

**Madeline Sutherland**

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**From:** Joe Turner <jtpc1@icloud.com>  
**Sent:** Wednesday, July 27, 2022 7:43 AM  
**To:** Madeline Sutherland  
**Cc:** Robert Maul  
**Subject:** Re: Rebuttal to Olson Engineering Responses on Impact of Hood St Sub Wetland Mitigation Plan

Ms. Sutherland, please make this email an exhibit in this case and forward it to all parties of record.

The following is the examiner's response to Mr. Vartanian's request to submit additional testimony and evidence after the close of the record. The examiner denies that request based on the following.

At the conclusion of the hearing on July 7, 2022, the examiner held the record open subject to the following schedule:

- Until 5:00 p.m. on July 14, 2022, for new evidence from all parties;
- Until 5:00 p.m. on July 21, 2022, for all parties to respond to the new evidence submitted by July 14, 2022; and
- Until 5:00 p.m. on July 28, 2022, for the applicant only to submit a final argument.

The applicant submitted a "Revised Preliminary Wetland Mitigation Plan" on July 13, 2022, during the initial open record period. That document was not posted to the City's website until July 18, 2022. Mr. Vartanian submitted a response (a list of questions) on July 19, 2022, during the rebuttal period. The applicant's representatives responded to Mr. Vartanian's questions on July 20 and 21, 2022, during the rebuttal period. Mr. Vartanian submitted a response to the applicant's response on July 26, 2022, after the record closed to the public.

The examiner finds that the City's delay in posting the applicant's "Revised Preliminary Wetland Mitigation Plan," while unfortunate, did not impact Mr. Vartanian's right to participate and submit written testimony. Mr. Vartanian submitted his response during the second week of the open record period and the applicant submitted its response to Mr. Vartanian's response during the same period. This is consistent with the open record schedule announced at the conclusion of the hearing. All parties had the opportunity to submit new evidence during the first week and to respond during the second week. The schedule does not provide an opportunity for additional response to anything submitted during the second week, with the exception of the applicant's final argument. If the City had posted the applicant's Mitigation Plan in a timely manner the applicant was not required to respond to Mr. Vartanian's submittal until 5:00 p.m. on July 21, 2022, and Mr. Vartanian would have no opportunity to reply. Even if Mr. Vartanian had submitted his questions sooner, the applicant had no duty to respond prior to the July 21 deadline, which would preclude Mr. Vartanian's ability to respond.

Therefore, the examiner denies Mr. Vartanian's request to extend the open record period and Mr. Vartanian's July 26, 2022, submittal is excluded from the record in this case.

Joe Turner

City of Camas Hearing Examiner

On Jul 26, 2022, at 8:05 PM, Robert Maul <[RMaul@cityofcamas.us](mailto:RMaul@cityofcamas.us)> wrote:

As per out discussion.

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**From:** KENNETH VARTANIAN [<mailto:kenvart@comcast.net>]  
**Sent:** Tuesday, July 26, 2022 7:09 PM  
**To:** Steve C. Morasch <[stevem@landerholm.com](mailto:stevem@landerholm.com)>; Robert Maul <[RMaul@cityofcamas.us](mailto:RMaul@cityofcamas.us)>; Madeline Sutherland <[MSutherland@cityofcamas.us](mailto:MSutherland@cityofcamas.us)>  
**Cc:** [gordonf@aol.com](mailto:gordonf@aol.com); [chris.reive@gmail.com](mailto:chris.reive@gmail.com); [bmann@in-situ.com](mailto:bmann@in-situ.com); Joanna Wu <[im7216@gmail.com](mailto:im7216@gmail.com)>; Ron Mcknight <[ron.w.mcknight@gmail.com](mailto:ron.w.mcknight@gmail.com)>; Stephen Darnell <[financialwizard2@comcast.net](mailto:financialwizard2@comcast.net)>; [kevint@olsonenvironmental.com](mailto:kevint@olsonenvironmental.com); [petert@olsonengr.com](mailto:petert@olsonengr.com)  
**Subject:** Re: Rebuttal to Olson Engineering Responses on Impact of Hood St Sub Wetland Mitigation Plan

See my **comments** below....Ken

On 07/26/2022 4:27 PM Steve C. Morasch <[stevem@landerholm.com](mailto:stevem@landerholm.com)> wrote:

The applicant opposes reopening the record.

