located outside of the stream channel."

Staff: The alteration in this case is a physical change to the structures. This project is necessary to better protect a municipal drinking water system from hazards. The identified hazards and evidence supporting this finding is discussed in more detail in the next finding. This project qualifies as alteration/replacement of a non-conforming use.

8.16 After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.7215, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that (MCC 36.7210(B)):

(I) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

Applicant: "MCC 36.7215 requires documentation to verify whether the use in question is a non conforming use, which are addressed in response to those criteria. The submitted material showing the pipelines' existence prior to 1955 is also included in this application as Attachment F. Supporting documentation includes the original easement on which the pipes are located, dated November 23, 1923, and construction plans dated 1925.

Relocating the existing pipelines below grade will protect the health and safety of the public who rely on the pipeline as a water source, as required by the Water Bureau's charter to

provide a reliable water source to customers. Relocating the pipelines below grade, as proposed, will improve the safety of the line by reducing the potential of damage from natural events such as flooding, washout, scour, falling trees landslides, and from human disturbances that could result in either contamination of drinking water or damage to the facility itself.”

Staff: The Portland Water Bureau’s primary concern is that any number of disasters could result in a failure at this location (see report by Rajiv Ali, P.E. of Geo Design, Inc.; Exhibit A-7). A failure could disrupt water supply to the Portland metropolitan region. Staff finds replacement of this section of the conduit is justified and necessary for health and safety requirements because continued access to potable, public water by the community is critical. This standard has been met.

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

Applicant: “The alteration is necessary because not doing so could have an adverse impact on the health and safety of the public as described in subsection MCC 36.7210(B)(1), above. The proposed project will reduce potential natural and human threats to the pipeline.”

Staff: According to Rajiv Ali, P.E. of Geo Design, Inc. (see Exhibit A-7), the proposed alterations are necessary to maintain the existing pipeline structure in the event of significant forces caused by earthquake, flooding or landslide activity. The existing structure was not designed to withstand these forces and is in need of repair and replacement. This standard is met.

- 8.17 After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.7215, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider all of the criteria listed below. Adverse impacts to one of the criterion may, but shall not automatically, constitute greater adverse impact on the neighborhood (MCC 36.7210(C)(1)):**

The character and history of the use and of development in the surrounding area;

Applicant: “The proposed project will improve the visual character of the surrounding area by burying the exposed pipelines and removing the support trestle. The proposed project would not affect neighboring development. The project area will be returned to the same grade and will be replanted in a similar fashion as what existed prior to construction.”

Staff: The improvements will be placed below ground and will not be visible to the surrounding neighborhood. Staff finds the project will not change the character of the local area in any negative way. Existing above ground trestle and conduit structures will be removed and plantings and native grasses will be used to rehabilitate the site after construction, reclaiming the natural state of the vegetated gully. This standard is met.

- 8.18 The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood (MCC 36.7210(C)(2));**

Applicant: "Noise and dust from construction equipment may increase during the project's construction, estimated to take approximately 5 to 7 months. During construction, areas prone to dust creation, such as access roads, will be sprinkled with water. All construction would occur during the day. Post construction, the project would have no adverse impact to area because it would be buried, at minimum, four feet below grade. The area will be regarded and replanted to the same condition prior to the project."

Staff: The resulting buried waterline is not expected to produce discernable noise, vibration, dust, odor or fumes. Because the structure will be buried underground, glare from the structure will not be possible. This standard is met.

8.19 The comparative numbers and kinds of vehicular trips to the site (MCC 36.7210(C)(3));

Applicant: "When construction is complete, no additional trips are assumed except for periodic maintenance vehicles, which are assumed to occur at the same rate as today. Construction will require heavy equipment operating within the site and construction workers driving and parking within the project area, temporarily increasing traffic to the area, although the number of workers at the site is expected to be small and would have no impact to the surrounding area."

Staff: Staff agrees with the applicant's assessment of this standard above. This standard is met.

8.20 The comparative amount and nature of outside storage, loading and parking (MCC 36.7210(C)(4));

Applicant: "No outside storage, loading, or parking areas are proposed other than temporary construction equipment storage areas located on the west side of the pipeline area. Those areas will be returned to pre-project conditions when construction is complete."

Staff: None of these amenities are proposed. This standard does not apply.

8.21 The comparative visual appearance (MCC 36.7210(C)(5));

Applicant: "When completed, the proposed project will have a beneficial visual impact on the project area because the exposed portions of the pipeline will be buried and not visible with the exception of an access manholes located adjacent to the stream, unlike today where approximately 100 feet of the pipeline and trestle project is exposed."

Staff: The new structure will be buried and will not be visible. This standard is met.

8.22 The comparative hours of operation (MCC 36.7210(C)(6));

Applicant: "No operating hours are proposed. This criterion does not apply."

Staff: The conduits will constantly convey water after construction as is currently occurring through the existing structure. No change to the hours of operation is proposed. This standard is met.

8.23 The comparative effect on existing flora (MCC 36.7210(C)(7));

Applicant: “As described in Part One: Project Description and in response to criteria within this application, the streambed will be preserved to the greatest extent possible. Impacts will be minimized within the project area by implementing the erosion and sediment control and revegetation plans (Attachment C, Sheet 5.02 and 5.10). Stockpiled streambed material removed during construction will be replaced. The stream will be regarded to match pre-construction grades and will be replanted with species common to the area.”

