

Date: 6 September, 2023

To: Mr. Alan Rappleyea, Multnomah County Hearings Officer

From: Jennifer Hart/ Black Gold Springs

Subject: TE3-2022-16220 , Response to Globalwise August 5, 2023 Submission

We have 63 acres. Our family has leased our property to Surface Nursery since the early 1980's. We have count on Surface to farm our fields- as for we do not have a large tractor along with the implements, the time to farm ourselves, and we get some rent with a tax deferral.

I am commenting to Globalwise's responses to my written testimony. Globalwise (Bruce Prenguber) was introduced to me as a farm expert in the summer of 2020, on my property. I was told by PWB, he was hired to assess and mitigate the impacts to the farmers and fields. I thought this was a good thing at the time. However, after reading the multiple reports from Globalwise, I quickly learned that he is biased to who pays him. Globalwise was not hired to look out after the farmers and our fields, he was hired to find no significant impacts (change) of farming and no significant cost to the farmers.

What is the meaning of "SIGNIFICANT IMPACTS"? In the Portland Water Bureau's Administrative Rules it defines significant impact on the Watershed (I have included PWB's Administrative Rules as Exhibit 1, at the end of my submission).

Project Impact Assessment and Mitigation Summary Requirements for City-owned Lands in the Bull Run Closure Area

F. Significant impacts on the watershed. Impacts are adverse effects on water quantity, water quality, cultural resources and the natural environment, including soils, vegetation, and fish and wildlife and related habitat. Significant impacts on the watershed are limited to impacts on City-owned lands in the Bull Run Closure Area. The following criteria are to be used to assess the potential for significant impacts to the watershed:

1. Magnitude. The amount of new ground disturbance or vegetation removal is 0.5 acres or larger

2. Location. The effects are outside previously developed, paved or otherwise non-forested areas, or the effects are within the stream channel of the Bull Run River or its tributaries.
3. Unusual circumstances. The effects are not anticipated in existing regulatory compliance plans and are not easily addressed with anticipated permits or existing Standard Operating Procedures (SOPs).
4. Cumulative. The effects are not significant within the planned project, but may be significant when considered in addition to past projects or future planned projects.
5. Irreversible. The effects cannot be reversed with post-project restoration and revegetation.

I will use this Administrative Rule in some of my comments.

E.1 Written Testimony of Jennifer Hart, farm property owner

Ms. Hart states the Agricultural Study Area addresses a relatively small area.

Comment — “2. I also noticed the Agricultural Study did a impact study of a 1/2 of mile from the proposed facility. Most Nurseries have many fields. Therefore, this cut out several nurseries fields that will be impacted on the Lusted Flats Tier- Han's Nelson's, Nelson's-Rannow Field, Surface, and Marjama fields.

Nurseries and farmers in 1/2 mile radius not mentioned- Diamond Nursery, hydroponic strawberries on Proctor, Plantmad Nursery, Sandyview Acres Nursery and others.”

Response — The reference to the one-half mile area around the filtration facility is a reference area that makes up part of the Core Analysis Area analyzed in the Operations Report. This in-depth review was used to look first at the types of farms closest to the proposed filtration facility site which logically would have the most potential for impact. Each individual tax parcel, 62 in total, was evaluated and inventoried to the extent possible for determining farm use of property. Nurseries and other types of farms outside the Core Analysis Area were also contacted including some named in this **comment**.

The factor mentioned in the comment, that farms travel to different fields, is found in both **the** Core Analysis Area and the Surrounding

Lands. Therefore, by extension, the Surrounding Lands are appropriately evaluated. See Section 6.0 of the Operations Report.

My Response- Globalwise states above that the Core Analysis area is appropriately evaluated. That is Globalwise's opinion. The Core Analysis Area needs to be larger. A half of mile does not show the impact on farmers travels and shipping shared loads. Road closures are going to create an significant time impact which leads to cost increase to the farmers, and the shipping of perishable trees. Many farmers have submitted written testimony regarding the construction traffic and road closures. Jim Johnson with ODA, and the farmers are the true experts. The industry in the area is highly dependent on the movement (shipping and receiving). The Globalwise Report on Construction Traffic (June 3) that was included in Exhibit H3, and not shared until the Hearing - does not recognize the dependent movement. It also left out a field entirely next to the Emergency Access Road, and gives no options to get to lower fields on Lusted Flats (Lusted Rd and Dodge Park Blvd.). Equipment with operators and buses full of workers sitting in construction traffic is costly. Globalwise fails to recognize the cost associated to the farmers.

Ms. Hart claims removing the filtration property from agricultural use defies Multnomah County's Comprehensive Plan pertaining to farmland.

Comment — "This Proposed Industrial Plant will take over 90 acres of fertile agricultural land that has been used for decades for economic gain. It is in a Farming and Agricultural Rural Community. Putting an Industrial Plant and Pipelines through EFU and MU20 land defies the Multnomah County Comprehensive Plan - Farm Land 3. 6 thru 3.16, West of the Sandy Policies and Strategies.

Response — See the Response to Loss of Agricultural Land.

My Response- Globalwise recognizes the main reason for past loss farm and future loss of farmland is that land use planning has allowed residential development to expand in the Surrounding lands. Does that make it right to take 90 more acres out of farm land. The PWB property was once EFU. I am not sure how it was changed and why. This Filtration Plant has other site options. Powell Butte was considered and meets all the technical specifications, but was rejected due to the likely hood of neighborhood opposition. Powell Butte location would eliminate the need for pipes and a emergency access road to be located in EFU land. PWB rejected Powell Butte for reasons not

recognized under OAR 660-033-0313 (16)(a)(A). See Exhibit 3

Ms. Hart claims wells and water rights offarmers will be negatively impacted by the Water Bureau Project.

Comment — "Concerns of wells and water rights in the area, putting Nursery and Residential properties at risk. PWB has already caused issues. with a well on neighboring property. Farms and properties have water rights. PWB does not addresses risks and mitigation."

Response — See the response to Surface Nursery regarding the circumstances of the well in the shallow aquifer.

