

**RECONSIDERATION OF DECISION AND FINDINGS OF  
THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBERS:** Reconsideration File No. 247-23-000634-RC for File Numbers  
247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

**APPLICANTS/OWNERS:** City of Redmond  
Attn: Ryan Kirchner, Wastewater Division Manager  
411 SW 9<sup>th</sup> Street  
Redmond, OR 97756

**SUBJECT PROPERTY:** Map and Taxlot: 1413300000101  
Account: 165689  
Situs Address: 5801 NORTHWEST WAY, REDMOND, OR  
97756

The Redmond Wetlands Complex is proposed across four (4) additional properties identified in the Staff report and are either federally owned or owned by the City of Redmond. The associated pipeline and easements cross through eight (8) private properties within Deschutes County jurisdiction as identified in the Staff report.

**REQUEST:** Applicant seeks review of a condition placed on the Conditional Use Permit for the expansion of the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”). The project includes:

Relocating sanitary sewer treatment facilities to the 608-acre City-owned property and expanding the disposal facilities to the north onto federally owned property. The relocation and expansion includes new operational buildings, new lined and unlined treatment wetlands for effluent polishing and disposal, new primary treatment facilities with headworks screening, and new aerated lagoon system for secondary treatment.

Replacing an existing 24-inch diameter interceptor pipeline with a 48-inch diameter pipeline that will be below grade and within established utility easements and/or public rights-of-way on an approximately two (2) mile route to the City of Redmond to connect to existing facilities treatment facility at the north end of Dry Canyon.

**HEARINGS OFFICER:** Alan A. Rappleyea

**STAFF CONTACT:** Haleigh King, Associate Planner  
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**RECORD:** Record items can be viewed and downloaded from:  
[www.deschutes.org/redmondwetlandscomplex](http://www.deschutes.org/redmondwetlandscomplex)

**REVIEW PERIOD:** The subject application was submitted on August 21, 2023, the 12<sup>th</sup> day from the date the original Decision was mailed. The 150-day clock is stayed during the period of reconsideration pursuant to Deschutes County Code 22.30.0210 (August 21, 2023, through and including September 12, 2023). Therefore, the 150<sup>th</sup> day on which the County must take final action on the original Decision is November 11, 2023.

**SUMMARY OF RECOMMENDATION:** The Hearings Officer finds that the Applicants have met their burden of proof on the Request for Reconsideration and the Condition will be modified.

**I. APPLICABLE STANDARDS AND CRITERIA**

**DCC 22.30.010. Reconsideration.**

- A. An applicant may request that the Hearing Officer's decision be reconsidered as set forth herein. A request for reconsideration shall be accompanied by a fee established by the County and by applicant's written consent that the 150-day time clock will not run during the period of the reconsideration.
- B. Grounds for reconsideration are limited to the following instances where an alleged error substantially affects the rights of the applicant:
  - 1. Correction of an error in a condition established by the Hearing Officer where the condition is not supported by the record or is not supported by law;
  - 2. Correction of errors that are technical or clerical in nature.

**II. CONDITION OBJECTED TO:**

“Q. *Prior to the issuance of any permits*, the Applicant shall provide Staff with a well monitoring plan for its wells on the property for the Wetlands Complex Site. The plan shall provide for voluntary free well testing for property owners annually within a one-mile radius of the site.”

**III. ARGUMENTS**

**City of Redmond:**

“The City of Redmond is requesting that this condition of approval be removed from the decision. As a practical matter it is oppressive, there are some 500 domestic and agricultural wells in this vicinity depending upon where the one mile is measured from. As a legal matter it is respectfully submitted that the condition imposed is not required by any relevant approval standard and there is no evidence in the record that there are or will be groundwater issues for anyone. The findings discuss the condition as a way to avoid adverse impacts to farm uses from the proposed RWC. However, there is no evidence that there will be any adverse impacts to groundwater reasonably expected from the proposal. As is explained in detail in this request, DEQ has an extensive groundwater monitoring program that the proposal will be required to comply with. There is no way for anyone who requests sampling under the condition to know if any detected problems have anything to do with the proposal. There is no baseline from which to measure impacts and no way to know what other uses may be affecting any such results.” Page 2 Burden of Proof Statement

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“Please note, the City of Redmond understands the need to protect groundwater quality. The groundwater testing protocols required by DEQ as part of the Water Pollution Control Facility permitting process are strict, based on science and assure that water from the city’s disposal wetlands meet the standards to protect public health. The city’s wastewater treatment practices, which are highly regulated by DEQ, discharge water that meets very high public health standards. Such water does not adversely impact farm practices.” Page 3 Burden of Proof Statement

**Opponent Argument:** Carrie Caramella and Don Caramella provided comments but did not address the condition at issue. Mr. Liday’s letter dated September 1, 2023, provided the argument below. He also argues that this is a common condition for water treatment plants and if it is changed it should be modified but not removed.

“The City argues in its application that there is no need for this condition because the Project will not have an adverse impact on groundwater. This, of course, assumes that the Project is designed correctly, built as designed, and operates in optimal fashion. This is often not the case, as exemplified by the leak/unauthorized discharge at the City of Albany’s wastewater wetlands facility in 2019.<sup>2</sup>[fn omitted] Moreover, the fact that this leak was not discovered for six years illustrates the limitations of DEQ’s monitoring capabilities.”

#### **IV. HEARINGS OFFICER FINDINGS**

I find that the condition should be removed, although I agree with Mr. Liday that this is a common land use condition that is imposed on water treatment plants. As originally proposed, I conditioned

the Applicant to come up with a plan to provide well testing. I improperly assumed that the Applicant could create a plan that would provide reasonable limits on well tests, such as twenty tests per year and rotate notices to well owners within the area covered. Such a reasonable plan would not be too burdensome. Perhaps I should have been more specific in my condition. I disagree with Applicant that there is no legal authority to impose this requirement as I can impose restrictions to limit impact to agriculture. I also disagree that there are only three wells in this area that can affect agriculture. I am certain there are domestic wells that farmers use and if those are tainted, then that certainly would affect agriculture. I am also aware of the special groundwater rules that the Oregon Water Resources Department has for central Oregon due to its uniquely porous lava geography, as I participated in that rule making.

Regardless, I am convinced by the Applicants' arguments of the extensive well testing that it currently does, the technical groundwater analysis in its request for reconsideration, and the fact that there have been many years of operation without groundwater issues, that this condition is not supported by the record; therefore, condition Q is not necessary and is removed on reconsideration. The Decision findings, conclusions and conditions shall remain in full force and effect except as modified by this Reconsideration Decision.

Dated this 13<sup>h</sup> Day of September, 2023

*Alan A. Rappleyea*

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Alan A. Rappleyea

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