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August 7<sup>th</sup>, 2023

RE: T3-2022-16220 Comments  
Applicant's Pre-hearing Statement

To the Esteemed Hearing Officer Alan Rappleyea, and Respected Members of the Multnomah County Land Use Planning Board,

This letter is addressing MCC 39.7515 Conditional Use Approval Criteria C(1) and (2), Significant changes in and costs to accepted farm practices; and Approval Criteria F, Creation of Hazardous Conditions. Please consider this written submission as part of our response to the applicant's pre-hearing statement submitted on June 29<sup>th</sup>, recorded as Exhibit H.3, which includes responses to letters of opposition submitted by Surface Nursery and others, and a Globalwise report titled "Compatibility of Proposed PWB Filtration Facility & Pipelines Construction with Farm Traffic," which begins on page 70 of the H.3 exhibit and is referred to in this letter as simply 'the report.' We would like to also reference written comments and testimony that are part of the current record including exhibits D.4, D.6, E.36 specifically, various other farm impacts statements, as well as Shawn Nerison's verbal testimony given at the June 30<sup>th</sup> hearing.

We would also like to state that we stand with and echo all opposition against the PWB filtration and pipeline project. This includes the resolutions of opposition from Gresham-Barlow and Oregon Trail school districts, Fire District #10, Cottrell CPO and PHCA, 1000 Friends of Oregon, submission from Oregon Association of Nurseries, Oregon Farm Bureau, and Oregon Department of Agriculture, and every individual farm operator and resident, as well as any other opposition on record to the construction of this project in the heart of our farming community.

In addition, we stand with all testimony in opposition of PWB's proposed project, and reinforce our own opposition on the grounds of egregious, irreversible and significant changes and costs to our accepted farm practices and to the entire ag industry of our regional economy. Not only are the construction impacts of a project of this magnitude in a rural area such as this disproportionate to any perceived community benefit, they are in many cases, as we will show, hazardous to residents, farm operators and employees. We would like it noted for the record that this report does not accurately represent our farm operations nor does it acknowledge the true impact of this project on our farm operations. There are crucial aspects and considerations unique to our farm and the nursery industry that are missing from the broad overview of this report, and must be considered. We would like to emphasize the importance of a comprehensive understanding of these factors to

ensure the proper evaluation of the project's implications to not only Surface Nursery, but all ag-related businesses that are the foundation of this rural community.

In the report regarding construction impacts to farm traffic, Surface Nursery, Inc is referred to as "Operator F," although no appendix was found that provided a record of such information. We have identified this information based on the given headquarters location.

We would like to first address the most obvious significant changes to accepted farming practices that are evident in this report. Movement of crews and equipment between fields and farm locations is an important and accepted farming practice, and any activity that causes an interference with that practice qualifies as *causing a significant change*. Blocked access to our farm fields at any time and for any length of time is simply not acceptable and violates approval criteria of MCC 39.7515(C)(1) and (2). In the section titled "Finished Water Pipeline: Dodge Park Boulevard Through Cottrell Road Intersection," Globalwise acknowledges that there is no alternate farm traffic route available due to safety issues. We agree, as Lusted Hill is not suitable nor safe for trailers or tractors, as slow-moving or wide-load traffic on this portion of Lusted creates hazardous conditions for other drivers. Globalwise acknowledges in this section that any farm traffic route to our F9 field from all origins must use Dodge Park Blvd through the Cottrell Rd intersection. This is the only safe route to access the area known as Lusted Flats for farm traffic. Construction to and closures of Dodge Park that affect the portion west of Cottrell Rd completely blocks us from our field F9. Globalwise concludes, regarding an alternate farm traffic route, that there is "None due to safety issues, the route of travel is only on Dodge Park." This is a clear violation of MCC 39.7515 C(1) and (2), as being prevented from accessing an entire field is a significant change to our farming practice and will result in monumental costs associated with lost revenue.