My Response- Globalwise is naive to think that the well of the neighbor was not affected by PWB. I have a good friend who runs water districts in the area. He is friends with the owner of the property who's well was effected by PWB Geotechnical Drilling. The well bath tubbed due to the drilling. This came from an expert. Globalwise and PWB can say what they want, however they caused the issue. Probably, as nearly as possible, and not likely are words and sayings that are throughout PWB's application and exhibits (reports). These words are very gray, therefore there is no guarantee that a well will not go dry due to PWB project.

Ms. Hart alleges the Water Bureau has already forced a significant change in farming practices by causing Surface Nursery to forgo planting nursery stock on her property.

Comment — 'this (Water Bureau action) has already caused a change in farming in the area. Surface Nursery did not plant 1.7 acres of my property that they lease from me. PWB has easement for pipelines. Surface lost several \$100,000. Not planting 1.7 acres of the easement due to the trees being pre sold. Surface Nursery, was concerned trees were going to have to be pulled before they were ready.'

Response — The Water Bureau's existing pipeline easement on Ms. Hart's property in Clackamas County was granted by the previous property owner in 1985. That pipeline easement is not proposed for use at this time. Any discussions the Water Bureau had with Surface Nursery regarding pipeline construction at that location were preliminary relating to a prior plan and no specific notification of near-term construction was given to Surface Nursery. Any plans for

construction of pipelines on this and other farm use properties in Clackamas County ended about 18 months ago.

My Response- First off the previous owner (Kim) was family. I am very aware that of the easements. Kim and I spoke of them. Kim would never had sold easements if she was told of a Industrial filtration plant was to be built.

I was first notified in Spring 2019, of the PWB wanting to access my property to do some investigations on the easements. I have letters from PWB stating they were going to start the pipe construction in 2023. Once Surfaced removed the crop that was planted in the easement, they need 3 to 4 year crop time. They pulled the trees, not planting the easement as for there was not enough time for the trees to mature before digging. I kept asking Surface to plant and Shawn said, the trees are pre sold. If he was to plant the easement and PWB tells us to pull the trees, he could not fill the order for the pre sold trees. It would put him in a bad situation with his customer. See Exhibit 3- Letter from PWB

Ms. Hart claims soil will be ruined from pipeline construction.

Comment — “Putting pipes through fields and with the 100 foot construction easement will ultimately ruin the soil. The soil will never yield the nursery stock as it did before construction. This has happened in several fields in the area.”

Response — As stated above, the Water Bureau decided to not pursue plans to construct pipelines through the Hart property. Therefore, with regard to this property, the comment is a moot point. On other properties in the current alignment for pipeline construction, robust plans for soil restoration are in place as explained in Dr. Denny Mengel's memorandum titled “Response to Testimony of Agricultural Soils Impact” and his original report, Exhibit A.35, Agricultural Soils Restoration Plan.

MY Response- Our Rural Area out here is all about Community. It does not matter if the pipes are not going through my fields! I am going to support the Community and Our Farmers. See Admin Rules for Bull Run! Magnitude over .5 acres, and irreversible.

Exhibit I84. Is the response to testimony of Agricultural Soils Impact. Once again the term “nearly as possible to pre-construction conditions”. There is no guarantee, and it has been proven by other local farmers, the area will never yield trees as it did before.

The CPO contacted Steve Culman, WSU Endowed Chair of Soil Fertility. He is a Soil Fertility Scientist. His study of Ohio Farmland that was effected by pipeline digging and other soil removal practices, showed that generally and often the soil never came bak to its original fertility after it was dug up. Even the 2- lift system did not work very well. The 2-lift system is what Denny Mengel's states as the new and improved method of soil removal. Culman stated, that the 2 lift system is not that new. The crews who do the removal are careless or worse, and certainly do not use "soft hands" in doing this type of work. Therefore, the so-called protocols that should be followed are not done with any real care and consequently the soil does not do well. He also mentioned that Oregon is a wet climate, the rain will pack the topsoil piles, ultimately ruining the soil. To restore the soil will be a difficult task.

Ms. Hart claims there will be farm worker safety concerns due to construction traffic on roads used by farmers.

Comment — "This Industrial Plant if built will cause farmers to have more safety concerns oybeing on heavy and increase speed limit roads, ultimatelyforcing them to have to add agricultural buildings to their outlying fields, to store equipment, thus eliminating the safety concerns of the roads."

Response — See [Response to Impacts for Farm Travel](#). Also see the [Farm Traffic Report](#).

My Response- The Globalwise Farm Traffic Report has many problems. It forgets the Burkholders field (behind OTA School) that is farmed by Surface. If a Emergency Road goes in Surface can not get to the field. Crossing the Emergency Road with tractors and digging machines will tear up the Emergency Road. Globalwise has Surface using one of their farm roads as a way to escape construction road closures. This is inappropriate, and not possible due to the grade and the road becomes impassable in the winter. No mitigation was found to access Lusted Flats. I only looked at Surface's section of the report. I am sure other farmers had several comments regarding the Report.

Ms. Hart claims taking land by eminent domain will result in the farmer being paid less than the land is worth for continued farming.

Comment — "Taking land from farmer thru eminent domain is terrible. They can plant at least 10,000 trees per acre bare root. Therefore, they are getting paid agricultural acreage price for the land, when they plant tree for years to come and make several hundreds of thousands on a 3 year crop of bare root trees. That

is changing farm practices!”

Response — First, the Water Bureau will only take the minimum amount of farmland necessary for the utility purpose which is a community use. Second, in eminent domain the landowner will be paid what appraisers determine other farmers are currently paying for farmland. This is the fair market exchange in the land market. The high profit associated with nursery farming drives up the price farmers are willing to pay for farmland and this is reflected in the appraiser's valuation. This is not inherently unfair to the farmer whose property is involved in eminent domain. Farmers can appeal the valuation if they think it is too low, and the price will be determined by a court.

