



LUP Comments <lup-comments@multco.us>

Case File T2-2025-0067 comments

1 message

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Re: Case File T2-2025-0067 – Application for a Significant Water Resources (SEC-wr) Permit (Cottrell Pond / Johnson Creek)

I submit this comment in opposition to approval of Case File **T2-2025-0067**, an application for a Significant Water Resources (SEC-wr) permit proposing removal of an existing in-line pond and dam within Johnson Creek at 8344 SE Cottrell Road.

1. The application fails to meet SEC-wr approval criteria under MCC 39.5590

The proposal does not comply with **MCC 39.5590**, which requires that development within a Significant Water Resources overlay avoid degradation of water resources and demonstrate that impacts are minimized and necessary. The removal of an existing, functioning pond that provides flood storage, sediment retention, and ecological value constitutes a net degradation of the water resource.

The applicant characterizes the proposal as “restoration,” yet the need for pond removal arises solely from hydrologic impacts created by Portland Water Bureau’s upstream construction activities. This pond was **not included in the originally approved project scope**, and its removal is being proposed only after PWB altered site hydrology to the extent that overtopping now poses a risk. MCC 39.5590 does not allow destruction of an existing water resource to compensate for impacts created by the applicant’s own project.

Further, reliance on downstream mitigation does not satisfy MCC 39.5590 where upstream impacts remain unaddressed. Mitigation proposed elsewhere in the system does not replace the lost function of an existing pond at this location and does not avoid or minimize impacts as required by code.

2. The proposal fails to comply with MCC 39.6235 (Stormwater Drainage Control)

Approval of this permit would also violate **MCC 39.6235**, which requires that development manage stormwater in a manner that prevents increased runoff, erosion, flooding, or adverse impacts to downstream properties and water resources.

Portland Water Bureau previously represented, in permits that are currently contested, that the project would not discharge water into Johnson Creek and would not create additional groundwater beyond pre-construction conditions. Those representations are contradicted by existing conditions on the ground. The project has created tens of acres of impervious and compacted surface—including lined ponds, gravel roads, parking areas, staging zones, trailers, and offices—making increased runoff unavoidable.

Recent rain events demonstrate that stormwater volumes now exceed the capacity of existing features, prompting this application to remove the pond to manage flood risk to Cottrell Road. This is clear evidence that stormwater has not been adequately controlled as required by MCC 39.6235. Removing the pond does not correct the underlying stormwater failure; it merely transfers risk downstream and further degrades Johnson Creek.

3. Improper segmentation and retroactive justification of impacts

This permit represents improper segmentation of environmental review. The impacts necessitating pond removal are the direct result of upstream project components that were previously approved based on inaccurate or unrealistic assumptions about hydrology. MCC Chapter 39 does not permit applicants to retroactively modify water resources to

accommodate impacts that should have been avoided through proper project design and stormwater management from the outset.

4. Request for denial or pause pending oversight and appeals

Because the proposal fails to meet the approval criteria of **MCC 39.5590** and **MCC 39.6235**, the County must deny this application. At a minimum, the County should suspend approval and halt all related activity until independent oversight is established and all appeals related to the broader project and its permits are fully resolved.

Failure to deny or pause this permit would result in continued degradation of a Significant Water Resource and would undermine the purpose and enforceability of the County's water resource and stormwater protections.

Thank you for accepting these comments.

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