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June 3, 2025

VIA: Email to LUP-Hearings@multco.us

Ms. Liz Fancher
Hearings Officer for Multnomah County
Land Use Planning
1600 SE 190th Avenue
Portland OR 97233-5910

Re: Applicant's Proposed Findings & Final Legal Argument – #T3-2022-16220

Ms. Fancher,

This letter provides proposed findings on behalf of the applicant, the Portland Water Bureau (variously referred to as “**PWB**,” the “**Water Bureau**,” or “**applicant**”).

As you know, the sole approval criterion at issue in this remand proceeding is Multnomah County Code (“**MCC**”) 39.7515(B). The enclosed proposed findings show that the Project “will not adversely affect natural resources.” Fundamentally, while there are nuances to the meanings of each of those six words, the Project has been carefully designed to have few externalities that could impact natural resources or the surrounding community. The design of the Filtration Facility itself – occupying only a portion of the site on Carpenter Lane – includes quiet operations, wide, densely vegetated buffers of 130 feet or more from neighboring properties and from Carpenter Lane, and lighting that exceeds Dark Sky standards and that will not create light that extends beyond the boundary of the site. The total Filtration Facility area inside the fence line (where the water filtration will occur) will be approximately 37 acres, including approximately 23 acres of landscaped area and stormwater facilities, including an ecoroof.

Importantly, outside of the Filtration Facility fence, the balance of the site will be dedicated almost entirely to habitat. In contrast to the 37 acres inside the fence line, 47 acres of habitat will be planted on the Filtration Facility site outside the fence, with a variety of types of habitat, including oak woodland, wooded/shrubby buffer, grassland, upland forest, and riparian forest. And that is just on the Filtration Facility site. The Project also notably includes removal of an earthen dam (and the heat sink pond it creates) and establishment of a natural stream channel in Johnson Creek just downstream of the Filtration Facility site. The restoration of the stream and surrounding riparian habitat will reduce temperatures in the creek, remove a complete fish passage barrier, reduce erosion and sedimentation in the stream, and provide an overall increase in the amount and quality of available habitat needed for aquatic species to forage, grow, and reproduce.

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Applicant's Proposed Findings -- #T3-2022-16220

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Cover Letter from Applicant

Even when making conservative assumptions, such as assigning high habitat value to designated right of way areas where trees were removed for construction of the pipelines and overvaluing the habitat quality of environmentally impacted agricultural fields of the pre-development use, detailed expert analyses in the record show that the Project will dramatically increase and improve the quality and quantity of both upland and aquatic habitat and benefit other natural resources in the area.

Overall, this Project will have a positive impact on natural resources. It cannot simultaneously be found to adversely affect those same natural resources.

Although unrelated to compliance with MCC 39.7515(B), we note that the impact of this Project on our state cannot be overstated. At the core of this application is a commitment to public health and the provision of clean water to a quarter of the state's population – a million people that depend on the Bull Run supply every day. Exhibit D.17 (Oregon Health Authority). If the schedule is delayed, Portland Water Bureau will no longer be able to provide Bull Run Water without issuing a boil water order, which will have massive economic effects on the state. The City of Sandy and the seven other wholesale water districts in this area are also depending on this project to protect the populations they serve from *Cryptosporidium* as well as landslides, algae blooms, large storms, volcanic events, and fires in the watershed. Exhibit A.2, pages 1-3. As explained by the Public Works Director of the City of Sandy, "[t]he impact of not having safe water for the community and economy of the region is enormous. It is critical for the public and economic welfare of the community to build this once-in-a-generation project as quickly as possible." Exhibit E.23 (Sandy Public Works).

For this reason, the applicant **asks that the Hearings Officer apply conditions of approval as believed are needed to support findings that MCC 39.7515(B) is met.** See MCC 39.7510 ("The approval authority may attach conditions and restrictions to any community service use approved."). Where relevant, conditions of approval from the prior 2023 proceedings, proposed by staff, or proposed by the applicant have been called out with an *italicized, dark green font* in the attached proposed findings.

As requested by the Hearings Officer at the public hearing, we have attempted to provide detailed proposed findings in the document that follows. The document contains a high level of quotation, rather than summary, of evidence in the record. While quotation rather than summary can be cumbersome, we wanted to provide clear references to particular evidence in the record and, in particular, use the words experts used by providing their testimony verbatim. While it may not appear this way based on the length of the proposed findings, we have tried to gather, distil, and organize the key facts and analysis in the 4,000+ page remand record (and the 8,000-page 2023 record) into an organized set of findings with a clear reference to the record for each fact.

The vast majority of the attached document is written as proposed findings. Where additional information or argument may aid the Hearings Officer, but is not necessarily appropriate for incorporation into findings, we have set that information off from the proposed findings in a light blue call out box, like this one.

Applicant's Proposed Findings -- #T3-2022-16220

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Cover Letter from Applicant

We realize that this document is lengthy, and the public testimony in the casefile is voluminous.¹ We have attempted to thoroughly organize our proposed findings with headings and subheadings to provide some structure to the analysis and to provide ease of navigation (in the Word document, the headings can be used in the Navigation pane, which can be accessed by pressing Ctrl+F, or by selecting the View tab and choose Navigation Pane). A detailed, linked table of contents for this purpose is also included on the first pages of the proposed findings document.

The Water Bureau requests that the Hearings Officer re-approve the applications. Thank you for your time and attention to this matter.

Respectfully Submitted,



RADLER WHITE PARKS & ALEXANDER

¹ We note that the Hearings Officer has not issued a ruling on the applicant's objections in Exhibit V.1. In the absence of a ruling, and in an abundance of caution, we have addressed the contested portions of the record in the proposed findings. This should not be construed as a withdrawal of the objections raised in Exhibit V.1, which we continue to respectfully preserve and request be ruled upon. Our inclusion of these materials is solely intended to ensure that our proposed findings are complete and appropriately responsive given the current procedural posture.



Lisa Estrin <lisa.m.estrin@multco.us>

Applicant's Final Remand Submission -- T3-2022-16220

1 message

Zoe Powers <zpowers@radlerwhite.com>

Tue, Jun 3, 2025 at 11:46 AM

To: "lup-hearings@multco.us" <lup-hearings@multco.us>

Cc: Lisa Estrin <lisa.m.estrin@multco.us>, Renee France <rfrance@radlerwhite.com>, "Peters, David" <David.Peters@portlandoregon.gov>, Zoe Powers <zpowers@radlerwhite.com>

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

Multnomah County Staff,

At this link, please find the applicant's final submissions into the record for T3-2022-16220 on remand:

<https://radlerwhite.sharefile.com/d-sf05e65292a9e47d08d68bfe4443c5b38>

Thank you for your time and attention to this matter, today and over the last few months,

Zoe Lynn Powers

Partner



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