Staff: The applicant has proposed an extensive erosion control plan to minimize both temporary and permanent impacts to existing flora. This plan will be discussed in detail within the Hillside Development portion of this decision. Staff finds this plan is adequate to protect existing flora because the project will utilize numerous best management practices including work area dewatering, echelon straw bale barriers, sediment fence and biofilter barriers downstream of the project area. Site stabilization will occur using native grass seed mix at 11.81 pounds per acre application rate and site amendment landscaping using container plants is proposed to not only repair but enhance the diversity and density of riparian area vegetation.

8.24 The comparative effect on water drainage or quality (MCC 36.7210(C)(8)); and

Applicant: “The project does not propose any permanent drainage system because the conduits will be buried and there will be no additional impervious surface or stormwater runoff. When construction is complete, the stream channel is expected to function as before construction because the area will be restored to preconstruction contours and the hydrologic characteristics of the stream will not be modified.

During construction, appropriate measures will be used to trap sediment, including straw bales along the base of the streambank, and biofilter bags across stream, as shown in Attachment C, Sheet 5.02. As needed, erosion and sediment control measures will be upgraded if unforeseen storm events occur to ensure that no sediment or sediment-laden water leaves the site.”

Staff: Staff agrees with the applicant’s response above. Impacts to water quality have been carefully considered in the design of this project. This standard is met.

8.25 Other factors which impact the character or needs of the neighborhood (MCC 36.7210(C)(9)).

Applicant: “As described, the proposed project would have no adverse effect on the surrounding area, and will have a beneficial impact for the Portland residents who rely on the pipeline for safe drinking water.”

Staff: Other factors requiring consideration have not been identified. In conclusion, staff finds the Verification and Alteration to a Non-Conforming Use standards have been satisfied.

9.0 Significant Environmental Concern – Application Information

The following information shall be provided (MCC 36.4540(A)(1)): A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SECsw, SECwr, SECh.

Applicant: "Work must be performed during the winter low water demand period for the city because the pipeline will be disconnected during construction. Accordingly, the work will be done from September 2007 through May 2008. Activities will include removal of the existing trestle/platform, installation of sheet piles within the wetland boundaries, excavation of a trench across the narrow stream channel, dewatering the trench, installation of the new concrete encased conduits, installation of pilings, replacement of streambed material to preconstruction contours, and revegetation. To accommodate the streams flow, the work area will be pumped dry and all sediment-laden water from the project will be appropriately treated (e.g., settling pond, pumping to vegetated upland location, or biofilter bags). Stream flow conveyance during construction will be maintained bypassing the work area to prevent ponding at the base of the dam. When completed, the stream will be returned to pre-project conditions."

Staff: The applicant has provided a project description above. A detailed evaluation of the SEC standards occurs within this section of the decision.

9.1 36.4510 DEFINITIONS. (A) Development: Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in the Water Resource Area or Habitat Area on a lot or parcel.

Applicant: "The development area as defined above generally occurs in two areas. The first development area is generally located within the permanent easement boundary following the alignment of the new pipelines required to install the new pipelines. Both development areas totaling 1.3 acres are shown on Figure 1 – "Area of Development." The development that occurs is approximately 13,500 cubic yards, greater than ten cubic yards.

The vegetation in the Water Resource Area on the Sester's lot is roughly equal to 10 acres, see Figure 2 – "Total Water Resource Area". The development that occurs in the existing vegetation area of the Water Resource Area is roughly 0.6 acres, since roughly half of the development area is within a gravel area used to store nursery container plants. Thus, the activity that occurs within the existing vegetation in the Water Resource Area on the Sester's lot results in the removal of roughly 6%, which is less than 10 percent."

Staff: The applicant has submitted information showing the Area of Development (Exhibit A-23), including the total water resource area. The applicant also submitted information showing the area of potential disturbance (Exhibit A-24). Staff finds the construction proposed is considered development subject to SEC-wr review.

9.2 36.4515 USES - SEC PERMIT REQUIRED. (A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that development, including but not limited to, the location and design of any use, or change, replacement or alteration of a use, except as provided in MCC 36.4520, shall be subject to an SEC permit.

Applicant: The project does not change the current use but does realign the pipeline to reduce its vulnerability. Thus, the project is a development subject to an SEC permit."

Staff: The project qualifies for SEC review because it meets the definition of development as defined in MCC 36.0005.

10.0 Significant Environmental Concern – General Requirements

- 10.1 Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities (MCC 36.4550(A)).**

Applicant: “Best management practices will be utilized during construction to minimize site erosion during construction activities. As shown in the Attachment C Sheet 5.02, erosion control will include the use of biofilter bags within the stream and straw bales on the base of the banks. Prior to construction completion, the site will be restored to preconstruction contours and all areas previously vegetated will be replanted.

Staff: The applicant has proposed a substantial erosion control plan which is presented as Exhibit A-5. This plan involves dewatering the work area (if necessary), installation of sediment fencing and rows of straw bale barriers and bio bags to help trap mobilized sediment before reaching Beaver Creek. The applicant has also selected an area north of the riparian area for construction equipment staging to limit impact caused by frequent equipment movement. Considering all measures proposed. Staff finds areas of erosion potential will be protected from loss by appropriate means. This standard is satisfied.

- 10.2 Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision (MCC 36.4550(B)).**

Applicant: “Outdoor lighting is not proposed for this project.”

Staff: Staff concurs with the applicant. This standard does not apply.

