



Oregon Department of Environmental Quality

Response to Comments on the Proposed Beneficial Use Approval for the Portland Water Bureau to reuse soil contaminated with pesticides

The Oregon Department of Environmental Quality requested public comment on the proposed approval of two beneficial use requests from the Portland Water Bureau. DEQ initiated a public comment period on April 16, 2024, for reuse of soil contaminated with low levels of pesticides at the water filtration plant site and pipeline for non-residential construction fill. After receiving requests for more time to review the proposal and requesting that more community members be informed of the proposed beneficial use, DEQ extended the public comment period two times until August 8, 2024, at 5 pm. In addition, DEQ participated in a community sponsored public information meeting on June 11, 2024, to present information about the proposed beneficial use determination and answer questions. Information on this project can be found on DEQ's website on the [Bull Run Water Filtration Project](#) page.

Summary

DEQ proposes to issue two beneficial use determinations, which would allow Portland Water Bureau to reuse slightly contaminated soils removed from the construction area for the Bull Run water pipeline and the water filtration facility construction project.

About the water filtration facility and the pipeline projects

Portland Water Bureau proposes to construct a water carrying pipeline and a water filtration facility in east Multnomah County in the Gresham area. The projects will disturb soil contaminated with low levels of pesticides, and the City originally proposed to reuse the soils removed from the surface of the construction area as non-residential construction fill materials adjacent to the development of the water supply filtration facility and water pipeline. The slightly contaminated soils are impacted by historical chlorinated pesticide use. The concentrations of pesticides exceed clean fill criteria and DEQ Eco Risk standards for ground feeding birds and mammals but are below levels of concern for occupational workers and construction workers. Arsenic was identified at concentrations that are below ambient background levels. The soils that are more than 1.5 feet below the surface meet clean fill criteria and are not regulated by DEQ as solid waste. Soils from the pipeline were originally estimated to be about 19,000 cubic yards and soils from the water filtration facility were originally estimated to be about 116,000 cubic yards. During the public comment period, the PWB requested that DEQ add two additional proposed beneficial uses and also provided more accurate soil quantities.

The PWB originally proposed to reuse contaminated surface soils from the water pipeline for the following purposes:

Translation or other formats

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1. Filling in trenches
2. Reconstructing shoulder surfaces adjacent to roadways
3. Replacing as topsoil as part of trench restoration of a farm field adjacent to the pipeline per property owner request between Dodge Park Blvd and Lusted Road
4. Placement at Filtration Facility site in accordance with that Beneficial Use Determination

The Portland Water Bureau originally proposed to reuse soil from construction of the water filtration facility on site for construction fill.

DEQ reviewed the sampling data and analysis that was completed as well as the proposed uses. The request meets the beneficial use criteria in Oregon Administrative Rule 340-093-0260-0290 for a Tier 2 beneficial use application and DEQ proposes to approve the requested uses.

During the public comment period, DEQ received a solid waste letter authorization application from Ted Sester to request that 127,000 cubic yards of the PWB soil be deposited at the Sester Farm location that is an approximately 29-acre property in Damascus identified as Clackamas County Parcel No. 00603617, Map and Tax Lot 2S3E03 03302. The request identified that the soil would be used to develop the land for farm use by T & K Sester Family, LLC. The SWLA application requested receipt of all of the soil from the PWB project to be blended with existing topsoil so that the land could be used to grow grasses and other agricultural crops. DEQ evaluated the request which would have made the farm a disposal site and suggested that a better approach would be for the Portland Water Bureau to request that this use be added to the proposed beneficial use request. The PWB submitted a request during the public comment period to add this proposed beneficial use as well as a request to take the soil to a DOGAMI reclamation site as additional options for beneficial use of the soil. The PWB also clarified that the quantities of soil are larger than originally noted in the application: the total from the pipeline is approximately 32,000 cubic yards and the total on the water filtration property is approximately 160,000 cubic yards.

Comments received and DEQ responses

During the comment period DEQ received comments from 38 commenters. Comments are attached to this Response to Comments as Attachment 1. DEQ has summarized the comments below with DEQ's responses.

Comment 1:

The Portland Water Bureau requests to amend the Beneficial Use Determinations (BUDs) to include potential offsite transport of shallow soil (upper 18 inches) that has been generated from grading and excavation activities related to the construction of the filtration facility and its associated pipelines. The material that would be transported offsite is described in Section 1.0 of the Beneficial Use Determination. This modification would amend Section 2.0 "Description of Proposed Use" in the Beneficial Use Determination application to add an option of offsite transport to a Clackamas County agricultural property, as well as

possible placement in the vicinity of Department of Geology and Mineral Industries (DOGAMI) reclamation projects, where regulatory requirements can be met.

An approximate 29-acre property in Damascus identified as Clackamas County Parcel No. 00603617, Map and Tax Lot 2S3E03 03302, being developed for farm use by T & K Sester Family, LLC, is provided as an additional beneficial use. Low-level pesticide impacted soils from the filtration facility project would be used to amend existing virgin topsoil at this farm property for the cultivation of rotation crops of grass seed and nursery stock. Low-level pesticide impacted soils will be placed according to a Topsoil Placement Plan in such a way that they are above the highest ground water level and will be disced or tilled in with the virgin topsoil. Residual pesticide concentrations will be lower in the blended soils, given that organochlorine pesticides and chlorinated herbicides were all non-detect, and metals were below background in the upper 1.5-ft of soil at the subject parcel. There is no unacceptable ecological exposure given that the subject property is being cultivated for active farm use. Additionally, the property is zoned solely for agricultural use and cannot be redeveloped in the future for residential use. Low-level pesticide impacted soil will be managed according to a Contaminated Media Management Plan. Following approval of this revision and development of a disposal agreement with the property owner, Portland Water Bureau would work with Clackamas County to coordinate and plan transportation routes to/from the site.

In addition to Clackamas County Parcel No. 00603617, the Portland Water Bureau is requesting to amend the BUDs to include placement of material at vicinity DOGAMI reclamation projects. As a stipulation to placement at DOGAMI sites, written concurrence for the specific sites from both DEQ and DOGAMI would be necessary to ensure that the soil proposed for placement is consistent with the site's DOGAMI Imported Fill Plan, as well as the capping requirements of the BUDs.

Lastly, The Portland Water Bureau is updating the estimated quantity of material, as outlined in Section 1.0 of the Filtration Facility and Pipeline BUDs. The Filtration Facility BUD total estimated quantity of approximately 110,000 cubic yards is revised to approximately 160,000 cubic yards, to align with more accurate estimates following the completion of grading activities and additional planned excavation in tax lot 100 for the tunnel shaft/raw water pipeline installations. The pipeline BUD estimated quantity of shallow soil (upper 18 inches) generated during construction is also revised from approximately 19,000 cubic yards to approximately 32,000 cubic yards. (Peters)

DEQ Response:

Thank you for the clarification on quantities of soil to be managed through the beneficial use process. DEQ agrees that the two additional proposed beneficial uses can be added to the beneficial use approval with conditions. For the soil to go to the farm to be blended with topsoil, the condition will require an ecological assessment that verifies that the blended soil will not impact mammals or birds that may come into contact with the blended soil. For the soil to go to a DOGAMI permitted reclamation site, DOGAMI will need to approve the soil disposition through a DOGAMI approved reclamation plan for the site. PWB will need to comply with local transportation requirements.

Comment 2:

DEQ has consistently described the soils on the site as “slightly contaminated”. However, there has never been an explanation provided for why a "Tier 2" application for the BUD was required by DEQ. As noted above Tier 2 applications are required when the solid waste “contains hazardous substances significantly exceeding” concentrations in a comparable raw material. As noted by Lauren Courter, PhD toxicologist, levels of DDE and Dieldrin are 5x greater than levels deemed safe. (Ciecko, Belson, Culver, Willis)

DEQ Response:

A Tier 2 case specific beneficial use determination is required if one of the following criteria are met: the solid waste contains hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product or involves application on the land. DEQ identified the application on land as the criteria that requires a Tier 2 beneficial use approval for this soil. See [OAR 340-093-0290\(2\)](#). The contaminant concentrations are only slightly over clean fill screening criteria. The BUD for PWB is required because the soil is not clean fill and is being used as soil on the land.

Comment 3:

Commenter states that the applicant did not submit sufficient evidence to demonstrate compliance with [OAR 340-093-0280\(1\)](#) which states “The applicant has characterized the solid waste and use sufficiently to demonstrate compliance with this rule.” Commenter states that the applicant acknowledged that soil sampling was not conducted along the raw water pipeline route from the shaft to the filtration plant site. Instead applicant assumes the contaminants to include the same pesticides and heavy metals as the portion of the filtration site that was tested. Commenter states that assumptions of the applicant should not be accepted as sufficient characterization of contaminated soils. (Ciecko, Willis)

DEQ's Response:

The application followed DEQ recommended sampling protocols for phase 1 and phase 2 assessment of soil. The analysis uses an acceptable evaluation method of assuming the soil is contaminated with similar levels of contaminants throughout the top 1.5 feet of soil. DEQ reviewed the application and agrees that there was sufficient sampling conducted to evaluate and assess the soil. The soil is not considered clean fill. The applicant applied for a beneficial use of the soil. The proposed beneficial use conditions of approval for how the soil is stored and managed will be protective of people and the environment.

Comment 4:

A question posed at the June 11, 2024, meeting, but never answered by DEQ suggested that the "0-0.5' is the common interval" for this type of sampling. The concern voiced was/is that if contamination is concentrated in the top 6 inches, a diluting effect would be expected when mixed with soils from 0.5'-1.5'. Applicant should be required to submit evidence that shows contaminated soils in the 0-0.5' depth are comparable with samples from the 0-1.5' depth. (Ciecko, Willis)

DEQ Response:

Prior sampling indicated that one or more contaminants of concern were present within the 0-1.5' interval. Due to the homogenous nature of agricultural soils and consistent farming practices that occurred throughout the entire facility site, low levels of pesticides can be expected within the upper 1.5 feet of soil that will exceed clean fill criteria, given the surface application of pesticides and low mobility of the chemicals. Similar concentrations of pesticides were measured in the 2020 AAI Phase II Environmental Site Assessment 0-0.5' composite sample. DEQ considers the sample results and evaluation to be conservatively representative of site conditions.

Comment 5:

Commenter questions whether the beneficial use application and DEQ's review of the application meet the requirements for DEQ to approve a beneficial use in [OAR 340-093-0280](#)(3)(a). Specifically, commenter notes these concerns:

"OAR 340-093-0280(3) The use will not create an adverse impact to public health, safety, welfare, or the environment, including:

(a) The material is not a hazardous waste under ORS [466.005](#);"

**ORS 466.005 includes the following in the description of "hazardous waste"
"Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi,**

weeds, rodents or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.”

Clearly, pesticide contaminated soils are included in the definition of “hazardous waste”. Applicant has failed to submit evidence that the contamination levels are not a "hazardous waste" especially in regards to “ecological receptors” and in particular aquatic species known to inhabit Johnson Creek or other sensitive species known to use habitat or forage in areas immediately adjacent to project sites. Applicant has never completed an inventory to determine what species may be “ecological receptors”. (Ciecko, Willis)

DEQ Response:

Soil that was treated with a pesticide is not a pesticide residue and is not hazardous waste, see [OAR 340-0100-0010](#). DEQ regulates soil treated with pesticides through DEQ’s solid waste and cleanup programs. DEQ analysis of the sampling provided for the soil did not identify the presence of hazardous waste, either listed or characteristic.

DEQ defines clean fill in rule and has [guidance on what screening values](#) to use to evaluate soil. DEQ evaluates contamination levels based on the concentrations identified through sampling and comparing the chemical concentrations against risk-based screening values and exposure risks. The concentrations of chemicals in the soil for these two projects are higher than clean fill screening values for a few contaminants but are still very low, which is why DEQ refers to these contaminant levels as slightly contaminated. DEQ is requiring PWB to meet specific conditions to store and manage the soil to protect people and animals. There will not be human health or ecological impacts due to the very low concentrations of contaminants and required protective measures of managing the soil.

DEQ’s clean fill screening levels are based on the lowest risk-based concentrations, or RBCs, for human health and ecological effects. DEQ uses these values from data prepared by EPA and the Oak Ridge National Laboratory. Often the ecological screening values used are lower concentrations than those used for human health evaluation. DEQ uses the lowest of those values as the clean fill screening values. In developing RBCs, ecological effects are evaluated for plants, invertebrates, birds, and mammals. Both threatened and endangered species and non-threatened and endangered species are considered. Threatened and endangered values are the most conservative values used. By screening using the lowest value of all RBCs, and not just those for scenarios relevant to the site, all ecological exposure scenarios will be protected.

PWB used ecological screening values to compare sample results against rather than conducting detailed ecological studies. DEQ compared the sample concentration values against the very conservative RBCs and background screening values. Background screening values are the concentrations that are naturally occurring in the area. DEQ evaluated the sample data and proposed storage and best management practices and considered the proposed management and use of the soil to be sufficient to prevent ecological and human health impacts. DEQ did not ask for and does not consider that additional ecological studies are needed based on the proposed management and

use of the soil, as well as the conditions in the proposed beneficial use approval and the erosion control management plan for soils used along the pipeline or at the water filtration plant. For soils that may be beneficially used at the Sester Farm in Clackamas County, DEQ is requiring that an ecological risk assessment be done to verify that there will not be an ecological risk for how the soil is blended and used as topsoil for crop production.

Comment 6:

Commenter does not consider that the applicant has met the criteria of [OAR 340-093-0280\(3\)\(b\)](#) which states that “Until the time a material is used according to a beneficial use determination, the material must be managed, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions;”

Applicant has already demonstrated unwillingness and/or ability to manage/store contaminated soils in a manner that prevents releases to the environment and nuisance conditions. Dust has routinely been deposited on surrounding private properties creating nuisance conditions and potential for contact with ecological receptors. (Ciecko, Willis, Riehl, Schmutz)

DEQ response:

DEQ’s stormwater program and cleanup staff have evaluated the criteria that PWB is using to manage the soil stockpiles on site and have responded to dust complaints. The beneficial use approval will require that the soil be covered and if removed for transport to another location that trucks are tarped, and wheels washed to prevent dust offsite.

Best management practices, or BMPs, are to be employed for soil erosion control. Onsite soil stockpiles will have a trench drain around the base for stormwater control. Watering will occur for controlling wind-blown dust from the truck-routes. Also, the site will have a rocked construction entrance and wheel wash that will prevent soil being tracked offsite onto the roadway. Silt fencing is being installed around the perimeter of the site. Additional site-specific BMPs will be used, including straw wattles placed along the roadway/pipeline alignment work locations, as well as catch basin inserts and bio-bags installed to protect the storm drains. During construction, DEQ’s stormwater group routinely inspects active construction sites to ensure compliance with the BMPs.

Comment 7:

Commenter does not consider that [OAR 340-093-0280\(3\)\(c\)](#) which says “Hazardous substances in the material meet one of the criteria in this subsection,

(A) Do not significantly exceed the concentration in a comparable raw material or commercial product;”

As previously noted, concentrations of DDE and Dieldrin exceed clean fill standards by up to 5x. Concentrations of DDT are well in excess of clean fill standards as well. Several heavy metals (including lead) also exceed clean fill standards. Additionally, DEQ’s requirement for a Tier 2 application indicates subject soil "contains hazardous substances significantly exceeding the concentration in a comparable raw....".

(B) Do not exceed naturally occurring background concentrations; These contaminants are not naturally occurring.

(C) Will not exceed acceptable risk levels, including evaluation of persistence and potential bioaccumulation, when the material is managed according to a beneficial use determination;”

Identified contaminants are extremely persistent as evidenced by the fact they were banned in the mid-1970s and even after 50 years they persist in the soil in significant concentrations. These contaminants are notorious for bio-accumulation and were responsible for massive declines in a variety of raptors and, ultimately, listing of the Bald Eagle as an endangered species. The subject material cannot be safely managed while stored for 4-7 years or spread along rural road ROWs which will result in an ongoing and unmitigated exposure for a variety of ecological receptors that applicant has failed to even inventory or acknowledge.

(D) The use will not result in the increase of a hazardous substance in a sensitive environment;”

Applicant has failed to demonstrate that storage of contaminated soils for 4 or more years or permanently spreading contaminated soils along rural road ROWs will not result in the increase of these substances in a sensitive environment. Any finding to the contrary is not supported by evidence that a reasonable person would rely on. (Ciecko, Willis)

DEQ Response:

The soil does not meet clean fill criteria which is why DEQ recommended PWB apply for a beneficial use approval to use the soil as non-residential fill. DEQ requires a tier 2 beneficial use evaluation when the proposed use is to be placed on land, in this case used as non-residential construction fill along the pipeline or on the water filtration site, or additionally proposed to be potentially used as reclamation fill at DOGAMI permitted reclamation sites or for soil amendment on a farm in Clackamas County.

DEQ was informed by PWB that some of the adjacent landowners to the pipeline have requested that topsoil be replaced on their properties because they consider the topsoil to be fertile. DEQ will require PWB to share sampling data on the soil being disturbed with property owners who can then decide if they would like the topsoil replaced. Once this project is complete and the soil is capped with clean fill, the water filtration property will not contain contaminants in the topsoil.

DEQ evaluates sample analysis and sample results but does not evaluate soil using a rating system. The soil either meets clean fill screening values or it does not. DEQ evaluates sample results against risk-based concentrations and considers the proposed use and exposure routes for humans and ecological receptors to determine if the soil can be reused with conditions that protect humans and the environment. Risk calculations are not performed for soil that is at or below background concentrations that naturally occur in the area.

