

MEMORANDUM

TO Hearings Officer

FROM Multnomah County Transportation

DATE September 6, 2023

SUBJECT **New Evidence Rebuttal - Portland Water Bureau application T3-2022-16220**

This memo supplements County Transportation's findings and recommended conditions provided in the memo (Exhibit B.16) and Staff Report (pages 11-14). The memo provides review and rebuttal to pre-hearing and post-hearing submittals on the record which pertain to County Transportation code that enables review and evaluation of development (Road Rules and Design and Construction Manual). The memo provides a review of Mike Ard Engineering's critiques of the applicant's TIS documents (Exhibit I.46) and the subsequent rebuttal and new evidence provided by the Applicant's engineer (Exhibits I.84, I.86). The memo also reviews Multnomah Rural Fire Protection District No.10 comments (Exhibit I.10). The memo provides County rebuttal of Attorney Kleinman's written testimony on behalf of Pleasant Home Association (Exhibit I.35) to ensure that County Transportation conditions remain consistent with case law and LUBA Orders.

Taking into consideration the applicant's suggested revisions to Transportation conditions in its Pre-Hearing Statement (Exhibit H.3) and the above new evidence/rebuttals on the record, this memo provides revised conditions of approval for Hearings Officer's consideration. Reasons for amendments or revisions to existing conditions follow the rebuttal comments. The revised conditions of approval can be found at the end of this memo.

REBUTTAL TO KLEINMAN TESTIMONY(EXHIBIT I.35)

Rebuttal

There is testimony that argues that the construction period is too long to be considered “temporary.” [Exhibit I.35] The County disagrees. The proposed development is a complex development, therefore, the construction period will take longer than a residential home, for example. In analyzing state regulatory rules, LUBA soundly presumed that the Land Conservation and Development Commission does not view a “temporary construction area” to be a use under land use regulations, but rather “an accessory function that is necessary to construct the authorized use.” *Citizens Against LNG, Inc., et. al. v. Coos County*, 63 Or LUBA 176 (2011). Here, the five-year construction period is necessary to build a complex water filtration facility, that if the application is approved, will be an authorized use.

Also, there is testimony that the temporary transportation impacts during construction are an unreasonable restriction on farm practices [Exhibit I.35]. LUBA has held that a temporary impact on farm practices caused by an allowed use in an EFU zone is not “an unreasonable restriction or regulation under ORS 215.253.” *Mission Bottom Association Inc., et. al. v. Marion County*, 29 Or LUBA 281 (1995), (*holding* a potential, temporary impact on farm structures or practices on the subject property, caused by an aggregate operation allowed in the EFU zone, is not an unreasonable restriction or regulation under ORS 215.253.)

Here, the temporary impacts that construction and construction traffic will have on the areas surrounding the construction site are not unreasonable restrictions on nearby farm uses. Although the construction and construction traffic may be inconvenient, the MCRR do not address inconvenience. Rather, the improvement requirements in Conditions 5 and 6 aim to improve road conditions and safety per MCRR 6.100 and MCRR 8.100. In improving road conditions and safety, a temporary impact to farm practices does not result in an unreasonable restriction on such farm practices.

Finally, an opponent argued there is insufficient evidence to support a finding that the county’s approval standards are satisfied, or that feasible solutions to the identified problems exist and will be achieved by conditions of approval [Exhibit I.35]. The County respectfully disagrees and points to Applicant’s submittals: Exhibits A.31, A.226, A.227, A.230, H.3, I.84 and I.84. Substantial evidence is evidence a reasonable person would rely on in reaching a decision. *Brandt v. Marion County*, 23 Or LUBA 316 (1992). Exhibits A.31, A.226, A.227, A.230, H.3, I.84 and I.84 are all evidence that a reasonable person would rely upon to determine that the conditions have been met.

Furthermore, where a reasonable person could reach the decision made by the local government, in view of all the evidence in the record, LUBA will defer to the local government’s choice between conflicting evidence. *Bottum v. Union County*, 26 Or LUBA 407 (1994). Here, there is no conflicting evidence, just conflicting opinions. The applicants have provided

substantial evidence for County Transportation to determine that the conditions can and will be met; therefore, the Hearings Officer is respectfully asked to defer to the County's decision.