- 10.3 The nuisance plants (listed in this section), in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone (MCC 36.4550(C)):**

Applicant: “The nuisance plants defined in 36.4510 nor the nuisance plants in Table 1 will be used to revegetate the project site.”

Staff: None of the plants proposed for mitigation are identified as nuisance or prohibited plants according to the most recent version of the Metro Native Plant List brochure. **Multnomah County Code 36.4510** references this list as the applicable list for this review. This standard has been met.

11.0 Significant Environmental Concern Permit (Water Resources)

- 11.1 MCC 36.4555 Criteria for Approval of SEC-WR – Water Resource: Except for the exempt uses listed in MCC 36.4520 and the existing uses pursuant to 36.4525, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it**

contains the site analysis information required in 36.4540(A) and (C), and meets the general requirements in 36.4550.

Applicant: "Section (B)(4) are satisfied since the Water Resource Area will be restored to good condition. Therefore, this requirement is met."

Staff: The applicant has provided the required site analysis information as specified in MCC 36.4540(A) and (C) and has met the general requirements listed in MCC 36.4555. This criterion has been met.

11.2.1 (B) Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternatives analysis which demonstrates that:

(1) No practicable alternatives to the requested development exist that will not disturb the Water Resource Area; and

Applicant: "Alternative sites are not practicable, since the project proposes to replace a portion of existing linear infrastructure. Four on-site alternatives were investigated for the Sester Farms Pond Site and include the following:

- *(SP-1) Open cut with armoring adjacent to the existing alignment. This alternative would have left the conduit just downstream of the dam containing Sester Farm Pond, and was eliminated due to the risk of working and maintaining the pipeline in close proximity to the dam.:*
- *(SP-2); Open cut downstream of alignment (proposed project);*
- *(SP-3) trenchless replacement near or downstream of dam; this alternative adds several hundred feet to the length of the pipeline, with associated headloss, was 50% more expensive than the proposed project, and;*
- *(SP-4) Open cut trench that rerouts the conduit within a roadway. This alternative would have added nearly one mile to the length of the conduit, and was approximately six times more expensive than the proposed project without any added benefits."*

Staff: Based upon the applicant's alternatives analysis the proposed alignment is the most reasonable one; under the proposed scenario, the conduits must necessarily transit the water resource area.

11.2.2 (2) Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;

Applicant: "The project proposes replacement and burial of the exposed pipelines as they pass over an unnamed tributary to Beaver Creek. Realignment of the proposed conduits will result in temporary impacts to the vegetated corridor that can be restored after project construction is completed. The diameter conduits vary and are shown in Attachment C, Sheet 5.04. Both conduits are exposed on trestles crossing a small wetland area. The proposed conduits will be relocated and buried approximately 200

feet downstream from the toe of the earthen dam to protect the integrity of the dam during construction. The conduits will be buried below design scour in the event of dam failure, and be armored by encasing them in concrete. The relocated conduits will be reconnected to the existing pipelines, which will remain in the existing location. Cuts and fills have been minimized to the greatest extent practicable, although approximately 9,000 cubic yards of soil will be excavated along an approximately 75-foot area, which will be replaced when construction is complete.

Staff: Staff finds that the project's impact to the water resource area will not exceed that which is necessary to complete the project.

11.2.3 (3) Development shall occur as far as practically possible from the stream; and

Applicant: "The exposed conduits will be relocated and buried as far as possible from the stream, which is nine feet below the ground surface, about 200 feet downstream from the toe of the earthen dam that impounds the Sester Farm Pond."

Staff: While the conduits must necessarily cross the stream, they will do so at a 90 degree angle and at a depth of 9 feet below the ground surface; thus, the development will be located as far from the stream as possible given the parameters of the project and will provide the same level of service to the public in the future. The vertical trenching method proposed will disturb the smallest possible area within the water resource area.

11.2.4 (4) The Water Resource Area can be restored to an equal or better condition; or

Applicant [response given in original narrative]: "The proposed project will have a temporary impact on the Water Resource Area (stream channel). To accommodate the stream's flow, the work area will be pumped dry and all the sediment-laden water from the project will be appropriately treated (e.g. settling pond, pumping to vegetated upland location, or biofilter bags). Stream flow conveyance during construction will be maintained by bypassing the work area to prevent ponding at the base of the dam. When completed, the stream will be returned to pre-project conditions."

Applicant [response from applicant's letter of December 14, 2007]: "The Water Resource Area will be restored to good condition. Therefore, this requirement is met."

Staff: A condition of approval (Condition 24) requires that the applicant restore the water resource area to good condition as illustrated in MCC 36.4555(E)(2)(b). The area required to be restored is the water resource area (Exhibit A-24) as well as the area of development referenced in Exhibit A-23.

11.2.5 (5) Any net loss on the property of resource area, function and/or value can be mitigated.

Applicant: "Attachment D, Natural Resources Assessment (DEA 2007), concludes that the proposed conduit realignment will result in temporary impacts to the vegetated corridor that can be restored after project construction is completed. A vegetated corridor mitigation plan will be prepared in Spring 2008 to compensate for unavoidable impacts in order to comply with Multnomah County Code Section 36.4555(E)."

Staff: A condition of approval (Condition 12) requires that the applicant restore the water resource area to good condition as required in MCC 36.4555(D)(4).

11.3.1 36.4555(D) Development Standards- Development within the Water Resource Area shall comply with the following standards:

(1) Development of trails, rest points, view-points, and other facilities for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.

Staff: The development is limited to the replacement of existing water conduits; the criterion does not apply.

