

My name is Neal Rea

I live at 4240 Mapleton Drive in West Linn, Oregon with my wife Jana Rea.

Our home is located across the street from the residential property that would be used by LOT for the proposed expansion of their industrial water treatment plant on Kenthorpe.

To change the current use of certain residential properties on Mapleton Drive to allow industrial use, defined to be the expansion of the Kenthorpe water treatment plant, will not serve or benefit us, our neighborhood, our community.

I believe that LOT's request is inappropriate and I DO NOT support the conditional use permit being requested.

The proposed expansion to the industrial Kenthorpe water treatment plant WILL:

- Bring construction traffic and more permanent traffic onto Mapleton Drive
- Bring construction and more permanent noise into my neighborhood
- Bring more odor, sight and light pollution into my neighborhood
- Bring more toxic chemicals and the storage of same into my neighborhood
- Bring an increased risk of more crime occurring in my neighborhood
- Increase the **non-insurable risk** to personal and real property that might result from water damage due to an event or accident at the water treatment plant or the plant's water delivery system
- Reduce the value of our real property
- Adversely impact park lands in our community and our neighboring communities
- Adversely impact the water flows of the Lower Clackamas River, the home and transportation system of many forms of aquatic life, endangered fish, and the playground of many sports and recreational users

- Bring interruption and hardships to West Linn merchants and businesses

Some of my concerns might be considered temporary, ones that will fade when proposed construction activities cease, but a number of my concerns deal with impacts that would be permanent to us, our children, their children, our neighborhood, our community and our neighboring communities.

As I have and continue to grow up I must have a servants heart in all that I do, I must listen well, make right decision, do my best in all that I do and ~~to~~ speak the truth in love. These things have been modeled, taught and sometimes drilled into me by my parents, my teachers, my employers, my employees, my wife, my daughters and I am proud to say my neighbors.

As I expect of myself I expect of our planning commission, our city council and LOT.

- You have a stewardship responsibility
- Listen well.
- Speak the truth.
- Make right decisions.

Thank you for allowing me to express my opinions and my concerns with you.

Sincerely,

Neal Rea  
4240 Mapleton Drive  
West Linn, OR 97068

Date: April 18, 2012

To: West Linn Planning Commission

File Number: CUP-12-02/DR-12-04

Hearing Date: April 18, 2012

I oppose CUP-12-02/DR-12-04 which involves expanding the existing Lake Oswego water plant onto Mapleton property.

This plan to dramatically expand the Lake Oswego plant will be enacting a grave injustice on the citizens of West Linn. There is no way the most precious commodity of water can be properly secured from possible attack by terrorists in a quiet residential neighborhood in a different city without enacting tough measures in the future. These could include intense night lighting, barbed or razor wire, much higher fencing or electric fencing, guard dogs, guard towers, restricted access to the area and removal of landscaping to create a defensible perimeter around the plant. These measures will totally destroy the quiet residential West Linn neighborhood that the expanded water plant intends to occupy for many years to come. If these more stringent security measures were included in the application, the water plant would be obviously inappropriate at this site. The project developers are attempting to promote this water plant as having a low impact on the neighborhood when the very likely future will be very visible and very disruptive. If the Planning Commission must approve this intrusion into a residential neighborhood, a condition of approval must be included requiring compensation to property owners for devaluation of property and disruption of the peaceful enjoyment of their homes.

Additionally, missing from this application is the complete description, location and plan for the 48" transmission line, commonly known as "the pipe". There are many aspects of this "pipe" which are dangerous and disruptive. Should a catastrophic failure of "the pipe" occur, multiple private property owners and West Linn infrastructure could be damaged or destroyed, with the Lake Oswego Tigard Water Partnership financially responsible for only a small amount of compensation due to tort limits. Since this "pipe" cannot be turned off quickly as in a kitchen faucet, by the time valves are turned to stop a leak or rupture, landslides, sinkholes, erosion, flooding and release of an extreme amount of highly pressured water could occur. Again, the impact would be on West Linn caused by something we don't want and doesn't benefit our own community. Thus far the Water Partnership has REFUSED to set up an insurance policy to compensate private property owners for their losses should damages occur due to the plant or "the pipe". If the Planning Commission must approve this application and the subsequent transmission line application, a condition of approval must be attached to both

applications requiring a method of compensating property owners for actual damages in the event of a loss.

The plant does not need to be expanded if a later application is not granted for the transmission line. The plant and the "pipe" go together in design, in construction disruption to the community and in long-range impact due to potential failure. If the Planning Commission chooses to approve the water plant expansion despite opposition, there must be a provision to state that the approval of the plant does not guarantee future approval of the transmission line. Furthermore, the commission should require conditions that the applicant and not West Linn is responsible for any financial impact on Lake Oswego, Tigard or their Water Partnership should they attempt to claim the plant is now a stranded asset. The Lake Oswego Tigard Water Partnership is strategically planning to muscle the pipe through once the plant is approved.

The entire project, namely the expanded plant and the 48" transmission line, should be disapproved. West Linn is not responsible for Lake Oswego's failure to plan for a more appropriate location for the water plant. For 25 years Lake Oswego has been scheming to fund this project on the cheap by buying up older homes in a different city and then finding another city to help finance the update of their aging plant. It is not West Linn's fault that they did not spend those years finding a more suitable site. All the negative impacts to the project are borne by West Linn and avoided by Lake Oswego. Furthermore, this plant will not provide water for an expanded Stafford area, which means West Linn will be subjected to this invasion of neighborhoods again in the future.