TRANSPORTATION ANALYSIS REBUTTAL

- County Transportation has reviewed the engineering critiques and applicant's rebuttals: Mike Ard Engineering critique of the Applicant's TIS documents (Exhibit I.46)
- Applicant's traffic engineers rebuttals to hearing documents and Mike Ard Engineering's critiques (Exhibit I.84; Exhibit I.86)

Based on the above review, County provides a review to respond to whether the applicant's submittals and rebuttals remain consistent with County Transportation requirements.

Construction Traffic – Project Description

Ard Engineering comment (Exhibit I.46): Scenario where facility operation traffic and late stage construction potentially both exist in 2027 and 2028 have not been analyzed. Reduced construction timeline would result in higher construction traffic.

PWB response (Exhibit I.84): Construction TIA evaluated peak and average daily conditions; late stage substantially complete construction traffic is much lower than peak and average conditions; therefore Construction TIA sufficient. Construction timeline does not change peak and average conditions in TIA.

County Transportation: PWB response adequate.

Physical Condition of Roadways and Intersections

Ard Engineering comment (Exhibit I.46): Many impacted roadways not designed or constructed to support high truck traffic volume.

PWB response (Exhibit I.84): Roadways proposed for construction use are TSP-designated freight routes except Carpenter Lane. Carpenter Lane will be improved and widened east of Cottrell. Construction will not use Carpenter west of Cottrell.

County Transportation: PWB response adequate. See also improvements required in recommended conditions 5 and 6.

Ard Engineering comment (Exhibit I.46): Pavement conditions analysis removed. Road degradation by heavy truck traffic.

PWB response (Exhibit I.84): See staff report conditions 5, 6, 7 and Pre-Hearing Statement. Fix-it first + Maintain approach.

County Transportation: PWB response adequate.

Traffic Data Evaluation

Ard Engineering comment (Exhibit I.46): Covid impact on traffic volumes between 2019 and 2022.

PWB response (Exhibit I.84): Impact of Covid unique and slightly lower volumes reasonable. TIA added additional study intersections.

County Transportation: PWB response adequate. Lower traffic volume generally accepted.

Project-Generated Trips

Ard Engineering comment (Exhibit I.46): 1) Where will commuter trips for pipeline work park?

PWB response (Exhibit I.84): Construction TIA models “worst case” traffic scenarios to test capacity by modeling all trips to Filtration Facility site. Actual pipeline commuter trips will travel to and park at pipeline work sites

County Transportation: PWB response adequate.

Ard Engineering comment (Exhibit I.46): 2) Where will pipeline trips travel? Are the impacts of these trips captured in analysis?

PWB response (Exhibit I.84): Pipeline trips will travel to pipeline work sites. Worst case scenario in TIA studied the most conservative scenario.

County Transportation: PWB response adequate.

Ard Engineering comment (Exhibit I.46): 3) Commuter trip inbound in AM peak and outbound in PM peak not realistic.

PWB response (Exhibit I.84): Commuter trips assumed to occur all during peak hours based on the most conservative scenario. Actual arrival and departure times will differ and stagger which is less impactful. ITE Trip Gen land uses not appropriate for construction traffic.

County Transportation: PWB response adequate.

Ard Engineering comment (Exhibit I.46): TIA did not include passenger trips outside peak hours and contra-flow commuter trips during peak hours.

PWB response (Exhibit I.84): TIA methodology meets Mult Co requirements in DCM Section 1.1.3

County Transportation: PWB response adequate.

TIA – Intersection Performance

Ard Engineering comment (Exhibit I.46): TIA omitted “background conditions” and background traffic volumes figures.

PWB response (Exhibit I.84): Project Operations TIA (Exhibit A.31) includes background conditions

County Transportation: PWB response adequate. Exhibit A.31 (Filtration Site Traffic Impact Analysis) is part of the Hearing Record and shows existing conditions are good (LOS A and B) and background traffic growth is not expected to be significant during that time.

Ard Engineering comment (Exhibit I.46): TIA used 1) 2022 volumes which are lower than 2019, 2) study year of 2025 but construction expected to last several years, commuter impact underestimated, 4) used the same peak hour factors (PHF) for existing and future years.

PWB response (Exhibit I.84): 1) Addressed previously in Covid-impact comment; 2) 2025 is peak construction traffic year which represents worst case traffic conditions; 3) Commuter traffic previously addressed—TIA studied worst case scenario; 4) PHF for future conditions most impactful at near- or at-capacity locations.

County Transportation: PWB responses adequate:

Ard Engineering comment (Exhibit I.46): TIA identified unacceptable operations at study intersections. Additional 10% increase in delay will cause failures at some intersections.

