BEFORE THE CITY COUNCIL

FOR THE CITY OF PORTLAND, OREGON

In the Matter of the Appeal of the Hearings Officer's Approval of EVERETT CUSTOM HOMES, INC.'S Application for Subdivision Approval and Environmental Compliance Review (Type III Proceeding)	))))))	**FILE NO: LU 16-159330 LDS EN HAYHURST NEIGHBORHOOD ASSOCIATION'S MEMORANDUM IN OPPOSITION TO 11-LOT SUBDIVISION, AS PROPOSED**

SHANE LATIMER, PhD CSE
ENVIRONMENTAL PLANNER

EXPERT REPORT

SUBMITTED BY:

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Written Testimony to the Portland City Council

Re: Everett Heights Residential Development
LU 16-159330 LDS LN

Shane Latimer, PhD CSE
Environmental Planner
SCS Engineers
15940 SW 72nd Avenue
Portland Oregon 97224

June 22, 2017

Distinguished Members of the Portland City Council:

My name is Shane Latimer and I am an Environmental Planner at SCS Engineers located at 15940 SW 72nd Avenue, Portland Oregon (97224). I reside at 4405 SW Dosch Rd., Portland, Oregon (97239), which is within the Fanno Creek watershed. I have visited the proposed development site.

I have included a resume with my testimony. In summary, I have over 25 yearsprofessional experience in natural resources management. The main focus of the last 22 years as a private consultant has been permitting associated with wetlands, water quality, and endangered species, and compliance with National Environmental Policy Act (NEPA).

I hold a doctorate in ecology from Tulane University (New Orleans, LA) with post-doctoral work in environmental chemistry and toxicology, and a Bachelor's Degree in Biology (emphasis in botany; chemistry minor) from Southern Oregon University. I am an adjunct professor with Portland State University and teach courses in environmental permitting though PSU and other organizations on a regular basis. I am also certified by the Ecological Society of America as a Senior Ecologist.

I served on, and chaired for a time, the Portland Urban Forestry Commission. At about that same time, I was a scientist at Beak Consultants, Inc., and a contributing author to a document entitled *Assessment of City of Portland Activities for Potential to Affect Steelhead* (1989), otherwise known as the "Beak Report," which played a key role in the development of the City's watershed management and development framework.

The Hayhurst Neighborhood Association has asked me to evaluate and comment on the proposed Everett Heights residential development with regard to potential environmental impacts to wetland, water quality, and endangered species as each of these relate to the City of Portland Development Code.

Jon Rhodes has covered most of the salient points in his testimony, to which I refer the reader and with which I agree. However, I would like to briefly reiterate and expand on issues related to wetlands, stormwater, the Environmental Conservation Zone, and species listed under the Federal Endangered Species Act with regard to the applicable approval criteria (33.430.250)

33.430.250 lists approval criteria for an Environmental Review. Specifically, 33.430.250 A.1. includes the following criteria:

> *a. Proposed development locations, designs, and construction methods have theleast significant detrimental impact to identified resources and functional valuesof other practicable and significantly different alternatives including alternativesoutside the resource area of the environmental zone;*
>
> *b. There will be no significant detrimental impact on resources and functionalvalues in areas designated to be left undisturbed;*

33.430.240 Supplemental Application Requirements; B. Supplemental narrative, includes the following requirement:

> *1. ... To the extent that the site resources and functional values are part of a larger natural systemsuch as a watershed, the evaluation must also consider the cumulative impacts onthat system.*

With regard to these criteria, we offer the following **facts**:

1. A key element of wetland function, value, and persistence is water (hydrology), generally occurring as surface water and/or groundwater. Indeed, the applicant's wetland delineation (Anchor QEA 2016; DSL Concurrence February 2017) states "overland flow, groundwater seepage, and direct precipitation are the primary hydrologic sources" for the wetland.
2. The stormwater report prepared by OTAK (2017) states that "The proposed development will direct most stormwater runoff to the existing storm sewer located to the north in SW Pendleton Street." Moreover, two of the three overflow discharges from proposed LID facilities appear to be routed to bypass the wetlands.
3. The applicant's Environmental Review Report narrative (Anchor QEA 2016) states that the "site also provides limited water quantity/quality support fordownstream fisheries." Such fisheries include steelhead (*Oncorhynchus mykiss*) a species listed under the federal Endangered Species Act, among others.
4. The applicant's Environmental Review Report does not include a section discussing the proposed development's potential cumulative effects on the watershed, either in the term of the general loss of undeveloped space or the specific loss of hydrological or wetland functions and values.