DEQ addresses management of soil with concentrations greater than clean fill values by requiring that the soil be managed and used to prevent human and ecological exposures. The proposed use as construction fill is not a residential risk and concentrations of the contaminants in the soil are below concentrations of concern for occupational and construction workers when the required best management practices are followed. The proposed potential use as requested by PWB to allow the soil to be used as fill at a DOGAMI reclamation site or on the farm in Clackamas County will be used if DOGAMI approves the use as part of a DOGAMI reclamation fill plan and after an ecological risk evaluation if soil is requested to be sent to the farm to be blended with topsoil to grow crops.

The clean fill screening values identified in DEQ's clean fill guidance are intentionally conservative in that they are based on the lowest, most health protective risk-based concentrations for human health and ecological effects. DEQ uses these values from data prepared by EPA and the Oak Ridge National Laboratory, which you can find more information about by viewing the [DEQ webpage regarding risk](#) based decision-making as well as information provided on the Bull Run [project web page](#) on the DEQ website. If concentrations exceed the conservative risk-based screening values in the clean fill internal management directive, DEQ may ask for additional information to evaluate sample data collected, evaluate whether the sample results are representative of the soil sampled and evaluate options for managing the risks based on concentrations identified through sampling. The proposed BUD will require conditions to ensure the soil is managed protectively.

DEQ evaluated the sample protocols, the sample results, and the proposed beneficial uses of the soil in the PWB beneficial use application and reports. Sample concentrations and the comparison to DEQ's risk-based concentrations are posted on the DEQ [project web page](#). DEQ's conditions described in the [proposed beneficial use approval](#) will prevent human health and ecological impacts from use of the soil as construction fill.

The biggest concern for chemicals such as DDT, DDE, and dieldrin is that these chemicals persist in the local area's environment and concentrations can build up in the food web. Because of the persistence of these pesticides in the environment, DEQ will require that the soil be used and managed to prevent impacts to the environment and human health.

Comment 8:

Commenter questions whether the PWB beneficial use application meets the requirement of [OAR 340-093-0280\(3\)\(e\)](#) The use will not create objectionable odors, dust, unsightliness, fire, or other nuisance conditions;"

As noted previously in this testimony and documented in complaints filed with DEQ, applicant has routinely failed to manage contaminated soil dust as required by the 1200c permit, draft BUD approval and verbal reassurance provided at the public meeting held on June 11. (Ciecko, Willis)

Additionally, documented complaints (ongoing) about PWB's failure to cover massive piles of contaminated soil and prevent dust from leaving the project site have gone unacknowledged, investigated or acted upon. (Ciecko, Willis, Culver, Silton, Bennington, Kost, Skelton, Belson)

DEQ has not demonstrated effective, methods and adequate oversight to control how Portland must handle contaminated soil on- and off-site. PWB has already violated the conditions of their "proposed approval" by excavating and stockpiling banned, pesticide-contaminated soils. PWB did not notify or protect rural neighbors, wildlife & the environment from short/long-term adverse effects. (LJ McFarlane)

DEQ Response:

DEQ has investigated complaints about dust and worked with PWB to improve management of piles. DEQ's stormwater program and cleanup staff have evaluated the criteria that PWB is using to manage the soil stockpiles on site and have responded to dust complaints. The beneficial use approval will require that the soil be covered and if removed for transport to another location that trucks are tarped and wheels washed to prevent dust offsite.

Best management practices, or BMPs, are to be employed for soil erosion control. Onsite soil stockpiles will have a trench drain around the base for stormwater control. Watering will occur for controlling wind-blown dust from the truck-routes. Also, the site will have a rocked construction entrance and wheel wash that will prevent soil being tracked offsite onto the roadway. Silt fencing is being installed around the perimeter of the site. Additional site-specific BMPs will be used, including straw wattles placed along the roadway/pipeline alignment work locations, as well as catch basin inserts and bio-bags installed to protect the storm drains. During construction, DEQ's stormwater group routinely inspects active construction sites to ensure compliance with the BMPs. DEQ will address any violations through its [enforcement guidance](#).

Comment 9:

Dust is blowing onto our property from the soil stockpiles. If the soil is so contaminated why is the PWB allowed to store it on site. They have another option, to transport and dispose of it in a place designated for contaminated soils. Please deny storage of these soils at this site. (Kost)

If DEQ cannot inspect and enforce its directives and conditions, with its own personnel, DEQ must direct PWB to remove the contaminated dirt from the site by trucking it to an approved landfill. This option of site removal would then have minimal need for DEQ inspection and enforcement, and community members could readily see if the contaminated dirt piles were trucked offsite or not. Our community is depending on DEQ to have PWB remove this contaminated soil, which jeopardizes the health and safety of our community members, flora and fauna, fish and streams/creeks. (Willis)

Complaints are going unanswered. Dust is blowing onto adjacent private properties. DEQ acknowledges that DEQ is not able to routinely inspect the site for compliance but if violations are observed, the community can file a complaint. Why would DEQ expect compliance with any other requirements? Why would our rural community have trust that DEQ is committed to safeguarding residents or our environment? (Riehl, Kost, Schmautz, Belson, LJ McFarlane)

DEQ Response:

PWB has requested two additional beneficial uses to remove the soil from the site and take the soil to a DOGAMI permitted reclamation site or to a farm located in Clackamas County. DEQ will add these proposed uses to the beneficial use approval.

DEQ has investigated complaints about offsite dust and directed PWB and their contractors to manage the stockpiles to prevent offsite dust. The proposed beneficial use approval will require that the stockpiles be covered and managed to prevent offsite dust. DEQ will address any violations through its [enforcement guidance](#) which would involve the agency's Office of Compliance and Enforcement. Potential violations are evaluated on a case-by-case basis. If DEQ determines any violations occurred, DEQ could impose civil penalties in the form of fines or require corrective actions.

Comment 10:

Commenter stated concern for the many creatures that live in the wooded riparian area along Dodge Park Blvd. What happens when they ingest outlawed chemicals like DDE and Dieldrin dust, which has been found to be at

unacceptable levels at 5x greater than DEQ has deemed safe? There are 23-25 cherry trees, several wild plumb trees and blackberries bushes that border both sides of Dodge Park Blvd. We have 8 fruit trees and 200 feet of blackberries along our property line (and proposed pipeline route) along Dodge Park Blvd., across from the PWB plant property. We have deer eating apples. A bobcat carrying a squirrel assumably to feed cubs. These animals are probably drinking the water they find on the PWB property as well. (Bennington)

I have livestock. Will contamination transfer through my chickens into the eggs I eat? I have genuine concerns about my garden vegetables. The dust can be washed off but what about growing, does this affect my vegetables? (Schmautz)

DEQ Response:

The conservative screening values used are to evaluate whether the soil is clean fill or not. If soil concentrations are greater than clean fill screening values, then the soil is evaluated to identify whether it can be safely reused. People, plants and animals exposed to the soil for short term durations will not be expected to incur risks. Short-term deposition of dust to nearby land is not expected to result in unacceptable accumulation of chemicals in the soil. [Learn more by reading the exposure scenarios slide \(slide 10\) from the June 11, 2024 community meeting presentation](#). The screening levels used to evaluate contaminant concentrations include evaluating exposure for contact with soil through inhalation of soil dust in addition to dermal contact and incidental ingestion (the highest exposure route). DEQ also looked specifically at potential airborne chemical concentrations in dust generated from site soils and found the calculated risks to people to be below levels of concern.

Comment 11:

Construction of the filtration plant is estimated to last until late 2027. PWB has indicated that construction may take up to 5-7 years to complete. The assertion that construction in and of itself is an adequate mitigation for any potential ecological receptor exposure lacks evidence that should be required prior to a DEQ determination regarding the BUD application. The filtration plant site and the pipeline routes where the use is proposed are known to support a variety of raptors, migratory songbirds, and mammals that are potential “ecological receptors”. The assertion by PWB that rural road ROWs are not utilized by potential ecological receptors lacks supporting evidence. While anecdotal, anyone who uses these roads is well aware that these areas are frequent forage areas for a variety of wildlife. Severe weather events including wind and heavy rain have the capacity to move contaminated soils offsite to adjoining private properties and potentially into Johnson Cr. which is water quality limited and provides habitat for listed salmonids and other sensitive species. (Ciecko)

DEQ Response:

PWB used ecological screening values to compare sample results against rather than conducting detailed ecological studies. DEQ compared the sample concentration values against the very conservative RBCs and background screening values. Background screening values are the concentrations that are naturally occurring in the area. DEQ evaluated the sample data and proposed storage and best management practices and considered the proposed management and use of the soil to be sufficient to prevent ecological and human health impacts. The dieldrin concentration in one incremental sampling methodology, or ISM, sample exceeded leaching to groundwater potential. However, the average of ISM samples in the surface soils (see results for Sample No. DU-1) shows dieldrin below leaching potential concentrations. DEQ does not expect leaching or runoff from soil to impact water quality. The soil piles will be managed to prevent runoff and the contaminants currently in the topsoil are not very soluble. DEQ's evaluation screened against leaching to ground water scenarios and did not identify risk exposures. In addition, measures to prevent impacts to water quality include the required best management practices in the 1200CA NPDES water quality permit and conditions described in the beneficial use approval. Once this project is complete and the soil is capped with clean fill, the water filtration property will not contain contaminants in the topsoil.

Comment 12:

Commenter requests that no more work proceed on the proposed filtration site until the Land Use Board of Appeals decision is made on the land use appeal. It would be most appreciated by the residents of the Cottrell area on both sides of the County line. The contaminated soil issue is another concern that you have received many emails on. Those emails merit serious consideration now. (Shull)

DEQ Response:

PWB is conducting work at the site under the regulatory oversight of the 1200CA NPDES water quality permit which applies to construction related activities. DEQ evaluated the contaminant concentrations while reviewing the proposed beneficial use application. The proposed BUD includes conditions that address human health and environment. DEQ will conduct periodic inspections and respond to complaints that DEQ receives about this project. If land use is revoked by either the Land Use Board of Appeals or the local land use agency, which is Multnomah County in this matter, then DEQ will revoke the beneficial use approval and then PWB will need to manage the soil as regulated solid waste.

Comment 13:

PWB failed to disclose the contaminated soil in their lengthy land use application. Such disclosure would have further compromised their ability to meet one or more of the criteria required for land use approval of their industrial

**development on prime agricultural land adjacent to rural residential uses.
(Ciecko)**

PWB has not informed urban water customers, PDX City Council or advisory PUB that soils contained hazardous substances. PWB did not notify or protect rural neighbors, wildlife and the environment from short/long-term adverse effects. PWB assured the Portland Tribune that the contaminated soil was safe, without providing necessary, supporting scientific evidence. (LJ McFarlane)

Multnomah County's Hearing Officer approved PWB filtration plant application with conditions. PWB has disregarded many of the Officer's conditions to date and the CPO has complained about these violations to the MultCo Land Use Compliance Officer, who responds that it will forward the complaints to PWB, as they are understaffed to follow up on the complaints and implement correction action or penalties. (Willis)

DEQ Response:

DEQ does not have land use authority. The local agency with land use authority for the site is Multnomah County, so any questions about Multnomah County's land use approval, conditions of approval and documents it issued should be directed to Multnomah County. Any questions about PWB's land use application or its communications should be directed to the City of Portland.

Comment 14:

Please disclose where the soil will be going. (Bennington)

DEQ Response:

The proposed beneficial uses of the soil from the pipeline include filling excavated trenches, placing along the pipeline, using at the water filtration plant as construction fill and potentially sending the soil to a DOGAMI permitted reclamation site or to a Clackamas County farm.

Comment 15:

Please deny the beneficial use request for the Portland Water Bureau (Bowman, Prink, Poole, Willis, Wirth, Courter, Bennington, Riehl, Ayles, Volker, Schmautz, Cook, Wilson, Gale, Dillard, Adams, Diack, Shokey, Betsill, Woodward, Struever, Vogl, Bob, Ekstrom, Silton, Dahl, Skelton, LJ McFarlane, Ciecko, Courter, Kost, Bennington, Campbell, Brenda D)

DEQ Response:

DEQ considers the information and analysis provided to meet the conditions of the beneficial use rules and will issue the beneficial use approval including the additional options to send the soil to the farm in Clackamas County and to DOGAMI regulated reclamation sites. If an applicant meets state regulatory requirements, DEQ must approve the application.

Comment 16:

Oregon Trail Academy sits directly adjacent to the filtration site. With school starting in several weeks, what's going to happen to our children as the dust blows over them on the playground? Will the water they use to drink and prepare meals and wash their hands be safe for them to use? Why are these children and the surrounding community being put in unnecessary risk? (Prinks, Gale)

DEQ Response:

The concentrations of contaminants and exposure risks are below levels that pose risks to human health in short-term exposure scenarios such as children playing on a playground. The screening levels that DEQ uses to evaluate contaminant concentrations in the soil include evaluating risks of exposure for contact with soil through inhalation of soil dust in addition to dermal contact and incidental ingestion (the highest exposure route). DEQ also looked specifically at potential airborne chemical concentrations in dust generated from site soils and found the calculated risks to be below levels of concern.

DEQ does not expect leaching or runoff from soil to impact water quality. The soil piles will be managed to prevent dust and runoff and the contaminants currently in the topsoil are not in a soluble condition. DEQ's evaluation screened against leaching to ground water scenarios and did not identify risk exposures. In addition, measures to prevent impacts to water quality include the required best management practices in the 1200CA NPDES water quality permit and conditions described in the proposed beneficial use approval.

Comment 17:

PWB is disingenuous to suggest the proposed BUD's benefit this community or the environment or local roads. The infinitesimal savings that may be afforded by the proposed use is of no consequence to PWB rate payers.

I urge the DEQ to place the health and welfare of this rural community and the ecology of the local area as its highest priority, objectively apply your rigorous criteria and reject the BUDs for both the filtration plant site and pipeline routes.

From the PWB application, "Management of the material in the proposed manner provides a beneficial use in cost savings to the public related to transportation of this material to an alternative reuse site or landfill. Management in this manner will also reduce vehicle miles traveled, thereby reducing impacts to the environment, surrounding community and road network." Throughout the land use process, project opponents repeatedly raised issues related to construction traffic impacts on local roads, residents and emissions related to massive amounts of heavy truck trips, work force trips and non- highway heavy equipment. PWB's own construction traffic impact analysis estimated 308,000 heavy truck trips and 700,000 work force trips (these numbers are low due to approval conditions that require significant improvements to rural roads before and after the project. Currently, there are over 50 pieces of heavy equipment working on the site from 7:00am to 6:00pm, 6 days a week. Conservative estimates of concrete required for the filtration plant exceed 50,000 cu. yds.- all of which will be trucked in. (It is a well-known fact that concrete production is a significant source of greenhouse gas.) Yet when these issues were raised in the land use record, PWB argued that "construction impacts should not be considered". Furthermore, PWB has known about this contaminated soil since 2019, well before their land use application was ever filed with Multnomah County. However, the information related to the contaminated soils was never shared with either the County or this rural community. It is nothing less than disingenuous for the PWB to claim now that they are interested in "reducing impacts to the environment, surrounding community and road network." Regarding "cost savings to the public", it is noteworthy that PWB's original estimated cost for this mega-plant was \$350-500 million. The last estimate from about one year ago had ballooned to more than \$2.1 billion and undoubtedly that number has escalated as a result of the many conditions of approval. Any cost associated with handling contaminated soils in a responsible manner (i.e. disposal in an approved land fill) is infinitesimal in relation to the overall project cost and will have no impact on PWB ratepayers. (Ciecko)

DEQ Response:

DEQ understands from PWB that the soil is all stockpiled at the water filtration site. PWB has requested two additional beneficial uses that would remove the soil from the property to a DOGAMI permitted reclamation site or to a farm in Clackamas County. For the soil to be moved to another location for beneficial use or disposal, DEQ has informed Clackamas County transportation staff about potential truck traffic. PWB will need to make sure trucks removing the soil from the site are tarped and comply with local transportation requirements. Cost is not a factor in DEQ's beneficial use

evaluations. DEQ's rules do not require that an applicant submit budget information as part of the beneficial use evaluation.

Comment 18:

Storing the soil on site for up to 5 years invites unnecessary health risks. (Poole)

DEQ Response:

Soil stored on site will need to be stored according to the proposed beneficial use conditions as well as requirements outlined in the 1200-CA NPDES water quality permit and Erosion Sediment Control Plan, which are protective of human health, animals and the environment.

Comment 19:

The application isn't clear about how over 100,000 cubic feet of contaminated soil would be addressed. The volume of truck traffic and configuration of the trucks & trailers would be dramatically affected by an approval or denial of the permit. The question arises as to whether the hearings officer would have approved the application had it included a major change. I understand the DEQ is not directly responsible for transportation safety, however, public safety is a primary consideration for any long-term construction project. Please reconsider the preliminary approval and deny the application. (Poole)

DEQ Response:

DEQ does not have land use authority, so any questions about Multnomah County's land use approval and documents it issued should be directed to Multnomah County.

DEQ has contacted both Multnomah County and Clackamas County about possible transportation of the soil offsite. PWB will need to make sure trucks removing the soil from the site are tarped, use a wheel wash and comply with local transportation requirements.