My Response- *The* Community use is for Portland. The farmers can make more money planting trees then selling Easements or through Eminent Domain. The Appraiser that valued Surface trees, had no idea of the cost of the trees or their value. He stated that to Surface Nursery. Farmer's land can be planted, the trees yield money for years and years. Loss of dirt and ruined land does not yield trees- it creates a significant change to farming practices and a significant cost to farmers. See Administrative Rules for PWB Bull Run.

H.24m Written Testimony of Jennifer Hart, farm property owner

Ms. Hart states the Water Bureau Project will change the way farming is conducted.

Comment — “the proposed industrial plant will change the way of farming in the area. It is taking 100 acres of prime farmland out of production. This land is in a Rural Reserve. Surface Nursery was farming the land where the proposed site is located. Not farming that land-surface is losing 1/3 of their business.”

Response — See Response to Loss of Agricultural Land and the response to the similar Courter comment above.

My Response- A large portion of the proposed filtration site was obtained through eminent domain. Gary Moller, a nursery farmer owned the property. PWB acquired through eminent domain, for a pond project. The project was never started, and the property was never returned to Gary Moller. As stated above, Surface has lost 1/3 of their business not farming this parcel.

PWB has other sites to put this Proposed Mega Industrial Plant- Powell Butte. It would not affect EFU Land and the farming community. While serving the one million people of the City of Portland, and Emergency Services would be 5 minutes away in every direction.

Exhibit 1:

Administrative Rules, December 2021

The final rules are outlined in this PDF and in the text below.

[Download PDF file](#)

[PWB Final Administrative Rules Bull Run Protections 2021](#) 415.21 KB

**Project Impact Assessment and Mitigation Summary
Requirements for City-owned Lands in the Bull Run Closure Area**

I. Purpose

- A. These rules implement Portland City Code (PCC) 21.36.050 Sections G.1 and G.2, which require: (i) a methodology to assess environmental impacts of capital and non-routine projects on City-owned lands in the Bull Run Closure Area that have significant impacts on the watershed; and (ii) a methodology to define and summarize mitigation for those projects. The rules seek to avoid, then minimize and mitigate, impacts on environmental and cultural resources to the greatest extent practicable, as required in Portland's City Charter, Section 11-107. See **Exhibit A** for a process flowchart.

B. Because uses of City-owned lands in the Bull Run Closure Area are restricted by Portland's City Charter and City Code, the activities regulated by these rules will be: (i) Water Bureau projects to operate, maintain and protect the water supply and water system; and (ii) Bureau of Hydropower projects to operate and maintain the hydroelectric system.

II. Scope

A. These rules apply to City-owned lands in the Bull Run Closure Area. These rules do not apply to federally-owned lands in the Bull Run Closure Area or to City-owned lands outside the Bull Run Closure Area.

B. City projects on federal lands are governed by federal rules and requirements, including the National Environmental Policy Act (NEPA).

III. Definitions

A. At-risk species. Fish, wildlife (mammals, birds, amphibians and reptiles) and plant species in one of the following categories:

1. Federally listed as endangered or threatened.
2. Federally listed as proposed, candidate or species of concern.
3. State listed as endangered or threatened.
4. State listed as sensitive-critical or sensitive.
5. Oregon Biodiversity Information Center Rank or Heritage List 1, 2, and 3.

B. Infrastructure project. Construction, maintenance, repair or replacement of facilities necessary for operation of the water system and electric power generation and transmission, including maintenance of existing dams, roads, culverts, pipelines, powerlines, trestles and bridges.

C. Fish and wildlife. At-risk fish and wildlife (mammals, birds, amphibians and reptiles) and related habitat located on City-owned lands in the Bull Run Closure Area.

D. Impacts. Adverse effects on water quantity, water quality, cultural resources or the natural environment, including soils, vegetation, and fish and wildlife and related habitat on City-owned lands in the Bull Run Closure Area.

E. Land or vegetation management project. Managing the forest or the natural landscape (e.g., stabilizing hillslopes) in accordance with Portland City Charter 11-107 and Public Law 95-200, clearing forest land to build infrastructure, or clearing forest adjacent to structures and powerlines to reduce the risk of fire starts and fire spread.

F. Mitigation measures. Actions or modifications to avoid an impact altogether, to minimize the extent of the impact, to rectify the impact by repairing and restoring the site to a pre-impact condition, or in limited circumstances to restore previously-disturbed resources elsewhere.

G. Previously developed, paved or otherwise non-forested areas. Areas that have been, and will continue to be, disturbed by human activity over the life of the water system and are no longer in an undisturbed natural forest condition, including but not limited to Dam 1, Dam 2, Reservoir 1, Reservoir 2, Headworks, Bear Creek houses, road corridors, powerline corridors and conduit corridors. Previously developed areas include water supply operation areas that have been cleared, graveled, graded, excavated or built upon.

H. Reasonable range of alternatives. Alternative project designs or alternative strategies to avoid or minimize the environmental and cultural resource impacts identified in a Project Impact Assessment. If an alternatives analysis is required for a project, the range of alternatives considered must include at least: (i) not proceeding with

the project (no action alternative); and (ii) at least one (1) project design alternative with a lesser level of impact.

I. Significant impacts on the watershed. The following criteria are to be used to assess the potential for significant impacts on the watershed, which are limited to impacts occurring on City-owned lands in the Bull Run Closure Area:

A. Infrastructure project. Construction, maintenance, repair or replacement of facilities necessary for operation of the water system and electric power generation and transmission, including maintenance of existing dams, roads, culverts, pipelines, powerlines, trestles and bridges.

B. Land or vegetation management project. Managing the forest or the natural landscape (e.g., stabilizing hillslopes) in accordance with Portland City Charter 11-107 and Public Law 95-200, clearing forest land to build infrastructure, or clearing forest adjacent to structures and powerlines to reduce the risk of fire starts and fire spread.

C. Mitigation measures. Actions or modifications to avoid an impact altogether, to minimize the extent of the impact, to rectify the impact by repairing and restoring the site to a pre-impact condition, or in limited circumstances to restore previously-disturbed resources elsewhere.