11.3.2 (2) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater) shall be removed without a one-for-one replacement with comparable species. The site plan for the pro-posed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

Staff: The development is not located within an area of dense standing trees; the criterion does not apply. No trees will be cut as part of the project.

11.3.3 (3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.

Staff: The water resource area is in a generally degraded condition (primarily grasses with few shrubs and no tree canopy). A condition of approval requires the applicant to restore the water resource area to good condition (Condition 12).

11.3.4 (4) The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.

Staff: A condition of approval requires the applicant to restore the water resource area to good condition pursuant to Table 2 in MCC 36.4555(E) (Condition 12).

11.3.5 (5) To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.

Staff: The applicant has demonstrated compliance with this standard by indicating a specific area of development (totaling 0.6 acres) and an area of potential disturbance (two areas totaling 2.6 acres) (Exhibits A-5, A-23, and A-24), which shows that only areas directly related to the removal and relocation of water conduits are involved.

- 11.3.6** (6) Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be re-placed with non-nuisance plants by the next growing season.

Staff: The site is in a degraded state and as such will be required to be restored to good condition within 14 days of completion as required in Condition 12. County Erosion Control measures are required per Condition 4.

- 11.4.1** **36.4555 (E) Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.**

Applicant: "Mitigation provided will offset the impacts of development within the SEC-wr. The mitigation includes avoiding impacts to regulated natural are by limiting the construction area within the wetlands and requiring the contractor to use vertical shoring through the wetlands. The mitigation includes minimizing impacts to regulated area by minimizing the realignment of the new pipelines, thus minimizing development. The mitigation also includes compensating for adverse impacts by restoring the Water Resource Area to good condition. Therefore, this requirement is met."

Staff: The applicant will avoid the water resource to the maximum extent possible and will minimize impacts to the resource as demonstrated in Exhibit A-5. The applicant has proposed mitigation of offset temporary project impacts which will be discussed below.

- 11.4.2** **36.4555 (E)(2) Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.**

Applicant: "Compensatory mitigation provided offsets project impacts. Therefore, this requirement is met."

Staff: The proposed mitigations will return the impacted water resource area to good condition as is required by Condition 12. This application has not been submitted in response to an enforcement action.

- 11.4.3** **36.4555 (E)(2)(b) The following ratios apply to the creation or restoration of natural resource areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost.**

Creation (off-site) 2:1

Restoration (off-site) 1.5:1

Creation (on-site) 1.5:1

(Restoration (on-site) 1:1

Applicant: “The project includes restoring the site to good condition and meets the required restoration (on-site) requirement of 1:1. Roughly half of the development area and most of the disturbed area is within a gravel area used to store nursery container plants. The other half of the development area occurs in two areas through the wetlands. The “wetland” is a poor quality wetland with existing grass the land owner mows down on a regular basis. The wetland will be restored to good condition by restoring the wetland with native grasses as shown on Drawing 5.10, which was designed by a landscape architect at Mayer/Reed. There are no existing plants that need to be replaced with native plants, thus the planting plan requirement is met.

Staff: The applicants have chosen the 1:1 restoration option.

12.0 Hillside Development Permit

- 12.1 An application for development subject to the requirements of this subdistrict shall include the following (MCC 36.5515(A)): A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.**

Applicant: “Attachment A includes the assessor’s map showing the parcel where the proposed project is located, identified as tax lot 300. Attachment C, Sheet 5.01, 5.03 and 5.04 show a general site plan with the location of the proposed improvements. Trees and wetlands within the project area are identified on Sheets 5.01, 5.04, and 5.10. Construction will require removal of no trees or scrub undergrowth. The erosion control and revegetation plans are included in Attachment C, Sheet 5.02 and 5.10.”

Staff: The required information is contained within the construction plans presented as Exhibit A-5.

- 12.2 An estimate of depths and the extent and location of all proposed cuts and fills (MCC 36.5515(B)).**

Applicant: “Approximately 9,000 cubic yards of soil will be excavated within the project area, which will be stockpiled on site and used as backfill when construction is complete. Excavation will occur along approximately a 75-foot section from where the new pipelines tie into the existing lines, is placed underground, and then reconnects to the existing lines. The depth of the excavation varies depending on location, but the eventual depth at its deepest point will be between approximately 4 feet below the ground surface.”

Staff: The applicant has detailed the depths and extents of all proposed cuts and fills in the response above. Locations of cuts and fills are identified within the construction plans presented as Exhibit A-5. The applicant indicates that approximately 9,000 cubic yards of soil will be excavated and primarily used as backfill from the new trench.

- 12.3 The location of planned and existing sanitary drainfields and drywells (MCC 36.5515(C)).**

Applicant: “No sanitary drainfields or drywells are proposed or are known to exist in the project area.”

Staff: There are no existing or planned drainfields or drywells within the project area. None are known to exist in the immediate project area.

- 12.4 Narrative, map or plan information necessary to demonstrate compliance with MCC 36.5520 (A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting (MCC 36.5515(D)).**

Applicant: "The information necessary to demonstrate compliance with MCC 34.5520 (A) is provided in response to that criterion, below. Supplemental information has also been provided and is included as a part of this application packet."

Staff: The applicant's narrative responses to the approval criteria are presented as Exhibit A-2. The construction plans submitted (Exhibit A-5), also provide information necessary to demonstrate compliance with the applicable standards. Staff finds all necessary information has been provided.