Zoning, building codes and design restrictions are intended to prevent the destruction of neighborhoods by entities acting in their own self-interest to the detriment of our community of West Linn. This water plant will not bring any benefits to West Linn. It will cost West Linn money in the removal of lots from the tax base, the devaluing of the tax base in lowered property values on Mapleton and Kenthorpe and the need to spend millions upgrading West Linn's side of the intertie to conform with the new construction. The quality of life in West Linn will be degraded in order to lower water costs for Lake Oswego and Tigard.

Please vote no on this water plant expansion application.

Tom Sieben  
4950 Mapleton Dr.  
West Linn, OR 97068

West Linn Planning Commission Meeting 4/18/2012

LOT Water Treatment Plant Expansion

Testimony from: Lamont King

4257 Kenthorpe Way, West Linn OR

Rev.  
4/18/2012  
7:03P  
Ⓟ

My name is Lamont King and I have been a resident of West Linn for over 40 years. I live across the street from the LOT Water Treatment Plant and was living there when it was constructed around 1968. We didn't want an industrial plant in our neighborhood then and we still don't.

Earlier this year I received several phone calls from people living on Mapleton who were recently sued by LOT to nullify covenants on the deeds to their property. These people were terrified by the prospect of being sued and asked me how another city could come into West Linn and use eminent domain to take away their property rights. They asked me how they could justify a huge industrial plant expansion in our city and put us through the construction nightmare and increased industrial presence after construction when the plant wasn't for their benefit.

I would like to address the Neighborhood Coordination contained in LOT'S filing and show how their interaction with our neighborhood was superficial and insincere and failed maintain a "high level of communication" during the construction phase. They acknowledge the plant is located "in the midst of a residential neighborhood " and that the plant must remain "compatible with this setting" which it does not.

My first experience with LOT came at a meeting at the local Presbyterian Church on 12/10/2010. Representatives from LOT conducted a meeting using handheld electronic devices to record responses to various questions about the proposed plant. A quick review of those questions revealed that many, if not all of the questions regarded issues that were not optional on the part of LOT. They will be required to replant/restore areas disturbed by the pipeline in MSY Park, they will be required to minimize pipeline time/disruption, they will have to maintain access to area homes during construction and they will have to ensure a safe school commute during the construction period. The list goes on and the more we read caused many of us to not participate in the voting which LOT dutifully recorded. This insulting attempt to create a record showing they worked with the neighborhood has continued throughout most of the process.

LOT mentions other Public Outreach in their proposed plan. They mentioned public briefings for neighborhood associations and other interested groups. They didn't mention that four of the largest and most active Neighborhood Associations(Bolton, Willamette,Hidden Springs and Robinwood) voted in support of the GNC and against LOT's unchecked expansion into our neighborhood.

LOT has attended many of our neighborhood meetings and conducted a number of open houses but have refused to sit down with concerned members of our community and address issues that have

many residents concerned about the impact this development will have on their homes and the liveability of the neighborhood.

Most, if not all of the mitigations LOT has claimed they included in their plan for the benefit of the community were required by the City of West Linn, TV&R and other approving bodies. The items requested by members of the community to specifically address the expansion of a major industrial facility in a residential neighborhood were for the most part ignored. There were recently meetings with LOT senior level people (the mayors and the Oversight Committee) and those meetings indicated that there was some common ground and perhaps with additional meetings and some sincere give and take, some of our concerns could be better addressed.

This expansion has little or no direct benefit to the citizens of West Linn (we already have mutually beneficial intertie) and this hearing is about the plant and not the pipeline. LOT's own Project Manager has publicly stated that the Clackamas watershed cannot provide long term water for existing customers in Clackamas County and now he plans on selling 20 million gallons a day to Tigard in order to subsidize Lake Oswego's water rates. I ask that the West Linn Planning Commission deem this application incomplete until the concerns of the citizens of West Linn have been properly addressed.

Respectfully submitted,

Lamont King 4/18/2012

# LOT Verbal Testimony to WL PC 4-18-12:

My submitted written testimony covers 18 points of concern about this application,

**CUP-12-02/DR-12-04.**

Among them are:

- The applicant has two lawsuits pending over the plant with no date for their settlement and a legally encumbered plant should not be approved.
- The CUP process is the wrong process for this application – it should be a Comp Plan amendment and rezoning process for this plant.
- The plant and pipeline should be ONE application. You cannot have a water plant *without* pipelines and they should therefore be considered in ONE process.
- The applicant has not shown thorough consideration of alternatives, as required.
- The applicant has not shown real benefits to the COWL, as required.
- The applicant has not provided reasonable effort to provide mitigations for 3 years of construction and subsequent operations.
- The applicant has submitted false and incomplete information and there is missing information in the application.
- The applicant should provide a final list of chemicals to be transported to and stored on the site.
- The 24-hour emergency neighborhood access plan needs to be more specific.
- Clear evidence of reasonable insurance must be provided to protect plant neighbors.
- No plan for cleanup of toxics on one Mapleton property has been provided.

- The construction hours are unreasonable.
- The Clackamas water shed's water should be reserved for WL and those in the watershed.
- Trees and landscaping have not been historically maintained by the applicant to date leading to doubt how the new landscaping would be maintained.
- What Homeland Security requirements are there and have been reviewed?
- The public involvement process for WL residents has been short-circuited by WL.