D. Previously developed, paved or otherwise non-forested areas. Areas that have been, and will continue to be, disturbed by human activity over the life of the water system and are no longer in an undisturbed natural forest condition, including but not limited to Dam 1, Dam 2, Reservoir 1, Reservoir 2, Headworks, Bear Creek houses, road corridors, powerline corridors and conduit corridors. Previously developed areas include water supply operation areas that have been cleared, graveled, graded, excavated or built upon.

E. Reasonable range of alternatives. Alternative project designs or alternative strategies to avoid or minimize the environmental and cultural resource impacts identified in a Project Impact Assessment. If an alternatives analysis is required for a project, the range of alternatives considered must include at least: (i) not proceeding with the project (no action alternative); and (ii) at least one (1) project design alternative with a lesser level of impact.

F. Significant impacts on the watershed. Impacts are adverse effects on water quantity, water quality, cultural resources and the natural environment, including soils, vegetation, and fish and wildlife and related habitat. Significant impacts on the watershed are limited to impacts on City-owned lands in the Bull Run Closure Area. The following criteria are to be used to assess the potential for significant impacts to the watershed:

1. Magnitude. The amount of new ground disturbance or vegetation removal is 0.5 acres or larger
2. Location. The effects are outside previously developed, paved or otherwise non-forested areas, or the effects are within the stream channel of the Bull Run River or its tributaries.
3. Unusual circumstances. The effects are not anticipated in existing regulatory compliance plans and are not easily addressed with anticipated permits or existing Standard Operating Procedures (SOPs).
4. Cumulative. The effects are not significant within the planned project, but may be significant when considered in addition to past projects or future planned projects.
5. Irreversible. The effects cannot be reversed with post-project restoration and revegetation.

IV. Project Impact Assessment

A. Projects Requiring Assessment. Projects in each of the following categories may have the potential to result in significant impacts on the watershed:

1. Infrastructure projects, ancillary structures or construction staging located outside previously developed, paved or otherwise non-forested areas.
2. Construction of new roads outside existing road corridors, or reconstruction of existing road segments, if the total area of new ground disturbance or vegetation removal is 0.5 acres or larger.
3. Projects affecting the stream channel up to the ordinary high-water mark of the Bull Run River and its tributaries, including flow, water quality and instream habitat (unless the project's impacts are addressed in the Bull Run Water Supply Habitat Conservation Plan (HCP) and thereby excluded in Subsection C).
4. Land or vegetation management projects not excluded in Subsection C.
5. Other projects not excluded in Subsection C.

B. The Water Bureau must evaluate these projects in a Project Impact Assessment (using a template substantially in accordance with Exhibit B), determine if the project has the potential to have significant impacts on the watershed, and prepare a map of the project location. The Water Bureau must post the Project Impact Assessment online and notify stakeholders, in accordance with PCC 21.36.050 F.2.

C. Exclusions. The following types of projects are not expected to have significant impacts on the watershed, and a Project Impact Assessment is not required. The general direction to avoid, then minimize and mitigate, impacts still applies, but is accomplished by implementing applicable regulatory management plans, best management practices as documented in standard operating

procedures, and by obtaining and complying with applicable permits.

1. Repair or reconstruction of buildings and facilities located wholly within previously developed, paved or otherwise non-forested areas.
2. Repair or reconstruction of road segments within existing road corridors if the total area of new ground disturbance or vegetation removal is less than 0.5 acres (including removal of hazard trees according to Occupational Safety and Health Administration requirements).
3. Repair or replacement of road culverts consistent with PCC 21.36.050 Section J requirements for aquatic organism passage.
4. Routine projects listed on the quarterly Bull Run Project List prepared to comply with PCC 21.36.050 Section E, including road and powerline maintenance and hazard tree removal.
5. Vegetation management within established powerline corridors to prevent fire and to reduce risk to powerline infrastructure in accordance with agreements with Portland General Electric or Federal Energy Regulatory Commission (FERC) license requirements.
6. Vegetation management around buildings and facilities for fire hazard reduction to comply with county land use requirements or state and federal fire safety guidelines and requirements.
7. Safety-related repairs of dams and hydropower facilities resulting from orders from the FERC Regional Engineer pursuant to CFR Title 18 Section 12.4.
8. Vegetation management to meet state and federal dam safety requirements and related inspection requirements.
9. Treatment of invasive plant species according to the Water Bureau's Integrated Vegetation Management Plan.

10. Revegetation of previously-disturbed sites, consistent with PCC 21.36.050 Section I.

11. Implementation of conservation measures contained in the Bull Run Water Supply HCP.

12. Maintenance and repair of existing structures to meet the requirements of the Historic Properties Management Plan (HPMP).

D. Emergency projects will proceed in accordance with PCC 21.36.050 Section M.

E. Surveys for At-Risk Species. The Water Bureau will periodically review the most recent information available to identify at-risk species that might be present on City-owned lands in the Bull Run Closure Area. Project Impact Assessments will evaluate the potential need for surveys to identify the presence of relevant species at or near the project site, as well as options to avoid impacts even if the presence of at-risk species is not known. When possible, projects will be designed and implemented to avoid the potential for impacts and surveys will therefore not be necessary. When the presence of at-risk species is not known and avoidance is not possible, the Project Impact Assessment will evaluate the feasibility of conducting surveys. The feasibility assessment will evaluate the availability of suitable survey protocols, the availability of staff or contractors qualified to implement the survey protocol, the practicality of survey timing and duration, the estimated costs of the survey effort, the potential for detrimental effects to at-risk species that could result from surveys including disturbance and predation, and the probable value of the resulting data. If species presence is likely, adverse effects are likely, and surveys are feasible and necessary to avoid impacts, the Water Bureau must conduct surveys to identify the presence of at-risk species. If species presence is likely and adverse effects are possible, but the Water Bureau concludes that surveys are not feasible or necessary to avoid impacts, the Impact Assessment must explain the

rationale in the Project Impact Assessment and must describe and implement an alternative to surveys (e.g., soliciting expert advice on best ways to avoid or minimize impacts). Surveys for federally-listed endangered or threatened species will occur as required by the federal agencies with jurisdiction. The purpose of surveys is to enable design modifications or other mitigation to avoid, minimize and mitigate potential effects to the at-risk species.