Regardless of the delay in posting the mitigation report to the City's website, parties had opportunity to respond to it for more than seven days during the rebuttal period (ending on July 21), and in fact, Mr. Vartanian did respond on July 19. **My response on the 19th was a list of questions and requests for clarification on the Revised Preliminary Wetland Mitigation Plan. The answers provided by Olson Environmental on July 20th and Olson Engineering on July 21st provided the information needed to analyze the plan and document the response submitted on July 24th. If the Revised Preliminary Wetland Mitigation Plan had been posted on July 14th as mandated by the examiner and agreed to by the City and the applicant, we wouldn't be having this conversation!**

What Mr. Vartanian is now requesting is the right to submit a response to the applicant's rebuttal of Mr. Vartanian's July 19 submittal. Since the applicant has the burden, sur-rebuttal by other parties is typically not allowed, unless the applicant raises new issues in the rebuttal. **Not sure what point you're trying to make here. The applicant did not rebut my questions...in fact they agreed with some of my assertions regarding the likelihood that the Wetlands in the Hood St Subdivision were spring fed and provided clarity regarding buffer zones, posting of signs, mitigation plans applying to Wetland A and typos.**

Here, the applicant's rebuttal memos submitted by Olson Engineering and Olson Environmental on July 21 were limited to responding to Mr. Vartanian's questions. Therefore, no further rebuttal is allowed. **Read the Olson responses carefully please and then read my July 19th document again, which was primarily an information gathering document....thank you, Ken**

**Steve C. Morasch | Attorney at Law**

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**From:** Robert Maul <[RMaul@cityofcamas.us](mailto:RMaul@cityofcamas.us)>  
**Sent:** Tuesday, July 26, 2022 4:13:32 PM  
**To:** KENNETH VARTANIAN <[kenvart@comcast.net](mailto:kenvart@comcast.net)>; Madeline Sutherland <[MSutherland@cityofcamas.us](mailto:MSutherland@cityofcamas.us)>  
**Cc:** [gordonf@aol.com](mailto:gordonf@aol.com) <[gordonf@aol.com](mailto:gordonf@aol.com)>; [chris.reive@gmail.com](mailto:chris.reive@gmail.com) <[chris.reive@gmail.com](mailto:chris.reive@gmail.com)>; [bmann@in-situ.com](mailto:bmann@in-situ.com) <[bmann@in-situ.com](mailto:bmann@in-situ.com)>; Joanna Wu <[im7216@gmail.com](mailto:im7216@gmail.com)>; Ron Mcknight <[ron.w.mcknight@gmail.com](mailto:ron.w.mcknight@gmail.com)>; Stephen Darnell <[financialwizard2@comcast.net](mailto:financialwizard2@comcast.net)>; Steve C. Morasch <[stevem@landerholm.com](mailto:stevem@landerholm.com)>; [kevint@olsonenvironmental.com](mailto:kevint@olsonenvironmental.com) <[kevint@olsonenvironmental.com](mailto:kevint@olsonenvironmental.com)>; [petert@olsonengr.com](mailto:petert@olsonengr.com) <[petert@olsonengr.com](mailto:petert@olsonengr.com)>  
**Subject:** RE: Rebuttal to Olson Engineering Responses on Impact of Hood St Sub Wetland Mitigation Plan

Ken, we will check with Joe on this.

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**From:** KENNETH VARTANIAN [<mailto:kenvart@comcast.net>]  
**Sent:** Tuesday, July 26, 2022 3:47 PM  
**To:** Madeline Sutherland <[MSutherland@cityofcamas.us](mailto:MSutherland@cityofcamas.us)>  
**Cc:** [gordonf@aol.com](mailto:gordonf@aol.com); [chris.reive@gmail.com](mailto:chris.reive@gmail.com); [bmann@in-situ.com](mailto:bmann@in-situ.com); Joanna Wu <[im7216@gmail.com](mailto:im7216@gmail.com)>; Ron Mcknight <[ron.w.mcknight@gmail.com](mailto:ron.w.mcknight@gmail.com)>; Stephen Darnell <[financialwizard2@comcast.net](mailto:financialwizard2@comcast.net)>; [stevem@landerholm.com](mailto:stevem@landerholm.com); [kevint@olsonenvironmental.com](mailto:kevint@olsonenvironmental.com); [petert@olsonengr.com](mailto:petert@olsonengr.com); Robert Maul <[RMaul@cityofcamas.us](mailto:RMaul@cityofcamas.us)>  
**Subject:** RE: Rebuttal to Olson Engineering Responses on Impact of Hood St Sub Wetland Mitigation Plan

Madeline,

The timeline states "Record Open for New Information up to 5pm- July 14th", however new information from the Applicant re the revised Wetland Management. Plan which was prepared by Olson on July 13th was not made available for public access until July 18th - four days after the deadline. This delay by the City posting the Olson revised report cascaded into downstream delays.

