

To: Hearing Officer  
From: Charles Ciecko  
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Date: May 2, 2025  
Subject: Testimony Related to LUBA Remand; Case File T3-2022-16220  
PWB

From the very outset of this land use process, Portland Water Bureau (PWB) has asserted that **this project in this location** was mandated by the EPA and the Oregon Health Authority Drinking Water Services (OHA) to meet the requirements of the Long Term-2 Enhanced Surface Water Treatment Rule (LT-2). Dire consequences for public health and failure to meet deadlines have been looming “storm clouds” and an effective lever throughout the entire process as a means to justify the many adverse impacts to natural resources wrought by this project that will persist well after construction.

Examples include:

see Ex A.2, September, 2022 “Land Use Application Introduction: “This project is necessary to comply with US Environmental Protection Agency (EPA) and Oregon Health Authority (OHA) drinking water requirements.”

see Ex D.17, June 9, 2023, pg.1 letter from Oregon Health Authority: “DWS would like to emphasize to the board the public health significance of this treatment plant and its timely completion. Delays in the project resulting in PWB not meeting the compliance schedule could result in significant ramifications, such as continuing risk to human health and potential civil penalties for PWB.”

see H.O. Decision T-2022-16220, November 29, 2023 pg. 5: “The City of Portland (City) was forced to construct this facility. It is not in my purview to judge whether this is the correct type of facility or whether the facility could be built elsewhere. The local elected leaders decide that. I believe that this facility is necessary for public health. Throughout history, the creation of safe drinking water has been one of the greatest human public health achievements. This facility continues that legacy. I agree with the City and our State and Federal Governments, that if this facility is not built people can die.”

see Applicant Pre-Hearing Statement- T3-2022-16220, April 15, 2025 pg. 3: “PWB must build a filtration facility and pipelines to protect public health and comply with federal and state safe drinking water regulations, including the U.S.

Environmental Protection Agency (EPA)'s treatment requirements to remove *Cryptosporidium* (a disease-causing microorganism) from the water supply. The City of Portland entered into a Bilateral Compliance Agreement with the Oregon Health Authority (OHA) to have the new facilities in operation and begin delivering filtered Bull Run water by September 2027. Both EPA and OHA have determined that the project is necessary to protect public health, comply with federal and state drinking water regulations, and continue providing reliable, safe drinking water to nearly one million people."

PWB's assertion is misleading and has directly contributed to the proposed location of this filtration/pipelines project along with its significant impacts on natural resources in a rural reserve area of east Multnomah County.

Applicant frequently cites the "Bilateral Agreement" with OHA to justify the need for this plant. However, it was the PWB that initiated the process that led to the Agreement. A summary of the "Findings of Fact" from the Agreement include:

- PWB was providing water that met the exemption for filtration under Oregon Administrative Rules (OAR).
- OHA had issued a variance to treat Bull Run water for *Cryptosporidium* on March 14, 2012.
- After *Cryptosporidium* oocysts were discovered in some Bull Run reservoir samples, OHA determined that "boil water" advisory was not required to protect public health.
- On May 19, 2017 OHA revoked the variance because "On March 9, 2017, PWB notified OHA that it is not feasible for PWB to conduct the amount of water sampling necessary to demonstrate..." compliance with the variance.
- The "Revocation Order" required PWB to propose a construction schedule.
- At PWB's request, the OHA August 11, 2017 deadline was extended to October 11, 2017.
- On October 9, 2017 PWB submitted a proposed schedule for construction.

Source: Bilateral Agreement PWB/OHA, Section II, pgs. 2 and 3.

OHA did not require this location or the construction schedule.

EPA's LT-2 offers a variety of methods to achieve compliance. The very first method addressed in the "Long Term 2 Enhanced Surface Water Treatment Rule Documents" website is Ultraviolet (UV) light disinfection. Large municipal water suppliers, including San Francisco and Seattle, have selected this method to achieve compliance with LT-2. PWB fully designed an Ultraviolet system and was prepared to construct this system at their Bull Run headworks at a fraction

of the cost and impacts of the project now under consideration. To be clear, EPA did not require this project or this location.

PWB convinced the Portland City Council that filtration offered additional benefits not available with the UV method. Again, OHA did not require this project or this location. Both the treatment method and plant location were proposed by the PWB.