F. Riparian Reserves. Location of a project in a riparian reserve does not by itself require preparation of a Project Impact Assessment or Mitigation Summary, but does require a riparian reserve protection plan. Requirements for projects located in riparian reserves, including reserve dimensions, prohibitions and exclusions from prohibition, are identified in PCC 21.36.050 Section H.

G. Climate Change. The Water Bureau must assess in the Project Impact Assessment the effects of projects on carbon emissions from construction vehicles and on carbon storage and sequestration effects of tree cutting if 0.5 or more acres of trees are to be cut. The methods for carbon storage and sequestration analysis will be commensurate to the scope and scale of the project and will be tiered to three levels of tree cutting: 0.5 to 10 acres, more than 10 acres and less than 100 acres, and more than 100 acres.

V. Mitigation Summary

A. If a Project Impact Assessment identifies the potential for significant impacts on the watershed, then the Bureau must prepare a Mitigation Summary (using a template substantially in accordance with Exhibit C).

B. The Water Bureau must seek to avoid impacts to the greatest extent practicable in the project design, including impacts to water quantity and quality, cultural resources, and the natural environment including soils, vegetation, and fish and wildlife and related habitat.

C. For significant impacts on the watershed that cannot be avoided, the Water Bureau must seek to minimize those impacts using mitigation measures. The Mitigation Summary must include the following, as applicable:

1. Permits and Standard Operating Procedures. The Water Bureau must mitigate significant impacts on the watershed using measures required by federal, state, county and local permits and by using Water Bureau best management practices as documented in standard operating procedures and provisions of regulatory compliance plans (e.g., HPMP or HCP). Exhibit D lists the standard operating procedures and regulatory compliance plans that exist or are planned at the time these rules were adopted.

2. Project Specific Mitigation. For projects with significant impacts on the watershed not addressed by permits or existing standard operating procedures and regulatory compliance plans, the Water Bureau must seek to reduce or mitigate the impacts with project-specific measures. Mitigation can also include restoring land previously disturbed elsewhere, but opportunities for compensatory mitigation inside the Bull Run Closure Area are very limited and mitigation at a location other than the project site should be considered only after avoiding and minimizing impacts at the project site to the greatest extent practicable.

3. Alternatives. If significant impacts on the watershed cannot be effectively avoided, minimized or mitigated in the proposed project design, then the Mitigation Summary must identify those remaining significant impacts, identify alternatives that would lessen the impact, and describe why those alternatives were not selected. The alternatives analysis must include: (i) not proceeding with the project (no action alternative); and (ii) at least one (1) project design alternative with a lesser level of impact.

D. Objections and Appeals. The Mitigation Summary is subject to objection and appeal pursuant to PCC 21.36.050.F 5-7. The Project Impact Assessment is not subject to objection and appeal.

1. Objections. Objections must identify: (i) why the proposed mitigation is inadequate to avoid significant impacts on the watershed or reduce those impacts to a less than significant level; and (ii) what additional mitigation should be required.

2. Appeals. PCC 21.36.050.F 7 sets forth a process for appeals of a Water Bureau decision on an objection. Appeals must describe: (i) why the Water Bureau's response to the objection is inadequate, and (ii) what additional mitigation should be required.

VI. Administrative Review and Update

These rules are new for the Water Bureau and interested stakeholders. Accordingly, the Bureau will review and update the rules no later than five (5) years after adoption to incorporate lessons learned.

Exhibit A - Process Flowchart for Project Impact Assessment, Mitigation Summary, Objections and Appeal

(Flow chart in PDF)

Exhibit B - Project Impact Assessment

Background

The intent of the Project Impact Assessment is to identify impacts early to enable Water Bureau staff to subsequently avoid, minimize or mitigate those impacts in the project design, and to enable public review and comment. A Project Impact Assessment is not required for all projects. See exceptions identified in the administrative rule.

A Project Impact Assessment will vary in length and detail depending on the project type and the level of associated impacts. A typical Project Impact Assessment document is anticipated to be less than 15 pages. Larger projects with greater potential impact might require longer documents. In some cases, county land use approvals (with approval conditions) and/or federal NEPA documents will also be required. The Project Impact Assessment must focus on environmental impacts defined in City Charter 11 107 and PCC 21.36.050, be summarized for the layperson, and be presented in a format that can be made available as an email attachment.

The Project Impact Assessment must be prepared in consultation with these Water Bureau staff or their designees: Engineering Supervisor for Supply Program, Bull Run Watershed Protection Manager, Environmental Compliance Manager, Cultural Resource Manager, and Land Use Coordinator.

The Project Impact Assessment is not intended to duplicate detail that might be prepared for an applicable Riparian Reserve Protection Plan, Erosion Control Plan, Tree Protection standard operating procedure project plan, permit application, or other similar documents. Those documents can be referenced in the Project Impact Assessment as existing or planned.

The Water Bureau must also prepare a map of the project location that identifies infrastructure locations, area previous disturbed, developed or deforested, riparian reserve dimensions, known sensitive habitat features, and known cultural resources in accordance with the Bull Run Historic Properties Management Plan. This locational information is needed internally to enable avoidance of impacts, but sharing the information may be sensitive for reasons of water system security and resource protection. Before sharing location information externally, the Water Bureau will consider sensitivity of the location information in cooperation with relevant management staff, regulatory agencies, Tribes, and partners, and will withhold sensitive location information from public review as necessary.

Template - Project Impact Assessment

Project Name:

Purpose of the Project:

Date of the Impact Assessment:

Anticipated Project Timing (including approximate duration and season of construction):

Describe the permit or agency reviews likely required, including the potential for federal NEPA analysis:

Is this project part of a larger phased project? If yes, describe the larger project:

Project Location (attach map):

Project Size (approximate number of acres, and longest linear dimension):

The purpose of the following questions is two-fold: 1) to enable Water Bureau staff to avoid, minimize and mitigate impacts in the project design, and 2) to identify which impacts are deemed potentially significant impacts on the watershed and must be addressed in a Mitigation Summary.

