



# Oregon

Tina Kotek, Governor

## Department of Environmental Quality

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### **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**

<b>Material</b>	<b>Beneficial Use</b>	<b>Conditions on all Uses</b>
Approximately 116,000 cubic yards of non-contaminated soils generated from construction activities at the Bull Run Filtration Project.	Contaminated soils will be used as non-structural fill in areas adjacent to the construction area within Tax Lot 100 and 400.	<p>To comply with this BUD, PWB must ensure:</p> <ol style="list-style-type: none"> <li>1. The contaminated soils be managed to prevent, at all times, windblown dust, runoff and erosion, releases to the environment or nuisance conditions.</li> <li>2. The contaminated soils will not be placed where they could come into contact with or adversely impact surface water or groundwater.</li> <li>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.</li> <li>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).</li> <li>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.</li> <li>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.</li> <li>7. The protective cap will be maintained and vegetated upon completion of the construction of the facility in a manner to prevent erosion.</li> <li>8. PWB will comply with all applicable federal, state, and local regulations when using the material.</li> <li>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).</li> </ol>

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](mailto: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