**I wish to focus my testimony tonight on serious plant safety concerns for a residential area...**

- There is a school within 1000 feet of the plant with over 400 students and staff. There are **many** residences on Mapleton, Kenthorpe, and Cedar Oak.
- Class F Soils are the worst. "Holy cow" by state commercial building code specialist. Has NEVER worked on such a project in over 30 years!
- Liquefaction from 6.0 on up. In 9.0 --- up to 9 inches of settling/sinking. What will that do to containments structures/water clearwell, plant buildings & 4 foot pipelines coming in and out of plant?!? There is 25' of silty material to the water table, then another 25'-30' of a water and silt mix down to a layer of bedrock. Read Geotech report Executive Summary and Chapter 3.
- According to OSHA, ozone fires and/or explosions are possible with contact with organic material...i.e. soils? Containment structures fail in explosions and earthquakes...i.e. Japanese quake in 2011 where power was disabled to the nuclear plants and explosions ruptured and compromised **three** containment structures said to be completely safe.
- Getting TVFR to the site after a major event is problematic – bridges and infrastructure (roads) will be down or damaged. Trees and power lines will be down. There are limited resources available for a region-wide event. No firefighting or chemical containment expertise will be onsite. The only plan is to call TVFR. What if they can't get to the residential area/school zone!?!?



- Reverse 9-1-1 only from LOCOM. What if lines are down or LOCOM is non-operational after a large disaster...i.e. earthquake, severe weather, etc.?
- No onsite backup is planned – PA, sirens, or anything else.
- One small generator will not suffice to keep the plant operational (it is an essential operation), provide water for onsite firefighting, assure that containment structures remain sealed, and provide for pumping water away from leaking structures...i.e. the clearwell, pipes, and various treatment structures.
- There is no generator located or proposed at the WL emergency intertie. How will water be sent to WL in a serious emergency assuming LOT's plant is operational?

So you can see by these serious safety and health concerns, this plant does not belong on these soils in a residential area with a school less than 1000 feet away! Reject the application!!!

Submitted by,

Jay Eric Jones/Jeane M. Jones  
4310 Mapleton Drive  
West Linn, OR 97068  
April 18, 2012

Jay Eric and Jeane M. Jones  
4310 Mapleton Drive  
West Linn, OR 97068  
April 18, 2012

City of West Linn  
Planning Department  
22500 Salamo Road #1000  
West Linn, OR 97068

To the West Linn Planning Commission:

We are writing to oppose **CUP-12-02/DR-12-04**. There are numerous reasons that this applicant's CUP application should be rejected, not the least of which are the incompatibility of a greatly expanded industrial water treatment facility in a residentially-zoned neighborhood completely surrounded by residences (a condition like which residents and an independent WL planner have not been able to identify at any other locations in the West) and the failure to bring actual benefits to the City of West Linn (COWL), as required by the CDC and CP. There are significant health and safety concerns involved with an expanded plant and a number of incomplete and inaccurate facts and missing data and reports relating to the application. In addition, the applicant currently fails to have legal authority to proceed with the project in their application. There is no guaranteed time when this authority would be granted. This letter will present the reasons – legal, procedural, safety, and moral – why this CUP permit application should be rejected and returned to the applicant as denied.

1. **The Lake Oswego-Tigard Water Partnership (LOT) does not have legal authority to build the plant.** This calls into question whether an application can be approved for a CUP without a legal authority to construct the facility the CUP authorizes. The four properties that LOT purchased on Mapleton Drive in 1989 and 1995 are encumbered by restrictive deed covenants (CC&Rs) that allow only residences to be constructed within the Maple Grove subdivision. The City of Lake Oswego (COLO) should have been aware (through due diligence) of these deed restrictions upon purchase of the properties and acted prior to 2010 to negotiate with the Maple Grove owners to allow for plant expansion. The project manager, Joel Komarek, has said repeatedly that LOT was unaware of the CC&Rs until recently. That is inaccurate. The COLO filed a CUP application in 1996 but failed to receive the waiver of 75% of property owners to do construction at that time. The WL Planning Commission (PC) rejected the CUP request. The COLO is now suing 60 Maple Grove property owners in District Court for removal of the CC&Rs under eminent domain since the majority of owners have again refused to waive their covenant rights and protections. Homeowners have been forced to retain legal counsel at their expense and fight the condemnation process in court. They were each offered \$1100 as just *compensation* to sign waivers. Many owners found this amount insulting and COLO's claim that their appraisal shows no value lost to homeowners ridiculous. Waiving the CC&Rs would *not* be required without the plant

expansion. The plant size, pending lawsuit, and increased traffic, noise, and visual impacts along with the potential for water and chemical releases and construction for at least three years will bring about reduced property values and an inability to sell homes. The COLO bought into these covenants – in three transactions during two different years. They did not approach the neighborhood until the summer of 2010 to reveal plans for expansion and that fall to reveal plans to remove the CC&Rs. The condemnation lawsuit was not filed with the court until January 2012, the same month as the CUP application. A prehearing has not been scheduled for the case and, at this time, the applicant does not have the legal authority to build on the Maple Grove plots. Additionally, Water Watch has a lawsuit pending with LOT over their planned withdrawal of 38 Million Gallons per Day (MGD) from the Clackamas River. This suit too has not gone to trial yet. Based on the two pending lawsuits (one over the legal authority to actually expand the plant) and until such time as the court cases are settled, the application should be denied.

2. **The process the applicant is using to expand the plant is the wrong process. It does not meet the standards of the CP (CDC 60.070, A-7).** The CUP process should not be allowed to circumvent the CP and R-10 zoning placed by the city council through an open public process. If this CUP for such an inappropriately-sized industrial facility is allowed to override the CP and zoning processes, it will negate and make meaningless the CP and zoning in WL in the future. Precedent will be created for any large industrial complex to be placed in any of WL's residential neighborhoods. If the applicant wants to proceed with expansion (after obtaining the legal authority to do so), it should go through a zoning change and CP amendment process, not utilize a CUP process. The CDC 60.070, A-3 states that the use must be consistent with the overall needs of the community. The project will not directly benefit the neighborhood or the COWL. It does not consistently supply water to and is not needed by the neighborhood. The CDC 60.070, A-1 (b) states that there must be adequate area to mitigate *any* possible adverse effect from the use on surrounding properties and uses. This is an impossible criterion for this large industrial plant to meet surrounded by residences. Since the plant does not meet the needs and requirements of the CP and the R-10 zoning, the application should be denied.
3. **The plant expansion and the raw and finished water pipelines should be considered together.** Like the CC&R's removal and plant construction, you cannot have the plant without the pipelines. To ensure that all appropriate mitigations and code and safety considerations are made for the complete project, one application should be submitted by the applicant. Considering a CUP for a water plant site with no means of moving water onto and off of its site makes no rational sense. Therefore, the application should be denied.
4. **The applicant has not demonstrated that other site alternatives were fully explored and reasonably eliminated from consideration for the project.** At an OC meeting on April 12, 2012, project manager Komarek stated to members of the GNC that no report exists showing the detailed examination of alternative sites. He stated one was never done. From