The report goes on to state that we do not use this segment of Dodge Park for outbound truck traffic. Outbound truck traffic is irrelevant to daily farm traffic use of roads, except that outbound trucks can only be loaded with product when that product can be brought, as needed and on demand via necessary roads, to the loading area. Globalwise perhaps includes this mention of outbound farm traffic to frame the summary in a more favorable terms, because in the summary section for this road segment use, they then list "Road segment not used" under the alternative outbound shipping traffic route heading (see p. 18 of the report). It is misleading that they discuss our 'farm traffic' origins, destination, and routes in the analysis section, and acknowledge that there is NO alternate route of travel to reach the destination of field F9, yet in the summary make it appear that no alternate is *needed* because the road segment is 'not used.' Only careful attention to the overwhelming complexity of this report reveals that the focus shifts from farm traffic in the detailed analysis section, to outbound shipping traffic in the summary at the end of each road segment discussion. Outbound shipping traffic routes and volume by months should not be intermingled with normal farm operations that rely on daily and consistent year-round farm traffic mobility. The two concepts are related only in that outbound shipments rely on clear and unencumbered farm mobility to ensure timely loading of perishable product, crew availability, and that healthy product that is ready for shipping.

This road segment analysis of our operation is one example of how this Globalwise report subjectively and arbitrarily concludes that the PWB's project will not cause significant changes in accepted farming practices, when in fact it fails to meet the approval criteria of MCC 39.7515(c)(1). It is clear from the report that PWB's planned construction of this magnitude, far beyond normal road maintenance and repair, prevents us from accessing our

field and absolutely causes a massive change to our system-wide operation by not being able to move product, crews and equipment to various fields and work sites. Restrictions on our farm operations, including mobility of equipment and crews throughout our farm network and the extended, cooperative farm network in the area, and any changes, delays and closures of our outbound shipping and farm traffic routes unequivocally creates a significant change to accepted farm practices on our land which is devoted to farm use.

Furthermore, these impacts, including all proposed and foreseeable mitigation measures, will cause a significant increase in the *cost* of such accepted farm practices, a violation of approval criteria MCC 39.7515(c)(2). As per the Globalwise report, approval and construction of this project will mean that there will be periods of time when we have no access to our field labeled F-9, making it impossible for us to continue our normal farm practices in those fields. The blocking of the F9 field is one example of how this report fails to accurately represent our farm traffic movement throughout our network where PWB cannot mitigate the impacts of their construction. With no safe, alternate route, we will lose access to our F-9 fields for multiple days at a time for months, which will prevent us from performing normal, daily farm practices as described in written testimony already on record, and will result in loss of product which equals loss of revenue. There are no mitigation measures which could resolve this, and even if the intersection could allow for some local access, significant delays in reaching our fields and work locations drive up our labor costs and reduce our productivity and profits. This example is representative of the problematic nature of a construction plan of this magnitude, and the subjective nature of this report which attempts to dismiss the scale and scope of negative impacts to our farm and the broader farming community.

Globalwise, in the same report, also claims that our “lowest traffic volume months for road segment use” are September and October, followed by July and August. However, this statement misrepresents our accepted farm practices. When interviewed by Mr. Pengruber, I *never* indicated that July and August were slow months. It is essential to clarify that Globalwise’s conclusion is erroneous, as July through October are definitely *not* ‘low farm traffic’ months. Rather, during the warm, dry months is when we get a lot of our field work done – planting, etc – so crews are moving throughout our network of fields constantly and must be able to continue to do so in a timely and efficient manner, as is the accepted farming practice. Please refer to our letter submitted to the record labeled as Exhibit E. 36 for a complete overview of our normal farm operations throughout the year. These warm months remain busy times for our normal, daily farming operation, and the impact of the construction-related constraints on our operation during these months will be significant, and any mitigation measures will be costly. Any hinderance of this causes a significant change to that accepted farming practice and is a violation of MCC 39.7515 (C)(1) *and* (2), as any significant change bears an impact on our operating costs and negatively impacts our income. Encumbering crew, product and equipment mobility during even the perceived ‘less busy’ months still creates a significant hinderance to our operation. ‘Less busy’ does not equal ‘less important,’ especially when the product is a live, perishable tree and cannot be replaced without the time and expense involved of completing a new growth cycle.

Globalwise does not reveal exactly *how* they quantify each farm’s lowest traffic volume, but at least in our case, it’s not based solely on interviews. We would like to point out that, even during the short periods of reduced outbound shipping activity which may represent to Globalwise the lowest use periods, daily farm operations and accepted farm practices *depend* on complete and unconstrained mobility of crew and equipment throughout our network. This includes but is not limited to commuting employees, local and regional

deliveries, weekly service providers, customers, and industry reps visiting our sites. September and October may represent a small window when I indicated I would be most likely to try and take an actual vacation, but the effects on our farm due to the scale and scope of this project's construction should not be underestimated at any point in the year.

