



August 5, 2023

To: Multnomah County Land Use Hearings Officer

Subject: Portland Water Bureau Treatment Plant

The proposal by the City of Portland to site an urban water facility, including water treatment plant, administrative offices, raw and distribution lines and a communications tower, involves some of the highest quality and most productive agricultural land in the state of Oregon. As proposed, it would remove and convert nearly 95-acres of rural, agricultural land to a facility that serves an urban metropolitan area. The operational characteristics of the proposed facility would also adversely impact farming operations in the larger agricultural region that surrounds the subject property. Please consider the following comments and concerns in review of the proposed development.

The Economic Footprint of the Nursery and Greenhouse Industry

The nursery and greenhouse industry are the state's largest agricultural sector, and the industry ranks third in the nation, with over \$1.3 billion in sales annually to customers in Oregon, the rest of the United States, and abroad. In fact, nearly 75% of the nursery stock grown in our state leaves our borders – with over half reaching markets east of the Mississippi River. Oregon's elite growers send ecologically friendly green products out of the state and bring traded sector dollars back to Oregon. It is an important element of the state's traded sector economy. Nursery association members represent wholesale plant growers, retailers, and greenhouse operators and suppliers across Oregon. Our members are located throughout the state, with our largest nursery growing operations found in Clackamas, Marion, Washington, Yamhill, and Multnomah Counties.

Attempts by nursery operators and the association to resolve the issue in advance

The placement of a water treatment plant in the Gresham/Boring area will have a significant impact on the short- and long-term economy of production agriculture. The fact that the City of

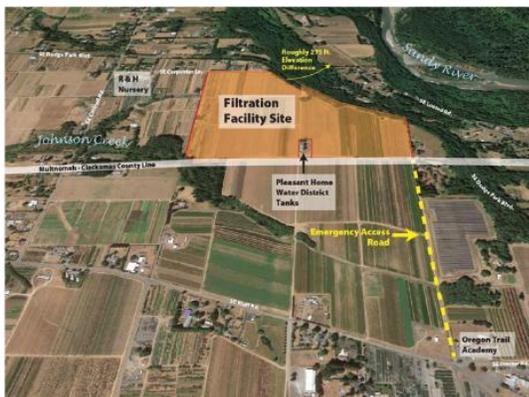
Portland owns a parcel in the middle of an active rural area is no excuse to expand a footprint, reduce farmland, and erode the critical mass of support for the agricultural industry. This is the best of the best farmland in the state. We have example after example of growers giving tours of the impacted area to city planners to help provide context of how the agricultural economy works. We question why this parcel is the best option – especially in an area designated as a rural reserve. The City should first be considering other siting alternatives that do not convert agricultural land and are that not located on rural lands.

Agriculture is a complex industry. Heavily dependent on weather, water rights and the correct mixture of quality soil and critical mass of production agriculture – growers must contend with planting, a changing climate impacting growing seasons, pest and disease management and ultimately harvest and shipping to customers around the state, nation and the world.

Urban encroachment on agriculture has been increasing. From 2012-2017 – farmland decreased 15% and seen nursery acres decrease (2600 acres) and irrigated agriculture see a reduction (2300 acres). This proposal would take 6% of the farmland out of production. This is not solely about the farm operations but the supply chains that go with it. Without critical mass, the erosion of the family farm will continue. Agriculture has as many infrastructure needs as a city.

OAN Executive Director Jeff Stone and several impact nursery growers have reached out to Portland City Commissioner Mingus Mapps and other than a quick meeting with staff, to discuss our concerns and possible options – we were greeted with silence. Communication and request for a meeting directly with Commissioner Mapps have been denied.

Summary of the issue at hand



The City of Portland, under an EPA requirement to filter its municipal water, has proposed siting an urban water treatment plant in a Multnomah County rural reserve as part of the Metro urban and rural reserves agreement consequently approved by LCDC which comes from the Bull Run Reservoir in the Sandy River drainage. The treatment plant project will require the approval of a nonfarm use. It will entail six years of construction, and the removal of 1.8 million yards of high-value farmland soil. Approval of a nonfarm use requires findings that the project won't force a significant change in accepted farm practices, nor any significant increase in the cost of that practice. Agricultural groups are concerned about traffic impacts both during and after

construction and assert that Portland and Multnomah County officials haven't fully considered these impacts. These materials, along with the hundreds of construction workers and their equipment, will clog our rural farming roads. This will move traffic onto those few other roads not directly impacted, which in turn will impact our operations in ways Multnomah County and the City of Portland have not considered.