With regard to these facts, we offer the following **professional opinions**:

1. The applicant acknowledges that stormwater and groundwater are the primary hydrological sources of the wetlands but does not appear to have assessed the likely effects, either qualitatively or quantitatively, of diverting a majority of surface water away from the wetlands, the associated tributary drainage, or the Environmental Conservation Zone.For instance, to what degree the wetlandscould potentially become dryer and lose important functions and values.
2. The applicant does not appear to have assessed, either qualitatively or quantitatively, the potential effects of the proposed development onsub-surface groundwater flows and groundwater recharge to the wetlands, the associated tributary drainage, or the Environmental Conservation Zone, and to what degree diversion of stormwater could affect groundwater recharge and subsequent groundwater discharge, a significant function associated with the identified wetland, riparian, and upland habitats in Resource Site 126 of the Fanno Creek and Tributaries Conservation Plan.
3. Potential effects of reduced water quality, water quantity, and groundwater recharge/discharge to downstream species listed under the Endangered Species Act has not been fully considered and is, thus, open to challenge.
4. The effects of the proposed development on water quality and water quantity, while seemingly relatively small, will contribute to an overall cumulative effects associated with continued, relatively high-density development and use of outdated stormwater management technique, e.g., piping off-site.

5. Alternative development designs are possible in which all or most stormwater runoff may be treated and discharged on site, potentially alleviating, to a reasonable degree, the above potential issues, both local and cumulative.

SHANE LATIMER, PhD CSE
ENVIRONMENTAL PLANNER

CURRICULUM VITAE

SHANE LATIMER, PHD, CSE

Project Director

Education

Postdoctoral Fellow, Environmental Toxicology, Tulane University, 1994–95
PhD, Ecology, Tulane University, 1994
BS, Biology (Botany), Southern Oregon State College, 1989

Professional Certifications

Certified Senior Ecologist, Ecological Society of America (since 2002)

Associations and Affiliations

Ecological Society of America
Native Plant Society of Oregon

Professional Experience

Dr. Shane Latimer is an ecologist and an environmental planner with over 28 years of experience in environmental assessment, planning and permitting. He specializes in projects that are often large, complex, or controversial, and involve a combination of local land use, environmental permitting, and other associated constraints. Dr. Latimer's projects typically involve issues related to site evaluation and constraints analysis, wetlands, water quality, the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA).

Dr. Latimer has extensive experience planning, permitting, and implementing projects that challenge the interface between the built and natural environment, including solid waste facilities, quarries and mines, sewage treatment facilities, utilities, and similar developments. He has a thorough understanding of engineering concepts and practices of these project types and is adept at working collaboratively with engineering professionals to ensure optimum balance between environmental and engineering constraints. These projects often require careful assessments of alternatives, impacts, and opportunities, including value engineering. He is accomplished at ensuring that the project and the associated public process (e.g., NEPA, local land use, etc.) is well supported, both technically and in terms of managing public relations.

Other areas of management and technical expertise include cultural resources assessment (historic and pre-historic), floodplain management (floodplain permitting and FEMA Conditional/Letters of Map Revision), stormwater system design, Ecological Risk Assessment, Environmental Site Assessment (Phase I and II), chemical fate and transport, wildlife and wildlife hazard management (e.g., airports), and forest management.