That being said, the 5pm- July 21st deadline for responses was based on the assumption that all needed new information would be available for public access by July 14th. As the recording shows the examiner asked specifically if all new information on the Hood St. Subdivision would be available on the public website by the 14th and the City and I believe the someone representing the applicant (recording not clear) responded yes.

I don't see how you can make a unilateral decision to exclude my rebuttal from the public record since the City was 4 days late posting new information. I ask that you share this email with the Examiner to gain his opinion on my request.

Ken

On 07/26/2022 2:39 PM Madeline Sutherland  
<[msutherland@cityofcamas.us](mailto:msutherland@cityofcamas.us)> wrote:

Hi Ken,

Please see the attached minutes from the hearing. The timeline for public comment is stated on the second page. I apologize, but we cannot add the comment to the record.

Regards,

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**Madeline Sutherland, A**

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**From:** KENNETH VARTANIAN <[kenvart@comcast.net](mailto:kenvart@comcast.net)>  
**Sent:** Tuesday, July 26, 2022 2:13 PM  
**To:** Madeline Sutherland <[MSutherland@cityofcamas.us](mailto:MSutherland@cityofcamas.us)>  
**Cc:** [gordonf@aol.com](mailto:gordonf@aol.com); [chris.reive@gmail.com](mailto:chris.reive@gmail.com); [bmann@in-situ.com](mailto:bmann@in-situ.com); Joanna Wu <[im7216@gmail.com](mailto:im7216@gmail.com)>; Ron Mcknight <[ron.w.mcknight@gmail.com](mailto:ron.w.mcknight@gmail.com)>; Stephen Darnell <[financialwizard2@comcast.net](mailto:financialwizard2@comcast.net)>; [stevem@landerholm.com](mailto:stevem@landerholm.com); [kevin@olsonenvironmental.com](mailto:kevin@olsonenvironmental.com); [petert@olsonengr.com](mailto:petert@olsonengr.com)  
**Subject:** RE: Rebuttal to Olson Engineering Responses on Impact of Hood St Sub Wetland Mitigation Plan

Hi Madeline,

At the public hearing on July 7th I requested 60 days to evaluate the applicant's water management plan for the Hood St. Subdivision. Although my request was denied, the Examiner agreed to keep the public record open until July 28th to allow time for a meaningful analysis. This extension was based on the assumption that the Applicants water management plans were final and already available on the City of Camas website.

On July 13th, Olson Engineering prepared a "Revised Preliminary Wetland Mitigation Plan" for the Hood St. Subdivision which was made available for public access on the City of Camas website on July 18th. Clearly the Applicant's Water Management plans were not final on July 7th.

After reading the revised plan, we prepared a list of questions which we submitted to the City on July 19th with an email copy to Mr. Morasch. Mr. Terlep at Olson Environmental responded to our questions on July 20th, and Mr. Tuck at Olson Engineering responded on July 21st. None of the property owners at Columbia Summit Estates were copied or sent a notification that the Olson responses were available. I happened to discover the Olson responses posted on the City of Camas website on Sunday evening, July 24th, and responded on July 26th.

With all these changes and delays, my response was still sent within the agreed upon timeframe set by the Examiner. I ask that our response (and this email) be included in the public record and that the Applicant is allowed time to respond.

Regards,

Ken Vartanian

On 07/26/2022 11:19 AM Madeline Sutherland  
<[msutherland@cityofcamas.us](mailto:msutherland@cityofcamas.us)> wrote:

Hi Ken,

The record for public comment ended on July 21<sup>st</sup> and this week is the opportunity for the applicant to comment. Unfortunately, we cannot add your response to the record. The agenda online is updated with your previous responses and the applicant's final response. The final order should be issued within 2 weeks.

Regards,

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**From:** KENNETH VARTANIAN  
<[kenvart@comcast.net](mailto:kenvart@comcast.net)>  
**Sent:** Tuesday, July 26, 2022 9:58 AM  
**To:** Madeline Sutherland  
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**Subject:** Rebuttal to Olson Engineering Responses on Impact of Hood St Sub Wetland Mitigation Plan

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Dear Ms. Sutherland,

Attached please find our rebuttal to the responses from Olson Environmental and Olson Engineering re the impact of the Hood Street Subdivision wetland mitigation plan on Columbia Summit Estates properties. Also please send a copy of rebuttal to the Examiner for his review.

Thank you very much for your continued assistance.

Regards,

Ken Vartanian

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