Comment 20:

Based on the Portland Water Bureau's permit request to DEQ, they intend to spread this potentially toxic soil and bury it along the pipeline. This not only disrupts the soil at the jobsite but also spreads it county wide. The more the soil is moved around, the greater the risk of exposures, spills, and potential adverse events. This is not only harmful to our environment but poses unnecessary risk to our water sources, our community members, and their children. If I had a potentially hazardous spill on my property, I wouldn't spread it around or bury it

in order to remove it. I would be disposing of it properly to protect my family, my community, and my environment. If Portland Water Bureau wants to be a good neighbor, they should also be required to remove potential toxins appropriately and off site. (Skelton)

DEQ Response:

The level of contaminants found in the soil adjacent to and where the pipeline will be placed is similar to soil found along roadways as identified by sampling that ODOT has completed. The contaminant concentrations of pesticides on the water filtration site is similar to pesticide concentrations found in other areas that were previously used for agriculture and nursery practices. PWB has requested that DEQ approve reuse of the soil that would involve removing the soil from the water filtration site to a farm in Clackamas County that requested the soil from PWB. PWB has also asked that DEQ approve beneficial use of the soil as reclamation fill at DOGAMI permitted reclamation site. DEQ will add these options to the BUD approval.

Comment 21:

Acknowledgement of application (Oluwaleye, legalempowerment552)

DEQ Response:

DEQ acknowledges the comments received.

Contact

Ryan Lewis, Solid Waste Permit Engineer, ryan.lewis@deq.oregon.gov

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

Attachment 1 - Comments submitted to DEQ

Comments for Proposed Beneficial Use Determinations for Reuse of Soil for the Portland Water Bureau's Bull Run Water Filtration and Pipeline Project

Peters, David <David.Peters@portlandoregon.gov>

Wed 7/31/2024 1:37 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>
Cc:LEWIS Ryan * DEQ <Ryan.LEWIS@deq.oregon.gov>;OBRIEN Audrey * DEQ <Audrey.OBRIEN@deq.oregon.gov>;Holland, Jon <JRHolland@BrwnCald.com>;Nick Thornton <Nick.Thornton@pbsusa.com>;'Dennis Terzian' <Dennis.Terzian@pbsusa.com>;Fraleley, Robert <Robert.Fraleley@portlandoregon.gov>

📎 1 attachments (350 KB)

BUD Public Comment on PWB letterhead 20240730.pdf;

Please accept our comments regarding the proposed beneficial use determinations for the reuse of soil for the Portland Water Bureau's Bull Run Water Filtration and Pipeline Project. Thank you for the opportunity to comment.

David Peters, P.E.
 Engineering Manager | Engineering Services
 Portland Water Bureau
 M-Th | 7:00 – 5:00 | F | 7:00 – 12:00 |
Contact (503) 823-8462
david.peters@portlandoregon.gov | email preferred
<https://www.portland.gov/water/bullruntreatment/filtration>




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Traducción e Interpretación | Biên Dịch và Thông Dịch | अनुवादन तथा व्याख्या |
 口笔译服务 | Устный и письменный перевод | Turjumaad iyo Fasiraad |
 Письмовий і усний переклад | Traducere și interpretariat | Chiaku me
 Awewen Kapas | Translation and Interpretation: 311





Edward Campbell, Acting Director

1120 SW Fifth Avenue, Room 405
Portland, Oregon 97204-1926
Information: 503-823-7770
Portland.gov/water



Ryan Lewis, DEQ Project Manager
Solid Waste Permit Coordinator, Oregon DEQ
700 NE Multnomah St. Ste. 600
Portland, OR 97232
SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov

Subject: Public comment on the Proposed Beneficial Use Determinations for Reuse of Soil for the Portland Water Bureau's Bull Run Water Filtration Facility and Pipeline Project

Dear Ryan Lewis:

The Portland Water Bureau requests to amend the Beneficial Use Determinations (BUDs) to include potential offsite transport of shallow soil (upper 18 inches) that has been generated from grading and excavation activities related to the construction of the filtration facility and its associated pipelines. The material that would be transported offsite is described in Section 1.0 of the Beneficial Use Determination. This modification would amend *Section 2.0 "Description of Proposed Use"* in the Beneficial Use Determination application to add an option of offsite transport to a Clackamas County agricultural property, as well as possible placement in the vicinity of Department of Geology and Mineral Industries (DOGAMI) reclamation projects, where regulatory requirements can be met.

An approximate 29-acre property in Damascus identified as Clackamas County Parcel No. 00603617, Map and Tax Lot 2S3E03 03302, being developed for farm use by T & K Sester Family, LLC, is provided as an additional beneficial use. Low-level pesticide impacted soils from the filtration facility project would be used to amend existing virgin topsoil at this farm property for the cultivation of rotation crops of grass seed and nursery stock. Low-level pesticide impacted soils will be placed according to a Topsoil Placement Plan in such a way that they are above the highest ground water level and will be disced or tilled in with the virgin topsoil. Residual pesticide concentrations will be lower in the blended soils, given that organochlorine pesticides and chlorinated herbicides were all non-detect, and metals were below background in the upper 1.5-ft of soil at the subject parcel. There is no unacceptable ecological exposure given that the subject property is being cultivated for active farm use. Additionally, the property is zoned solely for agricultural use and cannot be redeveloped in the future for residential use. Low-level pesticide impacted soil will be managed according to a Contaminated Media Management Plan. Following approval of this revision and development of a disposal agreement with the property owner, Portland Water Bureau would work with Clackamas County to coordinate and plan transportation routes to/from the site.

In addition to Clackamas County Parcel No. 00603617, the Portland Water Bureau is requesting to amend the BUDs to include placement of material at vicinity DOGAMI reclamation projects. As a stipulation to placement at DOGAMI sites, written concurrence for the specific sites from both DEQ and DOGAMI would be necessary to ensure that the soil proposed for placement is consistent with the site's DOGAMI Imported Fill Plan, as well as the capping requirements of the BUDs.

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Turjumaad iyo Fasiraad | Письмовий і усний переклад | Traducere și interpretariat | Chiaku me Awewen Kapas
Translation and Interpretation: 503-823-4000 (311), Relay: 711, or 503-823-7770 | portland.gov/water/access

Lastly, The Portland Water Bureau is updating the estimated quantity of material, as outlined in Section 1.0 of the Filtration Facility and Pipeline BUDs. The Filtration Facility BUD total estimated quantity of approximately 110,000 cubic yards is revised to approximately 160,000 cubic yards, to align with more accurate estimates following the completion of grading activities and additional planned excavation in tax lot 100 for the tunnel shaft/raw water pipeline installations. The pipeline BUD estimated quantity of shallow soil (upper 18 inches) generated during construction is also revised from approximately 19,000 cubic yards to approximately 32,000 cubic yards.

Sincerely,

A handwritten signature in cursive script that reads "David Peters". The signature is written in black ink and is positioned above the typed name and title.


David Peters, P.E.
Portland Water Bureau, Bull Run Filtration Projects

Proposed Beneficial Use Determination-20240402 Portland Water Bureau/ BUD
20240418

Charles Ciecko <cciecko51@gmail.com>

Sun 7/21/2024 6:30 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>;OBRIEN
Audrey * DEQ <Audrey.OBRIEN@deq.oregon.gov>;LEWIS Ryan * DEQ <Ryan.LEWIS@deq.oregon.gov>

 1 attachments (150 KB)

Ciecko Testimony 72324.pdf;

Good Day,

Please find attached my written testimony regarding PWB's BUD applications 20240402 and 20240418. Please
acknowledge receipt.

Thank you.

TO: Solid Waste Permit Coordinator

cc: Audrey O'Brien, Mgr. NW Region Environmental Partnerships Section

Ryan Lewis, Solid Waste Engineer

FROM: Charles Ciecko

3630 SE Hosner Ter.

Gresham, Or. 97080

DATE: July 23, 2024

SUBJECT: Testimony in Opposition- Proposed Beneficial Use Determinations
20240402-PWB and BUD20240418-PWB

Thank you for the opportunity to submit this testimony in opposition to the Portland Water Bureau's proposal to store and use soils contaminated with DDT, DDE and Dieldrin at their proposed water filtration plant located in southeast Multnomah County and along proposed pipeline routes located in the ROWs of several rural county roads including SE Dodge Park Blvd.; SE Lusted Rd.; SE Altman Rd.; and SE Oxbow Dr.. The pesticides found in soil samples were banned in the mid-1970's due to significant negative impacts on the environment and excessive persistence in the soil.

This testimony addresses DEQ's criteria for approval of a Beneficial Use Determination (BUD), mis-representations made by the applicant in their submitted materials as well as shortcomings of the same materials.

1. Below are excerpts from the PWB's application form for a BUD:

"Tier 1: For a beneficial use of a solid waste that does not contain hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product and that will be used in a manufactured product;
Tier 2: For a beneficial use of a solid waste that contains hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product, or involves application on the land;
For a beneficial use of a solid waste that does not contain hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product and that will be used in a manufactured product;
For a beneficial use of a solid waste that contains hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product, or involves application on the land;"

DEQ has consistently described the soils on the site as "slightly contaminated". However, there has never been an explanation provided for why a "Tier 2" application for the BUD was required by DEQ. As noted above Tier 2 applications are required when the solid waste "contains hazardous substances significantly exceeding" concentrations in a comparable raw material. As noted by Lauren Courter, phd toxicologist, levels of DDE and Dieldrin are 5x greater than levels deemed safe.

"The generated shallow soil has been selected to be a component of this material due to the higher level of difficulty and cost in identifying an appropriate facility to receive such material, other than a regulated landfill." (PWB application material)

No explanation has been provided for why these "slightly contaminated" soils would require disposal in a "regulated landfill" which leaves a reasonable person to conclude that these soils are more contaminated than the applicant and DEQ would have one believe.

"The soil will remain on-site (in-situ or stockpiled) during construction. As the exposure pathway of concern is limited to ecological receptors, the status of the area of placement on tax lot 100 and tax lot 400 as an active construction site upon start of the filtration facility construction would mitigate any potential ecological receptor exposures sufficiently." (PWB application material)

"Soil placed near road surfaces is not expected to pose a risk to ecological receptors as areas adjacent to active roadway surface are unlikely to present an attractive environment for ecological receptors." (PWB application material)

Construction of the filtration plant is estimated to last until late 2027. PWB has indicated that construction may take up to 5-7 years to complete. The assertion that construction in and of itself is an adequate mitigation for any potential ecological receptor exposure lacks evidence that should be required prior to a DEQ determination regarding the BUD application. The filtration plant site and the pipeline routes where the use is proposed are known to support a variety of raptors, migratory song birds, and mammals that are potential "ecological receptors". The assertion by PWB that rural road ROWs are not utilized by

potential ecological receptors lacks supporting evidence. While anecdotal, anyone who uses these roads is well aware that these areas are frequent forage areas for a variety of wildlife.

Severe weather events including wind and heavy rain have the capacity to move contaminated soils offsite to adjoining private properties and potentially into Johnson Cr. which is water quality limited and provides habitat for listed salmonids and other sensitive species.

It is worth noting that on June 11, 2024, Heidi Nelson, (clean-up project mgr) assured the community that contaminated soil piles would be covered "on a daily basis" (see meeting recording at 40:05). Condition 1. of the draft "Proposed Beneficial Use Approval" states: "To comply with this BUD, PWB must ensure:

1. The contaminated soils be managed to prevent, at all times, windblown dust, runoff and erosion"

However, this has not been the case. The mountains of contaminated soils have never been covered. Complaints to DEQ have gone unanswered and dust has routinely blown onto adjacent private properties coating vegetables, fruit trees, landscape materials and personal property. The dust from these contaminated soils is being inhaled by local residents that have no alternative clean air to breathe. Ms. O'Brien has publicly acknowledged that DEQ is not able to routinely inspect the site for compliance but if violations are observed, the community can file a complaint. The fact is, DEQ is unable to do any site inspections and either unwilling or unable to follow up on complaints regarding the daily disregard of the conditions of the 1200c permit and the pending "Proposed Beneficial Use Approvals". If PWB is unwilling to abide by DEQ's conditions as included in the 1200c permit and the draft BUD approval, why would DEQ expect compliance with any other requirements? More importantly, why would our rural community have trust that DEQ is committed to safeguarding residents or our environment?

PWB application materials state:

"Management of the material in the proposed manner provides a beneficial use in cost savings to the public related to transportation of this material to an alternative reuse site

or landfill. Management in this manner will also reduce vehicle miles traveled, thereby reducing impacts to the environment, surrounding community and road network.”

Throughout the land use process, project opponents repeatedly raised issues related to construction traffic impacts on local roads, residents and emissions related to massive amounts of heavy truck trips, work force trips and non-highway heavy equipment. PWB’s own construction traffic impact analysis estimated 308,000 heavy truck trips and 700,000 work force trips (these numbers are low due to approval conditions that require significant improvements to rural roads before and after the project. Currently, there are over 50 pieces of heavy equipment working on the site from 7:00am to 6:00pm, 6 days a week. Conservative estimates of concrete required for the filtration plant exceed 50,000 cu. yds.-all of which will be trucked in. (It is a well known fact that concrete production is a significant source of green house gas.) Yet when these issues were raised in the land use record, PWB argued that “construction impacts should not be considered”.

Furthermore, PWB has known about this contaminated soil since 2019, well before their land use application was ever filed with Multnomah County. However, the information related to the contaminated soils was never shared with either the County or this rural community. It is nothing less than disingenuous for the PWB to claim now that they are interested in “reducing impacts to the environment, surrounding community and road network.”

Regarding “cost savings to the public”, it is noteworthy that PWB’s original estimated cost for this mega-plant was \$350-500 million. The last estimate from about one year ago had ballooned to more than \$2.1 billion and undoubtedly that number has escalated as a result of the many conditions of approval. Any cost associated with handling contaminated soils in a responsible manner (i.e. disposal in an approved land fill) is infinitesimal in relation to the overall project cost and will have no impact on PWB ratepayers.

Abbreviated list of approval criteria with comments:

340-093-0280

Case-Specific Beneficial Use Performance Criteria

"The Department may approve a beneficial use of a solid waste that meets the criteria of this rule.

(1) The applicant has characterized the solid waste and use sufficiently to demonstrate compliance with this rule."

The evidence submitted by the applicant is insufficient to demonstrate compliance with this criteria. Applicant acknowledges that soil sampling was not conducted along the raw water pipeline route from the shaft to the filtration plant site. Instead applicant assumes the contaminants to include the same pesticides and heavy metals as the portion of the filtration site that was tested. Assumptions of the applicant should not be accepted as sufficient characterization of contaminated soils.

A question posed at the June 11, 2024 meeting, but never answered by DEQ suggested that the "0-0.5' is the common interval" for this type of sampling. The concern voiced was/is that if contamination is concentrated in the top 6 inches, a diluting effect would be expected when mixed with soils from .5'-1.5'. Applicant should be required to submit evidence that shows contaminated soils in the 0-.5' depth are comparable with samples from the 0-1.5' depth.

"(3) The use will not create an adverse impact to public health, safety, welfare, or the environment, including:

(a) The material is not a hazardous waste under ORS 466.005;"

ORS 466.005 includes the following in the description of "hazardous waste"
"Discarded, useless or unwanted materials or **residues** resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including but not limited to defoliant, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides."

Clearly, pesticide contaminated soils are included in the definition of "hazardous waste" Applicant has failed to submit evidence that the contamination levels are not a "hazardous waste" especially in regards to "ecological receptors" and in particular aquatic species known to inhabit Johnson Creek or other sensitive species known to use habitat or forage in areas immediately adjacent to project sites. Applicant has never completed an inventory to determine what species may be "ecological receptors".

"(b) Until the time a material is used according to a beneficial use determination, the material must be managed, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions;"

Applicant has already demonstrated unwillingness and/or ability to manage/store contaminated soils in a manner that prevents releases to the environment and nuisance conditions. Dust has routinely been deposited on surrounding private properties creating nuisance conditions and potential for contact with ecological receptors.

"(c) Hazardous substances in the material meet one of the criteria in this subsection,

(A) Do not significantly exceed the concentration in a comparable raw material or commercial product,"

As previously noted, concentrations of DDE and Dieldrin exceed clean fill standards by up to 5x. Concentrations of DDT are well in excess of clean fill standards as well. Several heavy metals (including lead) also exceed clean fill standards. Additionally, DEQ's requirement for a Tier 2 application indicates subject soil "contains hazardous substances significantly exceeding the concentration in a comparable raw....".

(B) Do not exceed naturally occurring background concentrations;

These contaminants are not naturally occurring.

"(C) Will not exceed acceptable risk levels, including evaluation of persistence and potential bioaccumulation, when the material is managed according to a beneficial use determination;"

Identified contaminants are extremely persistent as evidenced by the fact they were banned in the mid-1970s and even after 50 years they persist in the soil in significant concentrations. These contaminants are notorious for bio-accumulation and were responsible for massive declines in a variety of raptors and, ultimately, listing of the Bald Eagle as an endangered species. The subject material cannot be safely managed while stored for 4-7 years or spread along rural road ROWs which will result in an ongoing and unmitigated exposure for a variety of ecological receptors that applicant has failed to even inventory or acknowledge.

"(d) The use will not result in the increase of a hazardous substance in a sensitive environment;"

Applicant has failed to demonstrate that storage of contaminated soils for 4 or more years or permanently spreading contaminated soils along rural road ROWs will not result in the increase of these substances in a sensitive environment. Any finding to the contrary is not supported by evidence that a reasonable person would rely on.

"(e) The use will not create objectionable odors, dust, unsightliness, fire, or other nuisance conditions;"

As noted previously in this testimony and documented in complaints filed with DEQ, applicant has routinely failed to manage contaminated soil dust as required by the 1200c permit, draft BUD approval and verbal reassurance provided at the public meeting held on June 11. (see photo below)

Conclusion

As detailed above, applicant's materials fail to meet the rigorous criteria required for DEQ to find their proposal qualifies for approval of their BUD application.

