Outlook

Re: Formal Written Testimony and Arguments for File No. PA 13-02 and ZC 13-01, Port Westward Zone Change

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From Jacyn Normine <Jacyn.Normine@columbiacountyor.gov>
Date Thu 10/29/2026 1:34 PM
To Justin Johnson <justinjohnson0@gmail.com>

Thank you for submitting your written testimony regarding the Port Westward Goal III Rezone.

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Board of Columbia County Commissioners,
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From: Justin Johnson <justinjohnson0@gmail.com>
Sent: Thursday, October 29, 2026 1:32 PM
To: Jacyn Normine <Jacyn.Normine@columbiacountyor.gov>
Subject: Formal Written Testimony and Arguments for File No. PA 13-02 and ZC 13-01, Port Westward Zone Change

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Dear Chair Smith, Commissioner Magruder, and Commissioner Garrett:

I am a resident of Columbia County living just off Alston-Mayger Road, and I am submitting this written testimony as an interested party for inclusion in the official Open Record for County File No. PA 13-02 and ZC 13-01.

Pursuant to Paragraphs 3, 4, and 7 of the Notice of Remand Proceedings dated September 17, 2026, and ORS 197.797(1), this testimony is directed strictly to the legal and evidentiary requirements of ORS 197.732(2)(c)(D) and OAR 660-004-0020(2)(d). Under Oregon law, the legal burden rests entirely on the Applicant (Port of Columbia County) to demonstrate through substantial evidence in the record, prior to the approval of a Goal 3 Exception, that the proposed rural industrial uses are compatible with adjacent land uses (or will be rendered so through specific, non-deferred measures) and are situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Based on the County's September 30, 2026 Staff Report (V3), the Port's remand submittals, and the Land Use Board of Appeals (LUBA) opinion in *Riverkeeper III*, the record contains critical evidentiary gaps and internal contradictions that preclude approval.

1. Support for Staff's Rejection of All 12 Medium-Intensity (CDF) and High-Intensity Uses:

I urge the Board of Commissioners to uphold the conclusions in Section 3 and Appendix 4 of the September 30, 2026 Staff Report (V3) that the Port's "Customary Development Form" (CDF) approach, its supplemental Flowcharts A and B, and its reliance on future state and federal permits fail to satisfy OAR 660-004-0020(2)(d).

As LUBA held in *Riverkeeper III*, the County cannot defer compatibility determinations to future permit reviews or presume that state and federal environmental permits protect adjoining agricultural operations. As documented in the September 30, 2026 Staff Report, County Staff's direct consultations with the Oregon Department of Environmental Quality (DEQ) established on the record that:

- DEQ air quality permits do not evaluate or guarantee whether permitted emissions are compatible with adjacent crop vulnerabilities, such as preventing windborne wheat dust or particulate matter from contaminating the adjoining 80-acre mint farm and destroying its gluten-free certification, or settling on mint and berry crops that cannot be washed or rinsed without moisture damage.

- DEQ and state water regulations do not explicitly regulate groundwater table elevations.

Additionally, the Port's Universal Condition 4(i) (requiring a post-approval Agricultural Impact Assessment report at the development application stage) and Flowcharts A and B (deferring use-intensity classifications to a future Planning Director's Interpretation under CCZO Section 1619.1) **repeat the exact impermissible**

deferral struck down previously in *Riverkeeper I*, *Riverkeeper II*, and *Riverkeeper III*. The Board must exclude all 12 "Unsupportable" uses listed in Appendix 4 : Wood Pellet Plants, Sawmills, Wood Flooring Manufacturing, Kraft Pulp Mills, Utility Pole Manufacturing, Gypsum Wallboard Plants, Hydrated Lime Processing, Garnet Processing, Flour Export and Processing Mills, Hazardous Dry Bulk (Lead Concentrates, Sulfur, Nickel Ore), Ethanol Processing, Petroleum Storage and Refining, Liquefied Natural Gas (LNG), Ammonium Nitrate Fertilizer Plants, Breakbulk Processing with Acid/Metal Coating (e.g., SteelScape), and Extremely Hazardous or Explosive Materials Handling.

2. Failure of the November 4, 2025 AKS Stormwater Hydrology Memo to Address *Riverkeeper III* Assignment of Error 2.C:

In *Riverkeeper III*, LUBA sustained the Second Assignment of Error on three specific grounds: (1) high risk of soil liquefaction during a major earthquake for bulk fuel facilities; (2) hydrology and water table impacts, specifically expert testimony in the record *"that the area has a high water table and that filling and grading associated with construction of the proposed industrial uses could elevate the water table higher and impact agricultural uses that are vulnerable to flooding or that require well-drained soils"*; and (3) water quality and contamination impacts to the Beaver Drainage Improvement Company (BDIC) irrigation and drainage network if dike pumps are shut off during an industrial spill.