the beginning of the process, LOT states that they intended to use the present site and never thoroughly and carefully studied or considered other sites. An alternative site does exist in the Foothills district of LO, which bears an industrial zoning. The Portland streetcar that was under consideration for that area has been indefinitely tabled. Water rights could be transferred and the length of pipelines could be reduced. A clear need for siting at the site proposed by the applicant and data on alternative sites is required in the CUP process. No such report or indisputable rationale or evidence has been submitted by the applicant to meet this CUP requirement. The application should be denied.

5. **The CDC and CP require benefits to the COWL from a CUP. LOT does not provide this with their application.** The stated benefits from LOT staff and the LOT Oversight Committee (OC) have been the intertie on Old River Drive, which already exists under an intercity agreement since 1989. It was used most recently in December of 2011 when a Clackamas River intake for the North Clackamas Water Commission became damaged. The intertie has also already provided the applicant with water. West Linn would need a new pump estimated at a cost of around \$2 million to use the intertie as LOT proposes (with increased volume of water). Water would only be available to the COWL at the *discretion* of the COLO city manager until Tigard requires the extra 6 MGD the expanded plant could generate - in an estimated 10 years or so. LOT has not agreed to pay for the additional pump, either in part or in full. Unless the 6 MGD is *dedicated* to WL for many years to come, it is clearly *not* a benefit. Another benefit the Partnership claims is an emergency road/path between Mapleton Drive and Kenthorpe Way. Many neighbors on Mapleton Drive, through a survey, have indicated they do not want this path/interconnection. The road is required for emergency response. If a trail is required, it is not a benefit to the neighborhood, which has indicated to LOT repeatedly that a trail is not wanted. A third benefit that the Partnership claims is a compacted plant footprint on their site. This could - to some degree - benefit residents right next to the plant. It will not, however, benefit the COWL or any other area in the Robinwood Neighborhood. It should not be considered a benefit for purposes of the CUP. An opportunity to coordinate work with COWL and ODOT is nebulous at best and funding dependent. Neither the COWL nor ODOT is funding rich now. Any so-called benefits here are highly suspect. Without clear and conditioned benefits for the COWL, the application should be denied.
6. **Neighborhood work on mitigations has been largely dismissed by the applicant.** The Robinwood Neighborhood Association (RNA) formed a Great Neighbor Committee (GNC) in 2011 to develop mitigations for the plant expansion and raw and finished water four-foot pipelines both during construction and subsequent operations. I (Eric) am a member of the GNC. This committee worked for nearly a year developing a list of 28 mitigations for the local residents, the Robinwood neighborhood, and the COWL. The LOT 3-year project would ultimately impact nearly all of WL's residents. The process was stalled several times by the WL City Manager (CM) and staff who initially delayed action on a council directive to hire an independent planner to help the GNC develop, review, and select appropriate mitigations to

benefit WL residents during construction and subsequent plant and pipeline operations. There was then a delay in the hiring of the independent planner; the GNC committee chairman was required to locate the individual himself with no help from staff, which he did. The applicant was present at public outreach meetings where input was solicited for possible mitigations. The applicant received lists of suggested mitigations during the process. After a draft mitigations list was developed, each of the mitigations was then reviewed for appropriateness and reasonableness. The resulting 28 mitigations were submitted to the applicant in December. Most of the mitigations on the submitted list were not agreed to by the OC (see February letter to RNA President Tony Bracco included in your packet). Clear benefits to the COWL were not agreed to by the Partnership due to the costs involved. Yet the Partnership is building its pipeline completely around the Hunt Club property in LO at additional cost to the Partnership. There seems to be a double standard here from their city to ours. No formal written response to the GNC mitigations list was received from LOT until about two weeks ago. Items incorporated into the applicant's Good Neighbor Plan (GNP) and claimed as benefits are conditions that would be required by the COWL code, CUP process, ODOT, or other governmental entity. Since mitigations for the plant expansion and the pipelines were refused (note that all of the pipeline mitigations were turned down by the OC), no real benefit to the COWL exists and the GNP becomes nothing more than a propaganda shell for falsely claiming cooperation with the RNA and GNC in their efforts to bring real benefits to the residents of the Robinwood neighborhood and the COWL. The RNA has rejected the GNP and has opposed the plant expansion along with the Hidden Springs NA and the Bolton NA. The Willamette NA is supporting our mitigation efforts. Based upon the applicant's bad faith displayed in their failure to openly and *vigorously negotiate* and *work with* the neighborhood to bring benefits to the COWL, the application should be denied.