While the rural community is grateful for DEQ's participation in a community meeting held on June 11, 2024, DEQ has failed to provide timely response to a list of written questions submitted shortly after the meeting as promised.

Additionally, documented complaints (ongoing) about PWB's failure to cover massive piles of contaminated soil and prevent dust from leaving the project site have gone unacknowledged, investigated or acted upon.

PWB failed to disclose the contaminated soil in their lengthy land use application. Such disclosure would have further compromised their ability to meet one or more of the criteria required for land use approval of their industrial development on prime agricultural land adjacent to rural residential uses.

PWB is disingenuous to suggest the proposed BUD's benefit this community or the environment or local roads. The infinitesimal savings that may be afforded by the proposed use is of no consequence to PWB rate payers.

I urge the DEQ to place the health and welfare of this rural community and the ecology of the local area as it's highest priority, objectively apply your rigorous criteria and reject the BUDs for both the filtration plant site and pipeline routes.

Thank you for your consideration.

Charles Ciecko




Fwd: Testimony opposing Portland Water Bureau permit

LEWIS Ryan * DEQ <Ryan.LEWIS@deq.oregon.gov>

Fri 6/28/2024 10:49 PM

To: OBRIEN Audrey * DEQ <Audrey.OBRIEN@deq.oregon.gov>

 1 attachments (15 KB)

BullRunWaterDEQ.docx;

Sent via the Samsung Galaxy XCover Pro, an AT&T 4G LTE smartphone

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From: les poole <elpee5440@gmail.com>

Sent: Friday, June 28, 2024 3:20:38 PM

To: LEWIS Ryan * DEQ <ryan.lewis@deq.oregon.gov>

Cc: info@cottrellcpo.com <info@cottrellcpo.com>; les poole <elpee5440@gmail.com>

Subject: Testimony opposing Portland Water Bureau permit

You don't often get email from elpee5440@gmail.com. [Learn why this is important](#)

Please consider my attached testimony regarding the approval of a 1200 permit to store and process contaminated soil on-site during construction of the water filtration plant in Multnomah County.

Thank you,
Les Poole

June 28, 2024

Attn: Oregon DEQ

Re: Portland Water Bureau Permit for contaminated soil

I've testified in person and submitted opposition on 2 occasions to the land use approval for the Bull Run Water Filtration project. I challenged the approval based on public safety and deep concerns about the process. My request for denying the permit is based on similar concerns.

Storing material for 5 years and processing it on-site while the plant is under construction invites an unnecessary health risk.

The application isn't clear about how over 100,000 cubic feet of contaminated soil would be addressed. The volume of truck traffic and configuration of the trucks & trailers would be dramatically affected by an approval or denial of the permit. The question arises as to whether the hearings officer would have approved the application had it included a major change.

Thank you for presenting information and taking questions in a live format. A few of the questions raised during the meeting in Cottrell have not been adequately answered.

I understand the DEQ is not directly responsible for transportation safety, however, public safety is a primary consideration for any long term construction project. Please reconsider the preliminary approval and deny the application.

Les Poole

PO Box 805

Oregon City, Or. 97045

Deny permit

Breazy Wirth <breazwoman@gmail.com>

Wed 8/7/2024 7:39 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from breazwoman@gmail.com. [Learn why this is important](#)

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Breazy Bobo
11365 SE Revenue rd
Boring, Or 97009

Testimony in Opposition-Proposed Beneficial use Determinations 2024040402-PWB and BUD20240418-PWB

Maureen Bowman <babymoe.bowman@yahoo.com>

Thu 8/8/2024 10:58 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from babymoe.bowman@yahoo.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

To whom it may concern,

The contaminated soils these permits reference do not belong in this community.

Already the soil has not been handled correctly by the PWB.

During excavation and throughout the stockpiling process, the soil blew throughout the neighborhood, entering our homes, settling on our neighbors crops, and causing breathing problems,

We live near the proposed site and walk near the area.

We can see the large piles of dirt a short distance from our walking path. My husband had lung surgery last year and has decreased lung capacity as a result. He has recently experienced some coughing and shortness of breath on our path back to our home.

We have also noticed the dust which at times blows towards our property.

We are not happy about the storage of these soils at this site nor do we feel safe having the soils in our community.

Thank you,
Maureen & John Bowman
8670 Mayberry Ln
Boring, 97009
OR
Sent from my iPhone

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Cris Courter <criscourter@mac.com>

Fri 8/9/2024 6:25 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from criscourter@mac.com. [Learn why this is important](#)

To Whom it May concern,

SUBJECT:

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

We do not want these contaminated soils in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors. That is the kind of irresponsible and unlawful activity that is typical of the PWB efforts. Simply put, THEY DON'T CARE !

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Cris Courter

36610 SE DODGE PARK BLVD. Boring, OR.

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Mona Ayles <mona@malandseitz.com>

Fri 8/9/2024 4:09 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from mona@malandseitz.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. We are downhill from this behemoth, in the path of runoff water from winter rains. I do not need these contaminants in my organic blueberry field and my girls certainly do not need to be eating plant material with this stuff in it. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Mona Ayles

37184 SE Lusted Rd
Boring OR 97009

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Penny Daniel Volker <ishabon@frontier.com>

Fri 8/9/2024 3:53 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from ishabon@frontier.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,
Dan & Penny Volker

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

JOSEPH COOK <jjcookers@msn.com>

Fri 8/9/2024 12:47 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from jjcookers@msn.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

SUBJECT:

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,
[joe cook
4943 se 16th drive
Gresham or 97080ADDRESS]

Sent from my iPhone

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Deborah Wilson <debwilson226@gmail.com>

Fri 8/9/2024 12:47 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from debwilson226@gmail.com. [Learn why this is important](#)

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,
Deborah Wilson

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Julie Dillard <julz881@gmail.com>

Thu 8/8/2024 3:56 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from julz881@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,
Julie Dillard
23850 SE Tillstrom Rd
Damascus, OR

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Alex Adams <alex.l.adams64@gmail.com>

Thu 8/8/2024 12:54 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from alex.l.adams64@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Alexander Adams
37106 SE Lusted Rd. Boring OR
97009

Sent from my iPhone

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Kelsey Betsill <kelseyd@hotmail.com>

Wed 8/7/2024 10:01 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from kelseyd@hotmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Kelsey Betsill

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Maureen Woodward <maureenwoodward87@gmail.com>

Wed 8/7/2024 9:55 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from maureenwoodward87@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Sincerely,

Maureen Woodward
33144 SE Carpenter Lane
Gresham OR 97080

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Vickie Vogl <svvogl@comcast.net>

Wed 8/7/2024 8:54 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from svvogl@comcast.net. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you

Vickie & Scott Vogl

34201 SE Carpenter Ln

Gresham, Oregon 97080

Sent from my iPhone

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Carrie Dahl <carrieadahl@gmail.com>

Wed 8/7/2024 6:00 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from carrieadahl@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Carrie Dahl

32751 SE Bluff Rd., Boring, OR 97009

Testimony in Opposition- Proposed Beneficial Use Determinations 202404 02-PWB and BUD20240418-PWB

hkc4@juno.com <hkc4@juno.com>

Fri 8/9/2024 7:23 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from hkc4@juno.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Oregon Trail Academy sits directly adjacent to the filtration site. With school starting in several weeks, what's going to happen to our children as the dust blows over them on the playground? Will the water they use to drink and prepare meals and wash their hands be safe for them to use? Why are these children and the surrounding community being put in unnecessary risk?

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Respectfully,
Kandi and Howard Prink

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Carol Shokey <carolshokey@yahoo.com>

Wed 8/7/2024 10:00 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from carolshokey@yahoo.com. [Learn why this is important](#)

To Whom it May concern, Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

[Yahoo Mail: Search, Organize, Conquer](#)

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Jim Ekstrom <jsekstrom@gmail.com>

Wed 8/7/2024 6:17 PM

To: DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>



[You don't often get email from jsekstrom@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

Sent from my iPhone

Shelley Ekstrom

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

seventhday is sabbath <7thdayissabbath@gmail.com>

Thu 8/8/2024 5:16 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from 7thdayissabbath@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

I am appalled that contaminated soil would be allowed to be stored in this community, how about you take this soil that is not fit to be around human beings and store it in your own personal front or back yard, would you be happy with this? I can tell you now that this would not be acceptable to you so why would you allow it to be ok for others?

I try not to think badly of others but it is very hard to think in a good way about those who knowingly and purposely allow harmful chemicals to be put in another person's backyard...

Please stop this and DO THE RIGHT THING...

Sincerely
Brenda D

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Samuel Diack <samueldiack@icloud.com>

Thu 8/8/2024 12:55 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from samueldiack@icloud.com. Learn why this is important at

<https://aka.ms/LearnAboutSenderIdentification>]

To Whom it May concern,

I am a downwind recipient of the PWB construction project. Namely airborne contaminated soil from their excavations. Lax enforcement of conditions required by DEQ are an egregious affront to area residents.

I can only assume public health is on the DEQ agenda somewhere. I surely hope so. However, I see little regard for that concern in the PWB BUD permit application.

Environmental quality is what you guys are supposed to be all about. So I ask you fervently to get on your white charger and address any threat to the quality of our environment. It is after all your job..

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

Samuel Diack

Sent from my iPad

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Andy Gale <andrew.n.gale@gmail.com>

Thu 8/8/2024 4:13 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>
Cc:info@cottrellcpo.com <info@cottrellcpo.com>

You don't often get email from andrew.n.gale@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference, which have been disturbed and exposed to the environment, do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil has been allowed to blow throughout the neighborhood, entering homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors. **In addition, we should all be concerned with any exposure to contamination from these soils to children attending the neighboring Oregon Trail Academy (K-8).**

Neighbors do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site to ensure our neighborhood and children are provided a safe environment to work, live and play.

Thank you,

Andy Gale
33159 SE Bluff Rd. Boring Or

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Carol Shokey <carolshokey@yahoo.com>

Wed 8/7/2024 10:06 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from carolshokey@yahoo.com. [Learn why this is important](#)

To Whom it May concern, Please deny the 20240402-PWB and BUD20240418-PWB permit applications. You are taking away our freedom to breath clear air fie ourselves, our children, and grandchildren.

Please stop. We live about 1/4 mile from this mess. Think of the hazard it caused in Eastern Oregon of the hazard waste. It's not worth hurting people.

Carol Shokey

[Yahoo Mail: Search, Organize, Conquer](#)

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

WILLIAM STRUEVER <rstruvdaddy@aol.com>

Wed 8/7/2024 9:30 PM

To: DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from rstruvdaddy@aol.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

To Whom it May concern,

I am a disabled Veteran. I have breathing issues from the gulf war and have other medical issues. Any airborne contaminates in the air will exacerbate my problems.

Thank you
Bill

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

Sent from my iPhone

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Jonathan Campbell <jon173@aol.com>

Wed 8/7/2024 7:02 PM

To: DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from jon173@aol.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The DEQ's stated mission is:

"to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water."

It is clear after the DEQ presentation on this proposed project and subsequent questioning that there are significant issues present around maintaining and enhancing air, water and land quality even within 10 years of building the treatment center given the decay of the geotex fabric that caps the contaminated soil. This seems to be one of the many ways this large project is not a viable option.

The DEQ must be vigilant on stemming the long term negative impacts from shortsighted projects such as this. This is your stated mission. Companies must present plans that are ecological coherent 10, 20, 50 and 100+ years down the road.

With Respect,
Jonathan C.

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Andrea Culver <culversixpack@gmail.com>

Wed 8/7/2024 6:31 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from culversixpack@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Also, **DEQ has consistently described the soils on the site as "slightly contaminated"**. However, there has **never** been an explanation provided for why a "Tier 2" application for the BUD was required by DEQ. Tier 2 applications are required when the solid waste "contains hazardous substances significantly exceeding" concentrations in a comparable raw material.

As noted by Lauren Courter, PhD, toxicologist, levels at the site of DDE and Dieldrin are 5x greater than levels deemed safe. Studies have shown that Dieldrin is a likely human carcinogen, has been shown to decrease immune system functioning, and decreased pup viability in animal studies. DDE has been linked to breast cancer, diabetes, decreased semen quality, spontaneous abortion, and impaired neurodevelopment in children.

We have experienced sinus, breathing and allergy-like symptoms since the excavation began. Our crops have dust on them unlike any year before. I urge you to consider the damage that has been, and will continue to be done without any consideration for local neighbors.

Thank you,
Andrea Culver

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Doug Silton <dougsilton@gmail.com>

Wed 8/7/2024 6:14 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from dougsilton@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

I'm not only a neighbor - I'm a neighbor right across the street from this plant. How dare you allow contaminated soil - it's bad enough that this project has been railroaded through during the early stages of the pandemic but how amazingly horrible.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,

Douglas Silton

Oppose PWB 20240402-PWB and BUD20240418-PWB

Cindy Bennington <emailoregon@yahoo.com>

Sat 8/10/2024 12:00 AM

To: DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from emailoregon@yahoo.com. [Learn why this is important](#)

I live on the north side of Dodge Park Blvd. across from the PWB's proposed Water Treatment Plant. August 2, 2024, I called DEQ and reported violations on the PWB proposed Water Filtration site. I had just driven home on Bluff Road and Cottrell Road to Dodge Park Blvd. and witnessed huge billows of flying dirt and dust so high and so thick that you could not see through it to trees on the other side of the sight. Shortly after arriving home, my eyes felt like I had been in a sandstorm. I have been diagnosed with dry eye syndrom. Hours later I received a phone call in response to my Violation Report who told me that I would be contacted by someone that would check out my complaint. I have yet to hear from anyone. June 11, 2024, I attended the DEQ neighborhood meeting where we had been told that the dirt with DDE and Dieldrin and other contaminants would be covered and kept watered. I know there has been no covering. It appears that PWB has no regard for DEQ's conditions or our rural neighborhoods. It appears that, "might is right" as PWB is running rough shot over LUBA process. The appeal has not yet been decided and they are already excavating and spending rate payers' money. PWB is bulldozing more than dirt here!

I have a concern for the many creatures that live in the wooded riparian area along Dodge Park Blvd. What happens when they ingest outlawed chemicals like DDE and Dieldrin dust, which has been found to be at unacceptable levels, at 5x greater than DEQ has deemed safe? There are 23-25 cherry trees, several wild plumb trees and blackberries bushes that boarder both sides of Dodge Park Blvd. We have 8 fruit trees and 200 feet of blackberries along our property line (and proposed pipeline route) along Dodge Park Blvd., across from the PWB plant property. Last night we were woken up from the sound of several deer eating apples. Twice in the last two weeks we have seen a bobcat caring a squirrel into the woods behind us, where we assume she is feeding cubs. These animals are probably drinking the water they find on the PWB property as well.

I understand that PWB has not disclosed where they intend to take pesticide contaminated soils. The potential for hazardous waste deposit dumping should be disclosed to these neighborhoods.

I implore you to do the right thing and deny any further approvals.

Cindy Bennington
35161 SE Dodge Park Blvd
Gresham, Oregon 97080

Testimony in Opposition-Proposed Beneficial Use

Carol Kost <carol.kost@gmail.com>

Fri 8/9/2024 5:46 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from carol.kost@gmail.com. [Learn why this is important](#)

To Whom it May Concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community. We don't feel safe with the stockpiling of this soil.

We can see the piles from our house and they are not covering the tops of the piles. The dust blows constantly right into our property, covering our vehicles, house, and walkways which we have to wash all the time. When we do go outside to work I wear gloves and we worry about breathing in that contaminated dust. I can't use my swim spa to exercise because of the flying dust and the dogs and the horse are breathing it in, not to mention all the wildlife that is affected by the contamination. I have a vegetable garden that is now covered with that contaminated dust. If this soil is so contaminated, why is the PWB allowed to store it on site. They have another option, to transport and dispose of it in a place designated for contaminated soils. I thought DEQ was here to protect us from such negligence. There are days that more than 600 trips are made in front of our house just 60 feet away from our back door. Please deny storage of these soils at this site.

Mike and Carol Kost
35321 SE Carpenter LN
Gresham, OR 97080

Portland Water Bureau Comments

Tori Skelton <toriskelton21@gmail.com>

Fri 7/26/2024 2:00 AM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from toriskelton21@gmail.com. [Learn why this is important](#)

We are writing in response to the public comment period allowed for the Proposed Beneficial Use Determination for Reuse of Soil for the Portland Water Bureau's Bull Run Water Filtration and Pipeline Project.

We, like many of our neighbors, are strongly opposed to this project as it has greatly disrupted our small community. This proposal directly exposes our community to a potentially hazardous situation with unknown side effects and future issues.

As someone who primarily heats their home with a wood burning stove, we are required to follow guidelines for wood fires for air quality. When the air quality is poor, we do not burn our wood stove in consideration for our neighbors even though we are unable to control where the toxins go. Likewise, we would appreciate that our neighbors return the same consideration. As Portland Water Bureau is now one of our neighbors (and totes themselves as such), we are concerned why they would want to knowingly expose their neighbors to potentially harmful toxins as well.

Based on the Portland Water Bureau's permit request to DEQ, they intend to spread this potentially toxic soil and bury it along the pipeline. This not only disrupts the soil at the jobsite but also spreads it county wide. The more the soil is moved around, the greater the risk of exposures, spills, and potential adverse events. This is not only harmful to our environment but poses unnecessary risk to our water sources, our community members, and their children. If I had a potentially hazardous spill on my property, I wouldn't spread it around or bury it in order to remove it. I would be disposing of it properly to protect my family, my community, and my environment. If Portland Water Bureau wants to be a good neighbor, they should also be required to remove potential toxins appropriately and off site.

