

From: Linda Horst

Subject: Testimony for the NXT Public Hearing, January
10, 2024

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To: Planning@columbiacountyor.gov

January 8, 2024

Columbia County Board of Commissioners
230 Strand Street
Columbia County Courthouse Annex
St. Helens, OR 97051

RE: NXT's Conditional Use Permit and
Modification of Prior Approval

Columbia County Board of Commissioners,

I am submitting the following testimony in opposition to NXT Clean Fuels' Modification of Prior Approval and Conditional Use Permit.

NXT has proposed a massive alteration of the Beaver Drainage District. This drainage infrastructure, created in 1915, is an extremely sensitive and complicated system developed to keep the diked lands in the Port Westward area from flooding. NXT's proposed wetland "mitigation" is invasive and has received sharp criticism and opposition from the Beaver Drainage Improvement Company (BDIC), neighboring residents, farmers and landowners who have cared for this land for generations.

Impacting over 147 acres of wetlands, NXT's Mitigation Plan would prevent the BDIC from controlling flows of water to a significant

number of farms that contribute to the character of the area and that provide valuable contributions to the local and state agricultural economy.

The BDIC and farmers have identified major concerns regarding surface water impacts, water quality, groundwater level impacts, and changes in the proposal. The Preliminary Stormwater Report is just preliminary and the changes proposed have not been vetted by any agency, yet.

The Preliminary Stormwater Report relies on outdated geotechnical information. Page 1 of the Preliminary Stormwater Report states:

"A geotechnical report was prepared in 2001 for a prior development opportunity at the site. The subsurface investigation located the groundwater between 2' to 4' below ground surface. Based on this finding, infiltration is not expected to be a feasible discharge option for the site runoff. The geotechnical report is provided in Appendix B of this SWMP. "

It seems conflicting that the plan for the rail yard is to infiltrate stormwater through unlined ponds into groundwater, and the groundwater conditions are not fully understood. "Groundwater elevations will be further studied, and the pond design may be refined during the final design phase to minimize groundwater intrusion, if needed." This leaves too much undetermined, and the implications for the community are too significant. The rail yard would be located between drainage and irrigation systems and areas that are actively farmed, according to testimony from farmers.

It is not reasonable for the County to rely on outdated information, particularly when NXT is being required to develop more current and updated information for an EIS. And it is not reasonable for the County to approve NXT's project when NXT provides conflicting information about basic site conditions. Groundwater levels vary greatly from year to year in our region. And, land behind dikes settles. Current conditions are likely not the same as 2001.

It is premature for the County to make such a impactful decision and to rely on future permit processes when information right in front of you shows that there are major potential concerns. The real-life experience and concerns of farmers should weigh more heavily than the bought-and-paid-for analysis from NXT, which the company itself acknowledges is inadequate and incomplete. Appendix C calculations are based on outdated information.

So, Finding 97 is wrong.

NXT has failed to obtain permission to alter drainage systems controlled by the BDIC nor have they obtained any agreement to allow development which may impact infrastructure owned and maintained by the BDIC.

The area of the rail yard sits behind dikes that are at risk of overtopping in a flood and are not certified by the Army Corps of Engineers. These dikes have a "Provisional" certification which is an acknowledgment that the dikes are inadequate. The BDIC has informed the Port, repeatedly, that these dikes ARE NOT certified!!

NXT applications are premature, and this Commission should not waste its time approving a speculative land use application! Additionally, the permit applications submitted by NXT appear to conflict with other permits received by NXT, most importantly the permit renewed by the Department of State Lands in 2023. The maps in the Land Use permit applications must be consistent with the DSL permits, and they are not.

In summary, NXT has failed to show that the "potential impact upon the area resulting from the proposed use has been addressed and any adverse impact will be able to be mitigated," as required by the County's rules.

State boundaries provide no protection for Washington residents, such as myself, from pollution created in Oregon. Our shared airshed insures we Washingtonians are just as vulnerable as our Oregon neighbors. After all, we are talking about the health of the lower Columbia Region which knows no artificial boundaries like state lines. We, therefore, depend upon this Board's due diligence in this matter for our safety, health, security and well-being.

Sincerely,
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