

RESPONSE TO REBUTTAL OF TESTIMONY IN OPPOSITION TO PORTLAND WATER BUREAU APPLICATION FOR CONDITIONAL USE PERMIT TO BUILD FILTRATION FACILITY

Case File: T3-2022-16220

1. **Name:** Holly H. Martin
2. **Address:** 39100 SE Lusted Road, Boring OR 97009
3. **Email:** [Martinlegal@cs.com](mailto:Martinlegal@cs.com)

**Criteria Addressed:**

39.7515 (A) Is consistent with the character of the area;

39.7515 (C) The use will not (1) force a significant change in accepted farm...practices...; nor (2) Significantly increase the cost of accepted farm...practices....

39.7515(G) Will satisfy the applicable policies of the Comprehensive Plan.

My testimony relevant to these criteria can be found as Exhibit H.16/H.34 (duplicate submissions), Exhibit I.8 (Supplemental Testimony), and as Amended Supplemental Testimony, submitted concurrently with this Response to correct a criterion reference.

PWB's Rebuttal to my testimony is contained in the Globalwise Inc.'s August 5<sup>th</sup> Memorandum to the Hearings Officer, Ex. I.80. pps 56-57<sup>1</sup>. I did not find anywhere that PWB offered specific rebuttal to my Character of the Area testimony, nor any of my testimony that touches on whether PWB's application can satisfy applicable policies of the Comprehensive Plan, so that remains unchallenged.

PWB's Rebuttal to my testimony should be disregarded, as it cherry picks bits from one part of my testimony, proceeds on assumptions that are not true, is poorly researched and quite frankly is condescending in its implication that small family owned farms and farmers do not matter.

---

<sup>1</sup> The Table of Contents in the Globalwise Memo incorrectly states that PWB's rebuttal to my testimony appears at p. 52 of that document

PWB' Rebuttal focuses on one criterion only: 39.7515(C) concerning changes in farm practices and costs, pulling statements out of my initial written testimony that was targeted to 39.7515 (A) concerning the character of the area. My supplemental testimony (not addressed by PWB's Rebuttal) specifically addresses 39.7515(C), noting that PWB's farm and transportation studies did not include our farm and noting traffic routes and choke points important to our particular farm and the particular economic impacts this project is likely to have. See *Exhibit I.8* . Despite not having interviewed us or included us in its study areas, nor demonstrated any particular expertise in our crops or our situation<sup>2</sup>, PWB presumes and assumes to know all about our crops and our farm practices. The PWB Rebuttal makes up facts to suit it. Here are examples from the PWB Rebuttal:

*Peonies and truffles have extended seasons for sales from late spring to fall, and even winter in the case of truffle harvest. These extended seasons and the specialization of client sales allow for lower labor requirements. This product specialization also means client contact is direct. This high degree of contact is an accepted farm practice, and results in close client communication such as when to come to the farm and even the best routes to take. Exhibit I.80*

Our peonies are specialty early season cut flower varieties and have a very compact season, generally 2-3 weeks in late May/early June. Sales and customer contact occurs during that time. Hardly an extended season and certainly to be negatively impacted if construction delays occur during that critical time. Similarly, our truffles are *T. Melanosporum* (Perigord or French black winter truffle). The harvest and hunt season in Oregon for this particular truffle is generally Jan 1- March 1, although they may appear Nov-Dec. Contrary to what PWB would have the reader believe, there is little choice about when to come to the farm—you come when the short season is on, whether you are talking peonies or truffles. And it is ridiculous to assume that we will be handing out PWB's road closure and construction schedule to prospective visitors to the farm we meet at market.

I should also note that the time for selling and digging Monkey

---

<sup>2</sup> A degree naming you an Agricultural Economist does not make you a farmer.

Puzzle trees is also not “extended”—it is generally rain dependant and happens mostly during spring when the ground is not frozen and not too wet or too dry. It can’t necessarily be scheduled around PWB’s construction schedule either.

*Clients driving to the Martin farm for peonies or truffle hunting will be in vehicles that drive at posted speeds with several route options and can choose an alternative if desired.*

*The Martin farm is approximately 3.2 miles from the filtration facility by a route using Dodge Park, the road Ms. Martin indicates is most often used to reach the farm. Dodge Park is open during pipeline construction with a single lane of passage and flagger control. Additionally, during the relatively short time that pipeline construction is in Dodge Park Boulevard, there are multiple alternative routes available as well, such as Lusted Road, Bluff Road to Proctor Road, and Bluff Road to Hudson Road. Exhibit I.80*

There was no testimony that Dodge Park is the road most often used to reach our farm. PWB makes that up out of whole cloth because it suits them. Here is exactly what was said: *The project will create a traffic choke point for us, as Lusted is our main route west. Exhibit I .8* (Supplemental Testimony p. 2).

As for multiple alternative routes, depending upon where our customers are coming from, the described routes can be miles out of the way. Furthermore, suggested routes using Hudson or Proctor are not customer friendly—these are small, narrow, steep twisting roads that have been described as goat paths by locals. Whether it is possible to take an alternative route or not, the harder the construction makes it to get to our farm, the less likely people are likely to come in the first place and certainly not to return if is difficult or unpleasant to get there. That’s an impact involving change and cost.

Finally, I would like to respond to PWB’s ‘rebuttal’ to that part of my Testimony (Exhibit H.16/H.34) which starts out “*We are in agribusiness/agritourism*” and goes on the describe the activities and crops at our farm.

First, PWB's footnote: Note *that* tourism is not *a fann (sic)* use covered by the *fann impacts test* and should *not* be considered for land use approval. Exhibit I.80.

Tourism is not the same as agri-tourism, which is specifically included in the Multnomah County Comprehensive Plan Chapter 3 Farm Land and recognized to be an appropriate part of land use regulation related to farms. See *MCCP Farm Land 3-2, 3-7,3-8, 3-13, 3-14*. WEST OF SANDY POLICIES AND STRATEGIES included in the Comprehensive Plan at 3-18 specifically contemplate the adoption of agri-tourism provisions. So, whether or not PWB is correct that agri-tourism cannot be considered under a farm impacts test (no authority was offered for that position), it is clear that impacts on agri-tourism can be considered under 39.7515(G) which requires satisfying applicable policies of the Comprehensive Plan.

Second: PWB's Rebuttal starts out with:

*Ms. Martin describes her farm as small and family operated. There is no mention of employees. The acreage growing truffles, peonies, and Monkey Puzzle trees are a small share of the total property. Exhibit I.80*

These statements are utterly unrelated to any analysis given of whether or not the proposed PWB facility will force changes in farm practices or increases in costs. One can only conclude that this was included because PWB believes that small farms do not merit consideration in the land use process. We certainly hope that the Hearings Officer believes otherwise.



---

## RESPONSE TO REBUTTAL Case File T3-2022-16220 PWB Filtration Plant

1 message

---

**Holly Martin** <martinlegal@cs.com>

Wed, Sep 6, 2023 at 2:23 AM

To: "LUP-comments@multco.us" <LUP-comments@multco.us>



**External Sender** - Be Suspicious of Attachments, Links, and Requests for Payment or Login Information.

My Response to PWB's Rebuttal to my testimony in this case is attached. I request that it be considered and made part of the record.

Thank you.

Holly Martin



**RESPONSE TO REBUTTAL OF TESTIMONY IN OPPOSITION TO PORTLAND WATER BUREAU APPLICATION FOR CONDITIONAL USE PERMIT TO BUILD FILTRATION FACILITY.docx**

26K