DEQ claims they will ensure compliance with the beneficial use requirements through periodic reviews and through compliance inspections. They also informed us at the DEQ Town Hall that we could submit our concerns online. We have submitted concerns online (including with photos and videos attached) regarding dust clouds that were visible over a mile away and not appearing to be appropriately mitigated. We never heard anything back from those complaints.

During that same Town Hall, the Portland Water Bureau representative (who was present online) seemed evasive by various questions from the community members.

When asked who performed the soil testing, it seemed inappropriate that Portland Water Bureau be allowed to contract their own contractor for that testing rather than an unbiased third party contractor. Otherwise, this is like buying a used vehicle from someone who states that their personal mechanic just gave it a clean bill of health and taking their word for it. For transparency's sake, we believe that DEQ should be obligated to hire a third party contractor to retest the soil if they are the ones who intend to approve this permit.

This permit request seems to be biased, half thought through, and rushed. This does not make us feel safe in our own community as they are already moving the dirt. We strongly urge DEQ to reconsider our health and safety over approving this permit.

Thank you for your time and reconsideration in this request

Mike and Tori Skelton

5410 SE Oxbow Pkwy, Gresham, Oregon 97080

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Paul Willis <willisteam@msn.com>

Fri 8/9/2024 8:34 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

📎 2 attachments (214 KB)

Ciecko Testimony 72324.pdf; CPO QuestionsDEQ responses[2].pdf;

You don't often get email from willisteam@msn.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

I am requesting the denial of the Beneficial Use Permit for the following reasons:

1. I agree with Charlie Ciecko's July 23, 2024, testimony, attached, and his early August 2024 submitted comments to DEQ's answers to CPO questions, attached.
2. The local Cottrell CPO has pointed out the lack of compliance with DEQ requirements to cover the contaminated dirt piles and handling procedures. And this blatant disregard of DEQ directives has been noted by the CPO and forwarded to DEQ in the past.
3. Multnomah County's Hearing Officer, approved PWB filtration plant application with conditions. PWB has disregarded many of the Officer's conditions to date and the CPO has complained about these violations to the MultCo Land Use Compliance Officer, who responds that it will forward the complaints to PWB, as they are understaffed to following up on the complaints and implement corrective action or penalties.
4. PWB has established a pattern of not complying with agreed upon methods and procedures with Government agencies, as noted above. There is literally no reason to believe they will change their apparent attitude of non-compliance. And as DEQ has stated they do not have the staff to adequately inspect or enforce DEQ's requirements that may be found in the Beneficial Use Permit. DEQ has said that it is up to the community to notify DEQ of non-compliance... this is passing the "buck."
5. It also appears that PWB is not only disregarding DEQ directives at this time, but PWB is also telling DEQ what they will do or will not do with the contaminated soil, and what options are available to DEQ regarding what they can tell PWB to do with the soil, as PWB has told DEQ they will not consider the option of trucking off the soil to an appropriate landfill, as it is too costly. This is confusing ... who is in charge here, DEQ or PWB?

Conclusion and Request:

If DEQ cannot inspect and enforce its directives and conditions, with its own personnel, it would only seem reasonable and logical that DEQ "must" direct PWB to remove the contaminated dirt from the site by trucking it to an approved landfill. This option of sit removal, would then have minimal need for DEQ inspection and enforcement, and community members could readily see if the contaminated dirt piles were trucked off-site or not. Our Community is depending on DEQ to have PWB removed this contaminated, which jeopardizes the health and safety of our community members, flora and fauna, fish and streams/creeks.

Thank You for Your Consideration,

Paul Willis

Carpenter Ln, Resident

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Suzanne <suzcc@me.com>

Fri 8/9/2024 9:48 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from suzcc@me.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

To Ms O'Brien and Whom ever else it May concern at DEQ

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

I live adjacent to the parcels of land that the Portland Water Bureau is currently digging up and allowing to pollute our property as well as other's in our community. For the Department of Environmental Quality to allow and potentially permit this type of dangerous environmental destruction is a travesty. That this movement of contaminated soil can be occurring without a final permit plus while the whole project is still under appeal just demonstrates that there aren't any environmental protections in place for both people and wildlife. I'm ashamed and embarrassed for Oregon because this state has been know as a forward thinking and environmentally concerned state but this appears to no longer be the case. DEQ has a job to do therefore please do it and do it well.

I'm able to look directly onto the piles of earth that are currently becoming humongous and after only the first several days those piles were no longer covered as promised in the conditions and mitigations. Your office says they can not oversee the Water Bureau (PWB) or address community concerns for PWB's disregard for doing this project correctly and as promised. Since there isn't anyone to keep them inline then DEQ should not give them any permits or permission that can not be enforced.

Our entire blueberry field is covered with dust as is everything else on our property, presumably contaminated dust, our health and that of our animals and wildlife is at risk because the disturbed toxic soil is remaining on site, free to blow around rather than being moved away to a more suitable place. Yes the Portland Water Bureau has lots of money, actually the publics money, but they shouldn't be allowed to run rampant and reckless or to turn CONTAMINATED SOIL FOR BENEFICIAL USE (which makes no sense on a Tier 2 application) in residential and agricultural communities.

Please have some integrity, do the right thing and deny 20240402-PWB and BUD20240418-PWB

Suzanne Courter

36610 SE Dodge Park Blvd
Boring, OR 97009

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Jodi Riehl <jriehl85@msn.com>

Fri 8/9/2024 4:56 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from jriehl85@msn.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,
Jodi Riehl

8031 SE Pleasant Home Road
Gresham, Or 97080

PS-

It is worth noting that on June 11, 2024, Heidi Nelson, (clean-up project mgr) assured the community that contaminated soil piles would be covered "on a daily basis" (see meeting recording at 40:05). Condition 1. of the draft "Proposed Beneficial Use Approval" states: "To comply with this BUD, PWB must ensure: "The contaminated soils be managed to prevent, at all times, windblown dust, runoff and erosion". However, this has not been the case. The mountains of contaminated soils have never been covered. Complaints to DEQ have gone unanswered and dust has routinely blown onto adjacent private properties coating vegetables, fruit trees, landscape materials and personal property. The dust from these contaminated soils is being inhaled by local residents that have no alternative clean air to breathe. Ms. O'Brien has publicly acknowledged that DEQ is not able to routinely inspect the site for compliance but if violations are observed the community can file a complaint. The fact is, DEQ is unable to do any site inspections and either unwilling or unable to follow up on complaints regarding the daily disregard of the conditions of the 1200c permit and the pending "Proposed Beneficial Use Approvals". If PWB is unwilling to abide by DEQ's conditions as included in the 1200c permit and the draft BUD approval, why would DEQ expect compliance with any other requirements? More

importantly, why would our rural community have trust that DEQ is committed to safeguarding residents or our environment?

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

wendy kost <theorientbarbershop@gmail.com>

Fri 8/9/2024 3:43 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

You don't often get email from theorientbarbershop@gmail.com. [Learn why this is important](#)

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference are a big concern in our community. I live across the street from the site and have anxiety about the soil being disturbed. The dust has been excessive and unbearable since they have started. This concerns me with living so close. I also have live stock that I'm concerned about their health with this excessive dust. I spoke with a DEQ representative at the community meeting asking if the dust was ok for my live stock and he told me that they did not take that into consideration when looking at this project. That is very concerning to me. Will I have excessive vet bill in the future? Will I have premature death of my live stock? Will the contamination transfer through my chickens into the eggs I eat from them giving me double exposure? I also get a film of dust on all my livestock water sources as it's impossible to keep dust at bay. I also have genuine concerns about my garden vegetables. Is it safe to eat now? The dust can be washed off but what about growing does this affect my vegetables. Do we know any of these answers or is this just a best guess scenario. Because I am so close to the site I cannot get away or filter enough to make me feel safe. Please think about this as you hear our concerns.

I'm also concerned with the size of this project the protocols for "safe storing of contaminated soil" has not been followed and there is no monitoring from DEQ to make sure these contaminated soils are handled correctly. I have witnessed improperly handling such as covering only half of the pile so it looks good from the road only. Which only happened after they were told to cover it from neighbors according DEQ guidelines. So it was exposed to open air to blow around. Please have a DEQ representative on site to make sure this mega project keeps our neighborhood safe.

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.

Thank you,
Wendy Schmautz
35321 SE Carpenter LN
Gresham OR 97080

Wendy Schmautz
Owner
Wendy's Barber Shop & Salon

Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Laura Belson <lauratov@gmail.com>

Fri 8/9/2024 8:13 PM

To: DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

[You don't often get email from lauratov@gmail.com. Learn why this is important at

<https://aka.ms/LearnAboutSenderIdentification>]

To Whom it May concern,

Please deny the 20240402-PWB and BUD20240418-PWB permit applications.

The contaminated soils these permits reference do not belong here in our community.

Already the soil has not been handled correctly by the PWB. During excavation and throughout the stockpiling process, the contaminated soil blew throughout the neighborhood, entering our homes, settling on neighbors' crops, and causing difficulty in breathing for some neighbors.

DEQ has consistently described the soils on the site as "slightly contaminated". However, there has never been an explanation provided for why a "Tier 2" application for the BUD was required by DEQ. Tier 2 applications are required when the solid waste "contains hazardous substances significantly exceeding" concentrations in a comparable raw material.

As noted by Lauren Courter, PhD, toxicologist, levels at the site of DDE and Dieldrin are 5x greater than levels deemed safe. Studies have shown that Dieldrin is a likely human carcinogen, has been shown to decrease immune system functioning, and decreased pup viability in animal studies. DDE has been linked to breast cancer, diabetes, decreased semen quality, spontaneous abortion, and impaired neurodevelopment in children.

The filtration plant site and the pipeline routes where the use is proposed are known to support a variety of raptors, migratory song birds, rodents and amphibians that are potential "ecological receptors". The assertion by PWB that rural road ROWs are not utilized by potential ecological receptors lacks supporting evidence. While anecdotal, anyone who uses these roads is well aware that these areas are frequent forage areas for a variety of wildlife. Severe weather events including wind and heavy rain have the capacity to move contaminated soils offsite to adjoining private properties and potentially into Johnson Cr. which is water quality limited and provides habitat for listed salmonids and other sensitive species.

It is worth noting that on June 11, 2024, Heidi Nelson, (clean-up project mgr) assured the community that contaminated soil piles would be covered "on a daily basis" (see meeting recording at 40:05). Condition 1. of the draft "Proposed Beneficial Use Approval" states: "To comply with this BUD, PWB must ensure: "The contaminated soils be managed to prevent, at all times, windblown dust, runoff and erosion". However, this has not been the case. The mountains of contaminated soils have never been covered. Complaints to DEQ have gone unanswered and dust has routinely blown onto adjacent private properties coating vegetables, fruit trees, landscape materials and personal property. The dust from these contaminated soils is being inhaled by local residents that have no alternative clean air to breathe. Ms. O'Brien has publicly acknowledged that DEQ is not able to routinely inspect the site for compliance but if violations are observed the community can file a complaint. The fact is, DEQ is unable to do any site inspections and either unwilling or unable to follow up on complaints regarding the daily disregard of the conditions of the 1200c permit and the pending "Proposed Beneficial Use Approvals". If PWB is unwilling to abide by DEQ's conditions as included in the 1200c permit and the draft BUD approval, why would DEQ expect compliance with any other requirements? More importantly, why would our rural community have trust that DEQ is committed to safeguarding residents or our environment?

We do not feel safe storing the contaminated soil here in our community. PWB has a viable option to transport and dispose of it in a place designated for soils contaminated at this level. Please deny storage of these soils at this site.


Thank you,
Laura Belson
35719 SE Lusted Rd
Boring OR 97009

**Public Comment in Opposition: Proposed Beneficial Use Determinations BUD20240402-PWB
+ BUD20240418-PWB**

L J <lorjmcfarlane@gmail.com>

Fri 8/9/2024 8:19 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

 1 attachments (323 KB)

8_9_24 RE DEQ's "proposed approval" of PWB solid waste "beneficial use determination" (BUD).pdf;

You don't often get email from lorjmcfarlane@gmail.com. [Learn why this is important](#)

Please confirm that you have received the attached PDF Public Comment.

thank you,

LJ McFarlane

August 9, 2024

Re DEQ's "proposed approval" of PWB solid waste "beneficial use determination" (BUD) BUD20240402-PWB and BUD20240418-PWB

Thank you for the opportunity to provide public comment regarding the **Portland Water Bureau (PWB) application to excavate, stockpile, and re-use on- and off-site 116,000 yd³ of soils contaminated with pesticides (banned as of 1972).**

I am in opposition to PWB's 2 applications for the following reasons:

- DEQ has not demonstrated effective methods and adequate oversight to control how Portland must handle contaminated soils on- and off-site;
- PWB *has already violated the conditions* of their "proposed approval" by excavating and stock-piling banned, pesticide-contaminated soils;
 - Beginning 6/3/24, when crew disturbed DDT, DDE, Dieldrin (banned in 1972), PWB did not notify or protect rural neighbors, wildlife & the environment from short/long-term adverse effects;
- Rural neighbors discovered the site contains soils with "hazardous substances significantly exceeding..." (known by PWB, but not divulged to the rural community until the 6/11/24 public meeting. PWB has not informed urban water customers, PDX City Council or advisory PUB;
- A rushed, mismanaged project from the get-go, officials gave excuses for associated costs of the wrong site, for a proposal now 6X original cost.
- As of today (8/9/24), PWB interim Director Edward (Eddie) Campbell and Chief PE Jodie Inman have not answered fundamental 7/17/24 questions about contaminated soils and disturbing said soils. This foreshadows future obfuscation about harmful health and safety lapses.

On the last point, PWB engineer Ms Inman assured Portland Tribune the contaminated soil was safe, without providing necessary, supporting scientific evidence :

"[Banned pesticide-contaminated soils were] found in very low levels. The levels are not at all harmful, well below any human health hazard. They are not going to make anybody who interacts with the soil sick."
- PWB Chief Engineer Jodie Inman, Portland Tribune, July 17, 2024

“There's not adequate oversight on this project” - Oregonian 4.10.24

And,

The responsibility of oversight should not be delegated to residents.

In 2019, City Council failed to audit newsworthy, costly repercussions of the Bureau's poorly-chosen rural site for a future water treatment plant serving urban customers.

DEQ Audrey O'Brien stated that her division “does not have the resources” for adequate oversight. And, this site has restricted public access to construction. Even so, Ms O'Brien told rural communities that they can lodge a complaint if they witness pre/construction misconduct. Making matters even more stressful, we've been subject to years of so-called “transparency” and Officials' stiff-arming.

DEQ's claim that they do “not have the resources” for oversight telegraphs to PWB that the “proposed approval” is simply a suggestion. A pervasive pattern, PWB leaders exploited an EPA Rule's “regulatory flexibility”. Decades of health-harmful lead contamination in Portland drinking water has been the result, knowingly and by design.

This is the wrong site and the wrong people

Portland Water Director Gabe Solmer - terminated in June 2024 - signals a failure of both leadership and unilateral decision-making. From an ill-suited site to mishandling pesticide-contaminated soils, PWB chose the wrong, most costly site.

DEQ must prioritize rural neighbors' health, safety and well-being, by immediately ceasing PWB's current site work that is exposing DDT, DDE, Dieldrin to rural families and children, honey bees (essential food crop pollinators), and small burrowing mammals that are widely hunted here by fox, owls and Eagles.

Thank you, LjMcFarlane
Portland, Oregon. PWB water customer, mother

Image:

P. 3 - snip of 4/1/24 BUD application.

NOTE: At PWB's 4/10/24 Annual Filtration Report presentation to City Council, PWB did not mention the site's 116K cu yds of contaminated soils, nor their plans to reuse it.

<u>Portland Water Bureau</u>		Business name of applicant if different	
Legal name of applicant			
<u>1120 SW 5th Avenue Rm 405</u>		<u>Portland</u>	<u>Oregon</u> <u>97204</u>
Mailing address		City	State Zip
<u>503-319-9207</u>		<u>Robert.Fraley@portlandoregon.gov</u>	
Phone	Mobile	E-mail	Fax

<u>Same as applicant</u>			
Generator of solid waste (may be same as applicant)			
<u></u>		<u></u>	<u></u> <u></u>
Mailing address		City	State Zip
<u></u>		<u></u>	
Phone	Mobile	E-mail	Fax

B. TYPE OF BENEFICIAL USE DETERMINATION REQUESTED Beneficial Use Determination applications are categorized based on the type of information and potential amount of work required by DEQ staff to review application materials and render a decision. A tiered review and fee system has been established in rule. The tiers are:

- Tier 1 For a beneficial use of a solid waste that does not contain hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product and that will be used in a manufactured product;
- Tier 2 For a beneficial use of a solid waste that contains hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product, or involves application on the land;
- Tier 3 For a beneficial use of a solid waste that requires research, such as a literature review or risk assessment, or for a demonstration project to demonstrate compliance with this rule.

I am applying for a Tier 1 Tier 2 Tier 3 determination.

C. DOES THIS PROPOSED BENEFICIAL USE INVOLVE LAND APPLICATION OF ANY MATERIAL?

Yes No

D. SIGNATURE I hereby certify by my signature below that the information contained in this application, and the documents I have attached, are true and correct to the best of my knowledge and belief.