- 12.5 A Hillside Development permit may be approved by the Director only after the applicant provides (MCC 36.5515(E)(1)): Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**

Applicant: "The proposed project will require development on land with grades greater than 25 percent. This criterion does not apply."

Staff: Requiring additional information was not necessary in this case as the applicant submitted a very detailed application clearly explaining how and where the construction would occur. Attached to this decision are professional reports including a wetland delineation report prepared by David Evans and Associates, Inc. (contained in the permanent record) and geotechnical report prepared by Geo Design, Inc. (Exhibit A-7). These reports adequately describe site conditions, construction limitations and site specific recommendations. The applicant has submitted the necessary information.

- 12.6 A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development (MCC 36.5515(E)(2)); or,**

Applicant: "A Geotechnical report has been completed showing the site is suitable for construction of the project. This report is included as Attachment E."

Staff: A geotechnical memorandum drafted by Rajiv Ali, P.E. of Geo Design, Inc on March 4th, 2005 has been submitted to the record (Exhibit A-7). This report recommends particular construction methods in order to assure a suitable design. The scope of this approval is drafted such that work may only be conducted in accordance with these geotechnical recommendations.

- 12.7 An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development (MCC 36.5515(E)(3)).**

Applicant: “A geotechnical report has been completed (Attachment E), therefore, an HDP –1 form is not required. This criterion does not apply.”

Staff: An HDP Form – 1 was not submitted; the geotechnical report presented in Exhibit A-7 contains the relevant information and has been stamped by Rajiv Ali, P.E.

- 12.8 If the HDP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted (MCC 36.5515(E)(1)(a)).**

Applicant: “A geotechnical report has been completed (Attachment E), therefore, an HDP –1 form is not required. This criterion does not apply.”

Staff: The geotechnical report (Exhibit A-6) does not recommend a need for further investigation.

- 12.9 A geotechnical investigation in preparation of a report required by MCC 36.5515 (E) (3) (a) shall be conducted at the applicant’s expense by a Certified Engineering Geologist or Geotechnical Engineer. The report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards (MCC 36.5515(F)(1)).**

Applicant: “A geotechnical report has been completed for the proposed project that shows the site’s suitability for the proposed project (Attachment E).”

Staff: The geotechnical report submitted by the applicant includes the required information; the report was prepared by Rajiv Ali, P.E (Exhibit X).

- 12.10 Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development (MCC 36.5515(F)(2)).**

Applicant: “No alteration of the site is proposed prior to completion and approval of the geotechnical report. This criterion does not apply.”

Staff: No such work has occurred to Staff’s knowledge.

- 12.11 Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant’s expense; the geologist’s or engineer’s name shall be submitted to the Director prior to issuance of the Permit (MCC 36.5515(F)(3)).**

Applicant: “The proposed project will meet the requirements of the geotechnical report. Construction will be completed by a third party with experience in this type of work and will be

overseen by the City of Portland Bureau of Water Works, construction management and inspection staff in consultation with the project Geotechnical Engineer.”

Staff: This approval is conditioned such that the author of the March 4th, 2005 geotechnical memorandum must observe the work and verify in writing that the geotechnical recommendations outlined in the memorandum were followed. Applying this condition of approval is required to assure compliance with this standard.

12.12 The Director, at the applicant’s expense, may require an evaluation of HDP Form– 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer (MCC 36.5515(F)(4)).

Applicant: “If the Director requires additional review, the applicant (City of Portland Water Bureau) will make the relevant information available.”

Staff: Requiring a second party evaluation of the geotechnical recommendations is not necessary.

12.13 Development plans shall be subject to and consistent with the Design Standards for Grading and Erosion Control in MCC 36.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards (MCC 36.5515(G)).

Applicant: “The proposed project is consistent with design standards described in MCC 34.5520(A) through (D), as described below.”

Staff: Consistency with the Grading and Erosion Control regulations of 36.5520 (A) through (D) is evaluated below.

12.14 Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction (MCC 36.5520(A)(1)(a));

Applicant: “The project area will be excavated, the pipeline constructed within the excavated area, and then backfilled when construction is complete. Fill materials, compaction methods, and density specifications are set forth in the project construction specifications. All Fills will be inspected by City of Portland and compaction tests performed to demonstrate compliance with project specifications. The geotechnical analysis describing the site’s suitability for this project is included as Attachment E.”

Staff: This information is indicated in the geotechnical memorandum prepared by GeoDesign, Inc. on March 4, 2005 (Exhibit A-7). Areas of compacted fill are illustrated in the construction plans (Exhibit A-5). The applicant has submitted the required information. No additional studies or information is required.

12.15 Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified (MCC 36.5520(A)(1)(b));

Applicant: "The project would not involve any permanent cut and fill slopes greater than 3:1. Excavated areas will be returned to pre project grade. Erosion and sediment control plans have been developed with this slope taken into consideration and are shown in Attachment C, Sheet 5.02."

Staff: Permanent slopes will not exceed 3:1. Erosion control and slope stability recommendations are presented within the geotechnical memorandum as required by **MCC 36.5520(A)(1)(b)**. Staff finds the required information has been submitted. Temporary slopes have not been addressed in the geotechnical memorandum.

