

May, 16, 2025

Liz Francher, Multnomah County Remand Hearings Officer

c/o Multnomah County Land Use Planning

1600 SE 190th Avenue, Portland, OR 97233-5910

Subject: T3-2022-16220 Remand, Rebuttal Submission to S36; Functioning Natural Systems and personal testimony regarding Natural Resources adversely affected.

Dear Ms. Francher,

Both Multnomah County Staff and LUBA contend that Natural Resources are to be construed as Functioning Natural Systems. The Multnomah County Staff Report on Remand. Page 8, states the term “natural resources should be construed as “functioning natural systems such as wetlands or streams, wildlife habitat, . . .”.

N-7 Natural Resources Before LUBA, the parties debated the meaning of the term “natural resources” in MCC 39.7515(B). With respect to that debate, Staff understands LUBA to have reached the following conclusions: 4. “Within the context of the MCCP, ‘natural resource’ is defined 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.’” Slip op at 121–122.

Bruce Prenguber of Globalwise Inc., Response to Public Comments on Ag Land Exhibit S-36 May 5, 2025, responses that, Agricultural Land Is Not a Functioning Natural System.

Mr. Prenguber counters that, “Agricultural Land Is Not a Functioning Natural System”. He states, “these farms do not follow organic or typical sustainable cultural practices” and “there is significant human intervention, that soils are modified with additives and describes current farming practices. He does not make clear how any of his criteria would preclude, “Agricultural Resources” from being considered, “a Functioning Natural System”. He argues that, “agricultural land is not a functioning natural system, it requires human shaping and management in order for it to be harnessed for the agricultural use. **Other uses of the land, could be considered functioning natural systems, because they do not require this constant human manipulation in order to function**”. (*referenced ICW ROW Habitat below*)

This leads me to my personal testimony and how it relates.

We live on the northside of Dodge Park Blvd. diagonally adjacent to the 2-acre lot where PWB intends to connect treated water from the plant to the main waterline at Dodge Park Blvd. We have approx. 1,100 feet of Dodge Park Blvd. frontage directly across from the Right-Of-Way (ROW) where the PWB cut down 433 trees destroying protective wooded habitat for wildlife miles along Dodge Park Blvd. This was done in the fall of 2024 prior to receiving property permitting pending this LUBA decision, and much earlier than would be need be for putting in the pipeline, in my view.

For 27 years we have observed first-hand the goings-on of wildlife habitat and trees along this hedge ROW. It was a very active and thriving habitat for insects, bees, reptiles, rodents, song birds, birds of prey and small and larger mammals. Over 75 cherry, apple and wild plum trees provided needed food and nutrients for a variety of birds for nesting with birds-eye vantage points for hunting prey, for fledglings. This ROW clear-cut disturbed living soils, eradicated miles of wild blackberry bushes whose flowering blossoms attracted honeybees and other pollinators each summer; so vital in our farming community. Now the absence of blackberries and fruit from the trees will deprive insects, bees, rodents, a wide range of bird species, including bird of prey and small mammals of a formerly reliable food source, forever. ***By Mr. Prenguber's, own definition, this decimated ROW wildlife habitat should be considered a Functioning Natural System, a Natural Resource, as it was "not managed nor required human intervention."***

These creatures know no boundaries, or who owns, or control which lands. For generations they crossed back and forth, across our property and Dodge Park Blvd. to the Row habitat and onto the PWB and other neighboring properties. These properties are all a part of the Sandy River Bluff Wildlife Migration Corridor, used by large herds of elk, deer, bear, coyotes, foxes to name a few. Since PWB began construction on the Water Treatment Plant, these animals have not been seen. PWB constructed tall barbed wire privacy fencing that prevents animals from traversing the lands that once provided habitat, food and protective cover.

This spring, while tilling cover crop on our property, we encounter an unprecedented infestation of ground rodents, likely voles, evidenced by thousand of holes across the field and yard. We had never encounter anything of this degree before. Days later while digging last years Dahlia tubers I found they had been hollowed out, eaten by rodents. This dramatic increase in rodent activity directly correlates with the loss of the ROW trees habitat for owls, hawks, falcons, eagles, and vultures essential for controlling these populations. These are interconnected systems this demonstrates how the destruction of soils, plants, trees, habitat and wildlife can change not just the predator-prey cycle but, how one part of the food chain adversely affects the entire ecosystem and many Natural Resources. This is not just confined to the PWB property but can affect farming practices and livability of an entire community.

Multnomah County's Staff Report on Remand, page 8, would have the Hearings Officer consider, "use, as proposed to be operated . . . not whether the construction of the use will adversely affect natural resources." How is this possible when the damage done to our natural resources are irreversible? It seems like an oxymoron to allow for the decimation of 94-acres of productive farmland, the removal of untold volumes of irreplaceable top and subsoils, the cutting of 433 trees and hedge ROW habitat, cessation of untold generations of wildlife migration habits, and other Natural Resources adversely affected, if not forever destroyed?

The adverse actions affecting these Functioning Natural System Resources are by nature, irreplaceable and unmitigable by Portland Water Bureau or any human efforts.

Thank you for providing these comments in the record for your consideration.

Respectfully, Cindy Bennington











LUP Hearings <lup-hearings@multco.us>

PWB Remand Rebuttal Submission T2-2022-16220 - 2 of 2

Cindy Bennington <emailoregon@yahoo.com>

Mon, May 19, 2025 at 10:35 AM

To: LUP Hearings <lup-hearings@multco.us>, Lisa Estrin <lisa.m.estrin@multco.us>

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(Please add these photos and description to submission 1 of 2) Thank you, Cindy Bennington

Two Dodge Park Blvd. photos

Photo with clouds is facing West and shows the after PWB clear-cut of the ROW trees and the barrier fence constructed on the ROW and above on PWB's, 2-acre property. Our property is to the North.

The treed photo is the "ROW before view" taken from our driveway looking east.

2 attachments

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