- 7. The accuracy of some of the important information the applicant has provided is and has been wrong and the review process may have been flawed.** There are houses on both streets near the plant "missing" from the required drawing (CDC 60.080, B3). There may be as many as 18 homes "missing." Some of the missing addresses include 4117, 4191, 4435 (front house), and 4451 Mapleton Drive (Compiled Half Size Drawings, page 3 – in your packet). This omission was just discovered by a resident after pouring through the voluminous material submitted for the CUP application. In the first valuation report relating to the CC&Rs, a number of factual errors were contained in the report, including simple facts such as the name of Highway 43 in West Linn, the zip code for the plant, and the year one of the properties was purchased. To our knowledge, these errors were never corrected. These two examples show careless inattention to accuracy on the part of the applicant and its agents during the land use process. In fact, there has what appears to many residents to be a systematic attempt by LOT throughout the process to withhold requested information, misdirect concerns or answer questions with half-truths, and not to release known project information and data to citizens of the neighborhood affected by the project. Emails requests have gone unanswered, promised meetings were never scheduled, answers to

required RNA meeting questions have not been provided, written feedback to mitigation requests was not given to the GNC until this month, and LOT staff has been indicating to public officials and reporters that it is just a few “zealots” who oppose the plant expansion (while stating most residents support it – that is patently false). One wonders how many factual and data errors or omissions have not been spotted by the WL planning staff during the application review. The missing four houses on the map seem to be among them. Was the Geotech report, referenced below, fully reviewed for errors or omissions by planning staff according to state requirements? A storm water plan should be required for approval. Since the WL Public Works Director was fired during the process, did a *qualified* engineer review the application data? Due to the lack of carefully and accurately prepared and reviewed data/facts from the applicant and the lack of an open and vigorously interactive dialogue with a full release of information to WL residents, the application should be denied.

8. **The plant offers significant safety risks to a residential area and a school less than 1000 feet away from its perimeter.** It should be noted that in addition to residences on Mapleton Drive, Kenthorpe Way, and Cedar Oak Drive, the plant is within 1000 of Cedaroak Primary School - with over 400 students and staff regularly in attendance. The plant site and its pipes are in an active seismic zone – with a Class F soils designation by the State of Oregon. This is the most dangerous and undesirable classification for soils in Oregon. A specialist at the state Building Codes Division said last week that in over 30 years of related commercial structures work, he has never worked on a project like this on such soils. His comment was “holy cow!” With a large earthquake of 6.0 or larger, the soils under the plant site and its proposed clearwell and pipelines (which enter and exit the plant site) will liquefy and plant and pipeline structures will settle/sink from an estimate of approximately one (1) to nine (9) inches! This will obviously create conditions quite favorable to breakage and structural failure and for the release and leakage of water and/or chemicals at the plant site. In a 9.0 earthquake, the entire 25-30 foot top layer of silty soil will liquefy (see the Geotech report in your packet). We are in the geologic window for a subduction zone 9.0 earthquake, which could happen at any time. Containment structures, the 3-million gallon buried clearwell, and pipes and pipelines would very likely be compromised and leak water and chemicals into the neighborhood. Ozone is recognized by OSHA as a “dangerous fire and explosion risk when in contact with organic compounds.” Note that organic compounds are solid, gaseous, or liquid substances that contain carbon. A large earthquake, for example, could release a number of substances containing carbon which could come in contact with the ozone through venting or a containment structure rupture. OSHA also reports ozone has adverse lung tissue effects over time to those regularly exposed to it. (OSHA report T-ID214-FV-01-9503-M – available online). These scenarios are terrifying and the potential for harm to the residentially-zoned area is not warranted by any outweighing benefit from the plant. When the plant was constructed in 1967 (under a Clackamas County CUP), the soil’s liquefaction status was unknown. With the present day knowledge, the site is unsuitable for such a large industrial facility in a residential neighborhood. Additionally, the applicant has only

submitted a *draft* Geotech report with its application. Oregon commercial building code (2010 OSSC) requires that a written report be submitted to the permit authority at the time of application (1803.6). It does not mention allowing a draft report. Also, the building code requires the state geology department (DOGAMI) be sent a copy (1803.9). Section 1803.8 states that the agency with jurisdiction for qualified review will assure compliance with (all of) Section 1803 of the code. Has compliance with all of these requirements been verified by staff? The applicant's plan for neighborhood emergency notification is using a reverse 9-1-1 system operated by LO Communications (LOCOM), which provides WL's dispatch services. No plan is in place for sirens, a PA system, or other alternative backup system to provide emergency notification to local residents and the school. After a large earthquake, severe weather, or other disaster, LOCOM may be non-operational. A reasonable second form of neighborhood notification should be provided onsite. Based upon the numerous safety concerns which are highlighted above in a residential neighborhood, the application should be denied.

9. **A final list of chemicals to be transported to and stored at the site is not included in the application.** Consideration should be given to the fact that a primary school is less than 1000 feet from the plant site in a heavily-populated residential area. Permitting a plant without the final list of chemicals being transported to and in storage at the site is bad public policy. Until such time as a final list is provided with the approval of the Tualatin Valley Fire and Rescue (TVFR) approval body, the application should be denied.
10. **The plan to have only one small generator onsite is inadequate to handle many potential emergency situations, such as a large earthquake when the redundant PGE power supplies are cut off for an extended period of time.** The ability to get to and access the plant site following such an event will be very problematic given the limited number of regional resources, the old infrastructure (i.e. bridges), and lack of multiple major routes into WL. If power is unavailable for firefighting and/or controlling water or chemical leaks, the results to a residential neighborhood could be catastrophic. Also note that there will be no generator available at the intertie site to run the pumps for WL emergency water. For this reason, the application should be denied.
11. **The applicant should demonstrate how *immediate* 24-hour access to emergency services will be provided during construction.** The orientation of the Mapleton Drive/Nixon Avenue junction does not allow large fire trucks to negotiate turns at that intersection. During times of construction when the narrow Mapleton Drive is in some way blocked and/or has an open, uncovered trench, how will this constant access be reliably maintained? From the location where the pipes enter and leave the plant site towards Nixon Avenue, how will fire truck access be maintained and guaranteed? Until the applicant provides a realistic plan approved by TVFR approval staff, the application should be denied.