<u>Robert Fraley</u>	<u>Robert Fraley</u>	<u>Program Analyst</u>	<u>4/1/24</u>
Signature of legally authorized representative	Print name	Title	Date

SUBJECT: Testimony in Opposition- Proposed Beneficial Use Determinations 20240402-PWB and BUD20240418-PWB

Shull, Mark <MarkShull@clackamas.us>

Thu 8/8/2024 7:51 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>
Cc:Cottrell CPO <cottrellcpo@gmail.com>;Hill, Caroline <CarolineHill@clackamas.us>

You don't often get email from markshull@clackamas.us. [Learn why this is important](#)

Sir,

As the Clackamas County Commissioner who is most involved and concerned about the livability of our Cottrell area I implore you and staff to wait until the LUBA decision is made on the land use appeal on the filtration plant before any more work is performed on the proposed filtration site. It would be most appreciated by the residents of the Cottrell area on both sides of the County line.

The contaminated soil issue is another concern that you have received many emails on. Those emails merit serious consideration now.

Thank you for your time and consideration,

Commissioner Mark Shull
Clackamas County

From: [Oluwaleye John](#)
To: [DEQ NWR Solid Waste Permit Coordinator * DEQ](#)
Subject: (BUD-20240418)
Date: Wednesday, July 24, 2024 10:05:26 AM

You don't often get email from oluwaleyejohn@gmail.com. [Learn why this is important](#)

My comment as a public go with this statements below and accepted.

Robert Fraley Portland Water Bureau 1120 SW 5th Avenue Rm 405 Portland, OR 97204

Robert.Fraley@portlandoregon.gov 700 NE Multnomah Street, Suite 600 Portland, OR 97232 (503) 229-5263 FAX (503) 229-6945 TTY 711 RE: Beneficial Use Determination (BUD-20240418), PWB – Bull Run Finished Water Pipeline Contaminated Soils Dear Robert Fraley: The Department of Environmental Quality (DEQ) has reviewed Portland Water Bureau's (PWB) application for a solid waste beneficial use determination (BUD) that was submitted on April 18, 2024 and updated on May 20, 2024. The application requests that DEQ approve a proposed beneficial use of slightly contaminated soils generated by PWB that will be excavated from the surface of the pipeline trench excavation areas and from the intersection widening project at the intersection of SE Dodge Park Boulevard and SE Cottrell Road. The proposed beneficial use for the slightly contaminated soil will consist of four reuse options: (1) use of the soil as nonstructural construction fill within the excavated pipeline trench, (2) use of the soil as nonstructural construction fill on the shoulder surfaces immediately adjacent to the roadway, (3) use as topsoil as part of trench restoration of a farm field as specified by landowner, or (4) use of the soil as nonstructural construction fill at the water filtration facility according to proposed BUD-20240402. PWB has requested.


Thanks
John Oluwaleye

Existing land Apply

LEGAL EMPOWERMENT <legalempowerment552@gmail.com>

Wed 6/12/2024 10:34 PM

To:DEQ NWR Solid Waste Permit Coordinator * DEQ <SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov>

 1 attachments (891 KB)

062824pwb.pdf;

You don't often get email from legalempowerment552@gmail.com. [Learn why this is important](#)

My comment are concerned about the project

PWB's application for beneficial use of contaminated soils to be generated during the Bull Run Finished Water Pipeline construction project, which demonstrates the case-specific beneficial use performance criteria outlined

Portland Water Bureau 1120 SW 5th Avenue Rm 405 Portland, OR 97204 Robert.Fraley@portlandoregon.gov



PUBLIC NOTICE

Date posted: 6/12/2024

Extended Comment Period on Proposed Beneficial Use Determinations for Reuse of Soil for the Portland Water Bureau's Bull Run Water Filtration and Pipeline Project

HOW TO PROVIDE PUBLIC COMMENT

Submit written comments:

Facility name: Portland Water Bureau Bull Run Water Filtration Facility and Pipeline

Permit type: Beneficial Use Determination

Comments due by: July 26, 2024 at 5 p.m.

By mail: Solid Waste Permit Coordinator, Oregon DEQ, 700 NE Multnomah St. Ste. 600 Portland, OR 97232

By email:

SolidWastePermitCoordinator.DEQNWR@deq.oregon.gov

The Oregon Department of Environmental Quality is extending the public comment period on the proposed approval of two beneficial use requests from the Portland Water Bureau.

Summary

DEQ proposes to issue two beneficial use determinations, which would allow Portland Water Bureau to reuse slightly contaminated soils removed from the construction area for the Bull Run water pipeline and the water filtration facility construction project.

About the water filtration facility and the pipeline projects

Portland Water Bureau proposes to construct a water carrying pipeline and a water filtration facility in east Multnomah County in the Gresham area. The projects will disturb slightly contaminated soil, and the City proposes to reuse slightly contaminated soils removed from the surface of the construction area to be used as fill materials adjacent to the development of a water supply filtration facility and water pipeline. The slightly contaminated soils are impacted by historical chlorinated pesticide use. The concentrations of pesticides exceed clean fill criteria and DEQ Eco Risk standards for ground feeding birds and mammals. The soils that are more than 1.5 feet below the surface meet clean fill criteria. Soils from the pipeline are estimated to be about 19,000 cubic yards and soils from the water filtration facility are estimated to be about 116,000 cubic yards.

The Portland Water Bureau proposes to reuse contaminated surface soils from the water pipeline for the following purposes:

1. Filling in trenches
2. Reconstructing shoulder surfaces adjacent to roadways
3. Replacing as topsoil as part of trench restoration of a farm field adjacent to the pipeline per property owner request between Dodge Park Blvd and Lusted Road
4. Placement at Filtration Facility site in accordance with that Beneficial Use Determination

Translation or other formats

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)

800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov



State of Oregon
Department of Environmental Quality

The Portland Water Bureau proposes to reuse soil from construction of the water filtration facility on site for construction fill.

DEQ agrees that the proposed reuse of the soils from the pipeline and water filtration facility construction is a productive beneficial reuse of the soil. While awaiting reuse, the soil piles will be covered with a protective cover of either a geotextile cover and/or clean fill soils to prevent dust and to also prevent birds and mammals from burrowing into the piles. The construction of the pipeline and water treatment filtration facility as well as the storage of the soils must be done in compliance with the water quality permit issued to the Portland Water Bureau for these projects.

What types of waste does the beneficial use regulate?

The proposed beneficial use determinations apply to an estimated volume of 116,000 cubic yards of slightly contaminated soil to be reused on site.

How does DEQ determine requirements?

DEQ evaluates the potential waste and the submitted management plans to determine that the proposed beneficial use of the soil meet all of the DEQ beneficial use regulations.

How does DEQ monitor compliance with the beneficial use determination approval?

DEQ ensures compliance with the beneficial use requirements through periodic report reviews and through compliance inspections. The facility must follow all requirements of the beneficial use determinations to reduce potential risks to public health and the environment.

What happens next?

DEQ will consider and respond to all written comments received on the proposed beneficial use determinations and may modify the determination based on comments received. Ultimately, if a facility meets all legal requirements, DEQ will issue the beneficial use determinations.

For more information

Find more information about this project by visiting DEQ's [web page for this project](#).

If you have any technical questions, please contact Ryan Lewis at 503-915-4764 or by email at Ryan.Lewis@deq.oregon.gov.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

DRAFT

Robert Fraley
Portland Water Bureau
1120 SW 5th Avenue Rm 405
Portland, OR 97204
Robert.Fraley@portlandoregon.gov

RE: Beneficial Use Determination (BUD-20240418), PWB – Bull Run Finished Water Pipeline Contaminated Soils

Dear Robert Fraley:

The Department of Environmental Quality (DEQ) has reviewed Portland Water Bureau's (PWB) application for a solid waste beneficial use determination (BUD) that was submitted on April 18, 2024 and updated on May 20, 2024. The application requests that DEQ approve a proposed beneficial use of slightly contaminated soils generated by PWB that will be excavated from the surface of the pipeline trench excavation areas and from the intersection widening project at the intersection of SE Dodge Park Boulevard and SE Cottrell Road. The proposed beneficial use for the slightly contaminated soil will consist of four reuse options: (1) use of the soil as nonstructural construction fill within the excavated pipeline trench, (2) use of the soil as nonstructural construction fill on the shoulder surfaces immediately adjacent to the roadway, (3) use as topsoil as part of trench restoration of a farm field as specified by landowner, or (4) use of the soil as nonstructural construction fill at the water filtration facility according to proposed BUD-20240402.

PWB has requested this beneficial use because the soils to be excavated and reused as nonstructural construction fill have been sampled and the concentrations of pesticide contaminants do not meet the DEQ clean fill screening values. The contamination values exceed ecological risk screening values and are below occupational human health risk screening values. The application proposes to beneficially reuse approximately 19,000 cubic yards (CY) of the slightly contaminated soils as construction fill until construction completion in 2027 as well as 250 cubic yards of soil generated from intersection widening at the southwestern corner of the SE Dodge Park Boulevard and SE Cottrell Road. The pipeline excavation work is scheduled to begin in early July 2024.

Soil material that exhibits staining or emits odors is not included in this BUD.

DEQ has determined that the beneficial use proposal meets the requirements for a Tier 2 case-specific Beneficial Use Determination (BUD) under Oregon Administrative Rule (OAR) 340-093-260 through 340-093-0290. This BUD is issued to PWB and is limited to the materials, approved uses, and conditions specified in Table 1.

DEQ's determination is based on a review of PWB's application for beneficial use of contaminated soils to be generated during the Bull Run Finished Water Pipeline construction project, which demonstrates the case-specific beneficial use performance criteria outlined in

OAR 340-093-0280 are met for the approved uses. Details of DEQ's review are provided in the attached case-specific evaluation report.

Failing to use the contaminated soils in accordance with the BUD approval conditions on use will subject the material to solid waste regulations and fees. If the conditions of approval cannot be met, the waste must be disposed of at a DEQ permitted landfill or DEQ approved facility.

Per OAR 340-093-0290(9), DEQ may modify or revoke this case-specific BUD at any time based on new information showing the potential to cause adverse impact to public health, safety, welfare, or the environment.

Table 1

Material	Beneficial Use	Conditions on all Uses
<p>Approximately 19,000 cubic yards of contaminated soils generated from construction activities at the Bull Run Finished Water Pipeline Project. As well as 250 cubic yards of soil generated from intersection widening at the southwestern corner of the SE Dodge Park Boulevard and SE Cottrell Road.</p>	<p>Contaminated soils will be used in one of the following reuses:</p> <p>(1) use of the soil as nonstructural construction fill within the excavated pipeline trench, or</p> <p>(2) use of the soil as nonstructural construction fill on the shoulder surfaces immediately adjacent to the roadway, or</p> <p>(3) use as topsoil as part of trench restoration of a farm field as specified by landowner, or</p> <p>(4) Use of the soil as nonstructural construction fill at the water filtration facility according to proposed BUD-20240402.</p>	<p>To comply with this BUD, PWB must ensure:</p> <ol style="list-style-type: none"> 1. The contaminated soils be managed to prevent, at all times, windblown dust, runoff and erosion, releases to the environment or nuisance conditions. 2. The contaminated soils will not be placed where they could come into contact with or adversely impact surface water or groundwater. 3. The contaminated soils which will be used as non-structural construction fill and will be stockpiled during the water filtration facility construction according to the requirements of the Stormwater General Permit NPDES 1200-CA Permit. 4. The contaminated soils will be placed away from environmentally sensitive areas such as wetlands, wildlife refuges and parks to protect waters of the State. 5. PWB will maintain records documenting the amounts of contaminated soils used and where, keep the records for five years from the date created and make these records available for DEQ review and inspection and submit annual reports to DEQ by January 31 of each year identifying how much soil was used during the previous year. Placement of contaminated soils will be recorded in daily construction reports created by PWB's construction quality assurance team. The excavated soil will be placed in accordance with one the four reuse options. If the contaminated soil is not reused, the soil will be disposed of at a DEQ approved landfill or site. 6. PWB must follow all requirements as specified by BUD-20240402 when reusing all materials at the proposed water filtration facility. 7. PWB will comply with all applicable federal, state, and local regulations when using the material. 8. PWB will inspect the cover at the reuse location after final placement by October 1 of each year until fully stabilized and will submit a status update to DEQ with the annual report (Condition 5).

If you have any questions or concerns, please contact Ryan Lewis (DEQ project manager) by phone at (503) 915-4764, or email at Ryan.Lewis@deq.oregon.gov. DEQ appreciates your cooperation in protecting Oregon's environment.

The existing land use approval for the Bull Run Filtration Facility is still under appeal at the Land Use Board of Appeals. DEQ will rescind this BUD if LUBA reverses the county land use approval.

Sincerely,

Audrey O'Brien, Manager
Northwest Region, Environmental Partnerships

Enclosure: Beneficial Use of Solid Waste Determination Evaluation Report

Beneficial Use of Solid Waste Determination Evaluation Form

Applicant: Portland Water Bureau
BUD#: 20240418
Solid waste: Contaminated Soils
Date: May 7, 2024



State of Oregon Department of Environmental Quality
**DRAFT Beneficial Use of Solid Waste
 Determination Evaluation Form**

Contact: Ryan Lewis
 700 NE Multnomah St., Suite 600
 Portland, OR 97232-4100

Applicant: Portland Water Bureau (PWB)	
BUD#: 20240418	
Solid Waste: Contaminated Soils	
Summary of proposed beneficial use: PWB proposes to reuse contaminated soils removed from the surface of the trench excavation for the Bull Run Water Pipeline and soils to be removed from the road widening at the intersection of SE Dodge Park Rd and SE Cottrell. Surface soils from the pipeline construction project do not meet clean fill screening criteria. Soils from the pipeline construction at depths deeper than 1.5 feet do meet clean fill screening values. Soils down to five feet deep from the intersection widening project do not meet clean fill screening values. The contaminated soils are impacted by historical chlorinated pesticide use including dieldrin from past agricultural practices. PWB proposes to reuse the soils in the (1) pipeline trenches as construction fill, (2) reconstructing shoulder surfaces adjacent to roadways, (3) replacing as topsoil as part of trench restoration of farm field per property owner request, and (4) placement at the water filtration plant property as construction fill per BUD 20240402. If the contaminated soil is not reused, the soil will be disposed of at a DEQ approved landfill or site.	
Reviewer: Ryan Lewis	Date: May 7, 2024
Tier: <input type="checkbox"/> One <input checked="" type="checkbox"/> Two <input type="checkbox"/> Three	

Beneficial use of solid waste

Beneficial use of solid waste is a sustainability practice that may involve using an industrial waste in a manufacturing process to make another product or using a waste as a substitute for construction materials.

The environmental benefits of substituting industrial waste materials for virgin materials includes conserving energy, reducing the need to extract natural resources and reducing demand for disposal facilities.

Oregon Administrative Rules (OAR) 340-093-0260 - 0290 establish standing beneficial uses and a process for DEQ review of case-specific beneficial use proposals. Under these rules, DEQ may issue a beneficial use determination as an alternative to a disposal permit for proposals that meet the rule criteria. If approved, once a beneficial use determination is issued, DEQ no longer regulates the waste as a solid waste as long as the waste is used in accordance with the approved beneficial use determination.

Beneficial use determination evaluation summary

- Yes, the beneficial use of this solid waste meets all the case-specific performance criteria listed below and is approved.
- No, the beneficial use of this solid waste does not meet all the case-specific performance criteria listed below and is not approved.

Beneficial Use of Solid Waste Determination Evaluation Form

Applicant: Portland Water Bureau
BUD#: 20240418
Solid waste: Contaminated Soils
Date: May 7, 2024

The beneficial use of this solid waste is approved for a 1-year demonstration project.

Case-specific beneficial use performance criteria:

DEQ may approve an application for a case-specific beneficial use of solid waste only if all the following performance criteria are addressed:

1. Characterization of the Solid Waste;
2. Productive Beneficial Use of the Solid Waste; and,
3. The effect of the Proposed Beneficial Use on Public Health, Safety, Welfare and/or the Environment.

Did the applicant characterize the solid waste and proposed beneficial use sufficiently to demonstrate compliance with the rules for case-specific beneficial use determinations (OAR 340-093-0280) by submitting required information for the appropriate tier? (See tier sections below for detailed characterization information.)

Yes No

Was the following information submitted for DEQ review and how adequate was it?

Tier 1: **Applicable** **Not applicable**

- Did the applicant provide an adequate description of the material proposed for beneficial use, the manner of generation and the estimated quantity to be used beneficially each year?

Yes No

Notes:

The total estimated volume of contaminated soil for the proposed beneficial use is approximately 19,000 cubic yards (cy), which will be generated over the course of the project for several years during pipeline construction. Approximately 250 cy will be generated during an intersection widening project. PWB proposes to reuse the excavated contaminated soils in the pipeline trenches as construction fill, used to reconstruct shoulder surfaces adjacent to roadways, replaced as topsoil as part of trench restoration of farm field per property owner request, and additionally placed at the water filtration plant property as construction fill per BUD 20240402. During construction, the material will be handled to prevent environmental impacts and comply with the PWB's 1200CA permit requirements until reused. The 1200-CA covers both the filtration facility and the pipeline area. The contaminated soils are the surface soils (0-1.5 feet deep). Deeper soils within the pipeline excavation areas have been identified as meeting clean fill limits. The pipeline excavation also includes an intersection widening construction area where contaminated soil in this intersection do not meet clean fill limits to depths of 5 feet below the surface. The soil quantity of 250 cy is expected to be generated due the intersection widening construction.

The contaminated soil will be managed in one of three methods (1) Placement of excavated soil as construction fill within filtration facility according to BUD-20240402, (2) placement within the resulting pipeline trench excavation, or (3) placement on the shoulder surfaces immediately adjacent to the roadway as specified by landowner.