Dr. Latimer's post-doctoral background in environmental toxicology and experience with many sites with potential or ongoing contamination issues have proven invaluable in developing various types of environmental constraints analyses and remedial action plans tailored to clients' specific needs. Dr. Latimer helped craft the current Oregon Department of Environmental

Quality Guidance for Ecological Risk Assessment (ERA) and has performed many ERAs in Oregon, as well as several in other states based on applicable state and EPA criteria. Several ERAs led to additional participation in Remedial Investigation/Feasibility Studies (RI/FS) for sites with known or expected contamination problems.

Dr. Latimer is an adjunct professor at Portland State University, through which he develops and teaches environmental permitting, compliance, and project management courses and workshops for professionals and organizations.

SELECT PROJECT EXPERIENCE

The following is a short list of projects selected from a larger catalogue to show variety and depth of work across practice areas. Additional project descriptions can be provided, on request.

Environmental Planning - Solid Waste

Dr. Latimer has managed projects for over 25 solid waste facilities in the Pacific Northwest and California, as well as several in other states and abroad. Projects mainly involve facility planning permitting, and compliance, but several have included site aesthetics (e.g., landscape design), LEED Certification, and Wildlife Habitat Certification.

Valley Landfills, Inc. (Republic Services), Coffin Butte Landfill Wetlands Projects, Corvallis, Oregon.
Project Manager. Providing assistance with environmental and land use permitting. Provided a comprehensive wetland delineation for all landfill properties and provided permitting and compensatory mitigation for 16 acres of wetland fill and removal. Mitigation design included restoring former wetlands and enhancing highly degraded wetlands to a wet prairie/ash forest. Included preparation of a Biological Assessment for Nelson's checkermallow (*Sidalcea nelsoniana*), a federally *Endangered* plant species, which has led to local recovery of the species. Other consultation included management of required cultural resources studies, stormwater permitting and facility design, and assistance with landfill cell closure (soil preparation, plant species selection, planting, etc.), construction quality control, and other environmental and land use permitting. 1995-Present.

Waste Management, Inc., Riverbend Landfill Expansion, McMinnville, Oregon.
Project Manager. Assisting Waste Management with expansion and management of their McMinnville facility. Assisted in several land use processes, most recently to obtain a comprehensive plan amendment and zone change approval to convert approximately 90 acres from Pubic Works Safety (PWS) to Exclusive Farm Use (EFU) to accommodate landfill expansion. Work included assistance with the site design review narrative and process and preparation of the floodplain development plan application. Included expert testimony at multiple hearings and community meetings. Other managed work products included updated wetland delineation reporting, ESA compliance, cultural resource survey and assessment, and assistance with landfill and related engineering planning and designs. Additional ongoing work includes assistance with soil management, stormwater management, hydrogeofluvial assessments, floodplain management (including management of a FEMA-approved Conditional Letter of Map Revision [CLOMR] and subsequent LOMR), and designs for more than 40 acres

of wetland and riparian restoration. Preparation of environmental and landfill permit applications included significant NEPA compliance components (e.g., cultural resources, landfill gas-to-energy plant development, etc.). 1997-Present

Waste Management, Inc., Hillsboro Landfill, Hillsboro, Oregon.
Project Manager. Managed a variety of environmental issues associated with a 380-acre landfill site, of which approximately 200 acres is natural area within Tualatin River floodplain. Prior to design, qualitatively assessed current functions and estimated those that likely existed during and prior to the 1852 Land Survey. This assessment guided design development for the 126-acre wetland mitigation site. Mitigation is based on a "self-design" concept, whereby the river has been harnessed to provide the majority of the site's re-vegetation and development. By carefully designing the site topography to control and capture hydrology during vernal high flows, zones of preferred vegetation were created and weed problems (mainly reed canary grass) minimized. This approach has been very successful and has greatly reduced planting efforts and associated cost (vegetation is generally much more robust than similar sites in the vicinity utilizing traditional planting approaches). The design also included outlets to provide egress for federally listed salmonid species back to the channel following seasonal flooding. Additional site elements include a peat fen restoration modeled after fens know to have occurred in the Willamette Valley, which are now extremely rare, and construction of a vegetated perimeter corridor that provides flood-escape cover and habitat for wildlife. 1995-Present.