The primary review standard related to the protection of agricultural lands in this case is commonly known as the Farm Impacts Test. This test was recently applied and interpreted by the Oregon Supreme Court (*Stop the Dump Coalition v. Yamhill County*, 364 Or 432 (2019)). It is key to protecting farming operations from noncompatible nonfarm land uses. This test requires that a use may be approved only where it is determined that the use will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

A "significant" change or increase in cost is defined as one that has — or likely will have — an important influence or effect on the farm. This is required to be applied for each relevant accepted farming practice identified in the area determined to be impacted by the proposed development. The Farm Impacts Test requires that the review of the test criteria must be applied (considered) on a farm-by-farm basis and a farm-practice-by-farm-practice basis. It is important to note that the Farm Impacts Test is not a conversion (supply of land) or farm profitability test. The applicant for the nonfarm use must establish that neither significant changes to accepted farm practices nor significantly increased costs will occur due to the nonfarm use. If a farmer must change accepted farming practices, even if there are no increased costs or reduced profitability, the use may not be allowed. The Farm Impacts Test also requires that the cumulative effect of individual impacts must also be considered. There appears to be little if any consideration of the cumulative impacts of the various development and operation characteristics proposed development on area agricultural operations. The burden of proof is not on the farm operator, it is on the applicant.

Direct economic impacts – both known and assumed

Let's not sugarcoat the impact that construction and adjusted traffic patterns will have on rural roads and operations. It is quite foolish of city planners to downplay the redirected traffic impact will have on agricultural roads. A six-year process will impact those who are not near the area in question as traffic flow will come into direct conflict with moving agricultural equipment and make movement of products more dangerous for urban travelers.

Multiple years of construction and the change to traffic patterns to avoid the work will create impacts on roads well outside of the adjacent area. For agriculture, it is imperative that an operation be able to move employees, equipment, and plant material from farm to farm. In addition, the pipe from the treatment plant will take 5 acres out of production of a 35-acre farm. If possible, restoration of the impacted soil would involve a significant cost to the landowner.

Loss of the land could represent a significant loss of revenue, impacting overall viability. Markets and interruption of producing plants are hard to calculate and certainly customers are not going to wait for a treatment plant to be completed when these are traded sector products. The customer moves on to fill the order and economic harm occurs. It is anticipated that large treatment trucks will compete with transportation infrastructure at the loading docks as well as agricultural practices (dust, spraying, and buffers) will be curtailed.

We have reviewed the traffic impact study and while it checks some of the boxes of a process, the late release of the study to the general public makes the association suspicious if the work was done in an impartial manner. It is not only the construction area and adjacent lands that are impacted – secondary roads will be at the mercy of the construction schedule – as residents and businesses will wish to avoid delays.

The OAN has heard from a plethora of members who will be harmed economically by the city. U-pick operations will see an impact by large equipment and activity in the area during critical sale cycles. We do not believe that the burden of proof by the city of minimal impact on agricultural operations and rural residents has been met.

- A simple map can be found that show just licensed nursery owners in the impacted area (see OAN Map #1). This does not count, much to our dismay, agricultural lands that are leased or in production as an extension of the nursery licensed operators. To see the simple version, go here: [Portland WaterTreatment.pdf](#).
- OAN Map #2 takes this one step further, showing the actual footprint (land area) of lands utilized by the nursery and other agricultural operations in the area that would be impacted by the proposed development. **Lands involving the nursery industry total 8728 acres**. OAN Map #2 shows the location of the roads used by the City's consultant to conduct a traffic analysis.
- OAN Map #3 the location of the proposed pipelines and the location of a proposed emergency access road. These maps are much better indicators of the relationship between agricultural lands in the area and the elements of the proposed development that would adversely impact area agricultural operations.