Water Flow and Water Quality

- Describe the potential for the project to adversely affect any surface waterbody. (perennial and intermittent streams, wetlands, lakes/ reservoirs) on or in the immediate vicinity of the site.
- Will drainage at the project site be affected during or after completion of the project?

- Describe the potential for the project to adversely affect water quality, including water temperature and turbidity, at the site or downstream.
- Describe the likelihood and duration of in-water work as part of the project.
- Describe any aspects of the project that will remain in or on a water body after the project is complete.

Vegetation

- Is the area of potential vegetation removal 0.5 acres or larger? (yes/no)
- Describe the trees, including hazard trees, that might be removed using standard protocols that consider approximate number, species, estimated age and diameter.
- Describe the type and amount of native vegetation that might be cleared.
- Describe the potential for adversely affecting late successional forest habitat.
- Describe the potential for at-risk plant species and their habitats to be present or near the site. Describe the likelihood that the project will adversely affect these species, including consideration of habitat resilience to climate change. If there is potential for at-risk plant species to be present, describe available strategies to avoid or minimize impacts and the need for and feasibility of conducting surveys to identify the presence of these species. If surveys are conducted, describe the results of the surveys. If the feasibility assessment indicates that impacts are possible, but no suitable survey protocol exists or that surveys would require unreasonable time or costs, not produce useful data, or incur harm or risk to the species, explain the rationale for that conclusion and describe and implement

an alternative to surveys (e.g., soliciting expert advice on best ways to avoid or minimize impacts).

- Describe the potential for importing invasive species in fill material (or rock/gravel) and for disturbing or spreading invasive plant species already present at the site.

Riparian Reserves

- Describe riparian reserves present or near the project site (see dimensions defined in PCC 21.36.050.G).
- Describe if and how the riparian reserve and associated habitat for at-risk species might be adversely affected by the project, including facility construction or subsequent facility operation.

Fish and Wildlife Habitat

- Describe the potential for fish and wildlife species listed as endangered or threatened under the federal Endangered Species Act and their habitats to be present at or near the project site. Describe the likelihood that the project will adversely affect these species, including consideration of habitat resilience to climate change.
- Describe the potential for other at-risk fish and wildlife species and their habitats to be present at or near the project site. Describe the likelihood that the project will adversely affect these species, including consideration of habitat resilience to climate change.
- If there is potential for at-risk species to be present, describe available strategies to avoid or minimize impacts and the need for and feasibility of conducting surveys to identify the presence of these species. If surveys are conducted, describe the results of the surveys. If the feasibility assessment indicates that impacts are possible, but no suitable survey protocol exists or that surveys would require unreasonable time or costs, not produce useful data, or incur harm or risk to the species, explain the rationale for that conclusion and describe and implement an alternative to surveys (e.g., soliciting

expert advice on best ways to avoid or minimize impacts).

Soils and Hillslopes

- Describe the extent (in acres) of ground disturbance anticipated, including construction staging areas.
- Is the area of potential ground disturbance 0.5 acres or larger? (yes/no)
- Describe the potential for the project to adversely affect previously undisturbed soils and to cause compaction that would inhibit site restoration post-construction.
- Describe the potential for erosion during and after construction, including the presence of erosion-prone soils.
- Describe steep and/or known unstable hillslopes present at or near the project site, including previous shallow or deep landslides identified in 2014 DOGAMI mapping.
- Describe the approximate amount of soil disturbance, grading, cut and fill, and/or excavation anticipated. Identify and describe the anticipated disposal area for excavated spoils if located within the Bull Run Closure Area.

Noise and Disturbance

- Describe the types of large equipment likely to be needed for the project (cranes, excavators, etc.).
- Are drones or helicopters likely to be needed at any point during the project?

Hazardous Materials

- Describe type and location of any toxic or hazardous chemicals that might be stored or used during the project construction, or during the operating life of the project.

Climate Change

- Describe the number of truck trips and estimate the associated carbon emissions anticipated to occur during construction.
- For projects involving 0.5 to 10 acres of tree cutting, provide a qualitative assessment of potential impacts on carbon storage and sequestration.
- For projects involving more than 10 acres and less than 100 acres of tree cutting, provide an analysis to assess the project's potential impacts on carbon storage and sequestration. If appropriate data, methods, models and tools are not available for a quantitative assessment, provide a qualitative assessment.
- For projects involving more than 100 acres of tree cutting, provide a quantitative analysis of the project's potential impacts on carbon storage and sequestration.

Fire Risk

- Describe aspects of the project that might create a risk of fire (e.g., use of vehicles and powered equipment during the fire season, storage of fuel for equipment, burning of vegetation or debris).

Cultural Resources

- Identify and describe buildings, structures, or sites located on or near the site that are 45 years old or older and are listed or eligible for listing on national, state, or local preservation registers.
- Describe any known or likely areas of historic use or cultural importance at or near the site (e.g., evidence of previous use and occupation by Indigenous peoples).
- List any professional studies or surveys conducted at the site that identified historic or cultural resources. • Describe the methods used to assess if there are potential impacts to cultural and historic

resources on or near the project site. Examples include consultation with Tribes, archeologic surveys, historic maps, GIS data, etc.

- Describe the potential for the project to adversely affect cultural resources.

Identification of Potentially Significant Impacts

Significant impacts on the watershed require preparation of a Mitigation Summary document per PCC 21.36.050 Subsection G.4. Use the following criteria to assess the potential for significant impacts on the watershed:

- **Magnitude.** The amount of new ground disturbance or vegetation removal is 0.5 acres or larger.
- **Location.** The effects are outside previously deforested, disturbed and developed areas. The effects are within the stream channel up to the ordinary high-water mark of the Bull Run River or its tributaries.
- **Threatened and endangered species.** The effects may include impacts on federally-listed threatened or endangered species or their habitats that cannot be avoided or minimized by following existing regulatory permits and requirements, standard operating procedures or other relevant federal guidelines.
- **Unusual circumstances.** The effects are not anticipated in existing regulatory compliance plans and not easily addressed with anticipated permits or existing standard operating procedures.
- **Cumulative.** The effects are not significant within the planned project, but may be significant when considered in addition to past projects or future planned projects.
- **Irreversible.** The effects cannot be reversed with post-project restoration and revegetation.