12.16 Cuts and fills shall not endanger or disturb adjoining property (MCC 36.5520(A)(1)(c));

Applicant: "The proposed project will have no impact to adjoining property. All work would occur onsite and erosion control measures will be installed to prevent any erosion from occurring, as shown in Attachment C, sheet 5.02. Straw bales will be placed at the base of affected slopes, and biofilter bags will be placed within the channel to prevent sediment from leaving the construction area. If necessary, the work area will be pumped dry and all sediment-laden water from the project will be appropriately treated (e.g., settling pond, pumping to vegetated upland location, or biofilter bags) prior to being discharged into the waterway. Stream flow conveyance, if any, during construction will be maintained through a pipe."

Staff: The detailed erosion control plan, presented in Exhibit A-5, has been designed to avoid endangerment to adjoining properties. The closest property boundary (south) is adjacent to project area. The geotechnical reconnaissance study (Exhibit A7) confirms that the project will not cause stability problems for the subject and/or adjacent properties. This standard has been met.

12.17 The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency (MCC 36.5520(A)(1)(d));

Applicant: "The proposed project does not propose any permanent drainage system because the conduit will be buried and there will be no additional impervious surface or stormwater runoff. When construction is complete, the stream channel is expected to function as before construction because the area will be restored to preconstruction contours and the hydrologic characteristics of the stream will not be modified. Temporary erosion control measures, as shown in Attachment C, Sheet 5.02, will be put in place to accommodate and temporary erosion and sediment control concerns."

Staff: The restoration of the stream channel, as described above, negates the need to employ any permanent drainage system. Further, the temporary measures described in the applicant's grading and erosion control plan shall be adequate to accommodate a 10-year storm during the construction/installation phase. The criterion is met.

12.18 Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency (MCC 36.5520(A)(1)(e));

Applicant: "The proposed project will have a temporary impact on the stream channel. To accommodate the streams flow, the work area will be pumped dry and all sediment-laden water

from the project will be appropriately treated (e.g. settling pond, pumping to vegetated upland location, or biofilter bags). Stream flow conveyance during construction will be maintained using flow bypassing. When completed, the stream will be returned to pre-project conditions."

Staff: Fill material will temporarily be stored in the vicinity, but not within, the active stream channel. During construction, the excavated native fill will be re-compacted in place (backfilling the trench) resulting in no new fill within the watercourse channel. Obstruction to streamflow will actually be removed from the channel when the concrete trestle structure is removed from the channel. This standard is met as fill will not encroach on the watercourse after construction is finished.

- 12.19 On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*". Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area (MCC 36.5520(A)(2)(a));**

Staff: This project is not located within the Tualatin River Basin. This standard does not apply.

- 12.20 Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction (MCC 36.5520(A)(2)(b));**

Applicant: "Some vegetation will be removed from the project area during construction. The erosion and sediment control plan (Attachment C, Sheet 5.02) shows the steps that will be taken to minimize erosion potential and stabilize the ground disturbed from construction related activities. When construction activities are completed, disturbed areas will be reseeded with a variety of grasses and container plants similar to the surrounding area. The revegetation plan is also shown in (Attachment C, sheet 5.10)."

Staff: The geotechnical engineer has recommended that erosion control measures be in-place before construction begins and clearing of vegetation and the organic duff removed from the project area before trenching begins. Areas of disturbance cannot be reduced below what is recommended by the project engineer within the geotechnical memorandum because the project proposes the minimum amount of ground disturbance possible (Exhibit A-5). This conditional approval requires that the work occur only in the footprint illustrated on the plans and that all approved erosion control measures be in place before construction begins to minimize soil erosion (Condition 7).

The landscaping plan proposed will be installed within 14-days of project completion to assure the site will be stabilized as quickly as possible. This standard will be met with the conditions of approval imposed relating to site preparation, scope of work and required landscaping.

- 12.21 Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff (MCC 36.5520(A)(2)(c));**

Applicant: "Cuts and fills have been minimized to the greatest extent practicable, although approximately 9,000 cubic yards of soil will be excavated along an approximately 75-foot area, but will be replaced when construction is complete. Preliminary erosion and sediment control plans have been developed and will continue to be revised as needed to meet erosion control specifications. The preliminary erosion and sediment control plan is shown in Attachment C, Sheet 5.02. Trench sides will be shored to maintain the trench section as narrow as possible to minimize the disturbance area. No permanent surface water detention is proposed because the pipelines will be underground and no impervious surface is will be constructed. When construction is complete, the project area will function in a similar fashion as today."

Staff: Topography will be minimally altered as a result of this project. The objective of this project is to bury the conduits in a way that does not leave indication of the pipes location. Minimizing the amount of soil disturbed will, in combination with the proposed erosion control plan, minimize the amount of erosion potential. The volume and velocity of the surface runoff will not be changed as a result of this project as no new impervious surfaces are proposed. Staff finds that this standard has been met.

12.22 Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development (MCC 36.5520(A)(2)(d));

Applicant: "As needed, mulching, reseeding, or other erosion control techniques will be utilized to reduce any erosion potential."

Staff: As illustrated in plan sheet 5.10 in Exhibit A-5, the active work area, and additional areas around and downstream of the work area will be landscaped and planted with native grasses. Staff finds all disturbed areas will be permanently protected by vegetation helping to stabilize the site. Temporary vegetation and/or mulching can not be used within the small the active work area during construction as this portion of the site will need to be grubbed free of organics as recommended by the geotechnical engineer retained by the applicant (Exhibit A-7).

12.23 Whenever feasible, natural vegetation shall be retained, protected, and supplemented (MCC 36.5520(A)(2)(e));

Applicant: "As needed, mulching, reseeding, or other erosion control techniques will be utilized to reduce any erosion potential."