- 12. Insurance liability in case of a water leak, fire, or chemical release has not been clearly defined or established.** Under ORS 30.273, public bodies are limited to \$100,000 for damage or destruction to individual's property and to \$500,000 for all claimants (unless adjusted by the state after 2009). Members of the GNC, RNA, and other WL residents have not been shown requested proof of insurance coverage by LOT or given assurances that any property owners who suffer damage or destruction from a plant, clearwell, or pipes incident would receive immediate compassionate aid and have losses promptly reimbursed. Flood insurance cannot be purchased by homeowners as any incident would not be a natural occurrence. Some residents have been told by their homeowner policy issuers that their coverage is in doubt in the case of an incident at/from the plant. The Partnership has discussed additional insurance above what they currently hold, but nothing has been shown to residents to verify any action or coverage. A 10-foot pipeline break in Boston in 2010 triggered a FEMA emergency. It was determined that faulty construction joints were the cause. While the pipes (onsite and entering and exiting the site) will be smaller, breaks can occur from faulty installation, earthquakes or earth movement, or faulty materials. Additionally, the structures and pipes will age over time. If the CUP application is approved without appropriate and sufficient insurance by the applicant, the COWL may become liable for large damages if an incident at the plant were to occur. Until such time as verification of reasonable and valid insurance coverage is presented to the COWL and residents near the plant site, the application should be denied.
- 13. No plan has been submitted to evaluate and/or clean up the toxic chemicals (i.e. antifreeze, oils, diesel, and lubricants) contaminating the soil on one of the Mapleton Drive properties (4315).** Alternately, no proof of a prior cleanup has been submitted. Several long term Mapleton residents (me - Eric - included) observed over years of time the former residents of the property dumping chemicals onto the land near their excavating business shop area. Chemical sheens could be seen running in ditches downslope along Mapleton and near the shop area and plant property line. Have the area by the shop and the drain area under the shop concrete pad been checked for toxic chemicals (see attached pictures)? Until an assessment and cleanup plan or proof of prior cleanup is submitted, the application should be denied.
- 14. The construction hours are unreasonable and intrusive in a residential neighborhood.** The amended Land Use Permit – Construction Management Plan (March 29, 2012) shows work hours of Monday through Friday 7 a.m. to 7 p.m. and Saturday and Sunday 9 a.m. to 5 p.m. It states this is allowed by the COWL and these construction hours *will* occur. Construction on Highway 43 will be at night, with residences located along the north end of the highway. This is an unreasonable and unsustainable situation in residentially-zoned neighborhoods. Note too that the timeline for construction has already slipped from 28 to 36 months. Until reasonable times for construction activities with a weekly "time out" allowed for residents are submitted, the application should be denied.



15. **If LOT exercises its full 38 MGD water rights on the Clackamas River, during dry times of the year and during drought years, will enough water exist for fish and WL's current and future water needs?** What about future additional water needs for WL? WL is in the number 4 place after Oregon City, Oak Lodge, and Sunrise for water from the North Clackamas Water Commission. Allowing LOT to transfer precious Clackamas River water to Tigard (who is not in our watershed) is bad public policy and not sustainable for WL's future water needs. Recall that after 10 years or so, LOT will have no water to provide to WL citizens. The application should be denied.
  
16. **Trees and landscaping have not been maintained to neighborhood standards.** The applicant's tree survey reports that many of the trees on the Mapleton properties are in poor condition. It should be noted that the COLO has owned these properties since 1989 and 1995 respectively. The applicant should demonstrate what was done to maintain the trees in good condition since purchase of the properties. The tree's poor condition may have been in part created by a lack of due diligence by the applicant. Grass mowing and upkeep of the structures on the Mapleton Drive properties has been substandard, according to surrounding neighborhood standards and COWL city codes. The failure to keep yards properly mowed has resulted in COWL code violation reports in past years. This provides an indication that upkeep of the landscaping if the plant expansion is allowed will be substandard and performed at minimal cost to LOT. The GNP promises a park-like setting on Mapleton Drive, but that is undefined. At the April 12, 2012, meeting, LOT staff indicated no permanent structures would exist, just perhaps some left over concrete structures from the construction. This does not meet resident's definition of a park-like setting. Additionally, the promised fencing and lighting designs are only tentative at this point. Final impact upon the neighborhood is uncertain. Based upon the applicant's historical track record for maintaining their WL properties in accordance with neighborhood visual and livability standards and COWL code, the application should be denied.
  
17. **What will be the requirements of Homeland Security to keep the plant and its water safe and secure?** Will the applicant be required to come back to the COWL if new or unreleased requirements significantly change the conditions of approval if the CUP is allowed? Did planning staff inquire about such requirements? If items are claimed to be classified, proof of that status should be verified. Until any special requirements are reported and considered by staff, the application should be denied.
  
18. **The WL government has effectively short-circuited the public involvement process.** The WL CM has not allowed the city council to speak to residents and homeowners about their concerns and questions concerning the plant expansion and its processes. This action has tainted the public involvement process and stifled an open dialogue with their elected officials that citizens of Oregon and the United States are entitled to under the constitutions of both entities. Until the application was filed in January 2012, councilors should have been able to discuss the issue with WL citizens and keep a record, if necessary, of the topics

covered. In addition, the CM refused to answer submitted questions repeatedly in 2011 concerning the project and its processes. His response finally was to direct the questions to LOT staff. LOT also refused and failed to answer the questions (a copy of the questions is available to you upon request). The CM met with LOT staff on numerous occasions. The planning staff refused requests by citizens and GNC members for specific information until an application was filed. By denying WL citizens access to the information (from council, the CM, and planning staff) that they needed to be actively, vigorously, and intelligently engaged in the public permitting process, the COWL has disenfranchised its citizens and left them with no part in the public process. This violates CDC 01.020, H. The plant expansion additionally violates the Purpose of that section relating to *maintaining and improving the existing character and quality of WL*. For these troubling and technical reasons, the application should be denied.