PBS Environmental submitted the January 2024 Clean Fill Determination Report (CFDR) prior to the PWB's BUD application. The application presents the data from CFDR of samples using incremental sampling methodology of 4 decision units (DUs), (1) Finished Water North, (2) Finished Water Center, (3) Finished Water South, and (4) SE Dodge Park Boulevard and SE Cottrell Road Intersection. Two samples each were collected for Finished Water North, Finished Water Center, and Finished Water South, one comprising 0-1.5 ft depth and the other from 1.5 ft to 5 ft depth. The Finished Water North had a triplicate sample collected for the shallow 0-1.5 ft depth. The SE Dodge Park Boulevard and SE Cottrell Road Intersection DU sample was collected at a depth of 0 to 5 feet.

Beneficial Use of Solid Waste Determination Evaluation Form

Applicant: Portland Water Bureau

BUD#: 20240418

Solid waste: Contaminated Soils

Date: May 7, 2024

The samples were sent for lab analysis for the following contaminants:

- Seventeen Agricultural Metals (antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, nickel, mercury, molybdenum, selenium, silver, thallium, vanadium, and zinc) by EPA Methods 6000/7000 series
- Organochlorine Pesticides by EPA 8081B
- Organophosphate Pesticides by EPA 8141A
- Chlorinated Acid Herbicides by EPA 8151
- Diesel and Heavy Oil-Range Hydrocarbons by NWTPH-Dx

Pesticides were detected in surface soil samples (0-1.5 feet depths) at concentrations above the Clean Fill Criteria and DEQ Eco Risk for ground feeding birds and mammals. These pesticides include 4,4-DDE, 4,4-DDT, and Dieldrin. Another pesticide, 4,4-DDD was detected in the samples at FWC-DU-1 below clean fill criteria. Samples collected along the pipeline at depths greater than 1.5 feet did not indicate pesticide detections exceeding Clean Fill Criteria. A sample collected at the SE Dodge Park Boulevard and SE Cottrell Road Intersection detected concentrations of pesticides above the clean fill criteria.

Metals were detected below Clean Fill Criteria concentrations in the surface soils (0-1.5 feet depth) and soils at depths from 1.5 feet – 5 feet except for one of the samples collected at 0-1.5 feet depth at Finished Water South which was 28.3 mg/kg. This detection exceeded the Clean Fill Value of 28.0 mg/kg, however is consistent with naturally occurring background levels of lead for the region. Many metals occur naturally in soil and due to soil's heterogeneous nature, can fluctuate in concentration.

DEQ is requiring that all of the soils stored at the water treatment facility property be managed under the 1200-CA requirements until used and be placed under 3 feet of clean fill. If the soils are used at the water filtration plant as construction fill, the soils will be subject to the beneficial use determination requirements of the filtration facility soils set forth in BUD-20240402.

Did the applicant provide an adequate description of the proposed beneficial use and justify how the proposed use is beneficial?

Yes No

Notes:

The proposed beneficial use of the contaminated soil is to reuse excavated soil as non-structural construction fill. Reuse of this soil provides many benefits including limiting trucking emissions and impacts to landfill capacity.

- Did the applicant provide a sufficient comparison of the chemical and physical characteristics of the material proposed for beneficial use with the material it will replace?

Yes No

Notes:

PWB's BUD application includes sampling results for pesticides, herbicides, detected metals from the 17 agricultural metals list. Tables 2, 3, 4, and 6 of the application shows the summary of the analytical results from the pipeline and intersection ISM samples (one DU sample at Finished Water North in triplicate). The shallow DUs included depths from 0-1.5 ft and the deeper DUs included depths from 1.5-5 ft. DEQ evaluated and agrees that the samples and analysis for the selected contaminants sufficiently characterize the soil being moved during the PWB Finished Water Pipeline construction process. Clean Fill Criteria and DEQ eco risk exceedances for ISM samples are described above. These values are also compared in the tables to the following risk screening levels:

- DEQ's human health risk-based concentrations (RBCs) for occupational soil ingestion, dermal contact, and inhalation

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- DEQ's ecological risk for top consumers birds and mammals (Threatened and Endangered (T&E) and non T&E))
- DEQ's ecological risk for direct toxicity to plants and invertebrates

The metals concentrations are consistent with naturally occurring background levels.

The proposed use of the contaminated soil from the Bull Run Finished Water Pipeline project as either non-structural fill within the filtration facility construction area per the requirements in BUD-20240402, use as trench backfill along the pipeline, or shoulder soil grading as specified meets the beneficial use criteria of being productive and is suitable for use in construction as non-structural fill and trench backfill. The slightly contaminated soil can be used as described in the application and the conditions of this BUD.

As shown in the application, the concentrations for pesticides in the surface soils and within the intersection widening are below human health risk levels. They exceed the T&E and non-T&E eco RBC. The eco RBC pertains to ground feeding birds and mammals and top consumers bird and mammals. The presence of threatened or endangered species that utilize the site is not confirmed or discussed in the application. The exceedances of the non T&E eco risk-based concentrations are addressed by the protective cover outlined in BUD-20240402. The trench pipeline corridor right-of-way and the shoulder soils and the restored trench in the active farm field do not provide a suitable habitat or resources for mammals and birds. The proposed placement and reuse of contaminated soils is not anticipated to adversely affect any plant or wildlife species.

- Did the applicant successfully demonstrate compliance of the proposed beneficial use with the performance criteria in OAR 340-093-0280 based on knowledge of the process that generated the material, properties of the finished product, or testing?
 Yes No

Notes:

The soil is slightly contaminated as discussed above. The contaminated soils have been identified to contain concentrations of pesticides that are above clean fill criteria but below occupational RBCs for soil materials. The reuse of the Finished Water Pipeline soil on the filtration facility construction must follow the requirements as specified in BUD-20240402.

- If required, did the applicant provide any other DEQ required information to evaluate the proposal?
 Yes No

Notes:

Not applicable. DEQ did not require additional information.

Tier 2: Applicable Not applicable

- Did the applicant submit all the information required for a Tier 1 application?
 Yes No
- Did the applicant submit adequate sampling and analysis to make a determination of suitability for beneficial use? (Note: The analysis must provide chemical, physical, and biological characterization of the material proposed for beneficial use and identify potential contaminants in the material or the end product, as applicable.)
 Yes No

Notes:

DEQ considers the material testing conducted to be adequate. Sample results are discussed above.

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- When applicable, did the applicant provide a risk screening comparing the concentration of hazardous substances in the material to existing, DEQ approved, risk-based screening level values, and demonstrate compliance with acceptable risk levels?

Yes No

Notes:

A comparison to risk screening levels is discussed above. Contaminant concentrations were compared to human health risk screening levels and were found to be sufficiently low for the proposed beneficial uses. The applicant compared contaminant concentrations to ecological risk-based concentrations and is shown in Tables 2, 3, 4 and 6 of the application.

- When applicable, did the applicant supply the location or type of land use where the material will be applied, consistent with the risk scenarios used to evaluate risk?

Yes No NA

Notes The contaminated soil is proposed for use as non-structural fill at the PWB filtration facility property, as well as within the pipeline trenches as construction fill, reconstructing shoulder surfaces adjacent to roadways, replacing as topsoil as part of trench restoration of farm field per property owner request.

- When applicable, did the applicant supply contact information of property owner(s) if this is a site-specific land application proposal, including name, address, phone number, email, site address and site coordinates (latitude and longitude)?

Yes No NA

Notes: The soil reuse location is identified as tax lots, 1S4E22D -00400, 1S4E22D -00100 for the proposed filtration facility. For the proposed pipeline, primarily within public street right -of-ways and across the following tax lots: 1400 (1S4E23C) 1500 (1S4E23C) 2200 (1S4E23C) 7300 (1S4E22DB) 900 (1S4E21A) 100 (1S4E22BA) 200 (1S4E22BA) 801 (1S4E15C) 800 (1S4E23C). The contact information is:

Robert Fraley
Portland Water Bureau
1120 SW 5th Avenue Rm 405
Portland, OR 97204
503-319-9207
Robert.Fraley@portlandoregon.gov

- Did the applicant supply an adequate description of how the material will be managed to minimize potential adverse impacts to public health, safety, welfare, or the environment?

Yes No

Notes:

The contaminated soils will be managed so that they will not create an adverse impact on groundwater, surface water, or public health or safety. Contaminated soil material will be stockpiled on site during construction and reused at the project area as non-structural fill. PWB will follow their 1200CA stormwater permit during the entire project until final grade is established and vegetated.

Beneficial Use of Solid Waste Determination Evaluation Form

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Tier 3: **Applicable** **Not applicable**

- Did the applicant submit all the information required for a Tier 1 and Tier 2 application?
 Yes No
- Did the applicant provide an adequate discussion of the justification for the proposal?
 Yes No
- Is there an estimated length of time that would be required to complete the project, if it is a demonstration?
 Yes No
- If it is a demonstration project, are their methods proposed to ensure safe and proper management of the material?
 Yes No

2. Productive beneficial use of the solid waste

- Has the applicant demonstrated that the proposed beneficial use is a productive use of the material by providing information substantiating the criteria listed below?
 Yes No

Notes: PWB proposes the contaminated soil is reused as non-structural fill at the PWB filtration facility property, as well as within the pipeline trenches as construction fill, reconstructing shoulder surfaces adjacent to roadways, replacing as topsoil as part of trench restoration of farm field per property owner request.. The soil meets specifications to be used as non-structural construction fill.

- Did the applicant successfully identify or demonstrate a reasonably likely proposed beneficial use for the material that is not speculative?
 Yes No

Notes: See discussion above.

This criterion consists of three parts.

1. Identified use:

Has the applicant clearly stated what the waste is going to be used for, that the waste is compatible with that use and the proposed quantity is necessary?

Yes No

Notes:

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Solid waste: Contaminated Soils
Date: May 7, 2024

PWB estimates that the Bull Run Filtration Project will generate 19,000 cubic yards of contaminated soil along the finished water pipeline. 250 cy will be generated during the intersection widening excavation.

2. Reasonably likely use:

Has the applicant identified, with supporting documentation, the timeframe within which this use is likely to occur (e.g., zoning info, master plan for development, letters from local jurisdictions, etc.)?

Yes No

Notes:

The application states that excavation of approximately 19,000 cubic yards of contaminated soil is planned to begin in summer 2024. The applicant expects the excavation to be completed in 2027.

3. Not speculative:

For land application - has this material been used at other sites for the same purpose, is the material feasible for use at this site for this purpose, or has the applicant identified a known potential for this use at this site?

Yes No N/A

For uses other than land application - has the material been used in a product before, is the material feasible for use in a product, or has the applicant identified a known potential for use in this product?

Yes No N/A

- Is the use a valuable part of a manufacturing process, an effective substitute for a valuable raw material or commercial product, or otherwise authorized by the Department and does not constitute disposal?

Yes No

Notes:

This is a substitute for use of clean soil and is proposed to be used for regrading the soil reuse area, backfilling the pipeline trench, and regrading the shoulder areas. The reuse of the slightly contaminated soil will also prevent the material from filling valuable space in local landfills and reduce transportation costs.

- Is the use in accordance with applicable engineering standards, commercial standards, and agricultural or horticultural practices?

Yes No

Notes:

The proposed uses of the excavated soils conform and follow standard engineering practices and limit risks posed by the contamination found in the soil. Also, the use reduces hauling trips, trucking emissions, and does not contribute to filling valuable landfill space.

3. Effect of proposed beneficial use on public health, safety, welfare and/or the environment

Has the applicant demonstrated the proposed beneficial use will not create an adverse impact to public health, safety, welfare, or the environment, by providing information substantiating compliance with the criteria listed in the bullet list below?

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Date: May 7, 2024

Yes No

Notes:

As discussed above, chemical testing of the contaminated soils indicates that the soil reuse area would not pose a risk to people or animals, if reused as described in the application.

- Has the applicant demonstrated that the material is not a hazardous waste under ORS 466.00?

Yes No

Notes:

Contaminant concentrations are below applicable human health and ecological screening levels with the exceptions noted above.

- Has the applicant demonstrated that until the time this material is used according to a beneficial use determination, the material will be managed, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions?

Yes No

Notes:

The application states that contaminated soil will be managed at all times to meet the proposed BUD conditions and stormwater permit 1200CA requirements. The reused soil will be managed to prevent, at all times, windblown dust, runoff and soil erosion, releases to the environment or nuisance conditions. The reused soil will be placed away from environmentally sensitive areas to protect waters of the State (such as wetlands, wildlife refuges and parks). PWB will maintain records documenting the amounts of contaminated soil transported to the soil reuse location by year.

PWB will comply with all applicable federal, state, and local regulations when using the material. PWB identifies in the application and will manage the contaminated soil in accordance with the 1200 CA NPDES permit.

- Has the applicant demonstrated that hazardous substances in the material, if any, meet one of the criteria in the bulleted list below?

Yes No

- Hazardous substances do not significantly exceed the concentration in a comparable raw material or commercial product;
- Hazardous substances do not exceed naturally occurring background concentrations; or
- Hazardous substances will not exceed acceptable risk levels, including persistence and potential bioaccumulation, when the material is managed according to a beneficial use determination.

Notes:

Testing results indicate that the hazardous substances in the contaminated soils do not significantly exceed the concentration in a comparable raw material (soil).

- Has the applicant demonstrated that the proposed beneficial use will not result in the increase of a hazardous substance in a sensitive environment, such as a park, wildlife refuge or wetland?

Yes No

Notes:

The material will not be placed in a sensitive environment. In addition, contaminant concentrations meet clean fill screening levels for most contaminants and exceedances are minor for those above clean fill values.

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- Has the applicant demonstrated that the proposed beneficial use will not create objectionable odors, dust, unsightliness, fire, or other nuisance conditions?
 Yes No

Notes:

The application states that the reused contaminated soil will be managed in accordance with the procedures and best management practices outlined in the PWB 1200 CA permit.

- Has the applicant indicated that the proposed beneficial use will comply with any other applicable federal, state, and local regulations?
 Yes No

4. Public Involvement Evaluation (Note: this is not a beneficial use evaluation criterion)

Determine a public involvement recommendation using the current Guidance to DEQ Solid Waste Program Staff and Managers on Public Notice and Participation.

- Is public notice and participation being recommended for this application?
 Yes No

Notes:

DEQ is aware of public interest in the proposed use of the material and will be posting a Public Notice that includes a community public meeting and a public comment period that ends at the end of June.



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

TBD

Robert Fraley
Portland Water Bureau
1120 SW 5th Avenue Rm 405
Portland, OR 97204
Robert.Fraley@portlandoregon.gov

RE: Beneficial Use Determination (BUD-20240402), PWB – Bull Run Filtration Facility Contaminated Soils

Dear Robert Fraley:

The Department of Environmental Quality (DEQ) has reviewed Portland Water Bureau's (PWB) application for a solid waste beneficial use determination (BUD) that was submitted on April 2, 2024. The application requests that DEQ approve a proposed beneficial use of slightly contaminated soils generated by PWB that will be excavated from the surface of the construction area for the Bull Run Filtration Project. The contaminated soils at the surface (0-1.5 feet below ground surface) of the project area do not meet DEQ clean fill criteria. The soils that are deeper than 1.5 feet below the surface do meet the clean fill criteria. The proposed use for the slightly contaminated soil is for non-structural fill adjacent to the construction area. The application proposes to beneficially reuse approximately 116,000 cubic yards (CY) of the slightly contaminated soils until construction completion in 2027. The majority of contaminated soils will be excavated and moved from the Tax Lot 400 to Tax Lot 100 beginning in May of 2024 with some contaminated soil remaining on Tax Lot 400.

Soil material that exhibits staining or emits odors is not included in this BUD.

DEQ has determined that the beneficial use proposal meets the requirements for a Tier 2 case-specific Beneficial Use Determination (BUD) under Oregon Administrative Rule (OAR) 340-093-260 through 340-093-0290. This BUD is issued to PWB and is limited to the materials, approved uses, and conditions specified in Table 1. DEQ recognizes that an additional BUD application and additional information pertaining to the Finished Water Pipeline will be submitted at a later date. Any materials generated by activities pertaining to the forthcoming BUD that will be reused at Tax Lot 100 and 400 will need to comply with the conditions in the potential forthcoming BUD as well as any conditions in this BUD.

DEQ's determination is based on a review of PWB's application for beneficial use of contaminated soils to be generated during the Bull Run Filtration construction project, which demonstrates the case-specific beneficial use performance criteria outlined in OAR 340-093-0280 are met for the approved uses. Details of DEQ's review are provided in the attached case-specific evaluation report.

Failing to use the contaminated soils in accordance with the BUD approval conditions on use will subject the material to solid waste regulations and fees. If the conditions of approval cannot be met, the waste must be disposed of at a DEQ permitted landfill or DEQ approved facility.

Per OAR 340-093-0290(9), DEQ may modify or revoke this case-specific BUD at any time based on new information showing the potential to cause adverse impact to public health, safety, welfare, or the environment.