PWB response (Exhibit I.84): See Mitigation Plan and TDM Plan to address deficiencies. 10% increase in delay not relevant.

County Transportation: PWB response adequate.

Pipeline Construction Lane and Roadway Closures

Ard Engineering comment (Exhibit I.46): Accommodations for bike/ped traffic inadequate

PWB response (Exhibit I.84): Rural roads standards and current conditions have limited accommodations for bike/ped

County Transportation: PWB response adequate. Recommended conditions of approval are written consistent with County Transportation code.

Ard Engineering comment (Exhibit I.46): Construction TIA shows 749 new added trips during AM and PM peak hours. Currently Carpenter Lane carries 14 AM peak vehicles and 11 PM peak and fewer than 150 vehicles per day.

PWB response (Exhibit I.84): TIA models conservatively high worst case condition traffic. Project is improving roads according to Mult Co standards.

County Transportation: PWB response adequate. Recommended conditions of approval are written consistent with County Transportation code.

Mitigation Analysis

Ard Engineering comment (Exhibit I.46): TDM measures lack specificity...only reduces traffic by nominal amount.

PWB response (Exhibit I.84): See TDM plan in Exhibit H.3

County Transportation: PWB response noted. Recommended conditions of approval are written consistent with County Transportation code.

Agriculture Business Access

Ard Engineering comment (Exhibit I.46): Impacts to agriculture access and operation...”unlikely to satisfy most farmers”...

PWB response (Exhibit I.84): See response and set of mitigating measures.

County Transportation: PWB response noted. Recommended conditions of approval are written consistent with County Transportation code. See also County Counsel rebuttal above.

Haul Routes

MA: Each haul route scenario fails to meet operational standards. Issues with volumes, commuter trips, etc.

PWB response (Exhibit I.84): Issues covered in previous comments. TIA studied most conservative worst case scenarios. See mitigation strategies.

County Transportation: PWB response adequate.

School:

Ard Engineering comment (Exhibit I.46): Impact to school traffic and mechanism to implement.

PWB response (Exhibit I.84): Contractor to develop delivery schedules that avoid impact to school traffic.

County Transportation: Schools in Multnomah County jurisdiction were outside of the project’s “impact area” agreed at pre-app stage (Exhibits B.13 and B.16). Multnomah County Transportation considers the suggested conditions of approval, pursuant to County Road Rules and Traffic Control Plans (see condition 7) will enable sufficient notification of detour routes and ensure operations of local traffic are adequately addressed.

Crash History

Ard Engineering comment (Exhibit I.46): CMEV method vs ODOT 90th percentile rate

PWB response (Exhibit I.84): CMEV method more appropriate for low volume location such as study area

County Transportation: PWB response adequate recognizing that construction will create conditions atypical from normal traffic.

FIRE SERVICE COMMENTS

This section provides Transportation rebuttal to comments made by Multnomah Rural Fire Protection District No. 10 (MRFPD10) in Exhibit I.10. Rural Fire Protection is not in the County's Road Rules nor is it in our purview to review. Transportation provides responses because MRFPD10 has specifically rebutted the Applicant (and County's) proposed conditions on the record.

MRFPD10 comment on proposed transportation condition 5:

"...The listed road segments are insufficient to address the full impact area of the hundreds of thousands of heavy truck trips that would be required if the proposed projects were granted approval... Both the County Transportation Division and the Applicant are blatantly ignoring the obvious fact that the proposed heavy truck traffic will have to travel on additional segments of these same rural roads and cause the same damage and hazards to arrive at or upon leaving the proposed project areas".

County Transportation Response: County Transportation proposes conditions of approval that require the applicant to fix roads in poorest condition (PCI below 50) with highest use (Truck haul routes) and maintain other roads in serviceable condition. The proposed conditions are considered consistent with the County's Transportation code and proportional to the construction and build-out phases of the development.

MRFPD10 comment on proposed transportation condition 6:

- "While the District recognizes the current substandard condition of the rural roads, the Applicant's proposal only makes the hazardous conditions created by their proposed project components worse. Applicant's "fix it first" proposal creates additional heavy truck traffic, road closures, detours, delays and concentrations of displaced traffic onto other substandard rural roads. Consequently, hazardous conditions are exacerbated rather than remediated or even partially mitigated".
- "Applicant goes on to propose a definition of a "primary or detour through truck haul route" to mean a route "used for more than 2 months duration A 2 month period reflects the time period in which there is potential for material degradation of the road surface." Applicant provides no evidence to support this claim.
- Degradation of surface is related to intensity of use not duration. For example, a substandard rural road that sees 100 heavy truck trips per day for 60 days (i.e. 6,000 trips) will suffer considerably more surface damage than the same road surface with 10 heavy truck trips per day for 60 days (i.e. 600 trips)

County Transportation Response:

With respect to bullet 1, County Transportation proposes conditions of approval that require the applicant to fix roads in poorest condition (PCI below 50) with highest use (Truck haul routes) and maintain other roads in serviceable condition. The proposed conditions are considered consistent with the County's Transportation code and proportional to the construction and build-out phases of the development.