The mitigation measures offered by Globalwise are also subjective in nature and based on non-expert observations. In a memorandum dated June 28<sup>th</sup>, 2023 containing a response to public comments of opposition, specifically Surface Nursery, Globalwise refers to themselves as PWB's 'farm expert.' However, an expert can only be someone that is not only knowledgeable, but experienced *and* well-practiced in the subject area. The interviewer and author of the report, Mr. Pengruber is not a farmer, and, according to his resume, he has never farmed nor had to make a living at farming. We don't dispute his degrees, but we do suggest that actual farmers are the experts and they are the *only* experts qualified to make alterations to their accepted farming practices. The mitigation strategies offered in this report and others on record for the applicant might appear fine on paper to a non-farmer, but they are, in practice, either illogical at best or in some cases impossible and even hazardous. For example, Globalwise claims, in the section titled "Finished Water Pipeline Segment: Dodge Park Boulevard from Cottrell Road Intersection to Farm Access Road," that our farm road in the field labeled F1 is a route we 'can' use to access our fields labeled F6, F7, and F8. However, dirt and even gravel roads within nursery fields are designed for 4x4 tractor use in dry weather, and not structurally designed for repeated use as an alternate to a paved road. This is certainly not a route that we would ever consider for normal, daily farm traffic to travel from our headquarters/main site to outlying fields. Farm roads are not used in inclement weather because it would create hazardous conditions for our employees and damage our equipment from unstable road surfaces and mud, ice, etc. Farm roads are not built to be utilized as a primary route for anything other tractors within the fields. Crew buses, foreman vehicles, and service providers are expected to travel to and from fields on regular roads so as not to damage the farm road from excessive use and cause damage from dust (which is the host for mite infestations) to trees and plants in the field. We want to emphasize that farm roads are not designed to handle regular farm traffic and heavy vehicles on a regular, repeated basis, and non-Surface personnel should never be using our interior farm roads for any reason. Use of this F1 farm road as a regular route of travel would cause significant damage to the road itself and possibly our vehicles and equipment, which creates additional operational difficulties for our farm. There are seasonal times this road is impassable and not an option for any of our vehicles, so it is unreasonable to count on it as a viable route. This suggestion that we currently use this road in F1 to connect any of our fields is erroneous. If this is intended to be a suggested alternate route to justify the simultaneous closure of local roads or intersections, it is not practical and does not address the challenges posed by the extensive construction periods, and is another example of the confusing and misleading claims in this report.

In addition to misstated low traffic volume months, illogical alternative routes, and unmitigable impacts including blocking our access to an entire field, this report also fails to include a leased field that is part of our normal, daily farming operation. The field is shown on the map labeled "Figure 4: Farm Operations – Southeast Quadrant" but it is not labeled nor included in the analysis of our operation. It lies between F6 and F8, and is a property that we currently, and can only, access from within F6. The report does acknowledge that access to F8 is preferably gained through the interior field of F6, but that that is actually an error also. F8 can only be access from Proctor Rd via Bluff Rd. This 'forgotten' field – we'll call it F10 – can only be accessed from within F6. To enter F6, we cross our own interior farm road and enter the field. Crew busses can park on the farm road in F6 alongside the

