

May 23, 2025

VIA EMAIL

Multnomah County Hearings Officer
1600 SE 190th Ave
Portland, OR 97233
LUP-Comments@multco.us

Re: Portland Water Bureau Filtration Facility and Pipelines
County Case File T3-2022-1622
Response to Second Open Record Objection

Hearings Officer Fancher:

This letter responds to Portland Water Bureau's (PWB) objections to the Second Open Record Period Submittals on behalf of the Cottrell Community Planning Organization. The hearings officer's instructions for the second open record period asked that the responses be directed to evidence submitted during the first open record period between April 16 and May 8.

First, PWB's objection raises a number of concerns relating to relevance or attribution that have nothing to do with whether the submittals complied with the hearings officer's limitations on the submittal of new evidence. These are not valid objections at this stage and should not be considered further.

Regarding air quality and greenhouse gas concerns, Ms. Courter's testimony is responsive to mischaracterizations made plain by the ESA testimony at S.35, submitted within the first open record period, that takes a global rather than a localized look at carbon impacts. Further, the highlighted portion of Ms. Courter's testimony do not set forth any new facts so this objection is not well taken.

Regarding Mr. Smith's testimony, each objectional provision is taken in turn:

Mr. Smith's response at page 2, relates to the question of the adequacy of mitigation. This is directly responsive to the PWB's project changes to increase the mitigation planting areas to include two residential lots along with an attempt to replant the Dodge Park hedgerow. S.32. Whether this mitigation planting will be successful and how long it will take to provide the same

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level of natural resource protections is directly relevant and responsive to that additional mitigation.

Mr. Smith's testimony at page 4 through page 6 responds to the species selected for representative study that is directly responsive to the following assertion by ESA in S.32, p 43:

"Species that have been observed in the project area by City of Portland staff and their consultants and included in the HEP analysis in the Habitat Analysis are: red-tailed hawk, white-crowned sparrow, downy woodpecker and red-legged frog. The white-crowned sparrow was selected to represent grassland bird species that are adapted to patchy habitats like agricultural fields, pastures, thickets, park-like areas and shrub/scrubland. Elk was included in the HEP analysis because of observations by PWB staff in the area and reports from neighbors."

At page 28 of this same report, ESA asserts:

"Bumble bee habitat will be provided at the filtration facility site post construction. The western bumblebee was one of the focal species of the habitat evaluation analysis which showed an improvement in habitat value for this declining species post construction."

Mr. Smith is certainly entitled to respond to this testimony by explaining why reliance on focal species and the downy woodpecker, the white crowned sparrow and the western bumble bee is incorrect.

For these reasons, PWB's objections should be denied.

Very truly yours,



Carrie A. Richter

CAR:kms

cc: Client
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Response to Objection T3-2022-1662

Carrie Richter <crichter@batemanseidel.com>

Fri, May 23, 2025 at 9:26 AM

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



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Attached please find Cottrell CPO's response to the record material objection. Please confirm receipt and that it will be presented to the hearings officer for consideration.

Thank you,

Carrie

Carrie Richter

Bateman◇Seidel

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