

MEMORANDUM

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

Date: 5/19/2025

From: Lauren Courter, Ian Courter, Cottrell CPO, and Pleasant Home Community Association

RE: Rebuttal to S.33, “Response to Remand Comments Regarding Raw Water Alignment Road”

SUMMARY

Exhibit S.33 addresses construction activities on 36910 SE Lusted Road related to a raw water pipeline project. An existing unimproved dirt farm road between two wetlands was inadequate for construction equipment due to its narrow width and weak culverts. To enable access and provide stability, a temporary structure using steel plates, construction mats, and untreated wood were installed. PWB consultants (Winterbrook) surmise that these improvements allow safe passage for wildlife. Post-construction, the structure remain for ongoing access, and PWB experts assert that it will not impact local hydrology. A planting plan is intended to restore native vegetation.

General rebuttal to responses to testimony provided in S.29.

Exhibit S.33 primarily addresses how the previous farm access road has been altered to support heavy construction access. It does not address any additional modifications that has been and will be made to this property, including trenching and pipeline placement through wetlands and the graveling and regrading of the landscape to accommodate heavy equipment and materials storage.

Regarding the altered farm road, Winterbrook asserts that by the period of post-construction changes to the road would not have disturbed the functions or habitat of the adjacent wetlands and ponds. However, this statement overlooks the full scope of construction activity along the raw water pipeline alignment. Any construction in or near sensitive wetland areas will cause lasting impacts, including soil compaction, disruption of natural hydrology, and long-term ecological degradation. The use of heavy equipment, construction mats, and gravel does permanently alter subsurface conditions and drainage patterns, ultimately affecting wetland function and habitat integrity. Proposed mitigation at this wetland (and the other five wetland locations impacted by this project) to offset adverse impacts to yield a net zero impact ignores the county’s clear condition that development under the conditional use criteria requires no adverse effect to natural resources.

In their three-page response, Winterbrook is not forthcoming in stating that the raw water pipeline alignment work will disturb and adversely impact wetlands. In PWB’s Department of State Lands (DSL) application for authorization of *Temporary Impacts to Non-Tidal Wetlands, Wetland Ecosystem Restoration and Waterway Habitat Restoration* (submitted within S.33), adverse impacts are listed:

- *The alignment will cross a small wetland*
- *The pipe will be constructed at a variable depth of 4-8 feet*
- *The length of the impact is 11 feet*

- *The square footage of temporary wetland impact is 83 square feet*
- *Excavated volume is 50.4 cubic yards*

Additionally, the trench within the wetland will have structural fill below and around the 78-inch diameter pipe and concrete trench cut off walls. Furthermore, Winterbrook describes that “Adjacent to the work within this wetland, construction activity will be comprised of construction vehicle traffic to install trench shoring, excavate the trench, and place the pipeline.”

Many of these adverse impacts to the wetland habitat have already occurred (see aerial photo below, submitted in S.25) and have long-term or permanent effects. While it is true that PWB received approval from DSL, compliance with DSL does not serve as a surrogate for compliance with MCC 39.7515(B). The county requirements under MCC39.7515(B) are more stringent and cannot be ignored despite state approval. These adverse impacts of construction that are long-lasting or permanent directly violates the county’s conditions.

Finally, PWB has not submitted a baseline inventory of wetland vegetation and wildlife for the project area, including key species such as amphibians and wetland birds. To date, there is no documented record of existing species populations, breeding or nesting sites before development began. It is likely that PWB realized this shortfall and scurried to complete a broad avian inventory starting in February 2025 after much of the habitat was destroyed (Exhibit N.43 and Exhibit S.25). Additionally, there is no assessment of how these populations have been affected by habitat disturbance, particularly following the construction of the new road structure. Of specific concern are the potential impacts of this structure, along with associated noise and vibrations, on amphibian breeding and rearing, such as that of the northern red legged frog during late winter and early spring of 2025. Simply stating that the road structure is made of untreated wood and includes gaps for small animals to pass through is misleading and insufficient. It fails to acknowledge the significant transformation from a minimally used dirt farm road, once accessed only by occasional tractors, to a heavily modified, semi-permanent structure with much greater ecological impact.



Before (left, July 2024) and after (right, March 2025) aerial views of raw water alignment and portal location on SE Lusted Rd, looking west.

CONCLUSION

Here we raise concerns that Exhibit S.33 narrowly focuses on modifications to a farm access road while failing to address broader and more impactful construction activities, such as trenching and pipeline installation through wetlands, and regrading for equipment and material storage. We argue that Winterbrook downplays or omits the long-term or permanent ecological impacts of these activities, including soil compaction, altered hydrology, and habitat degradation. The response does not meet the county's strict standard of “no adverse effect to natural resources,” as required under MCC 39.7515(B), despite state-level approvals. Furthermore, PWB has not provided a baseline inventory of local wetland vegetation and wildlife, nor has it assessed how construction has affected sensitive species such as the northern red legged frog. Mitigation efforts and claims of minimal impact are insufficient and misleading, given the scale and permanence of the environmental disturbance.



LUP Hearings <lup-hearings@multco.us>

#T3-2022-16220: Response to S.33

1 message

Cottrell CPO <cottrellcpo@gmail.com>

Mon, May 19, 2025 at 10:21 AM

To: LUP Hearings <LUP-hearings@multco.us>



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LUP,

With regards to the remand of T3-2022-16220, attached is our response to S.33.

Please acknowledge receipt of this email.

Thank you,
Cottrell CPO



Courter-CPO-PHCA Response to S.33.pdf

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