Staff: Staff agrees with the applicant's response to this standard and finds that this standard has been met.

12.24 A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland (MCC 36.5520(A)(2)(e)(1));

Applicant: "The purpose of the proposed project is to bury the existing water line under the stream, requiring work within the 100-foot buffer. Construction will require removal of no trees or scrub material. When construction is complete, the entire project area, including any staging areas, area will be graded to pre-project conditions. The revegetation plan is shown in Attachment C, Sheet 5.10."

Staff: It is not possible for the applicant to avoid work within the 100-foot buffer as the existing pipe crosses the watercourse. The applicant has proposed a mitigation plan, as directed by MCC 36.5520(A)(2)(e)(2).

- 12.25 The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340 (MCC 36.5520(A)(2)(e)(2));**

Applicant: "The erosion and sediment control and storm water control plans will perform to the standards prescribed under this criterion. A preliminary erosion and sediment control plan is included as Attachment C, Sheet 5.02. The erosion and sediment control plan is designed to meet the 2000 City of Portland Bureau of Environmental Services Erosion Control Manual. Currently, several erosion and sediment control measures are proposed that include seeding, biofilter bags, and straw bales placed at the base near the streambed. As needed, erosion and sediment control measures will be upgraded if unforeseen storm events occur to ensure that no sediment or sediment laden water leaves the site."

Staff: Staff agrees with the applicant's assessment of this standard. This standard has been met.

- 12.26 Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical (MCC 36.5520(A)(2)(f));**

Applicant: "Areas disturbed by construction will be reseeded and container plants will be planted when the contractor determines that replanted vegetation will not be disturbed if the project's construction will continue in the area. Erosion control and drainage measures will be installed as a part of the proposed project as soon as is feasible."

Staff: This approval is conditioned that the erosion control measures be in-place before construction begins and that all landscaping be installed and grasses spread within 14-days of project completion. This standard is met.

- 12.27 Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary (MCC 36.5520(A)(2)(g));**

Applicant: "The proposed project does not propose any permanent drainage system because the conduit will be buried and there will be no additional impervious surface or stormwater runoff. During construction, the project will maintain conveyance of flow where work crosses the channel. When construction is complete, the stream channel and the wetland is expected to function as before construction because the area will be restored to preconstruction contours and the hydrologic characteristics of the stream will not be modified. Temporary erosion control measures, as shown in Attachment C, Sheet 5.02, will be put in place to accommodate and temporary erosion and sediment control concerns."

Staff: Staff agrees with the statement provided by the applicant. This standard is met.

12.28 Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized (MCC 36.5520(A)(2)(h));

Applicant: "If necessary, the work area will be pumped and all sediment-laden water from the project will be appropriately treated (e.g., settling pond, pumping to vegetated upland location, or biofilter bags). Stream flow conveyance during construction will be maintained using flow bypassing."

Staff: In addition to sediment fencing, the applicant is proposing straw bale barriers, and two rows of biofilter bag barriers to trap sediment in runoff water.

12.29 Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding (MCC 36.5520(A)(2)(i));

Applicant: "Cuts and fills have been minimized to the greatest extent practicable. Appropriate measures will be used to trap sediment, including sediment fences placed at the edge of the project area, straw bales along the streambank, and biofilter bags across stream, shown in Attachment C, Sheet 5.02. The entire area will be reseeded when construction is complete or the contractor determines that newly planted plants will not be harmed. As needed, erosion and sediment control measures will be upgraded if unforeseen storm events occur to ensure that no sediment or sediment laden water leaves the site."

Staff: Any creek flow that might flow through the project area during construction will be routed around the disturbed areas by the contractor through a pipe to minimize erosion of trench faces and disturbed areas in general. Biofilter barriers will also be used within and downstream of the project to minimize erosive scour of sediment laden water. This standard has been met.

12.30 All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system (MCC 36.5520(A)(2)(j));

Applicant: "The project does not propose any permanent drainage system because the conduits will be buried and there will be no additional impervious surface of stormwater runoff. When construction is complete, the stream channel is expected to function as before construction because the area will be restored to preconstruction contours and the hydrologic characteristics of the stream will not be modified."

Staff: Any creek flow that might flow through the project area during construction will be routed around the disturbed areas by the contractor through a pipe to minimize erosion of trench faces and disturbed areas in general. Biofilter barriers will also be used within and downstream of the project to minimize erosive scour of sediment laden water. This standard has been met.

12.31 Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion (MCC 36.5520(A)(2)(k));

Applicant: "No permanent drainage swales are proposed. This criterion does not apply."

Staff: No drainage swales are proposed.

- 12.32 Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to: 1. Energy absorbing devices to reduce runoff water velocity (MCC 36.5520(A)(2)(I)(1));**

Applicant: "Several measures will be put in place to reduce runoff water velocity, as shown in Attachment C, Sheet 5.02. Straw bales will be placed at the base of affected slopes, and biofilter bags will be placed within the channel to prevent sediment from leaving the construction area."

Staff: The sediment fencing, straw bale barriers and biofilter bag barriers proposed will all function as energy absorbing devices. These best management practices are required to be installed and kept in working order throughout the life of the project.

- 12.33 Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule (MCC 36.5520(A)(2)(I)(2));**

Applicant: "To accommodate the streams flow, the work area will be pumped dry and all sediment-laden water from the project will be appropriately treated (e.g., settling pond, pumping to vegetated upland location, or biofilter bags). Stream flow conveyance during construction will be maintained using flow bypassing. When completed, the stream will be returned to pre-project conditions. Debris within the settling pond will be removed by the contractor to an approved facility. Proper disposal will be the responsibility of the contractor."