With respect to bullets 2 and 3, the revised condition does not reference a 2 month threshold. The focus is on a "fix it first" approach and then keeping the road in a "serviceable condition"

(see conditions of approval below for definition. It should be noted that there are no national or international asset management standards that can anticipate precisely how much a road will be degraded over time.

MRFPD10 comment on emergency vehicles during construction phase: concern that there has been no specific plan presented by the Applicant that provides any assurance that Emergency Response apparatus/staff will have un-delayed passage through the many construction zones their proposed project will create.

County Transportation Response: There are no County Transportation codes requiring this, therefore County Transportation has no specific conditions or requirements regarding this point. The Hearing Officer may be minded to review MCRR 13.500 which states “To the extent feasible, access to property adjacent or abutting any temporary road closure must be maintained for occupants, patrons and emergency services.” It is therefore expected that the provisions of MCRR 13.000 enable sufficient notice to emergency services - and other local stakeholders - to allow for operations planning similar to any other construction on County roads.

MRFPD10 comments considering Transportation Demand Management Plan inadequate

County Transportation Response: County Transportation conditions have been revised with objective criteria to require the Applicant to provide more specific requirements and timing in order to manage demand on the transportation network during the busiest periods of construction. See comments in the previous section (Mike Ard Engineering and PWB rebuttals with County Transportation comments).

COUNTY TRANSPORTATION REVISED CONDITIONS

The following provides the explanations for amendments/revisions to the County's recommended conditions set forth in the Staff Report. These incorporate most of PWB's suggested changes set out in its Pre-Hearing Statement. Clarifications of any changes or lack of accepting proposed changes are explained. Recommended changes also reflect the testimony on the record.

Conditions 1-2

No changes to proposed condition in Staff Report

Condition 3

Deletes 3c because applicant provided deeds and evidence on the record of prior dedication (Exhibits I.76 and I.77). This requirement is no longer applicable.

Condition 4: Transportation Demand Management Plan (TDMP)

Testimony (Exhibit I.35) argued that the original wording of this condition required the applicant to submit new, discretionary documentation requiring County Transportation approval after the land use approval and that this was not consistent with State Land Use procedures.

In revising the condition wording, Mike Ard Engineering's critique (Exhibit I.46) and the applicant's Pre-Hearing Statement (Exhibit H.3) which suggested changing wording so that a TDM plan included (see appendix 3 of Exhibit H.3) would be 'complied with' was considered. County Transportation counsel has also reviewed the condition wording and requirements in relation to the specific concerns raised by Attorney Kleinman (Exhibit I.35).

In rewording the suggested condition, County Transportation has:

- Sought to create objective criteria for the applicant to provide and that this is information that can be reviewed by County Transportation to enable compliance, Consequently County Transportation does not consider this to be any different from a Type I permit which can be denied and require resubmittal in order to ensure compliance. Requiring additional information after Land Use approval is consistent with other County permitting (required ROW permits, Construction permits etc).
- Incorporated the understanding that construction impacts in and of themselves are not code criteria for County Transportation to review objectively to recommend approval or denial of any proposal. The applicant has been willing to provide substantial construction information with the understanding that this is information that can help mitigate the construction traffic.
- Understood that construction scheduling isn't typically fully established until closer to construction once contractors and their corresponding contracts are in place. Requiring all this information to be submitted to the Land Use public record would be impractical and unreasonable.
- reduced ambiguity by including a threshold to preserve LOS C at the SE Carpenter Ln and SE Cottrell Rd intersection, as far as practicably possible, during construction.

Condition 5

The revised condition amends typographical errors and road naming conventions (Drive to Dr, Boulevard to Blvd, for example. Based on the applicant's Pre-Hearing Statement (Exhibit H.3) condition 5b and 5c are revised to ensure all proposed pipeline installation work is included in the road sections specified. With respect to condition 5c, one continuous section of Lusted Rd is included in 5c.iii and this enabled 5c.v to be deleted.