The Port's November 4, 2025 Stormwater Hydrology Technical Review Memorandum by AKS Engineering & Forestry, LLC fails to resolve LUBA's remand instructions:

- **No Analysis of Filling, Grading, or Water Table Elevation:** The AKS Memo merely summarizes post-construction surface water quality treatment and peak discharge rate standards under the Columbia County Stormwater and Erosion Control (SEC) Ordinance, DSL/DEQ 401 Certification, and USACE SLOPES V. As the September 30, 2026 Staff Report explicitly confirms, the AKS Memo *"does not suggest additional conditions or draw direct conclusions regarding impacts on neighboring uses, nor does it alter staff's recommendations"*. Reviewing surface stormwater detention rates does not evaluate how importing structural fill and grading across 837 acres in a shallow-groundwater, levee-protected basin elevates the subsurface water table, a critical vulnerability identified in the Staff Report, which notes that nearby blueberries require well-drained soils and spearmint can die if flooded for even a single day.

- **Insufficiency of Staff Condition 3.b (100-Year Surface Stormwater Design):** Requiring on-site stormwater pipes and conveyance channels to be designed for a 100-year storm event without leaving pipes/channels within one foot of a building's lowest floor only addresses surface pipe capacity. It does not evaluate whether detaining or discharging increased cumulative runoff volumes, from 837 acres of new impervious surfaces, will raise water levels in BDIC ditches or elevate the shallow groundwater table on adjoining farmland.

- **Unaddressed Dike Spill Containment Backflow (*Riverkeeper III*):** Neither the AKS Memo nor the Staff Report resolves LUBA's remand finding that relying on the BDIC dike to contain a chemical or oil spill by turning off river pumps would elevate and send contaminated water through the district's shared irrigation and drainage network into agricultural lands.

3. Internal Record Contradictions Regarding Staff's Recommended "Low-Intensity" Uses:

Even with the removal of the 12 medium and high-intensity uses, the record contains direct contradictions that invalidate Staff's support for several "low-intensity" uses in Condition 1 and Appendix 4.

- **Utility Peaker Plant Contradicts *Riverkeeper III* and Appendix 5:** In Appendix 4, Staff concludes that a Utility Peaker Plant is compatible with a **150-foot setback** by citing the three existing PGE power plants at Port Westward and stating that CSA Analysis describes why power plants are less intensive with a 150-foot setback. This conclusion is directly contradicted by two documents in the record:

    1. In *Riverkeeper III*, LUBA expressly rejected relying on the existing Port Westward power-generating facilities to infer compatibility for the 837-acre expansion area, holding that the existing power plants are located *"generally north of the exception area, farther away from the mint farm and other agricultural and residential uses adjacent to the exception area"*.

    2. In Appendix 5, the Port's own consultant specified that a "Less Intense than the CDF" Natural Gas use (a Utility Peaker Plant) requires a **300-foot buffer** (twice the width of Staff's 150-foot buffer), FEMA floodproofing, Magnitude 9 Cascadia earthquake design for EHS structures, Fire District tax-break waivers/backfill, an on-site industrial fire brigade (if requested by the Fire Chief), and mobile-source air quality modeling. Approving a Utility Peaker Plant with a flat 150-foot buffer while

stripping away the Port's own recommended 300-foot setback and fire/air conditions is unsupported by substantial evidence.

- **B. Wood Chip Manufacturing and Log Yard for Export Lack Substantial Evidence in the Record:** In Appendix 4, Staff explicitly admits on the record that for a Wood Chip Facility, there is *"No detailed description in the CSA Analysis beyond 'exports or creates chips onsite'"* and that *"The CSA Analysis does not directly comment on the permitting requirements for a wood chip facility"*. Staff simply assumes that no state or federal air or water quality permits are expected to be relied upon. Under *Riverkeeper III*, an absence of information in the application cannot serve as substantial evidence of compatibility under OAR 660-004-0020(2)(d), particularly regarding mechanical chipping noise, wood dust drift onto unwashable crops, and log-yard stormwater runoff near Essential Salmonid Habitat.