Staff: Condition 7 requires the applicant follow the procedures outlined above. This standard is met.

- 12.34 Dispersal of water runoff from developed areas over large undisturbed areas (MCC 36.5520(A)(2)(I)(3)).**

Applicant: "No water dispersal is proposed. No permanent surface water detention is proposed because the pipelines will be underground and no impervious surface is will be constructed. When construction is complete, the project area will be returned to pre construction conditions and will function in a similar fashion as today."

Staff: Runoff from large developed areas will not occur. All improvements will be buried.

- 12.35 Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures (MCC 36.5520(A)(2)(m));**

Applicant: "Excavated soils will be stockpiled onsite and will be covered with plastic sheeting and surrounded by fiber rolls in a continuous berm around the base of the material."

Staff: The staging area is illustrated on Plan Sheet 5.10, Exhibit A-5. All stockpiles will be covered with plastic sheeting and surrounded by fiber roll berms to reduce erosion potential. Stockpiles will be located sufficiently outside of the area labeled "Work Limits in Wetland

Area” on the applicant’s Potential Area of Disturbance Site Plan (Exhibit A-24) as required in Condition 7.

- 12.36 Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities (MCC 36.5520(A)(2)(n)).**

Applicant: “The contractor will be responsible for ensuring that non-erosion pollution be prevented from contaminating the site. A spill response plan and adequate containment facilities will be required as part of the construction specifications. All work areas shall have a spill response plan and approved containment facilities. This is identified on the erosion control plan Note #4 (Attachment C, Sheet 5.02).”

Staff: Any chemicals used will be stored in the construction staging area, rather than within the creek gully. As indicated by the applicant, a spill response plan and containment facilities will be required in the event of a leak. Staff finds this standard is met.

- 12.37 On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun (MCC 36.5520(A)(2)(o)).**

Staff: This project is not located within the Balch Creek Drainage. This standard does not apply.

Conclusion

Considering the findings and other information provided herein, this application, as conditioned, satisfies applicable Multnomah County Zoning Ordinance requirements. The water conduit structures shall be constructed as indicated in the plans approved by this decision, as further indicated in the **Scope of Approval** section of this report.

Exhibits

All materials submitted by the applicant, prepared by County staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record of this application. The exhibits referenced herein are listed below:

Exhibits Submitted by Applicant:

- A-1 Completed General Application Form
- A-2 Project Description and Narrative
- A-3 Assessor's Map, Slope Hazard Map, FEMA Flood Map (Labeled Attachment A)
- A-4 Pre-Application Meeting Notes (Labeled Attachment B)
- A-5 Construction Plans, Elevation Certificate (Labeled Attachment C)
- A-6 Joint Permit Application to U.S. Army Corps of Engineers and Oregon Dept. of State Lands (Labeled Attachment D)
- A-7 Geotechnical Report prepared by Rajiv Ali, P.E. (March 4, 2005) (Labeled Attachment E)
- A-8 Easement/Site Plans (Labeled Attachment F)
- A-9 Property Owner Authorization
- A-10 Letter from H. Wayne Gresh, P.E., concerning MCC 36.5520 (submitted April 24, 2007)
- A-11 Letter from H. Wayne Gresh, P.E., concerning distance of relocated conduits from the toe of the earthen dam (submitted April 24, 2007)
- A-12 Figure 3 (Temporary Impacts)
- A-13 Title Report from Chicago Title
- A-14 Water Resource Area Certification Form
- A-15 Applicant's response to incompleteness review (submitted July 5, 2007)
- A-16 Applicant's Letter deeming the application complete (submitted December 11, 2007)
- A-17 Temporary Easement for Right-of-Way Access Agreement
- A-18 Request for 60-day toll of the 150-day clock
- A-19 Printed Email from Carmen Nale addressing completeness items (dated December 14, 2008)
- A-20 Applicant's Email response regarding extent of disturbance to the Water Resource Area (dated July 25, 2008).
- A-21 Applicant's Email response further regarding restoration plan (dated July 27, 2008)
- A-22 Applicant's response to remaining completeness review items (dated December 14, 2007)
- A-23 Site Plan Labeled "Area of Development" (submitted December 14, 2007)
- A-24 Site Plan Labeled "Potential Area of Disturbance" (submitted December 14, 2007)

Exhibits Submitted by County Staff:

- B-1 Land Use Planning Application Checklist for Staff
- B-2 Screenshot from County ArcView mapping program showing overlay zones.
- B-3 Multnomah County Assessment information.
- B-4 Letter requesting property owner authorization (dated April 10, 2007)
- B-5 Letter deeming application incomplete (dated April 10, 2007)
- B-6 Letter requesting acknowledgement of incomplete status (dated April 10, 2007)
- B-7 Letter indicating continued incomplete application status (dated August 17, 2007)
- B-8 Letter confirming request to deem the application complete and toll the clock (dated December 18, 2007)
- B-9 Google Earth print

- B-10 Zoning Map with labeled overlay zones
- B-11 2004 Aerial Photograph
- B-12 Google Earth print (oblique view)
- B-13 Google Earth print (vicinity)
- B-14 Printed copy of City of Portland Water Bureau's website, '*Portland Water Bureau History*'
accessed January 17, 2008.
- B-15 14-day Opportunity To Comment (mailed December 19, 2007)