
MEMORANDUM

To: Liz Fancher, Hearings Officer – T3-2022-16220

Date: 5/5/2025

From: Charles Ciecko

RE: Response to N.62: *Effect of Development Related to Migration of Contaminated Soil*, by Dennis Terzian, RG, PBS, for Portland Water Bureau, April 14, 2025

INTRODUCTION

According to the Terzian Report, environmental testing found low levels of persistent pesticides in the top 1.5 feet of soil from past agricultural use, exceeding Oregon DEQ clean fill standards. Groundwater was not impacted. In 2024, the upper 18 inches of soil from 66 acres of the filtration site – claimed to be approximately 120,000 cubic yards of contaminated soil were excavated and stored onsite or transported off-site for approved reuse or disposal. Pipeline construction soils were similarly managed on road shoulders. Once construction is complete, PWB plans to replant these excavated filtration facility areas with grasses, shrubs, and trees to control erosion and stabilize soils.

With most contaminated soil removed and improved vegetation in place, the Terzian Report asserts that the project will reduce the risk of soil contamination reaching nearby waterways compared to prior agricultural conditions. PWB claims that development represents an overall environmental benefit for the site and surrounding natural resources.

RESPONSE

One of the defects with the Terzian Report is the assumption that relocating the contaminated soils to different sites removes the obligation to consider the impacts at the deposit locations including the construction site, county road right-of-ways, or the property owned by T&K Sester Farms, LLC located in Clackamas County (Gramor Property). Just pushing the contamination elsewhere does not satisfy the adverse effect concern when the evidence to date shows that these stockpiles are having a negative impact on natural resources.

In preparing this response, the record from the 2023 land use process for T3-2022-16220 was reviewed for any information related to the existence of contaminated soils. Two Exhibits were located that dealt with pesticides: Exhibit A.39¹ and Ex. A.41². Neither of these documents acknowledged or addressed the existence, excavation, stock piling, transportation, deposition/re-

¹Pesticides Report “Use and Safety Characterization of Pesticides Used on Agricultural Properties Nearby the Proposed...”, Allan Felsot, September, 2022

²Potential Impacts of Pesticide Use on Finished Water Quality, Technical Memorandum submitted to PWB, prepared by Stantec/Carrolo, September 27, 2022

use of pesticide contaminated soils at the filtration plant site, along the shoulders of rural county roads after pipeline construction or deposition on the Gramor property in Clackamas County.

PWB was aware of the existence of pesticide contaminated soils in 2019, well before their land use application was submitted to Multnomah County but never disclosed. (see Ex. N.43 pg.34). The only PWB submission in the entire record related to contaminated soils is Exhibit N.62³. The stated purpose of this document is:

“PBS evaluated the potential for soil previously identified as containing low levels of persistent pesticides to mobilize across and from the Filtration Facility Site and Pipeline Sites and potentially affect natural resources. Natural resources in the area include nearby surface waterways, including Johnson Creek (in the vicinity of the Site), Sandy River (located approximately 0.4 miles northeast of the Site), and Beaver Creek (in the vicinity of the Pipeline Sites), and could include other areas that are adjacent to or near the identified sites. This letter further addresses whether the final proposed land use of the sites will result in a greater likelihood of mobilization of contaminated soil to areas of potential natural resources then would have occurred without the development of the water filtration facility and pipeline project.” (pg.1 Exhibit N.62).

This document does not dispute that the soils are contaminated with DDT, DDE and Dieldrin or that concentrations are well above the DEQ standard for use as clean fill. The document misrepresents the volume of contaminated soils by stating 120,000 cu. yds. of soil are contaminated. As amended by PWB, the current volume listed in DEQ BUD 20240906 is 190,000 cu. yds. The document fails to address the potential for contaminated soils migration at the identified sites where the contaminated soils have been (or will be deposited) or the migration of contaminated soils during their excavation at the construction site or during the lengthy stockpiling period. These sites include the Gramor Property, road shoulders of rural county roads or backfilling at the filtration plant site.

As shown in the photos below, the stockpiling of soils at the site created migration via wind erosion of dust (for example, Figure 1 and Figure 2) and sediment erosion (Figure 3) throughout the winter month's many rain events. The document hypothesizes that contaminated soils were migrating to the headwaters of Johnson Cr. as result of the previous agricultural use of the land. However, there is no evidence to support this hypothesis such as sediment samples taken from the creek prior to the commencement of excavation. Furthermore, there's no documentation to support any conclusion that migration has not occurred since excavation and stockpiling began. Previous remand testimony (see N.43, pg. 34) documented PWB's mishandling of contaminated soils at the Gramor property and DEQ's failure to terminate the Beneficial Use Determination 20240906 or otherwise hold PWB responsible. It's noteworthy that neither DEQ, PWB or the author of Ex. N.62 ever made the effort to sample storm water-runoff from the area where contaminated soils were deposited during multiple heavy winter rainfall events to determine if

³ “Effect of Development Related to Migration of Contaminated Soil”, Dennis Terzian, RG, PBS, April 14, 2025

contaminated soils were migrating from the site into adjacent drainages or onto adjoining private properties (see photos submitted with N.43, pg. 37).



Figure 1. Dust migration on a windy day in July 2024 at the southeast corner of the filtration site.



Figure 2. Dust migration on a windy day in July 2024 at the southeast corner of the filtration site.



Figure 3. Example of erosion occurring on stockpiled soil at PWB's construction site.

SUMMARY

Prior to this remand proceeding, PWB concealed the existence of 190,000 cu. yds. of contaminated soils from the land use process thus depriving citizen testimony, staff and Hearing Officer the opportunity to consider this issue in the context of the criterion requiring a finding of no adverse impacts to natural resources. In an effort to minimize the adverse impacts, PWB has submitted Ex. N.62 that, upon examination fails to provide any data that would substantiate the hypothesis that the filtration plant and proposed relocation of the contaminated soils represents an improvement over the former agricultural use of the property. PWB has failed to meet its burden of providing substantial evidence to support a finding of no impact to natural resources.



LUP Hearings <lup-hearings@multco.us>

#T3-2022-16220: Response to N.62

Cottrell CPO <cottrellcpo@gmail.com>
To: LUP Hearings <LUP-hearings@multco.us>

Mon, May 5, 2025 at 10:43 AM



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LUP,

With regards to the remand of T3-2022-16220, attached is our response to N.62 - Migration of Contaminated Soils.

Please acknowledge receipt of this email.

Thank you,
Cottrell CPO



Ciecko Response to N.62 - Migration of Contaminated Soil.pdf
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