19. **If the PC decides to approve the CUP application, please remember that under CDC 60.070, C, the PC may impose conditions on approval which it finds are necessary to assure the use is *compatible with other uses* in the vicinity.** The conditions should bring benefits and protect the safety of WL residents. The applicant should agree to incorporate any conditions into the approval conditions or agree to enter into a binding letter of understanding or other legal instrument with residents to assure future compliance with all of the agreed to conditions.
20. **This list is not exhaustive.** There are many other reasons for concern by the PC about this application. Other neighbors will speak to specifics this evening. The application should be denied based upon, if nothing else, the sheer number of problems and concerns this application and the processes involved in generating it have created.

The application for the expanded plant CUP should be denied and returned to the applicant. It does not bring the required benefit to the COWL, clearly presents potential threats to the health and safety of WL residents, does not meet the spirit or letter of the CDC and R-10 zoning, and does not provide required accurate data and final reports to comply with the COWL codes and state requirements. Recall too that there is no legal authority at the moment to expand the plant; a legally encumbered plant should not be permitted.

Thank you for your time and consideration.

Sincerely,







To: The West Linn Planning Commission

Wednesday April 18, 2012

**RE: CUP 12-02 Proposed Expansion of the Lake Oswego Water Treatment Plant**

I have been a resident of the Robinwood Neighborhood for over 20 years. I am here to talk to you about three things:

1. The Maple Grove CC&R History and Relevance
2. Comprehensive Plan Amendment Request
3. Alternative Site Analysis Request

What I have submitted for the record has more than I have time to cover in 5 minutes. I request you read the information before you.

**Maple Grove Plat:**

The Maple Grove Plat was recorded in 1944, <sup>24</sup> ~~TWELVE~~ years BEFORE the City of Lake Oswego built their Water Treatment plant within another plat. The overwhelming numbers of Maple Grove parcels are owner occupied and most owners are long time West Linn residents. All 88 parcels are covered by Covenants and Restrictions (CC&R). CC&R's are a recorded document and is a legal contract. They are intended to act as added insurance above and beyond a City's zoning code. **They are intended to enhance property values by controlling development.**

The City Lake Oswego purchased property within the Maple Grove Subdivision twice. Once in 1989 and again in 1995. The existences of the CC&R's were ignored at least twice.

The City of West Linn owns 1 lot with the PLAT; however the City was not named in the Condemnation suit brought by Lake Oswego.

**Has the City of West Linn signed their Waiver to remove the CC&R's?**

**Under what City approval authority will this be done?**

**Comprehensive Plan Amendment:**

We respectfully request the Planning Commission revisit the City staff's decision to apply the Conditional Use process to this project and the decision to separate this Major Project into two separate permits.

This commission knows better than anyone, that West Linn's Comprehensive Plan is the prevailing policy document that guides all land use decisions in the City.

**Under a Conditional Use Permit:**

**CDC 99.033 FEES:** The Council shall adopt a schedule of fees reasonably calculated to defray the expenses of the administrative process.

This applicant's fees were capped at \$25,000 because of the City's maximum Construction Value limit of \$500,000. The Construction Value of the Plant ALONE is 160 TIMES that value.

**Has the City recovered the costs of their staff time on this project?**

**60.060. D Conditional Use APPLICATION:** An application for a conditional use shall provide a narrative which addresses sustains the applicant's burden of proof; and a site plan as provided by CDC 60.080.

**As of last night, there were 1547 pages of information for this application on West Linn's Website.**

**Did the City have adequate time and experience to review ALL this information?**

As an example: page 3 of 83 of the Compiled Drawings, the applicant's Site Analysis plan shows only 9 of the 27 homes that SHOULD be shown based on the criteria identified by the applicant. What else is not accurate or complete?

**The burden of proof has been transferred to the Citizens of West Linn.**

**The proposed use is OUT of SCALE with what has been planned for this R10 area:**

1. 10 Acre, single use site.
2. Cost of 79.1 Million Dollars (June 2011 Oregonian Article),
3. Will take over three years to build
4. Will operate 20-24hours a day
5. Will have at least on three story building,
6. Is in a residentially zoned neighborhood
7. Requires a 4-foot transmission line to be built
8. No alternative sites were considered
9. No identified benefit to the Community where it resides

To fairly evaluate this massive, out of scale PROJECT in a residential neighborhood, we believe a Comprehensive Plan Amendment process should be followed. The amendment process puts the requirement to prove a community benefit on the applicant where it belongs, not on your Citizens. Just as important, the amendment process requires that the applicant seriously look at alternatives. **Neither has been done.**

### **Alternative Site:**

For a year and a half we have asked Lake Oswego and the City of West Linn to look at alternative sites. The request has fallen on deaf ears. Your hand out has a copy of that request and the reasons why we think an alternative site could be a cost effective and environmentally wise choice.

- We request this alternative be examined because:
  - Lake Oswego and Tigard have sufficient existing and transferable water rights on the Willamette River and could use this source instead of the Clackamas River.
  - Within Lake Oswego there are several possible locations, including but not limited to the Foothill district, which already has the proper zoning in place.