Describe in a summary narrative the overall potential adverse effects

of the project on the resources to be protected per PCC 21.36.050. Consider in the summary, for example, the combined effect of multiple different impacts from the project on a single at-risk species, area of land or water body, and indirect effects such as reduction of a key food source for an at-risk species.

Exhibit C Mitigation Summary

Background

Background

A Mitigation Summary is not required for all projects. A Mitigation Summary is only required for projects for which a Project Impact Assessment is required and potentially significant impacts on the watershed are identified.

The Mitigation Summary is not intended to replicate detail in existing standard operating procedures, or related documents. Those documents can be referenced and the relevant aspects briefly summarized.

The Project Mitigation Summary should be prepared in consultation with these Water Bureau staff or their designees: Engineering Supervisor for Supply Program, Bull Run Watershed Protection Manager, Environmental Compliance Manager, Cultural Resources Manager, and Land Use Coordinator.

A Mitigation Summary document will vary in length and detail depending on the project type and the level of associated impacts. A typical Mitigation Summary is expected to be less than 15 pages. The Mitigation Summary can include excerpts from project specifications and construction drawings, but the document is not intended to include the entirety of those other documents. The Mitigation Summary must focus on environmental or cultural resource mitigation, be summarized for the layperson, and be presented in a format that can be made available as an email attachment.

Template – Mitigation Summary

Project Name:

Date of the Mitigation Summary:

Changes since Project Impact Assessment

Was the Project Impact Assessment substantially amended in response to public comment or based on project revisions by the Water Bureau? If yes, attach the amended Project Impact Assessment.

Has the footprint of the project design changed substantially since the Project Impact Assessment was prepared? If yes, attach an updated map.

Has the purpose of the project changed substantially since the Project Impact Assessment? If yes, describe the changes.

Have conditions in the watershed changed since the Project Impact Assessment (e.g., a large natural disturbance or discovery of a new sensitive resource)? If yes, describe the changes and update the impact assessment if needed to accommodate the change.

Mitigation of Potential Impacts

The Mitigation Summary must address impacts identified as potentially significant on the watershed in the Project Impact Assessment and should include the following content:

- Summarize mitigation measures to comply with City, county, state and federal regulations and permits as they apply to potentially significant impacts on the watershed identified in the Project Impact Assessment.
- Summarize provisions of existing regulatory compliance plans that apply to potentially significant impacts on the watershed in the Project

Impact Assessment the project and summarize how they will be implemented.

- List the Water Bureau's standard operating procedures that apply to the project and summarize how they will be implemented to mitigate potentially significant impacts on the watershed identified in the Project Impact Assessment.
- Summarize additional planned mitigation measures, if any, that surpass what is required by the regulations, permits and regulatory compliance plans listed above.

Alternatives to the Water Bureau Project Design

If potentially significant impacts on the watershed described in the Project Impact Assessment cannot be effectively avoided, minimized or mitigated, then the Mitigation Summary must also:

- Describe the no action alternative, including any consequences to the Water Bureau or water system if the project does not proceed.
- Describe at least one alternative project design or mitigation strategy with less impact than the Water Bureau's chosen project design, including any consequences to the Water Bureau or water system if the alternative were to be implemented.

Exhibit D Water Bureau Best Management Practices, Standard Operating Procedures and Regulatory Compliance Plans

The following documents describe best management practices, protocols and procedures routinely applied to avoid, reduce or mitigate the environmental impacts of City projects inside the Bull Run Closure Area. Best management practices are documented in standard operating procedures (SOPs) and in standard contract specifications (Bull Run Special Provisions).

PCC 21.36.050 G3 requires the Bull Run Special Provisions to include relevant requirements from PCC 21.36.050 so that those requirements can be incorporated into project-specific contract specifications. PCC 21.36.050 G4 requires that:

“The Portland Water Bureau must establish best management practices (BMPs), on an ongoing basis, to be employed in the implementation of ongoing routine programs and during emergency responses. The BMPs must avoid, then minimize and mitigate, impacts to City land in the Closure Area to the greatest extent practical. The BMPs must be consistent with, and at least as protective as, comparable BMPs on national forest land in the Bull Run Watershed Management Unit. BMPs must be documented in standard operating procedures. BMPs must enable compliance with applicable City, county, state and federal requirements and permits.”

Existing

- Bull Run Closure Area Security Procedures (Section 00202, Bull Run Special Provisions)
- Bull Run Watershed Closure Area Special Requirements (Section 00203, Bull Run Special Provisions)
- Bull Run Watershed Closure Area Seeding (Section 01030, Bull Run Special Provisions)
- Tree Protection SOP
- Invasive Plants SOP
- Aquatic Invasive Species SOP
- Wet Weather Construction SOP
- Hazardous Materials Spill Reporting, Storage and Disposal SOP
- Northern Spotted Owl Guidelines
- Human Sewage Containment SOP
- Bull Run Access SOP
- Industrial Fire Precaution Level (IFPL) and Fire Season Requirements
- Bull Run Water Supply Habitat Conservation Plan

Planned

- Riparian Reserve Protection Plan SOP
- Revegetation/Site Restoration SOP
- Updates to Bull Run Special Provisions to incorporate code requirements (i.e., PCC 21.36.050 Sections H, I, J and K and any relevant SOPs created after adoption of this rule)
- Inadvertent Discovery Protocol (for protection of cultural artifacts)
- Historic Properties Management Plan
- Manual for Built Resources
- List of federally-listed endangered or threatened species and other at-risk species that are likely to be present on city-owned lands in the Bull Run Closure Area

