

To: Hearing Officer
From: Charles Ciecko
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Subject: Testimony Responding to Ex. S.32, "Response to Upland Habitat
Comments for First Open Record Period" May 5, 2025 LUBA
Remand, Case T-3 2022-16220
Date: May 18, 2025

This testimony responds to specific comments made within Ex.S.32 on
pg.13 and attached Exhibit 4

Page 13 of Ex.S.32 states:

"Examples of successful habitat enhancement and restoration work
installed and managed on an ongoing basis by the PWB Resource
Protection and Planning Group is attached as Exhibit 4."

Response

The examples of "successful habitat enhancement and restoration work"
cited in " Exhibit 4: PWB Resource Protection Projects" were **regulatory
requirements** related to adverse impacts to natural resources created by
past PWB projects. Cited examples include:

- A. "Sandy Basin Watershed: Riparian Conservation Easement Program":
This is just a portion of the "Bull Run Water Supply Habitat
Conservation Plan"(HCP), (adopted in October. 2008). This HCP is a
50 year program required by the Federal Government to offset/partially
mitigate the negative impacts to Sandy River Basin federally listed
anadromous fish and violations of the Federal Clean Water Act. In
essence, the HCP acknowledges the negative impacts to natural
resources related to the construction and operation of PWB's water
storage and withdrawal facilities in the Bull Run Watershed.
Compliance with the HCP provides PWB with an "incidental take
permit" from the federal government.
- B. Bull Run Dam 2 Tower Improvement, 2014: This construction project
required the removal of "over 100 Douglas Fir" trees, The project
highlighted was a requirement. As noted, the replacement trees are

now established and said to be 25 ft. tall. Review of the included photo demonstrates that even after 11 years, the replacement trees do not remotely resemble the habitat of the mature Douglas Fir in the background.



Figure 3- Staging area after site restoration in 2025, plantings 25-35 feet high

- C. Kelly Butte: Habitat Enhancement, 2015: This “enhancement” was also a regulatory requirement to offset/mitigate the adverse impacts to natural resources caused by PWB’s construction of a 25 million gallon underground reservoir. Even after 10 years, the planted oak and pines are only 15-20 ft. tall, nothing close to a mature canopy tree.



Figure 4- Plants installed at Kelly Butte in 2015 are now 15-20 feet in height. Ponderosa pine (above)

- D. Powell Butte Reservoir 2: Habitat Enhancement (2011): This project required the cutting of 120 trees to build a 50 million gallon underground reservoir. The highlighted “resource protection” project was a regulatory requirement to offset/mitigate the adverse impacts to natural resources resulting from the reservoir construction. The included photo shows “oak trees planted in 2012” (13 years ago) that are still the size of saplings.



Figure 5 - Oak trees planted at Powell Butte in 2012 are now 10-20' in height

Summary

- PWB operations and construction projects have a long history of significant adverse impacts to natural resources.
- PWB “Resource Protection Projects” have always been the result of regulatory requirements.
- PWB’s cited examples graphically document the lengthy period (decades+) required to mitigate the damage done by their projects.
- MCC.39.7515(2) unequivocally requires a finding of “no adverse impacts to natural resources”. There is no allowance for “mitigation”.



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Remand Testimony T-3 2022 16220

1 message

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Sun, May 18, 2025 at 8:42 AM



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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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