Waste Management, Inc., Greater Wenatchee Regional Landfill Expansion, Douglas County, Washington.
Project Director. Assisted Douglas County in completing a third party NEPA/SEPA EIS for expansion of Waste Management's regional landfill facility. Analysis of alternatives included effects on significant wildlife habitat, viewshed, air and noise, local agriculture, and cultural resources. The EIS was completed in 2007. Managed follow-on work related to implementing EIS provisions through 2010. 2005-2007.

Lane County Public Works, Short Mountain Landfill Expansion, Eugene, Oregon.
Project Manager/Director. Assisted Department of Public Works with expansion of Short Mountain Landfill. Assisted with permitting and implementation of the first two phases of this multiphase expansion project, setting the stage for streamlined permitting of additional future phases. Responsibilities included delineation of wetlands and wildlife habitat, design of wetland and upland mitigation, HGM assessment of wetlands, preparation of joint Section 404/Removal-Fill Permit applications, and project implementation. Permitting addressed eventual fill in excess of 110 acres. Work products included a comprehensive biological report covering more than 500 acres, a consolidated wetland delineation report (compilation of five separate delineations), an analysis of on- and off-site alternatives, and a mitigation plan. Mitigation included creating a mitigation bank consisting of more than 150 acres of wetland on a 262-acre site. Permitting included addressing several federally listed species and included incidental "take" permitting and recovery of Bradshaw's lomatium (*Lomatium bradshawii*), an *Endangered* plant.

Work included support of a Remedial Investigation and Feasibility Study; conducted a Level I-IV Ecological and managed a Human Health Risk Assessment. 2000-2005.

Waste Management, Inc., Wildlife Hazard Management Plan, Capital Landfill, Juneau, Alaska.
Project Director. Developed a Bird Hazard Management Plan guidance for Capital Landfill, in cooperation with Juneau Airport and the FAA. Reviewed current and existing regional literature regarding practices for the prevention of bird-strike hazards, including recent FAA Advisory Circulars pertaining to bird management and landfill operations near airports. Prepared a report presenting ten methods of bird management, including any prerequisites and the strengths and weaknesses of each, from which a revised guidance was developed. Also provided recommendations regarding bird monitoring and coordination for the FAA. 2004

Waste Management, Inc., Greater Wenatchee Regional Landfill Expansion, Douglas County, Washington.
Project director. Assisted Waste Management in developing an *Agricultural Insect Pest Protocol for Importing Recyclable Processing Waste and Construction and Demolition Waste from Waste Management's Material Recovery Facilities in King County to Waste Management's Greater Wenatchee Regional Landfill in Douglas County, Washington*. Developed descriptions and risk assessments for five insect pests, as well as a flow diagram documenting pest barriers inherent to Waste Management's waste processing systems. 2004.

General Environmental Services

Lane County Public Works, Jasper Road Extension, Eugene, Oregon
Project Manager. Assisted Lane County in obtaining state and federal wetland permits for the Jasper Road Extension II project. Permitting-related tasks included 1) completing a wetland delineation for the 40-acre project footprint, followed by preparation of a consolidated wetland report (verification and inclusion of four other previous wetland delineations); 2) preparation of a wetland functional assessment (Oregon HGM); 3) development of an alternatives analysis for wetland development, impacts, and mitigation; 4) management of surveys for rare (threatened and endangered) species; 5) surveys and reporting of cultural and historical resources (via Oregon State Historic Preservation Office); 6) preparation of a Biological Assessment (including Critical Habitat and Essential Fish Habitat) for Upper Willamette River Chinook salmon and bull trout addressing stormwater (Stormwater Master Plan development) and placement of in-water structures (two sets of two 110-inch, 200-foot-long, fish-friendly arch culverts spanning a river side-channel); and 7) consulting with regard to wetland and riparian mitigation, including stream/side-channel relocation and enhancement within the floodplain of the Middle Fork Willamette River. 2005-2007

Jackson County, Oregon Foothills Road Extension, White City, OR.
Project Manager. Completing wetland delineation and permitting for a proposed extension of Foothills Road to Highway 140 west of Jackson County Sports Park near White City, Oregon. The project area contains vernal pools and includes significant ESA and cultural resources compliance requirements (Ongoing).

