



LUP Hearings &lt;lup-hearings@multco.us&gt;

## Natural Resources and "Adverse Affect" under MCC 39.7515(B)

2 messages

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Wed, Apr 30, 2025 at 7:42 PM



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## Natural Resources and "Adverse Affect" under MCC 39.7515(B)

For MCC 39.7515(B), "natural resources" are defined very broadly. The MCCP Glossary describes them as *"generally, a functioning natural system, such as a wetland or a stream, wildlife habitat or material in the environment used or capable of being used for some purpose, also including minerals and fuels, agricultural resources and forests"* [multco.us](https://multco.us). In other words, streams, wetlands, forests, wildlife habitat, farm soils and crops, minerals, fuels and similar environmental elements at the site are all protected resources. LUBA confirmed this broad definition applies to the criterion [multco.us](https://multco.us). The County's Comprehensive Plan (Policy 2.45) explicitly mandates avoiding any adverse impacts on these resources, i.e. preventing their **environmental degradation**.

By the MCCP's own terms, "adversely affect" means cause degradation – that is, any damage or impairment of a resource. Webster defines "degradation" as *"impairment... by damage or weakening of some property, quality, or capability"* [multco.us](https://multco.us). Consistent with this, LUBA instructs that the test is whether the proposed use "impairs any functioning natural system as a result of damage by weakening or loss of some property, quality, or capability of such system" [multco.us](https://multco.us). Thus even a partial loss of habitat quality, or a reduction in a wetland's functioning, qualifies as adverse. The County's fundamental concern is avoiding any weakening of natural systems [multco.us](https://multco.us).

Crucially, LUBA has emphasized that this inquiry addresses the *use as proposed to be operated*, not its construction [multco.us](https://multco.us). We therefore examine the *ongoing, operational impacts* of the filtration plant and its associated activities. (Construction disturbance is outside this criterion.) Below are the ways the plant's operation will weaken and degrade protected resources:

- **Noise and Vibration:** The filtration plant will run pumps, blowers and machinery continuously, and heavy trucks will arrive and depart frequently. This continuous noise will significantly degrade wildlife habitat. Scientific studies show noise pollution "can impact all taxonomic groups of animals... through changes in reproductive fitness [and] community interactions" [pmc.ncbi.nlm.nih.gov](https://pmc.ncbi.nlm.nih.gov). Road-level traffic noise alone has been found to *"degrade habitats"* for birds and other wildlife [news.mongabay.com](https://news.mongabay.com). In one study, even moderate highway noise caused migrating songbirds to abandon otherwise suitable stopover areas [news.mongabay.com](https://news.mongabay.com). In MCCP terms, that is a loss of habitat quality: the birds' ability to use the area has been weakened. Continuous plant noise and vibrations will similarly drive other

Exhibit S.10

mammals, amphibians and birds from nearby forests and streams, undermining their quiet refuge and breeding success.