Environmental impacts

It is our understanding that 1.8 million cubic yards of soil will be removed and assumed that any soil returned to the site will have a negligible impact. This is false. Native soil is different, and it is never the same. Two articles are submitted into the record that demonstrate this point:

<https://grist.org/energy/new-research-shows-sustained-damage-to-agricultural-land-near-pipelines/>

<https://access.onlinelibrary.wiley.com/doi/full/10.1002/agg2.20312>

Urban county is doing rural planning

This is a groundwater limited area designated by the Oregon Water Resources Commission (see attached OWRC document) and a number of water rights in the area will be impacted. While

exempt wells allow rural residential to coexist with production agriculture – placing a treatment plant for the sole use in an urban area in a rural zone is bad policy. When the State Legislature passed a 50-year urban-rural reserve bill, it took less than a decade for the City of Portland and Multnomah County to break its word and promise. This particular area (Highway 26 to Sandy, South to the Clackamas County line, East to the Sandy River, North to Troutdale urban growth boundary line and West to 302nd Street) was heavily debated and put in rural reserves for a reason: to keep agricultural land in production. Converting lands that are in conflict with the preservation of farmland should be a last-ditch effort with all parties at the table to secure a balanced compromise. This did not happen. OAN Map #4 shows the location of area agricultural operations in relation to the establish Rural Reserve lands.

While this area is zoned multiple use for agriculture, it is a bit disingenuous that if another use – such as a google plant or Fed Ex site, the city and county would act quickly to deny the application. Like the examples given, the proposed water treatment plant is a business as Portland sells the water to its citizens and others and assess taxes for other uses. It is our considerable opinion that county code restrictions kick the water treatment plant out of contention for siting for several reasons:

- Multiple Use Farm Zone: This designation requires that any changes must serve the needs of the rural area. Much like the West Sandy Plan.
- Any changes must be consistent with the subject area – agricultural and rural residential
- There is a serious inconsistency with the county comprehensive plan.
- The city and county took a short cut by designating this a utility facility in an effort to avoid examining agricultural practices.

The ultimate test is if the siting of the water treatment plant would force a change in an agricultural operation’s production – or increase cost (time, traffic, change of operations or disruption). In all of these examples the answer is yes (OAN Map #3).

Process issues invalidate the place of the water treatment plant

No cost estimate updates have been released since 2020. With rapid inflation and the cost of critical supplies increasing – any estimate is likely out of date. The area in question is surrounded by rural residential and agriculture and the footprint of the surrounding area has been grotesquely minimized and the broader area should receive a farm impact test. We also question the liberal definition of a “completed application” put forward by the proponents.

Multnomah County has a history of being active in preventing non-agricultural operations from being located in rural areas. The OAN and the farm community worked hard with county leaders to bring balance with urban and rural needs over a 50-year horizon. Other counties have denied non-conforming uses in critical farm areas and we believe Multnomah County should revisit the water treatment plan application.

We would pose a few basic questions:

1. Will the character of use change due to this project? Yes
2. Will the siting of the treatment plant impact the nursery industry? Yes

3. Did the planners adhere to comprehensive plans? No
4. Are there additional public services for the rural area included? No.

Short cuts should not be rewarded – remand this process back to the planning stage

This is clearly an urban facility being sited in a rural area one specifically designated as a rural reserve by Multnomah County to support urban uses, is an abuse. Urban facilities should be located within urban growth boundaries. The only exception is if no alternative sites are available and that has not been shown.

It is simple why the city chose this particular site to place a water treatment plant: they own it. It should be mentioned that the city purchased the site thru condemnation in 1975 knowing it was in the middle of prime agricultural farm land zoned as exclusive farm use. This action is precedent setting and opens up agricultural areas for siting of urban needs at the expense of the land use laws. The city does not need quality soil in order to grow quality plants. We do. Coupled with the rickshaw process and a lack of an alternatives analysis, the city should hit pause and go back to the drawing board.

The OAN submits into the record – four large maps (referenced above as OAN Maps 1-4) for the Hearings Officer’s consideration as it related to economic impact that the substandard work done by the Portland Water Bureau. Please see below links for the various maps below. In an effort to be helpful, we are also submitting a set of physical maps along with a paper copy for ease of review. As we have shown, this area is prime and productive farmland with an estimated annual value of \$180 million in sales – which are traded sector dollars supporting the local and state economy.

The Oregon Association of Nurseries is joined by local rural fire departments, school districts and law enforcement in opposing the siting of this water treatment plant.

Respectfully submitted.