In arriving at the selected location for the filtration project, 2 site evaluation processes were undertaken—one by the technical experts (8/2018) and one by an appointed citizen panel (9/2002). All the documents detailing these evaluation processes have been submitted into the record as Ex. R.11 A and B.

The citizen panel recommendation:

“From a water system perspective, the Panel recommends that the treatment facility be sited at Powell Butte. The Panel’s rationale for recommending Powell Butte can be summarized as follows:

- The City of Portland purchased this 578-acre property in 1925 to serve as a site for future water facilities. Powell Butte’s location and elevation make it a key element in the regional water supply system.
- Powell Butte is located within Portland’s urban growth boundary, a key consideration for permitting. Powell Butte’s urban location has the additional benefit of providing greater opportunities to use the treatment facility to contribute to public awareness of water resource management issues and to develop public education and community recreation facilities.
- This site offers significant cost savings compared to Lusted Hill due to the presence of the existing reservoir.

- The Panel recognizes that siting the treatment facility at Powell Butte will have significant impacts on the park and surrounding neighborhoods. However, the Panel believes that the advantages of this site warrant a serious effort to resolve these potential impacts.
- As the Panel neared completion of its work,

some citizens expressed concerns about the social and environmental impacts of siting a filtration treatment facility at Powell Butte. The Panel recommends that the Water Bureau fully engage the community in future deliberations and decision-making regarding the siting of the facility.”

Source: Report and Recommendations of the Bull Run Treatment panel, Sept.12, 2002, pg.24

The Technical committee recommended the Carpenter Lane site. The chart below shows that Powell Butte site met all the key criteria except “schedule”. By way of explanation, a Technical Memorandum, September 18, 2018, stated:

“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, creating additional monetary costs, approval delays, and political scrutiny for the project and for PWB. These risks could significantly delay site approval, permitting, and facility construction by years. Therefore, Powell Butte did not pass the schedule criterion.”

Source: Technical Memorandum Technical Memorandum, September 11, 2018, pgs 11/12  
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

Table 2. Pass/Fail Results of How Well Each Initial Site Met the Essential Criteria

<b>Site</b>	<b>Hydraulic Grade Line</b>	<b>Proximity to Conduits</b>	<b>Tax lot size</b>	<b>Slopes and Geologic Hazards</b>	<b>Schedule</b>
<b>Carpenter Lane</b>	Pass	Pass	Pass	Pass	Pass
<b>Headworks</b>	Fail	Pass	Fail	Fail	Pass
<b>Larson Ranch</b>	Fail	Pass	Pass	Pass	Pass
<b>Lusted Hill</b>	Pass	Pass	Pass (with site expansion)	Pass	Pass
<b>Powell Butte</b>	Pass	Pass	Pass	Pass	Fail
<b>Roslyn Lake</b>	Fail	Pass	Pass	Pass	Pass

Source: Memo from Christopher Bowker, August 31, 2018 RE: Key Decisions and Process, pg. 6

The record clearly shows that PWB owned property on Powell Butte intended for municipal water infrastructure but rejected that site primarily because of the likelihood of a difficult land use process, anticipated LUBA appeals and “political scrutiny for the project and for PWB”. The selection of Carpenter Ln. has

resulted in transferring of all the adverse impacts to natural resources to this rural community while the primary beneficiaries of the project share none of the impacts associated with plant operation.

### Summary

- PWB's variance was revoked by OHA at PWB's request because of their unwillingness/inability to continue water monitoring for Cryptosporidium.
- PWB had several options for compliance with the EPA's LT-2 rule.
- PWB proposed the treatment method (filtration) and the construction schedule. OHA accepted PWB's proposal.
- OHA never required the filtration plant to be located on prime farmland in rural East Multnomah County. The PWB proposed this site and EPA/OHA accepted that proposal.
- The PWB had the option of selecting a site within the UGB on property it had acquired for water infrastructure but decided that site would likely result in controversy and unwanted scrutiny on the PWB and the project.
- For the perceived sake of expediency, all of the negative adverse impacts of this project on natural resources have been placed on this rural, agricultural community.





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## Testimony RE: Case # T-3-2022-16220

1 message

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Fri, May 2, 2025 at 3:48 PM

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The attached testimony is submitted for the LUBA Remand Record regarding case # T-3-2022-16220. Please acknowledge receipt.

Thank you.

Charles Ciecko

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 **remand testimony 3.pdf**  
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