- **C. Food Stuff Import or Export with Minimal Processing (Formal Objection to Fugitive Dust):** In Appendix 4, Staff recommends approving bulk foodstuff import/export (including rice, corn, barley, and sugar, excluding wheat dust), but explicitly states: *"Staff's position of support also assumes no further credible objections during the hearing process to potential fugitive dust or other emissions from food stuff."* Based on the existing record, **I submit this formal objection**. First, as documented in *Riverkeeper III*, adjoining mint and berry crops cannot be washed or rinsed because moisture damages the crops. Unloading ships, transferring bulk corn, barley, rice, and sugar to rail or trucks, and bagging generates fugitive grain dust that cannot be washed off adjacent crops. Second, in Appendix 5, the Port's own consultant acknowledged that "Less Intense" dry bulk uses can generate fugitive dust and required expanding the buffer from 150 feet to **300 feet** plus air quality modeling whenever a dry bulk use has fine particles or wind erosion potential, protections that Staff's flat 150-foot buffer eliminates.

4. Contradictions and Deficiencies in Staff's Recommended Conditions of Approval (Staff Report, pp. 62–66)

- **Contradiction Allowing Extremely Hazardous Substances (EHS) and 10-Million-Gallon Tank Farms:** In Appendix 4, Staff justifies all six recommended uses on the basis that *"no EHS or explosive materials are anticipated"*. Yet in the Staff Report, Staff includes Condition 2 (prohibiting *outdoor* storage of hazardous materials, which implicitly permits *indoor* EHS storage), Condition 4.e / Slide 38 (requiring an EHS Management Plan for sites with EHS), Condition 6 (levee accreditation for uses involving EHS), Condition 7 (floodproofing structures containing EHS), and Condition

8 (seismic standards for facilities with EHS or 10 million gallons or more of liquid storage). Because the record lacks substantial evidence demonstrating that EHS or 10-million-gallon storage facilities are compatible with adjacent farms and natural resources, **Conditions 1 and 2 must be amended to prohibit all EHS (both indoor and outdoor) and bulk tank farms entirely**.

- **The 150-Foot Buffer Rail and Haul Road Loophole:** Staff's Condition 4.a reduces the land use separation to a flat 150-foot buffer and explicitly allows *"Road transportation facilities, utilities, rail facilities, and similar linear features"* to be built and operated inside that 150-foot buffer directly alongside PA-80 farmland and residences (prohibiting only cargo loading/unloading in the buffer under Condition 4.b). Operating heavy freight trains and diesel haul trucks within 0 to 150 feet of neighboring property lines defeats the purpose of a compatibility setback.

- **Reduction of Levee Protection to a "50-Year Flood Event":** As noted in the Staff Report, the BDIC levee system was only provisionally accredited by FEMA in 2010 and requires addressing identified deficiencies to achieve full accreditation for a 100-year flood event. However, Staff's Condition 6 only requires levee accreditation for uses involving EHS and reduces the alternative engineering protection standard to a "50-year flood event". Full 100-year FEMA levee accreditation and BDIC concurrence should be required prior to any industrial development as contamination by any such event would likely be catastrophic for the surrounding PA-80 farmland and residences.

- **Deferral of Heavy Truck Traffic Impacts on Rural Roads:** As a resident living just off Alston-Mayger Road, I object to Universal Condition 2 and Staff Condition 3.a, which allow up to 332 PM peak-hour trips before triggering a new Transportation Planning Rule (OAR 660-012-0060) mitigation analysis and defer evaluating heavy truck travel routes and county roadway improvements to future building permit applications.

5. Requested Action by the Board of Commissioners:

Because the Applicant has not met its burden of proof under **ORS 197.732(2)(c)(D)** and **OAR 660-004-0020(2)(d)** as mandated by *Riverkeeper III*, I respectfully request that the Board deny Application No. PA 13-02 / ZC 13-01. In the alternative, if any approval is granted, the Board must:

1. Adopt Staff's exclusion of all 12 CDF and More Intense industrial uses in Appendix 4.

2. Exclude Utility Peaker Plants, Wood Chip Manufacturing, Log Yards for Export, and dust-generating bulk foodstuff transfer from Condition 1 due to the record contradictions and evidentiary gaps detailed above.

3. Prohibit all Extremely Hazardous Substances (EHS) in entirety, both indoor and outdoor, and 10-million-gallon storage tanks across the Exception Area.

4. Prohibit rail lines and haul roads inside the setback buffer (Condition 4.a) and expand the buffer to at least 300 to 600 feet from PA-80 lands and 1,000 feet from residences.

5. Require full 100-year FEMA levee accreditation and a subsurface groundwater/fill evaluation prior to any site development.

Respectfully submitted,

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