Condition 6

The revisions to condition 6 incorporate the Applicant's proposed edits (Exhibit H.3) as well as responding to comments included in the hearing record. In particular, County Transportation has accepted the "fix-it first approach" suggested by the Applicant (see Exhibit I.84). County Transportation notes that this resolves the comments on the record that the previous monitoring over a two-month period did not take into account the potential rate of degradation of the roads. The revised condition wording ensures that roads identified as truck routes for the construction of the project are prioritized. 6b has been revised to include the section of SE Altman Rd the Multnomah County Line, rather than Dodge Park because this road is in poorer existing condition and has been identified as a detour route and will therefore be subject to increased volumes of traffic based on construction activity.

Based on the applicant's Pre-Hearing Statement (H.3), County Transportation has included the Applicant's language changes which provide more specific requirements for what roads must be replaced or maintained in serviceable condition and achieves the goal of ensuring that that the transportation network maintains a condition that is safe, does not create a safety hazard for the traveling public, nor creates an on-going maintenance problem. Condition 6 ensures that the "fix it first" approach continues to comply with County Transportation's requirement to return the road(s) to as good or better condition at the end of the Construction Period. This aligns with MCRR 6.100B and MCRR 8.100B to ensure proposed development/construction does not "create an on-going maintenance problem" [which the County is liable for costs and responsible for repairing].

Condition 7

Former condition 7b was deleted as revised Condition 7b allows for inclusion of roads with a PCI below 50 that are not captured in Condition 6 can be improved, where necessary. This addresses testimony on the hearing record that raised concerns that detour routes were not adequately captured in the previous suggested condition wording. As noted above, the County has reviewed critique (Exhibit I.35) that prior wording of 7b did not meet legal requirements. The revised condition wording is considered to meet legal requirements, is proportional to the development (construction and build-out), and consistent with the County's Transportation code.

Former condition 7c was also deleted, as MCRR 13.250 provides a comprehensive list of methods of notification and communication about intents to close roads in full. 7c was therefore considered unnecessary. Partial and full road closures will follow typical Traffic Control procedures and compliance methods (see MCRR 13.500 D).

Condition 8

Condition 8b (i) - 'no through trucks' clarification

The applicant's pre-hearing statement (Exhibit H.3) proposed changes to staff report transportation condition 8b(i) in order to exclude the 'no through trucks' restriction on Carpenter Ln east of the intersection with SE Cottrell Rd. County Transportation does not accept, or recommend changes, to this wording as these are pre-existing restrictions based on ODOT Over-dimensional permit requests. The restriction is mentioned to demonstrate that the applicant is required to comply with all truck/freight restrictions in close proximity to the construction site(s). Furthermore, despite the 'no through truck' restriction this does not prevent trucks arriving or departing a destination along a route with this restriction. The Filtration Plant site is such a destination that the no through truck route won't apply. It is also of note that east of SE Cottrell Rd, SE Carpenter Ln is a dead-end road and therefore cannot accommodate 'through' traffic. The applicant is aware of the restriction of through trucks on SE Carpenter Ln west of SE Cottrell Rd and has noted in their submittals that trucks will not use this section. Recommendation: the original condition wording should be used.

Condition 9

The applicant's pre-hearing statement (Exhibit H.3) proposed changes to staff report transportation condition 9b(iv) in order to demarcate a distinction between permanent access to the Intertie site and access during construction which would require pipeline installation from SE Dodge Park Blvd to the easement/Intertie site. The revised wording reflects this proposed change and clarifies that post-construction access shall be from SE Lusted Rd.

Condition 10

No changes to the proposed condition in the Staff Report.

COUNTY TRANSPORTATION CONDITIONS OF APPROVAL

If the Hearings Officer finds the applications can be approved, Transportation Planning recommends the following conditions be included:

1. Pursuant to MCRR 5.200, the County Engineer determination of pro-rata share of improvements will expire twelve months from the date of the County Engineer's determination or after the associated land use permit is granted or closed. If the applicant has not entered into a Project Agreement or Construction Permit(s) within 12 months, a new review and new determination shall be required.
2. Applicant is required to permanently close the western access to SE Carpenter Ln, which is shown as 'existing access road with easement' on plan set Exhibit A.212. This second access from the subject property (R994220980) exceeds the one access per property standard (MCRR 4.200) and no Road Rules Variance application (MCRR 16.000) was sought by the applicant.
3. Complete and record right of way (ROW) dedications to meet the share of the 60 feet ROW width standard for Rural Local roads (MCRR 6.100A; MCDCM Table 2.2.5):
 - a. 15 feet on the northern (SE Carpenter Ln) frontage of the subject property for the Filtration site (ref R994220980);
 - b. 15 feet on the southern frontage of 35227 SE Carpenter Ln (R994220850);
 - c. The above dedications can be included in any re-plat of the property or by contacting Pat Hinds, County ROW Specialist, Pat Hinds (patrick.j.hinds@multco.us), to complete the ROW dedication process.
4. Pursuant to MCRR 6.100D, Applicant is required to comply with a revised Transportation Demand Management (TDM) Plan-which, at a minimum, must:
 - a. address construction truck and commuter traffic management based on access to the filtration facility construction site via SE Carpenter Ln.
 - b. incorporate the revised peak hour capacity limit for SE Carpenter Ln of 296 vehicles (which maintains LOS 'C'), as detailed in the Applicant's One-Access Analysis (Exhibit I.86).
 - c. Applicant will use tube trip counters at SE Carpenter Ln and SE Cottrell Rd intersection to take counts of trips to ensure the LOS C threshold (see b above) is met.
 - i. Applicant must also collect trip numbers to account for peak hour turning capacity monitoring in addition to total trips in order to allow for LOS monitoring based on real conditions not just the forecasted model (Exhibit I.86)

- d. Identify TDM strategies and how they can quantifiably reduce trip demand at the Peak Hr(s) at the SE Carpenter Ln/SE Cottrell Rd intersection. TDM Strategies will:
 - i. Specify the priority of strategy implementation, based on the expected management of traffic demand.
 - ii. Specify when and how the strategy can be combined with other strategies to help mitigate traffic demand, as appropriate.
 - iii. In the event of selecting and implementing shuttle buses as a TDM strategy, Applicant must:
 - 1. specify criteria for selection of shuttle bus pickup and drop-off locations.
 - 2. Ensure that pickup location(s) are on private property and do not involve parking vehicles on public streets, that the locations have sufficient parking capacity for the number of commuter vehicles that would need to be reduced at peak construction to meet the revised peak hour capacity limit, and that the locations are outside of the project study area set out in Exhibit A.31.
 - 3. Demonstrate that all necessary contracts, agreements, permits for commuter vehicle parking can be obtained prior to selection as a TDM strategy.
- e. Based on long term and one-month forecasting, take a proactive approach to ensure an appropriate TDM strategy is in place and available 2 weeks before they are anticipated to be needed, and implemented in time, to reduce traffic volume to LOS C (see b above).
- f. Applicant will provide regular monthly reports to County Transportation demonstrating that Peak Hour trips and Peak Hour turn capacity at the SE Carpenter Ln/SE Cottrell Rd intersection remains within LOS C and the threshold set out in criterion b above.
 - i. Report will show how the TDM strategies implemented have reduced demand from the actual trip counts and forecasted demand.
- g. Reports will be required for as long as Peak Hr intersection demand remains at levels above LOS C (see b above).
- 5. Prior to construction in the Right of Way (ROW), obtain Construction permit (MCRR 9.200, 18.200) for:

- a. All frontage/ road improvements of SE Carpenter Ln and SE Cottrell Rd consistent with the preliminary Civil Plan set, Exhibit A.16, A.17 (MCRR 6.100B; MCRR 8.000)
 - i. Applicant must ensure that all geologic hazard and environmental overlay permits from County Land Use have also been obtained, if applicable.
 - b. All roads requiring full or partial road work due to pipeline installation:
 - i. SE Dodge Park Blvd from east of SE Cottrell Rd to east of SE Altman Rd.
 - ii. SE Altman Rd from SE Lusted Rd to SE Oxbow Dr.
 - iii. SE Cottrell Rd from SE Dodge Park Blvd to SE Lusted Rd.
 - iv. SE Lusted Rd from the Intertie Site to SE Altman Rd.
 - v. SE Lusted Rd just north of Clackamas County line/adjacent to SE corner and existing driveway of 36910 SE Lusted Rd.
 - c. All roads requiring preliminary or ongoing maintenance due to projected use:
 - i. SE Altman Rd from SE Oxbow Dr to Dodge Park Blvd.
 - ii. SE Cottrell Rd from SE Lusted Rd to SE Dodge Park Blvd.
 - iii. SE Lusted Rd from SE Pleasant Home Rd to SE Cottrell Rd.
 - iv. SE Hosner Rd from SE Lusted Road to SE Oxbow Dr.
6. Pursuant to MCRR 6.100 and MCRR 8.100 road improvements will be required to ensure that the transportation network maintains a condition that is safe, does not create a safety hazard for the traveling public, nor creates an on-going maintenance problem, for the roads listed in Condition 5.c. Accordingly, the applicant is required to enter into a Project Agreement (pursuant to MCRR 9.500), that requires the applicant to perform the following work at the following times:
- a. For SE Hosner Rd from SE Lusted Rd to SE Oxbow Dr: Full depth reclamation, or other approved pavement replacement methods, prior to use as primary or detour through truck haul route.
 - b. For SE Altman Rd from Multnomah County Line to SE Lusted Rd: Full depth reclamation, or other approved pavement replacement methods, prior to use as primary or detour through truck haul route.
 - c. For SE Lusted Rd from SE Cottrell Rd to SE Hosner Rd: Full depth reclamation, or other approved pavement replacement methods, prior to use as primary or detour through truck haul route.