- **Light Pollution:** Nighttime operations and security lighting will flood the site with artificial light, destroying natural darkness. Light intrusion is known to disrupt wildlife behavior: for example, it **"alter[s] the biological timings, including daily and seasonal activity patterns, of birds"** [pmc.ncbi.nlm.nih.gov](http://pmc.ncbi.nlm.nih.gov) and similarly affects rodents and amphibians. The National Geographic likewise warns that excessive outdoor light *"is affecting... wildlife behavior"* [education.nationalgeographic.org](http://education.nationalgeographic.org). This illumination weakens the forest and riparian environment by altering predators' and prey's cycles and by interfering with navigation and reproduction of nocturnal species. Even if the plants and animals remain physically in place, their capabilities are impaired by constant light (a clear loss of system capability).
- **Increased Vehicle Traffic:** The plant's operation will require routine truck deliveries of chemicals and materials, plus employee and service vehicle trips, far above current levels. New or intensified traffic *"creates road noise and traffic patterns"* that fragment habitat. Studies show that *even moderate road noise will "push migrating birds away from their stopover habitats"* [news.mongabay.com](http://news.mongabay.com), effectively rendering those areas uninhabitable. In practice, heavier traffic also raises the risk of roadkill and continuously bars movement for deer, elk, amphibians and other wildlife trying to traverse the landscape. The resulting barrier effect isolates wildlife pockets (weakened habitat connectivity). In sum, the traffic noise and barrier will degrade any forested or riparian corridors across the site, in violation of MCCP policy.
- **Chemical Use and Runoff:** Filtration plants routinely use toxic chemicals (e.g. chlorine, coagulants, fluorosilicic acid, ammonia). Any routine release or spill risks contamination of adjacent waterways and wetlands. The EPA notes that even typical chlorine discharges *"may be quite toxic to aquatic organisms"* [epa.gov](http://epa.gov). Thus if treated water, backwash, or accidental leaks enter a creek or wetland, fish, insects and plant life will suffer damage (weakened health or mortality). In addition, the facility's parking lots, roads, and storage pads will be impervious surfaces. Stormwater runoff from these surfaces carries oils, metals and chemical residues into the soil and streams. This non-point pollution further degrades water quality, diminishing the ability of streams and wetlands to support fish and invertebrates. Together, these effects clearly *impair the quality and capability* of water bodies.
- **Habitat Fragmentation:** The plant and its infrastructure (buildings, roads, vehicle areas, fencing, power lines) will permanently displace vegetation and divide existing habitat. What was once a contiguous forest or grassland patch will be sliced by roads and cleared areas. Fragmentation is known to reduce biodiversity and ecosystem function. For example, isolating a stream corridor with adjacent roads or lights impairs its function as a wildlife corridor. Even if the county allows native landscaping, the structural change weakens the system: smaller, fragmented patches cannot sustain the same wildlife populations or ecosystem services.
- **Agricultural Resource Impacts:** The MCCP definition specifically includes **"agricultural resources"** [multco.us](http://multco.us). Nearby farmland or grazing land will be affected. Dust from construction traffic and plant operations can coat crops or soil, and any chemical drift or accidental spill (e.g. herbicides, treatment chemicals) can contaminate fields. Altered drainage patterns (due to new impervious surfaces) could also harm irrigation or soil moisture. These impacts would degrade soil quality and crop viability (loss of agricultural capability). Because farming activity is explicitly protected, even indirect harms (e.g. making farm operations more difficult or less productive) constitute an adverse

effect.

Each of these operational impacts, even if modest on its own, erodes natural resources in the sense used by the MCCP. The key test is *weakening or loss of quality*, not just wholesale destruction [multco.us](#). For example, a small but constant noise level is a loss of the resource "quiet" that wildlife depend on; light trespass is a loss of the darkness environment; minor chemical seepage is a loss of water purity. These constitute "damage by weakening" of streams, forests and habitats under the Webster definition cited in MCCP [multco.us](#). LUBA's standard requires denial if *any* such impairment occurs.

**Conclusion:** The proposed filtration plant's ongoing operation will measurably degrade multiple "functioning natural systems" – from wetlands and streams to wildlife habitats and farmland [multco.usmultco.us](#). By generating noise, light, traffic and contaminants, it will weaken or diminish the quality and capability of those resources. These impacts clearly satisfy the regulatory definition of "adversely affect" in MCC 39.7515(B) [multco.usmultco.us](#). Because the project, as operated, cannot avoid these effects, it violates the comprehensive plan's requirements. The only appropriate result under MCC 39.7515(B) is to deny the permit, as preserving the County's natural resources demands avoidance of any such degradation [multco.usmultco.us](#).

**Sources:** Multnomah County Comprehensive Plan (Glossary and policies) and LUBA's remand decision defining "natural resources" and "adverse affect" [multco.usmultco.usmultco.usmultco.us](#); scientific studies and EPA guidance on noise, light, traffic and pollutant impacts on ecosystems [pmc.ncbi.nlm.nih.govnews.mongabay.comepa.gov](#).

Sincerely,  
Susan Swinford

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To: Susan Swinford <john.and.sue@frontier.com>

Thu, May 1, 2025 at 8:12 AM

Hello,

We have received your comment and added it to the record in the case. Thank you.

Best regards,  
Land Use Planning

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