- If the intake and plant were designed on a new site instead of working within the limitations of an existing plant and site, it most likely could be accomplished more efficiently from a size, dollars, and schedule standpoint.
- A location in Lake Oswego location would eliminate more than 4 miles of 48-inch pipe saving several millions of dollars.
- Eliminating over 4 miles of large pipe construction would avoid SEVERAL environmentally sensitive areas including parks, streams and protected waterways along their route from the Clackamas River, through Gladstone, UNDER the Willamette River, thru West Linn and into Lake Oswego.
- Lake Oswego's current plan completely upgrades their old water treatment plant with state of the art water treatment. It follows that you should be able to provide this same state of the art treatment to the Willamette river water, learning from Wilsonville's brand new facility also located on the Willamette River and from the Coca Cola plant in Wilsonville that we understand produces DASANI bottled water.
- By building on a new site, this allows the added cost benefit of keeping the existing plant and transmission line online until the new facility is tested and ready to be turned on. Wilsonville's plant took less than two years to build
- The existing pipe in Hwy 43 to the intertie would be maintained. Thus maintaining the existing redundancy cited in the one and only document in the public record in support of this project.
- By transferring LO's water rights to the Willamette, it would show exceptional stewardship of our natural resources for generations to come.
- Assume this alternate plan was considered during the early planning stages, since we have suggested this for over 1 and ½ years.

Until an option that includes a Willamette river intact and a treatment plant within Lake Oswego's city limits is considered. We see no reason why we should bear the long lasting impact for two City's whose combined populations is three times larger than West Linn's

Thank you for your time.

## Planning Commission Meeting

April 18, 2012

Steven Blake

4400 Mapleton Drive

West Linn, OR 97068

503-636-6512

4/18/2012  
7:05P  
SP  
2P

Lake Oswego is introducing a substantial hazard into the Robinwood Neighborhood, or at least greatly increasing the hazards associated with a water treatment facility in a residential neighborhood.

For most of us our home is our largest asset. We invest in our home to provide financial security for the future as well as a secure and safe environment to live and raise our families.

Lake Oswego will be building a 3 Million Gallon reservoir on the Mapleton Dr. side of the water treatment plant. Water will be supplied to the plant through a 48 inch pipe. We all know that there is always a potential for construction to fail for various reasons, natural causes (earthquakes), manufacturing defects, or errors made during installation and construction. The volume and quantity of water that this plant will be dealing with on a daily basis constitutes a very substantial hazard to all who live near the plant.

The information that I received from an insurance agent indicates that Home Owner's Insurance may NOT cover damage that resulted from a water spill from the Lake Oswego water system. It is also unclear if Lake Oswego has Insurance that would cover damage or even enough insurance to cover a catastrophic failure and spill.

Of additional concern is that the Oregon Tort Claim Act ORS 30.260 to 30.300 severely limits a Government Agency's (Lake Oswego) financial exposure in a law suit. This limitation is around \$100,000 per claim and \$500,000 per incident. Damage to a single home could easily exceed the \$100,000 limit and



in a incident with multiple homes involve the \$500,000 limit would be quickly spent. This leaves the financial burden on the individual property owners. The result could be financial devastation for the private home owner.

The subject of financial responsibility for damage was brought up during several of the required public meetings that Lake Oswego held. During these meetings the representative for Lake Oswego denied that Lake Oswego would have any liability and that it would be impossible for Lake Oswego to obtain insurance to protect against damages.

I believe that it is absolutely essential that Lake Oswego accept total financial responsibility for any and all damage that is a result of the water treatment plant in our neighborhood. Or to put it another way, the neighbors to the plant should not be expected to bear the financial risks associated with the plant.

Additionally there are other chemical processes at the plant that may pose a hazard. The neighbors need assurance that in the event of damage which is the result of any process at the water treatment plant, Lake Oswego will accept responsibility and make full restitution.

I would ask West Linn require proof that Lake Oswego maintains insurance at level sufficient to cover a worst case situation where multiple homes or business are damaged or destroyed.

Thank You,

Steven Blake

4400 Mapleton Drive

West Linn, OR 97068

503-636-6512

## Shroyer, Shauna

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**From:** Pelz, Zach  
**Sent:** Friday, April 20, 2012 11:57 AM  
**To:** Shroyer, Shauna  
**Subject:** FW: Public Comment - Water Treatment Plant Expansion

Shauna,

This email was handed to the PC at their April 18 meeting and I didn't see it in the online submittals. Would you mind adding this email to that packet?

Thank you,

Zach

Zach Pelz, Associate Planner  
Planning and Building, #1542

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

**From:** Sonnen, John  
**Sent:** Wednesday, April 18, 2012 6:32 PM  
**To:** Pelz, Zach  
**Subject:** FW: Public Comment - Water Treatment Plant Expansion

John Sonnen, Planning Director  
Planning and Building, #1524

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

**From:** Carol [<mailto:carol.ellsworth@comcast.net>]  
**Sent:** Wednesday, April 18, 2012 6:16 PM  
**To:** CWL Planning Commission  
**Subject:** Public Comment - Water Treatment Plant Expansion

**April 18th, 2012**

Dear Commission,

I fully and completely oppose any expansion of the Lake Oswego Water Treatment.

Despite the completeness and detail of their application as presented, there are many, excellent questions and legitimate concerns that have been omitted and left unanswered by the City of Lake Oswego Water Treatment Plant (LOT).

The concerns and questions that all of the citizens of West Linn have are profound and detailed.

One very important fact and concern that LOT has not addressed is the significant potential of industrial chemical contamination on the Cantrell Property that LOT owns. For over 30 years, this property served as an excavation construction company's primary place of business. As a 30 year resident, I know for a fact there were many occasions when large volumes petroleum based liquids were openly dumped at and around the property, especially where the prior shop and garage existed.

Last, I ask that you use your full powers. as planning commissioners and citizen residents of this community, that you ensure every effort and every resource is made available to eliminate that possibility that there is any chance of chemical and ground water contamination.

Sincerely,

Carol Ellsworth  
4553 Mapleton Drive  
West Linn OR 97068