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General information

email

311@portlandoregon.gov

phone number

[311](tel:311)

Information and Customer Service

phone number

[503-823-4000](tel:503-823-4000)

Oregon Relay Service

[711](tel:711)

Oregon Relay Service

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Exhibit 2:

Excerpt from:

Technical Memorandum

September 11, 2018

Bull Run Filtration Project

**David Peters, PE, and Michelle Cheek, PE - Portland Water
Bureau Christopher Bowker - Portland Water Bureau Pierre
Kwan, PE, Aparna Garg - HDR**

Dan Speicher - Jacobs

**Phillippe Daniel, PE - HDR Andy McCaskill, PE - HDR Filtration
Plant Site Alternatives**

5.5 Powell Butte

In 2001, the Panel recommended Powell Butte as a future treatment facility site due to its suitable elevation, location within the urban growth boundary, greater opportunities for public education and community recreation facilities, and the presence of an existing reservoir - thought to offer significant cost savings.

A facility at Powell Butte could be placed close to, or just below, the HGL, maximizing gravity flow to the facility (see Figure 7). However, pumping would be required to send water back up to retail and wholesale customers connected to the conduits between Headworks and Powell Butte, including the existing 16-inch Lusted Road Distribution Main connected to Conduits 2 and 4 at Lusted Hill. This would involve not only a pump station, but new pump mains to deliver water approximately 18-20 miles back east, at a significant cost and effort. Although Powell Butte

passed the HGL criterion, it has significant drawbacks related to pumping filtered water back upstream (east) to customers.

Figure 7. Illustration showing a filtration facility located at Powell Butte relative to the HGL. Note the facility is very close to the HGL and would have gravity flow.

Powell Butte is very close to existing piping infrastructure, with additional piping estimated to be less than most of the other sites, at approximately 2,000 feet. Since Powell Butte is within two miles of the existing and future conduit ROW, it passed the proximity criterion. Powell Butte includes multiple taxlots, four of which are quite large and total over 530 acres, and therefore is large enough for a filtration facility. Powell Butte is encircled by areas of moderate to high landslide hazard. However, low landslide susceptibility exists near where a potential treatment facility would likely be sited on the butte's interior area. Considering slopes, geologic 12

Portland Water Bureau | Bull Run Filtration Project Filtration Plant Site Alternatives Final Draft hazards, and existing facilities, it is estimated that the buildable area is 60 acres. Powell Butte passed the taxlot size, slopes, and geologic hazards criterion.

Powell Butte is located in Multnomah County, within the city of Portland, and is zoned as Open Space, low density residential, and multi-dwelling residential. In 2001, it was recognized that siting a facility at Powell Butte would have significant impacts on the park and surrounding neighborhoods (as the Panel was completing its work, some citizens expressed concerns about the social and environmental impacts of a facility at Powell Butte). Because of uncertainties of siting a treatment facility at Powell Butte, the Panel recommended a second site (Lusted Hill) remain under active consideration should neighborhood,

environmental, or other issues render Powell Butte an inappropriate location.

More recently, Powell Butte Reservoir 2 was constructed at Powell Butte. Insight and experience from this project confirmed that neighborhood, environmental, or other difficulties would be significant if PWB were to construct a filtration facility at Powell Butte. It is also anticipated that Powell Butte would be the most difficult to secure land use approvals for development. This is because the land use process would require a Major Amendment to the Bureau's Powell Butte Conditional Use Master Plan (CUMP) and would trigger a subset of other land use reviews including conditional use, environmental, and likely an adjustment review to accommodate the impacts of development in the park and to the surrounding area. The Zoning and Land Use Review Analysis for Bull Run Water Treatment Plant Siting TM concluded that larger Powell Butte land use reviews (such as Reservoir 2 and CUMP) in the past have been appealed to LUBA by the neighborhood association and other public members,

Exhibit 3



Mingus Mapps, Commissioner
Gabriel Solmer, Administrator
1120 SW Fifth Avenue, Room 405
Portland, Oregon 97204
503-823-7404
portland.gov/water



September 30, 2021

Jennifer Hart
38200 SE Lusted Road
Boring, OR 97009-9726

Information Request: Pipeline Design for the Bull Run Filtration Project

Dear Jennifer Hart:

As you know, the Water Bureau has an easement on your property that we are planning to use for construction of new pipelines. We are currently designing the pipelines and expect to begin construction in 2023. We expect our pipeline construction will require clearing most of the easement on your property; we plan to avoid the forested area of the easement.

I understand you prefer not to meet until we have completed design. However, your input now provides the best opportunity for us to consider your preferences and incorporate information into the design process.

For example, understanding the location of irrigation lines or private utilities in the easement will help us plan for those in the design. We also would like to hear your preferences for relandscaping the easement after construction. Absent of your input, we are planning to remove and preserve your topsoil near the excavated trench, then replace that topsoil after backfilling the trench.

Meeting with you at your property is a valuable way for us to exchange information and better understand design considerations specific to your property. I understand you prefer to not to meet, so I am including a questionnaire and a map of the easement on your property as another option to provide input. You can send your response in the enclosed self-addressed stamped envelope or by email.

I also enclosed *frequently asked questions* for pipeline neighbors that we hope answer some of your questions. Feel free to contact me with others. We appreciate your assistance as we move forward with planning for the pipelines.

We appreciate your assistance as we move forward with planning for the pipelines.

Sincerely,

Bonita Oswald, Bull Run Treatment Project Communications
503-865-6039
Bonita.Oswald@portlandoregon.gov

Please contact us for translation or interpretation, or for accommodations for people with disabilities.
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FILE #T3-2022-166220 Responses to Exhibit I80

1 message

Jennifer Hart <sandyjen23@gmail.com>
To: LUP-Comments@multco.us

Tue, Sep 5, 2023 at 4:05 PM

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

Multnomah County,

Can you please add the attachment to the record. File# T3-2022-16220

Thank you,
Jennifer Hart

 **GLOBALWISE EXIHIBIT I80 Responses-pdf.pdf**
2327K