field F10, and equipment drives across the farm road and into the field. There is no other appropriate access to this leased field. The owner's driveway, on Proctor Rd, is paved and our heavy equipment, especially our tracked equipment, cannot be driven on it without destroying the surface. Instead, our agreement with the owner, and our accepted farming practice, is to enter from within our own F6 field. However, when PWB seizes our land in F6 to build their 'emergency access road' where our farm road is currently located, we will lose access to field F10 completely. Our equipment will not be able to safely cross the elevated gravel road constructed to handle emergency response vehicles and Hazmat response traffic. Farm roads are built to create the least amount of compaction and disturbance possible, as farmers understand the value in the all the soil and in all farmable land. The emergency access road will be constructed to meet specific requirements identified in the application, which will inevitably create a raised road surface with steep sides as much as 20" or more. This is hazardous for our heavy equipment to cross, and we will be unable to park our crew busses on this road, causing our employees to have to walk through across the new road to reach F10. Even if our tracked equipment could safely maneuver the change in grade of the road, it would destroy the road edges and surfaces with gouges and tracks, and the mud that would be naturally tracked through it would be nearly impossible, and extremely costly to us, to clean up after each access. This field must be able to be accessed by crews and equipment on demand, as and when needed, according to conditions, operational needs, planting and maintenance schedules, and growth cycles. The construction of an emergency access road, on our land obtained through claiming of eminent domain of important land dedicated to farming, absolutely creates a significant change in our accepted farming practices because not only are we losing valuable farm land and revenue from the trees we grow on it, but we have to build a second road (next to the one we already have the PWB wants to seize for its own use). Having to halt normal operations to build a new farm road, pull out trees that are not ready to be taken out of the ground, and create additional compacted soil conditions in our fields are all examples of significant changes and costs to our farming practices. If this project is allowed to continue, it will also cause significant costs to our operation in road maintenance of the emergency access road that will no doubt be required anywhere we have to use or cross it. This is a clear violation of approval criteria MCC 39.7515 (C)(1) and (2).

Another example of the arbitrary conclusions and subjective comments contained throughout the exhibit titles H.3 are Globalwise's response to public comments. In the memorandum dated June 28, 2023 submitted in Exhibit H.3, Globalwise provides a series of responses to our comments submitted before the hearing, in an effort to dispute the fact that the approval and construction of this project will indeed force a significant change to, and significantly increase the cost of, our accepted farming practices. The first comment they reference, **Comment 1**, quotes our statement that "in summer, we have an average of 7 tractors per day on the roads in the area." This statement is true, and it is not subjective. It is a general statement reflective of our typical daily farming practices. The massive amounts of road improvements, road construction, pipeline installation and facility site construction required by this project is expected to last seven years, during which time the hundreds of dump and haul trucks, construction vehicles, detours, delays and road closures will paralyze our farm operation and the entire farming community, forcing significant changes to not only our accepted farming practices because, as stated earlier, we will be prevented from accessing our fields. This will force a significant change to not just our accepted farming practices, but to the daily life of every resident in the area.

In their response to **Comment 1** Globalwise states that they have 'extensively studied farm traffic vehicle routes on public roads in the area.' However, they admit this was based on

discussions with farmers (including myself), and “observing road use during 17 trips in the Surrounding Lands.” We contend that *discussing* farm traffic routes and *observing 17 trips* does not qualify as an ‘extensive study’ on which to base an entire analysis of an interconnected, working farm community. This is supported by the observation that this report makes incorrect statements about farm traffic ‘low volume use’ months and fails to present a complete picture of any one farm’s operation that includes its dependence on accessibility for vendors, suppliers, and employees, and how many farms, including ours, are interconnected with the larger farming community for cooperative outbound shipping, service providers, and especially timely delivery of supplies. This part of their response also has no clear relevance to the original “Comment 1.”

The next paragraph in their response to **Comment 1** states that we, Surface Nursery, as well as other farms in the area told them that ‘with some exceptions’ we will take alternate routes when needed. The comment refers to ‘shared public road use’ as an accepted farm practice, but it is important to distinguish that shared public road use is not the same thing as being forced to change our farm traffic routes beyond the occasional detour or around an accident. Sustained road construction over months that forces us to take alternative routes and/or change our normal logistical practices is *not* part of our accepted farming practices, but rather a disruption to them and only done when absolutely necessary in a specific instance. This is not a common, accepted practice, because alternate routes create logistical disruptions resulting in increased operating costs to our operation. It happens very rarely, in fact probably less than once a year, that we experience delays and detours on local roads. As evidenced by the condition of our local roads, regular maintenance and road improvements are not a common occurrence.