Jeff Stone, Executive Director, Oregon Association of Nurseries
29751 SW Town Center Loop, West, Wilsonville, Oregon 97070
Email: jstone@oan.org; Cell: 971-235-3868

Impacted members who oppose the water treatment plant

Larry and Angi Bailey, Verna Jean Nursery, 8325 SE Altman Rd, Gresham
Sam Barkley, J Frank Schmidt & Sons, 9500 SE 327th Ave, Boring
Royce Belcher, T.H. Belcher Nursery, Inc. 33755 S.E. Bluff Rd. Boring
Carl Buchanan, Northwest Nursery Sales, 8325 SE Altman Rd, Gresham
Jim Ekstrom, Ekstrom and Schmidt Nursery, 3199 SE 302 Ave, Troutdale
Matt Gallant, Gallant Family Farms, 9380 SE 282nd Ave, Boring,
Vladimir Lomen, John Holmlund Nursery, 29285 SE Highway 212, Boring
Dan Nelson, Hans Nelson & Sons, 31020 SE Waybill Rd, Boring
Rod Park, Park’s Nursery, PO Box 1686, Boring

Shawn Nerlson, Surface Nursery, 33740 SE Lusted Rd, Gresham

Organizations in opposition

Multnomah County Farm Bureau
Oregon Association of Nurseries
Oregon Farm Bureau Federation

OAN Board of Directors – Voted to oppose the water treatment plant

Wes Bailey, Smith Gardens, Aurora
Lorne Blackman, Walla Walla Nursery, Enterprise
Tom Brewer, The HC Companies, Tigard
Joe Dula, Moana Nursery, Canby
Gary English, Landsystems Nursery, Bend
Adam Farley, Countryside Nursery, Wilsonville
Ron Kinney, Monrovia, Dayton
Tyler Meskers, Oregon Flowers, Aurora
Jesse Nelson, Hans Nelson & Sons, Boring
Todd Nelson, Bountiful Farms, Woodburn
Patrick Newton, Powell’s Nursery, Gaston
Josh and Chris Robinson, Robinson Nursery, Amity
Darcy Ruef, Al’s Garden & Home, Gresham
Jay Sanders, KG Farms, Woodburn
Amanda Staehely, Columbia Nursery, Canby
Ben Verhoeven, Peoria Gardens, Albany

Attachments: [Note: Due to the size and complexity of the maps, the Oregon Department of Agriculture submitted the four maps listed via email on August 3, 2023. The OAN will still drop off the maps in person when the Multnomah County offices reopen on Tuesday.]

OAN Map #1 - <https://www.oan.org/resource/resmgr/gr23/OANMap1.pdf>

OAN Map #2 – <https://www.oan.org/resource/resmgr/gr23/OANMap2.pdf>

OAN Map #3 – <https://www.oan.org/resource/resmgr/gr23/oanmap3.pdf>

OAN Map #4 - <https://www.oan.org/resource/resmgr/gr23/OANMap4.pdf>

ODWR Map and list of Oregon Ground Water Restricted Areas

Link to it here: [ODWR Groundwater Limited Areas.pdf](#)

OAN Comments on the proposed Water Treatment Plant in Gresham/Boring

1 message

Jeff Stone <jstone@oan.org>

Thu, Aug 3, 2023 at 4:22 PM

To: "lup-comments@multco.us" <lup-comments@multco.us>, "lup-hearings@multco.us" <lup-hearings@multco.us>

Cc: "lisa.m.estrin@multco.us" <lisa.m.estrin@multco.us>, "scott.robison@multco.us" <scott.robison@multco.us>, JOHNSON James ODA <James.JOHNSON@oda.oregon.gov>, Jeff Stone <jstone@oan.org>, "Steve Shropshire - Jordan Schrader (steve.shropshire@jordanramis.com)" <steve.shropshire@jordanramis.com>, "Jeffrey L. Kleinman" <kleinmanjl@aol.com>, Carrie Richter <crichter@batemanseidel.com>



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Good afternoon

On behalf of the Oregon Association of Nurseries, we respectfully submit testimony and comments to the Hearings Officer reviewing the proposed water treatment plant in Gresham/Boring. This issue will have a significant impact on the nursery operations in the area.

It is imperative that the hearings officer receive the full-scale maps that will be provided on Tuesday.

Since the maps are highly detailed – we are proposing three different mechanisms to provide them to you. 1. An email from Jim Johnson with a zip file detailing the four maps; 2. Links at the bottom of our comments will provide access to the maps and 3. I will personally deliver large scale maps for ease of review when the offices open (surprisingly not open tomorrow and Monday) on Tuesday. Please let me know if you have any questions or are unable to access any parts of our testimony.

Thank you for your time and attention.

Jeff



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NURSERIES

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OAN comments - Portland water treatment plant - FINAL.pdf

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