- d. For SE Lusted Rd from the Beaver Creek culvert to SE Hosner: Full depth reclamation, or other approved pavement replacement methods, prior to use as primary or detour through truck haul route.
- e. For SE Lusted Rd from SE Altman to the Beaver Creek culvert: At any time when using as a primary or detour through truck haul route, maintain in a serviceable condition. After completion of installation of pipelines in this section of road, replace roadway surface.
- f. For SE Altman from SE Lusted Road to SE Oxbow Drive: At any time when using as a primary or detour through truck haul route, maintain in a serviceable condition. After completion of installation of pipelines in this section of road, replace roadway surface.
- g. For SE Cottrell Rd from SE Lusted Road to SE Dodge Park Blvd: At any time when using as a primary or detour through truck haul route, maintain in a serviceable condition. After completion of installation of pipelines in this section of road, replace roadway surface.
- h. For SE Dodge Park Blvd. from east of SE Cottrell Rd to west of SE Altman Rd (where pipeline work will occur): At any time when using as a primary or detour through truck haul route, maintain in a serviceable condition. After completion of installation of pipelines in this section of road, replace roadway surface.
- i. If not already accomplished through the work described in a. - h. above, for any roads used as a primary or detour through truck haul route, the applicant will: (a) maintain the route in a serviceable condition at any time when being used as a primary or detour through truck haul route; and (b) at the end of applicant's use of the route, return the road used as a primary or detour through truck haul route to as good or better condition (PCI) than it was in on the date of the County's most recent PCI score prior to the applicant's use.

A **“primary or detour through truck haul route”** is one identified in the Construction TIA in Exhibit A.230 as modified by the One-Access Analysis in Exhibit I.84, and any additional truck route incidentally used by the project, which incidental use must follow county designated freight routes. However, a “primary or detour through truck haul route” is not one that is being used to directly access a construction site, such as when pipelines are being installed in Lusted and Altman Roads or for improvements to the roadway itself.

“Serviceable condition” means the roadway is safely usable for the purpose for which it was constructed (i.e., potholes are repaired timely, striping can be seen, etc.).

- 7. Temporary road closures, partial or complete, in relation to the construction of the Pipelines and facilities that form this land use application, requires prior review and approval by County Transportation (MCRR 13.000). Applications will need to be submitted to row.permits@multco.us for review and approval by the County Engineer

(MCRR 18.250). Application requirements and documents can be found at the following webpage: <https://www.multco.us/roads/road-and-bridge-permit-applications>.