Globalwise’s response to **Comment 1** also states that “pipeline construction constraints have been incorporated in the construction plans to accommodate farmers’ use of the roads.” However, in the next paragraph, Globalwise states, regarding the intersection of Cottrell Rd and Dodge Park Blvd, “the Water Bureau has added a pipeline construction constraint to allow multi-day closure of that intersection only during their low seasonal travel on the roads and that intersection.” This is problematic for a variety of reasons. First, Globalwise mistakenly claims that our low season is Sept – Oct followed by July – August. As stated earlier, these months are definitely not low traffic volume months, and it’s unclear where Globalwise came up with that conclusion. Another false assumption is that there is a significant change in our road usage or need to move between and access all our fields during September and October. These are characteristically dry months, and a busy time for performing various field operations at all our locations. We want to emphasize that any multi-day closure, regardless of the season, will cause significant delays and have a profound impact on our operations. We continuously work on upkeep and preparing our trees, and any delays can seriously hinder our ability to maintain the quality of trees we take pride in. Even a single day of being unable to access a field can have detrimental effects on our trees and overall farm operations. A multi-day closure of this intersection will prevent us from accessing our fields labeled in the report as F6, F7, F8, F9, and F10 (the field left out of the report). The report acknowledges there is *no alternate route*. This forces an incredibly significant change to our accepted farming practice of accessing our fields to perform necessary work tasks, including but not limited to caring for live trees and tending to the soil. Please reference exhibit E.36 for a more complete list of typical daily farm operations throughout the year. Any prevention in our ability to complete these tasks as needed, at any time throughout the year, qualifies as a significant change to accepted farming practices, and that change is directly tied to an increase in the cost of those practices by way of labor expenses, decreased productivity due to time spent in road construction closures and

lengthy detours, and loss of product from either the inability to reach our fields and provide necessary, time-sensitive care to our trees, or the loss of those trees altogether because we can't invest in and plant trees that we won't be able to access as needed. This violates approval criteria MCC 39.7515 (C)(1) and (2).

The proposed filtration and pipeline projects also create hazardous conditions to our employees and other drivers on our local roadways, a violation of approval criteria MCC 39.7515 (F). In the next paragraph, Globalwise states that 'a flagger will facilitate the passage of Surface Nursery farm traffic through the single lane of construction zone traffic.' This cannot be considered an appropriate mitigation of the impacts to our farm. Flagging farm traffic through sections of closed roads adds interference with regular traffic who are then stuck behind a wide, slow-moving tractor following a pilot vehicle. Given the nature of road construction, there is no feasible way that our tractors, crew buses and other farm equipment will be flagged through with little to no delay. A single-lane closure creates a hazardous condition for not only our employees but other drivers as well. First, it is common for regular traffic to go around and pass our slower-moving farm equipment. When we're on the road, our employees know to wave around traffic when it's safe for them to pass, and yield as much room as safely possible to the passing vehicle. When traffic is experiencing delays throughout the system of roads in our community, it is reasonable to assume there will be upset drivers who are in a hurry to make up lost time, and it is also reasonable to anticipate driver will try to pass our farm equipment even if it means compromising safety. A flagger will not be able to prevent a vehicle from passing a slow-moving tractor in the construction zone or shortly after, creating a hazardous condition for everyone on the road. Second, it is not reasonable to assume that flaggers will flag our farm through with little to no delay, as this would be prohibitive to the construction crews performing the work, and there is no way to separate farm traffic from non-farm traffic. This is another example of how the Water Bureau's mitigation plans to manage the construction impacts to our accepted farm practices are insufficient, ineffective, and highly improbable once construction is underway. In farming, just as in the construction world, time is money.

The response to **Comment 1** goes on to state that "for other travel routes taken by Surface Nursery, they may choose to send farm vehicles on a detour route." We would like to state that detour routes are never by choice, as it is a significant change to our accepted farming practices to re-route crews, product, and equipment. Globalwise states that for vehicles going to our fields along Bluff Road, the alternative route from our headquarters is to west on Lusted, south on Altman Rd then east on Carpenter Lane. They then suggest that if a delay is in the segment of Lusted Rd, that "slow moving farm vehicles can take a farm road south to Dodge Park Blvd and then go west to Altman Rd to reach that field." This is another example of how inaccurately this report portrays our farm operation and logistics, because not only is the farm road not an acceptable or viable route as stated earlier, but the route from headquarters to Altman then west down the entire length of Carpenter Lane is not a feasible route. Not only would this route add substantial travel time and distance, increasing our labor and fuel costs, but Carpenter Lane between Altman and Cottrell is not appropriate for heavy, daily farm traffic use. There is no striping and no shoulder on this road. The middle section of this road segment has numerous residences and is narrow with thick trees, limited visibility and numerous hidden driveways. Carpenter Lane is small local rural street with extensive and unrepaired pot holes and side erosion. In many places the road is not wide enough to accommodate safe passing of slow-moving farm traffic, and there are limited places tractors with wide implements can pull off for oncoming traffic to get by. The only nursery traffic that uses Carpenter Lane is to access their own fields on that road and they do not typically travel the entire length of the road. It is reasonable to assume that