Table 1

Material	Beneficial Use	Conditions on all Uses
<p>Approximately 116,000 cubic yards of non-contaminated soils generated from construction activities at the Bull Run Filtration Project.</p>	<p>Contaminated soils will be used as non-structural fill in areas adjacent to the construction area within Tax Lot 100 and 400.</p>	<p>To comply with this BUD, PWB must ensure:</p> <ol style="list-style-type: none"> 1. The contaminated soils be managed to prevent, at all times, windblown dust, runoff and erosion, releases to the environment or nuisance conditions. 2. The contaminated soils will not be placed where they could come into contact with or adversely impact surface water or groundwater. 3. The contaminated soils will be used as non-structural fill and will be stockpiled during the filtration facility construction according to the requirements of the Stormwater General Permit 1200-CA Permit. 4. The contaminated soils will be placed away from environmentally sensitive areas to protect waters of the State (such as wetlands, wildlife refuges and parks). 5. PWB will maintain records documenting the amounts of contaminated soils used and where, keep the records for five years from the date created and make these records and submit annual reports to DEQ by January 31 of each year identifying how much soil was used during the previous year. Placement of contaminated soils will be recorded in daily construction reports created by PWB's construction quality assurance team. 6. The non-structural fill will be covered with a protective cap using one of the two following options: (1) Geotextile fabric will be placed over contaminated soil upon completion of construction of the Filtration Facility. Fabric will be specified to restrict burrowing of mammals. Additionally, a cap of one foot of material meeting the DEQ definition of "Clean Fill" will be placed over top of the contaminated soil and geotextile barrier; OR (2) A cap comprising of three feet of material that meets clean fill criteria is placed over the contaminated soil. 7. The protective cap will be maintained and vegetated upon completion of the construction of the facility in a manner to prevent erosion. 8. PWB will comply with all applicable federal, state, and local regulations when using the material. 9. PWB will inspect the cover at reuse location after final placement by October 1 of each year until fully stabilized and will submit a status update to DEQ with the annual report (Condition 5).

If you have any questions or concerns, please contact Ryan Lewis (DEQ project manager) by phone at (503) 915-4764, or email at Ryan.Lewis@deq.oregon.gov. DEQ appreciates your cooperation in protecting Oregon's environment.

The existing land use approval for the Bull Run Filtration Facility is still under appeal at the Land Use Board of Appeals. DEQ will rescind this BUD if LUBA reverses the county land use approval.

Sincerely,

Audrey O'Brien, Manager
Northwest Region, Environmental Partnerships

Enclosure: Beneficial Use of Solid Waste Determination Evaluation Report

Beneficial Use of Solid Waste Determination Evaluation Form

Applicant: Portland Water Bureau
BUD#: 20240402
Solid waste: Contaminated Soils
Date: April 3, 2024



State of Oregon Department of Environmental Quality

Beneficial Use of Solid Waste Determination Evaluation Form

Contact: Ryan Lewis
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100

Applicant: Portland Water Bureau (PWB)	
BUD#: 20240402	
Solid Waste: Contaminated Soils	
Summary of proposed beneficial use: PWB proposes to reuse contaminated soils removed from the surface of the construction area for the Bull Run Filtration Project which includes a filtration facility and a raw water pipeline. The contaminated soils are impacted by historical chlorinated pesticide use including dieldrin. The soils deeper than 1.5 feet below the surface meet clean fill criteria.	
Reviewer: Ryan Lewis	Date: April 3, 2024
Tier: <input type="checkbox"/> One <input checked="" type="checkbox"/> Two <input type="checkbox"/> Three	

Beneficial use of solid waste

Beneficial use of solid waste is a sustainability practice that may involve using an industrial waste in a manufacturing process to make another product or using a waste as a substitute for construction materials.

The environmental benefits of substituting industrial waste materials for virgin materials includes conserving energy, reducing the need to extract natural resources and reducing demand for disposal facilities.

Oregon Administrative Rules (OAR) 340-093-0260 - 0290 establish standing beneficial uses and a process for DEQ review of case-specific beneficial use proposals. Under these rules, DEQ may issue a beneficial use determination as an alternative to a disposal permit for proposals that meet the rule criteria. If approved, once a beneficial use determination is issued, DEQ no longer regulates the waste as a solid waste as long as the waste is used in accordance with the approved beneficial use determination.

Beneficial use determination evaluation summary

- Yes, the beneficial use of this solid waste meets all the case-specific performance criteria listed below and is approved.
- No, the beneficial use of this solid waste does not meet all the case-specific performance criteria listed below and is not approved.
- The beneficial use of this solid waste is approved for a 1-year demonstration project.

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Case-specific beneficial use performance criteria:

DEQ may approve an application for a case-specific beneficial use of solid waste only if all the following performance criteria are addressed:

1. Characterization of the Solid Waste;
2. Productive Beneficial Use of the Solid Waste; and,
3. The effect of the Proposed Beneficial Use on Public Health, Safety, Welfare and/or the Environment.

Did the applicant characterize the solid waste and proposed beneficial use sufficiently to demonstrate compliance with the rules for case-specific beneficial use determinations (OAR 340-093-0280) by submitting required information for the appropriate tier? (See tier sections below for detailed characterization information.)

Yes No

Was the following information submitted for DEQ review and how adequate was it?

Tier 1: **Applicable** **Not applicable**

- Did the applicant provide an adequate description of the material proposed for beneficial use, the manner of generation and the estimated quantity to be used beneficially each year?

Yes No

Notes:

The total estimated volume of contaminated soil for the proposed beneficial use is approximately 116,000 cubic yards (cy), which will be generated over the course of the project for several years. Approximately 110,000 cubic yards will be generated from tax lot 400 and approximately 6,000 cy will be generated from tax lot 100. The contaminated soil will be stockpiled on PWB property during the construction phase of the project and maintained via 1200CA permit requirements. The contaminated soil will be placed above the regional groundwater table. The contaminated soil is the surface soils (0-1.5 feet below ground surface [ft bgs]). Deeper soils have been identified as meeting clean fill limits.

The contaminated soil will be covered with one of two methods of covering (1) a geotextile fabric will be placed over the contaminated soil and 1 foot of clean fill will be placed over the top of the fabric. (2) if no geotextile is used, a 3-foot cover of clean fill will be placed over the contaminated soil. The protective cover will be maintained and vegetated post-construction until stabilized

PBS Environmental submitted the January 2024 Clean Fill Determination Report (CFDR) prior to the PWB's BUD application. The Phase II Environmental Site Assessment – Supplemental Investigation Report (Phase II) data was also submitted with this application. The application presents the data from CFDR of samples using incremental sampling methodology (ISM) of 2 decision units (DUs) in triplicate (6 samples). One DU comprising of 0-1.5 ft bgs and the other DU comprising of the material from 1.5 ft bgs to 5 ft bgs. The application presents the Phase II data of 10 composite samples of soil from 0-0.5 ft bgs from 10 composite areas and two composite samples inclusive of all composite locations from surface 0-0.5 ft bgs and 0.5-1.0 ft bgs (12 samples).

For the Phase II, samples were sent for lab analysis for the following contaminants:

- Total metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, and zinc) by EPA Methods 6020B
- Pesticides by EPA 8081B
- Chlorinated Acid Herbicides by EPA 8151A

For the CFDR, the DU-1 and DU-2 samples were sent for lab analysis for the following contaminants:

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- Seventeen Agricultural Metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, and zinc) by EPA Methods 6000/7000 series
- Organochlorine Pesticides by EPA 8081B
- Organophosphate Pesticides by EPA 8141A
- Chlorinated Acid Herbicides by EPA 8151

Pesticides were detected in surface ISM soil samples and composite samples at concentrations above the Clean Fill Criteria and DEQ Eco Risk for ground feeding birds and mammals. These pesticides include 4,4-DDE, 4,4-DDT, and Dieldrin. The samples below 1.5 feet did not show detections above Clean Fill Criteria.

All metals were detected below Clean Fill Criteria concentrations in both ISM surface soils and soils at depth (DU-1 and DU-2). Concentrations of metals were consistent with naturally occurring background levels.

- Did the applicant provide an adequate description of the proposed beneficial use and justify how the proposed use is beneficial?
 Yes No

Notes:

The proposed beneficial use of the contaminated soil is to reuse excavated soil as non-structural fill and limit trucking emissions and impacts to landfill capacity.

- Did the applicant provide a sufficient comparison of the chemical and physical characteristics of the material proposed for beneficial use with the material it will replace?
 Yes No

Notes:

PWB's BUD application includes sampling results for pesticides, herbicides, detected metals from the 17 agricultural metals list. Table 1 of Application shows the summary of the analytical results from the 2 ISM samples (in triplicate) of soil that each consisted of 50 discrete soil cores taken from locations across the project area. The upper DU included depths from 0-1.5 ft and the lower DU included depths from 1.5-5 ft. DEQ evaluated and agrees that the samples and analysis for the selected contaminants sufficiently characterize the soil being moved during the PWB Filtration Facility construction process. Clean Fill Criteria and DEQ eco risk exceedances for ISM samples are described above. These values are also compared in the table to the following risk screening levels:

- DEQ's human health risk-based concentrations (RBCs) for occupational soil ingestion, dermal contact, and inhalation
- DEQ's ecological risk for top consumers birds and mammals (Threatened and Endangered (T&E) and non T&E))
- DEQ's ecological risk for direct toxicity to plants and invertebrates

The metals concentrations are below the clean fill criteria and are consistent with naturally occurring background levels.

The proposed use of the contaminated soil from the Proposed Bull Run Filtration project as non-structural fill within the filtration facility construction area meets the beneficial use criteria of being productive and is suitable for use in construction as non-structural fill. The slightly contaminated soil can be used as described in the application and the conditions of this BUD.

As shown, the concentrations for pesticides at DU-1 (surface soil) exceeds the lowest T&E eco risk based concentration (RBC). This eco RBC pertains to ground feeding birds and mammals. The presence of threatened or endangered species that utilize the site is not confirmed or discussed in the application. As the location has been used for agricultural

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purposed most recently, it does not provide suitable habitat or resources for threatened or endangered species. The proposed placement and reuse of contaminated soils is not anticipated to adversely affect any plant or wildlife species.

- Did the applicant successfully demonstrate compliance of the proposed beneficial use with the performance criteria in OAR 340-093-0280 based on knowledge of the process that generated the material, properties of the finished product, or testing?

Yes No

Notes:

The soil is slightly contaminated as discussed above. The contaminated soils have been identified to contain concentrations of pesticides that are above clean fill criteria but below occupational RBCs for soil materials. The soil reuse site requires import of soil as non-structural fill but will be below 3 feet of soil meeting clean fill criteria or underneath a geotextile under 1 foot of soil meeting clean fill criteria.

- If required, did the applicant provide any other DEQ required information to evaluate the proposal?

Yes No

Notes:

Not applicable. DEQ did not require additional information.

Tier 2: **Applicable** **Not applicable**

- Did the applicant submit all the information required for a Tier 1 application?

Yes No

- Did the applicant submit adequate sampling and analysis to make a determination of suitability for beneficial use? (Note: The analysis must provide chemical, physical, and biological characterization of the material proposed for beneficial use and identify potential contaminants in the material or the end product, as applicable.)

Yes No

Notes:

DEQ considers the material testing conducted to be adequate. Sample results are discussed above.

- When applicable, did the applicant provide a risk screening comparing the concentration of hazardous substances in the material to existing, DEQ approved, risk-based screening level values, and demonstrate compliance with acceptable risk levels?

Yes No

Notes:

A comparison to risk screening levels is discussed above. Contaminant concentrations were compared to human health risk screening levels and were found to be sufficiently low for the proposed beneficial uses. The applicant compared contaminant concentrations to ecological risk-based concentrations and is shown in Table 1 of the application.

- When applicable, did the applicant supply the location or type of land use where the material will be applied, consistent with the risk scenarios used to evaluate risk?

Yes No NA

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Notes The contaminated soil is proposed for use as non-structural fill at the PWB property adjacent to the proposed filtration structures east of Gresham, Oregon in unincorporated Multnomah County.

- When applicable, did the applicant supply contact information of property owner(s) if this is a site-specific land application proposal, including name, address, phone number, email, site address and site coordinates (latitude and longitude)?

Yes No NA

Notes: The soil reuse location is identified as Sec. 22, T. 1 S., R.4E. The contact information is:

Robert Fraley
Portland Water Bureau
1120 SW 5th Avenue Rm 405
Portland, OR 97204
503-319-9207
Robert.Fraley@portlandoregon.gov

- Did the applicant supply an adequate description of how the material will be managed to minimize potential adverse impacts to public health, safety, welfare, or the environment?

Yes No

Notes:

The contaminated soils will be managed so that they will not create an adverse impact on groundwater, surface water, or public health or safety. Contaminated soil material will be stockpiled on site during construction and reused at the project area as non-structural fill. PWB will follow their 1200CA during the entire project until final grade is established and vegetated.

Tier 3: **Applicable** **Not applicable**

- Did the applicant submit all the information required for a Tier 1 and Tier 2 application?
 Yes No
- Did the applicant provide an adequate discussion of the justification for the proposal?
 Yes No
- Is there an estimated length of time that would be required to complete the project, if it is a demonstration?
 Yes No
- If it is a demonstration project, are their methods proposed to ensure safe and proper management of the material?
 Yes No

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2. Productive beneficial use of the solid waste

- Has the applicant demonstrated that the proposed beneficial use is a productive use of the material by providing information substantiating the criteria listed below?

Yes No

Notes: PWB proposes to reuse the shallow soils contaminated with pesticides at the proposed Bull Run Filtration Facility underneath a cap consisting of either 3 feet of soil or a geotextile fabric with 1 foot of soil. The contaminated soil will be used as non-structural fill at the proposed location.

- Did the applicant successfully identify or demonstrate a reasonably likely proposed beneficial use for the material that is not speculative?

Yes No

Notes: See discussion above.

This criterion consists of three parts.

1. Identified use:

Has the applicant clearly stated what the waste is going to be used for, that the waste is compatible with that use and the proposed quantity is necessary?

Yes No

Notes:

PWB estimates that the Bull Run Filtration Project will generate 116,000 cubic yards of contaminated soil and has described the non-structural fill reuse at the Tax Lot 100 and Tax Lot 400.

2. Reasonably likely use:

Has the applicant identified, with supporting documentation, the timeframe within which this use is likely to occur (e.g., zoning info, master plan for development, letters from local jurisdictions, etc.)?

Yes No

Notes:

The application states that excavation of approximately 116,000 cubic yards of contaminated soil is planned to begin in summer 2024. The applicant expects the excavation to be completed in 2027.

3. Not speculative:

For land application - has this material been used at other sites for the same purpose, is the material feasible for use at this site for this purpose, or has the applicant identified a known potential for this use at this site?

Yes No N/A

For uses other than land application - has the material been used in a product before, is the material feasible for use in a product, or has the applicant identified a known potential for use in this product?

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Yes No N/A

- Is the use a valuable part of a manufacturing process, an effective substitute for a valuable raw material or commercial product, or otherwise authorized by the Department and does not constitute disposal?

Yes No

Notes:

This is a substitute for use of clean fill to be used for regrading the soil reuse area. The reuse of the slightly contaminated soil will also prevent the material from filling valuable space in local landfills and reduce transportation costs.

- Is the use in accordance with applicable engineering standards, commercial standards, and agricultural or horticultural practices?

Yes No

Notes:

The proposed uses of the onsite excavated soils conform and follow standard engineering practices and limit risks posed by the contamination found in the soil. Also the use limits the impact of trucking emissions and the filling valuable landfill space.

3. Effect of proposed beneficial use on public health, safety, welfare and/or the environment

Has the applicant demonstrated the proposed beneficial use will not create an adverse impact to public health, safety, welfare, or the environment, by providing information substantiating compliance with the criteria listed in the bullet list below?

Yes No

Notes:

As discussed above, chemical testing of the contaminated soils indicates that the soil reuse area would not pose a risk to people or animals, if reused as described in the application.

- Has the applicant demonstrated that the material is not a hazardous waste under ORS 466.00?

Yes No

Notes:

Contaminant concentrations are below applicable human health and ecological screening levels with the exceptions noted above.

- Has the applicant demonstrated that until the time this material is used according to a beneficial use determination, the material will be managed, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions?

Yes No

Notes:

The application states that contaminated soil will be managed at all times to meet the following proposed BUD conditions and 1200CA. The reused soil will be managed to prevent, at all times, windblown dust, runoff and soil erosion, releases to the environment or nuisance conditions. The reused soil will be placed away from environmentally sensitive areas to protect waters of the State (such as wetlands, wildlife refuges and parks). PWB will maintain records documenting the amounts of contaminated soil transported to the soil reuse location by year.

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PWB will comply with all applicable federal, state, and local regulations when using the material. PWB identifies in the application and will manage the contaminated soil in accordance with the 1200 CA permit.

- Has the applicant demonstrated that hazardous substances in the material, if any, meet one of the criteria in the bulleted list below?

Yes No

- Hazardous substances do not significantly exceed the concentration in a comparable raw material or commercial product;
- Hazardous substances do not exceed naturally occurring background concentrations; or
- Hazardous substances will not exceed acceptable risk levels, including persistence and potential bioaccumulation, when the material is managed according to a beneficial use determination.

Notes:

Testing results indicate that the hazardous substances in the contaminated soils do not significantly exceed the concentration in a comparable raw material (soil).

- Has the applicant demonstrated that the proposed beneficial use will not result in the increase of a hazardous substance in a sensitive environment, such as a park, wildlife refuge or wetland?

Yes No

Notes:

The material will not be placed in a sensitive environment. In addition, contaminant concentrations meet clean fill screening levels for most contaminants and exceedances are minor for those above clean fill values.

- Has the applicant demonstrated that the proposed beneficial use will not create objectionable odors, dust, unsightliness, fire, or other nuisance conditions?

Yes No

Notes:

The application states that the reused contaminated soil will be managed in accordance with the procedures and best management practices outlined in the PWB 1200 CA permit.

- Has the applicant indicated that the proposed beneficial use will comply with any other applicable federal, state, and local regulations?

Yes No

4. Public Involvement Evaluation (Note: this is not a beneficial use evaluation criterion)

Determine a public involvement recommendation using the current Guidance to DEQ Solid Waste Program Staff and Managers on Public Notice and Participation.

- Is public notice and participation being recommended for this application?

Yes No

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Notes:

DEQ is aware of public interest in the proposed use of the material and will be posting a Public Notice requesting public comment for 14 days.

DRAFT