- a. Traffic Control Plan (TCP) shall be submitted during the Construction Permitting process that shows detours and road closures (MCRR 13.200.A). Any deviation to the approved TCP during construction shall require a resubmittal of the TCP for approval.
 - b. Except for those roads where specific work will be required by the Project Agreement described in Condition 6, rural roads with a Pavement Condition Index (PCI) rating below 50 must not be used as detour routes in the Traffic Control Plan unless the applicant submits construction plans to mitigate impacts and improve the PCI. The Construction Permit process (see condition 5 above) will be used to review TCP and confirm appropriate detour routes.
8. Pursuant to MCRR 15.000 and ORS 810.040, the applicant is required to obtain Over-Dimension Permits for all truck movements through Multnomah County which exceed the legal limit and weight specified by Oregon Department of Transportation (ODOT): (<https://www.oregon.gov/odot/mct/pages/over-dimension.aspx>).
- a. Pursuant to MCRR 15.200 and 15.300, the County may restrict truck movements as authorized under State and Federal law on all roads established as arterials and collectors, and also restrict through truck movements on other road classifications, bridges, culverts, overpasses and underpasses, which may not accommodate larger vehicles.
 - b. County restrictions within the project vicinity include, but are not limited to:
 - i. No through trucks on SE Carpenter Ln from SE 327th Ave to the Filtration Plant site.
 - ii. No through trucks on SE Miller Rd from SE Bluff Rd to SE 327th Ave.
 - iii. No through trucks on SE Homan Rd.
 - iv. No through trucks on SE Oxbow Parkway.
 - v. No through trucks on SE Stone Rd and SE Short Rd between US26 and SE Dodge Park Blvd.
 - vi. S Buxton Rd and S Troutdale Rd are limited to trucks 40ft overall length.
9. Applicant is required to submit and obtain an Access / Encroachment Permit for the following accesses pursuant to MCRR 18.250:
- a. Filtration plant site: Exhibit A.211, A.212 00-LU-302 sheet 4 of 18 proposed condition site plan showing a new reconfigured access onto SE Carpenter Ln, after the 100% plans have been approved by the County as part of the Construction Permit.

- i. Revised site plan must be submitted showing permanent closure of the as 'existing access road with easement', consistent with Condition 2 above.
- ii. Revised site plan must show the main site access as perpendicular to SE Carpenter Ln (between 75-90 degrees) where it connects to the paved roadway to ensure consistency Land Use code MCC 39.6580.

b. Intertie site (R994210630):

- i. Applicant is required to provide a site plan showing all four subject property accesses (three to SE Lusted Rd and one to SE Dodge Park Blvd), pursuant to approved Land Use Decision and Transportation Planning Review (EP-2016-5112/T2-2016-5020) and MCRR 4.700 (Existing Non-Conforming Access).
- ii. Applicant must provide a copy of easements for PWB access from the subject property to SE Lusted Rd and SE Dodge Park Blvd.
- iii. Access to the Intertie Facility at 33304 SE Lusted Rd (R994210630) shall be limited to the existing northeast driveway access onto SE Lusted Rd.
- iv. Post-construction maintenance access to the Pipelines on the property shall use the northeast access as noted in 9(b)iii above. Post-construction maintenance access via SE Dodge Park Blvd is prohibited for PWB use.
- v. The northeast access to SE Lusted Rd, serving the principal access to the Intertie facility, must have a paved apron 20 feet deep from the existing roadway towards the property line consistent with ODOT standard drawing RD715, to prevent erosion of the existing roadway surface on SE Lusted Road in accordance with MCDCM 2.1.1(4).
- vi. Application forms, and guidance, can be found on the County Transportation website at the following webpage:
<https://www.multco.us/roads/road-and-bridge-permit-applications>.
Applications should be submitted to row.permits@multco.us

10. Provide revised drawings and documentation that demonstrate the stormwater details of the following plans, reports and details obtain County Engineer 100% design approval (MCRR 26.000):

- a. SE Carpenter Ln, from SE Cottrell Rd to Filtration Plant site, and SE Cottrell Rd, from the intersection with SE Carpenter Ln to SE Dodge Park Blvd (Exhibits A.206-A.208).
- b. Ensure the discharge from the culvert from the Intertie site under SE Lusted Rd into Beaver Creek will not increase stormwater discharge volume at the outfall or downstream. Though the peak rates are comparable between the pre and the post development, the released discharge is a much greater volume. Ensure that

the volume released does not create undue concentration of outflows that may affect downstream properties starting at the release point of any facility such as pipe, culvert and ditch.

- c. County Engineer requires review and approval of any changes to on-site impervious surface areas greater than 500 sq. ft and any proposed stormwater discharge or facilities in the ROW for compliance with MCDCM standards [MCRR 26.000].



County Transportation PWB rebuttal

1 message

Graham Martin <graham.martin@multco.us>

Wed, Sep 6, 2023 at 11:09 AM

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

Cc: Scott Robison <scott.robison@multco.us>, Scot Siegel <scot.siegel@multco.us>, Jessica Berry <jessica.berry@multco.us>

Please find attached Transportation's rebuttal memo.

thanks,

Graham

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Graham Martin (he/him)

Senior Planner

Transportation Planning and Development

Multnomah County Department of Community Services

1600 SE 190th Avenue, Portland, OR 97233

[P] 503.318.5033

Email: graham.martin@multco.us



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