section of Carpenter Lane, as suggested by Globalwise as our alternate, will also be the alternate route for any closures on Dodge Park, and delays as well. Drivers are not going to wait for a flagger to get through a single-lane closure on Dodge Park when every map app will suggest Carpenter Lane as an alternative route, just like Globalwise has. Adding detoured farm traffic in addition to detoured commuter and project-related traffic to this small rural road with no shoulder, no striping and no centerline, numerous hidden driveways will create a hazardous condition to our employees and to local residential activity like people jogging, walking dogs, riding horses and bikes and kids playing. The massive amount of road construction that is part of this project will create hazardous conditions like this on all small rural neighborhood roads being suggested and used as alternative routes, and is a violation of approval criteria MCC 39.7515 (F).

Finally, in the final paragraph of the response to **Comment 1**, Globalwise suggests that “frequent sharing of construction schedules by on-site pipeline construction supervisors” serves as appropriate mitigation of the impacts from construction. Globalwise states that we will designate someone from Surface to be the primary contact for this, and that we can also request updates anytime. They claim this two-way communication is a “valuable accommodation to will further reduce and/or eliminate farm vehicle delays through construction work zones.” There is no value in this proposed mitigation measure – only more cost! Surface should not be required nor expected to make available a designated person for this alleged two-way contact. Having to get information about daily changes to road availability and construction closures and detours is a very significant change to our accepted farming practices. Farmers don’t coordinate their daily activities with outside agencies, and the expectation to do so is the opposite of a non-impact. We need to be able to make timely decisions based on operational needs, weather and a variety of other farm-related factors, and not be forced to check in with or wait for daily updates from a construction supervisor. The proposed road construction, pipeline installation and site construction are projected to last years (PWB has requested a construction period of 7 years with annual extensions as needed), and adding this two-way communication measure only further forces a significant change to our accepted farming practices, as this is not something farmers have to allow for in their ongoing farming operations. To do so would require adding a full-time employee to handle the extra workload of coordinating farm logistical operations with a construction supervisor, which causes an increase to the cost of our accepted farming practices. This is another violation of approval criteria MCC 39.7515 (C)(1) and (2).

Globalwise’s response to **Comment 2** states that our crews and personnel using crew buses and farm pickups “reach fields with little delay time if they choose to take an alternate route.” We again want to offer a correct statement that alternate routes are never casual or personnel choices. Our accepted farming practices involve utilizing regular routes that are proven to be best practice in both safety and efficiency, and any deviation from these routes are not part of our normal operating procedure. Also, any detour or deviation from our standard routes do add travel time, fuel costs, additional mileage and employee labor expense. Time is money, and any delay, especially ongoing, roaming delays throughout the area where we farm, costs us both.

Globalwise’s response to **Comment 3** dismisses our concerns for the health and safety of our employees working in our fields in close proximity to construction traffic and activities. We have, along with other area farmers such as R&H Nursery, explained in earlier statements why their dust mitigation measures are illogical with a project of this scale and magnitude. Clackamas County has denied use of the emergency access road as a

secondary construction entrance, but even the construction of the road itself will involve hundreds of diesel truck trips back and forth in close proximity to our workers. Although they claim emission standards will be followed, it is reasonable to deduce that the amount of diesel engines operating near our employees for prolonged amounts of time will have an adverse effect on their health and well-being, which is a hazardous condition and violation of MCC 39.7515 (F) In addition, the construction of the emergency access road takes valuable land out of farm production, including the land that PWB is trying to seize through eminent domain for the sole purpose of this proposed facility, and the land where we will have to remove more trees so we can build a new interior farm road. Limitation placed on our field mobility across the emergency access road are discussed earlier, and indeed force a significant change to our accepted farming practices in the limiting of field access and force an increase in costs in the loss of land, trees, and the construction of a new farm road suitable for our farm equipment to utilize.

