

BEFORE THE MULTNOMAH COUNTY LAND USE HEARINGS OFFICER

Case No. T2-2025-0067

Re: Cottrell Pond Site Restoration, 8344 SE Cottrell Road

Written Version of Oral Testimony Delivered June 26, 2026

Submitted by: Tami Wensenk, on behalf of the Pleasant Home Community Association and the Cottrell Community Planning Organization

Hearing Officer,

My name is Tami Wensenk. I am testifying on behalf of the Pleasant Home Community Association and the Cottrell Community Planning Organization, the appellant in this matter.

Our appeal is not based on opposition to habitat restoration. Rather, it is based on the County's obligation under MCC 39.5590(C) to make findings supported by substantial evidence before approving development within a Significant Environmental Concern Water Resource area.

The central question before the Hearing Officer is not whether dam removal can be beneficial. The question is whether the record contains sufficient evidence for the County to conclude that this particular proposal satisfies the approval criteria contained in MCC 39.5590(B) — the application submittal requirements — and (C)(3) and (C)(4) — the alternatives analysis and development standards that follow from it.

We believe it does not.

First, the record does not adequately demonstrate existing conditions, proposed conditions, and the basis for the County's conclusion that the project will result in the ecological benefits claimed by the applicant.

The County's findings rely heavily on the premise that removal of the dam and restoration of the stream channel will improve aquatic habitat, riparian conditions, and stream function. However, the record does not clearly quantify the existing resource conditions being altered, the resources being lost, the resources being created, or the expected magnitude of the claimed benefits. This goes directly to MCC 39.5590(B)(2) through (B)(4), which require a site plan and biological/wetland surveys sufficient to establish baseline conditions, and to the applicant's burden under (C)(3)(d) to show the Riparian Area “can be restored to an equal or better condition.” Without a clear comparison of existing and post-project conditions — and without a documented basis for the “Good Corridor” determination the County must make under (D)(1) — it is difficult to determine whether the County's findings are supported by substantial evidence.

Second, the record does not provide sufficient detail regarding mitigation and revegetation to support the findings required under MCC 39.5590(D).

The application materials describe restoration and revegetation in general terms, but do not clearly identify the specific planting locations, species composition, performance objectives, or other details necessary to evaluate whether the proposed mitigation is adequate to offset impacts to the riparian corridor and water resource. This is squarely governed by the Compensatory Mitigation General Requirements at MCC 39.5590(D)(3), including subsection (D)(3)(f), which requires mitigation work and revegetation to be established and monitored on a defined timeline. Because mitigation is central to the County's approval, the County must have substantial evidence demonstrating that mitigation will successfully achieve the intended resource protection objectives under these specific standards — not general assurances.

Third, the record does not demonstrate that impacts have been avoided and minimized to the maximum extent practicable as required by MCC 39.5590(C)(3).

The County approved a disturbance area of approximately 1.22 acres. However, the findings do not clearly explain why this disturbance footprint is the minimum necessary to accomplish the project's objectives, as (C)(3)(a) and (C)(3)(b) require. The alternatives analysis appears largely conclusory and does not provide sufficient evidence demonstrating that lesser-impact alternatives were fully evaluated and determined to be infeasible.

The purpose of the avoidance and minimization standards in (C)(3)(a) through (e) is not merely to identify a preferred design, but to demonstrate that impacts to protected resources have been reduced to the greatest extent practicable. The record does not adequately establish that conclusion.

Finally, we remain concerned that the County's findings do not adequately address cumulative effects within the Johnson Creek corridor.

MCC 39.5590(D)(2), and specifically factor (D)(2)(b)(iv), requires consideration of the cumulative adverse effects of past activities on the Riparian Area. The decision repeatedly characterizes this application as an isolated restoration project while declining to meaningfully evaluate how the project interacts with other substantial alterations occurring within the same watershed and stream corridor — including the adjacent, still-active Bull Run Filtration Facility construction. Regardless of the ultimate conclusion reached, the County must demonstrate that it considered cumulative effects under (D)(2)(b)(iv) and explain the basis for its findings.

We anticipate the applicant will argue that (D)(2)(b)(iv) only comes into play if it is seeking an exception to the mitigation sequence under (D)(2)(a), and that no exception is needed here because the project is “self-mitigating.” But that argument assumes the very conclusion at issue. Whether the project is truly self-mitigating — whether it achieves a net improvement rather than a net loss — depends on the same baseline and post-project comparison the record fails to establish under our first point. The County cannot excuse itself from considering cumulative effects by relying on a “no net loss” characterization that is itself unsupported by substantial evidence. At minimum, the record should show the County considered whether ongoing upstream construction affects the baseline against which “self-mitigating” is being measured.

Conclusion

In summary, the issue before the Hearing Officer is not whether restoration is a worthy goal. The issue is whether the County's findings are supported by substantial evidence in the record, as required across MCC 39.5590(B), (C)(3), (C)(4), and (D). We respectfully submit that the record lacks sufficient evidence regarding existing and future conditions, mitigation effectiveness, impact minimization, alternatives analysis, and cumulative effects to support approval under MCC 39.5590.

For those reasons, we respectfully request that the decision be reversed or remanded for additional findings and analysis.

Thank you.

Respectfully submitted,

Tami Wensenk, on behalf of the Pleasant Home Community Association and the Cottrell Community Planning Organization