Another false statement misrepresenting our farming practices in Globalwise's response to **Comment 4**. The comment states "employees apply pesticides to trees as close as 10 feet to construction road." Their reply includes a statement that "currently Surface Nursery applies pesticides within 10 feet of roads which include Bluff Road, Lusted Road and other roads." This statement is completely false and presents an inaccurate view of our farming practices. We do *not* spray pesticides within 10 feet of *any* roads at *any* of our fields. Our standard practice is to spray at a minimum distance of 34 feet from the road, following all label instructions and ensuring a safe and appropriate buffer according to the label. In the case of Bluff Road that distance is 37' minimum, and Lusted Road is a 41' minimum. Globalwise took our statement of concern in 'Comment 1' and made an uninformed generalization to our practices, when the comment was *intended* to show our concern over the emergency access road being so close to where are trees are planted and spraying takes place. Their response acknowledges that pesticide application is an accepted farm practice but arbitrarily claims nothing they are doing will force a change or cost to that program. They are not acknowledging other factors that force changes and costs to our accepted farming practices, such as the inference to our practice related to pesticide application. However, the road that the PWB wants to use for the facility emergency access road will have to be built up to accommodate heavy emergency and hazmat vehicles. During this improvement and construction period, their workers will be within 10' of where we currently farm. If we need to spray in that area, there is a time during and after application known as 'no entry' period where no one should be in the exposed area. The reason we raised concerns about the construction road being so close to our fields is precisely because of our careful and responsible spraying practices. Having construction activities in such close proximity to our trees poses significant risks to unprotected construction workers as well as the integrity of our crops, and will lead to contamination from dust (which hosts mites) and other negative effects on the health of our plants. Mite infestations from dust create the need to apply additional pesticides which require additional materials, supplies, fuel and equipment costs as well as labor and task scheduling. The dust mitigation strategies suggested by PWB are not logical nor effective for a project of this scale. With these things considered, it is unreasonable to claim that the construction improvements to our existing farm road, and the presence of an emergency access road through our field won't force a significant change in and cost to our accepted farming practices and at the same time won't affect the health of construction workers within feet of pesticide being applied, especially if it is used for construction traffic as they have applied for. We will either have to arrange with PWB to shut down their construction *and* block all access to the emergency access road for up to a 72-hour re-entry period following spray application, or relocate our trees a significant distance from the road they are taking, allowing for a much

farther setback than the 10 feet currently allocated in their proposal. The first option forces a significant change in our practices by being forced to not just inform but also coordinate this with PWB's construction plans. Spray application can't always be scheduled – often it is determined day of due to weather conditions, logistics, and operational needs. The second option forces another significant cost to our accepted farming practices in even more valuable farm land having to be taken out of production to accommodate the filtration project. We reserve the right to detail these costs and have it entered into the record for consideration in approval criteria MCC 39.7515(C)(1) and (2) once Clackamas County has reached a determination on final approval of the emergency access road and its allowed uses. This decision by Clackamas County absolutely has a bearing on the approval conditions of the entire project in Multnomah County. Although the project borders the county line and this particular road sits on the Clackamas County side, the project cannot move forward without an emergency access road, and it should be reviewed as part of the overall project and subject to the same test of criteria, regardless of county.

Regarding **Comments 5 and 6**, we find Globalwise's response subjectively dismissive of the legitimate construction-related impacts to our farming practices. Construction activities inevitably cause delays, and even minor delays during our digging, planting, and shipping seasons have significant repercussions for our farm operations. We specialize in bare root ornamental trees, which are delicate, perishable, live young trees. Time is money and dealing with living, perishable product does not allow for delays or schedule disruptions. Our ability to move trees promptly during the digging season is crucial to maintaining their quality and ensuring their success when planted. Detours add time and distance, and even idle time, such as sitting in road construction or waiting at a lane closure, results in financial losses from reduced productivity, increased labor costs, and logistical failures regarding moving and shipping product.

While Globalwise acknowledges the possibility of delays, their statement that these delays will not be significant is subjective and inaccurate. It is unreasonable and illogical not to admit that the massive scale of road and pipeline-related construction throughout our small network of rural roads will absolutely and inevitably create delays throughout the system. You simply cannot add hundreds of trucks and vehicles to a small network of roads, travelling in all directions through numerous phases of road delays, detours and closures and not expect or acknowledge that there won't be any significant delays. There are no mitigation measures that can prevent this due to the sheer scale of what PWB is proposing. One testimony at the hearing explained that the magnitude of just the initial site grading project will require more than 34,000 round trips by dump trucks hauling pup trailers to haul that amount of dirt away. There is simply no way the construction of this project can coexist with the local farm community. The sheer number of trucks hauling dirt will paralyze the small network of local, rural roads we depend on for our accepted farming practices.

Globalwise's response to **Comment 8** is another example of the dismissive, subjective nature of this report. Our comment expressed concern over potential oil and gas being washed into streams and fields, potentially impacting our trees. Globalwise's response is to first dismiss the concern as they assume to relate to travel through Clackamas County, but they also state simply that all vehicles will be inspected and maintained to avoid release of oil or gas on surrounding lands. Maintenance and inspections are best practices, we agree, but we also want to point out that the operators may be unfamiliar with the hazards that uneven, unpaved, often muddy surfaces create, and the damage and leaks that can happen quickly. They don't address if there will be onsite fueling and maintenance and if so, what assurances are there that oil and gas won't be leaked from the source.

**Comments 7 and 9** address our concerns regarding the proximity of a substantial portion of the construction to our headquarters. With potential closures of both Cottrell and Lusted roads simultaneously, will present major challenges for not just crew, product and equipment movement, but also for our employees, service providers, vendors and customers. Movement of farm traffic is not the only accepted farming practice that will be impacted. For example, providing sanitary restroom facilities to employees is also an accepted farming practice, as is receiving supplies through cooperative deliveries, coordinating outbound customer order shipments with nearby nurseries, and receiving unscheduled visits from customers, suppliers, and vendors. These disruptions to these and other daily operations absolutely forces a significant change in the way we operate our farm, and will no doubt force increased costs as a result. We are disappointed by Globalwise's response and their apparent lack of recognition for the significant impact this project will have on our farm. It is impossible to comprehend how a construction plan of this scale and magnitude can be carried out without causing substantial disruptions to our operation, as well as every farmer in the area. Globalwise's conclusion that construction will not significantly affect our logistics, mobility, field access, and numerous other accepted farm practices does not align with our observations and experience. Simply stating that there will be no significant impact does not make it true. The reality is that this massive construction plan will affect our ability to access every one of our fields, activities and the proposed alternate routes will undoubtedly have substantial repercussions on our farm operations.

Despite Globalwise's working extensively with us for two years, they failed to accurately portray our nursery practices. Their conclusion stating that “the Bull Run Filtration Project construction activity that impacts farm travel and field access will not force a significant change in accepted farm practices on lands devoted to farm use in the surrounding lands and will not significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use,” is simply not realistic.

The proposed construction and the associated disruptions will undoubtedly cause major operational problems for Surface Nursery. The potential impacts on our farm travel, field access, and overall operations are far-reaching and could significantly increase the cost of our accepted farm practices. We have been in business for 98 years, and the consequences of this project could absolutely jeopardize the future of our business. We respectfully request that our concerns be heard and that we, the farmers, are acknowledged as the only ones qualified to make conclusions about this project's impacts to our businesses. We strongly encourage PWB to reassess the conclusions Globalwise has offered to this point as they lack a thorough and comprehensive understanding of our - and all local - accepted farming practices.

Thank you for your time and sincere consideration of the realistic impacts this project will have on farms in the surrounding lands if allowed to move forward.

Sincerely,



Shawn Nerison  
Owner and Vice President

Disc on road – width not compatible with single lane closures especially on road with no shoulder



Surface Nursery interior farm road; not viable as alternative route for regular farm traffic travel; seasonally impassable.



Surface Nursery interior farm road; not viable as alternative route for regular farm traffic travel; seasonally impassable.





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## T3-2022-16220 Comments

1 message

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**Tami Wensenk** <tamiwensenk@gmail.com>  
To: LUP-Comments@multco.us

Mon, Aug 7, 2023 at 11:35 AM



**External Sender** - Be Suspicious of Attachments, Links, and Requests for Payment or Login Information.

Please find attached submissions in PDF format for the record in T3-2022-16220 on behalf of local farmers.

Thank you!

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### 3 attachments



**Surface Nursery response to H.3 8-4-2023.pdf**  
268K



**Carlson Farms response to H.3.pdf**  
99K



**TreeSource Response to Contruction Farm Traffic Report.pdf**  
267K