Quatrefoil, Inc. (for Oregon Department of Parks and Recreation and Oregon Department of Transportation), HCRH State Trail Plan – Wyeth to Hood River.
Project Manager. Authored the Historic Columbia River Highway Trail Plan Update - Preliminary Environmental Constraints Analysis report for the project. Following an initial in-office resource inventory, the project team walked the preliminary trail alignments to confirm or locate resources or other factors that could possibly constrain the project, including some initial assessment by the team in the field. The report product consisted of a list of all identified potential managed resources and a preliminarily determination of the potential constraints, including those associated with plants, fish, wildlife, cultural resources, and the various local, state, federal, and National Scenic Area protections and administrative rules afforded to each, as well as likely required permitting. This work was a continuation of several similar environmental planning and survey projects completed for previous trail sections prior to 2010. 2010-2011

Quatrefoil, Inc., (for Oregon Department of Parks and Recreation and Oregon Department of Transportation), Rowena Crest Quarry Restoration at Meyer State Park, Portland, Oregon.
Project Manager. Provided ecological support in the development of a restoration/reclamation plan for a quarry along the Historic Columbia River Highway. The primary purpose of the project was to address issues associated with the view of the Columbia River Gorge from the Rowena Crest Overlook and McCall Point Trail. Worked with Quatrefoil, Inc. to assess the viewshed and develop a grading and vegetation plan to help blend the abandoned quarry into the surrounding landscape. Also assisted with management of follow-up monitoring and maintenance tasks. 2005-2006

Don Wilbur, Ltd., Wilbur Wetland Mitigation Bank, Florence, Lane County, Oregon.
Project Manager. Assisted with initiation and final permitting of a 162-acre estuarine wetland mitigation bank, the first on the Oregon Coast. Assisted the client with concluding the agency processes and documentation, including development of the bank instrument, restoration plan, crediting system, and wetland permitting. Work included detailed review of resource assessments (e.g., wetland delineations, functional assessments), facility assessment (e.g., tide gates, culverts, bridges, etc.), and conducting meetings with the multi-agency Mitigation Bank Review Team. 2005-2008

Oregon Department of Parks and Recreation, Oregon Habitat Conservation Plan for Western Snowy Plover, Portland, Oregon.
Ecologist. A member of a team of four ecologists assembled to model the sub-populations of the Pacific Coast population of western snowy plover (*Charadrius alexandrinus nivosus*), which is federally listed as Threatened. We used available data to construct life tables and used simple regression analysis to assess the relationships between restoration efforts, beach recreation, and population performance at seven sites along the Oregon Coast. Results presented at national ESA/SER conference in 2007, San Jose, CA. 2006-2007

Risk Assessment

Dr. Latimer has managed more than 20 risk assessment projects within the last 15 years, Most of these were associated with solid waste landfills of various types, including both open and closed municipal, wood waste, and demolition waste landfills. Most are confidential but three are listed here (with permission) that proceeded beyond initial screening-level studies, e.g., through Phase IV (Oregon Guidance).

Lane County Public Works, Short Mountain Landfill Expansion, Eugene, Oregon.
Project Manager/Director. Assisted Department of Public Works with completing a Remedial Investigation and Feasibility Study; conducted a Level I-IV Ecological Risk Assessment and managed/reviewed Human Health Risk Assessment conducted by a third party. 2001-2006.

Lane County Public Works, Florence Landfill, Florence, Oregon.
Project Manager/Director. Assisted Department of Public Works with completing a Remedial Investigation. Conducted a Level I-IV Ecological Risk Assessment and managed/reviewed Human Health Risk Assessment conducted by a third party. 2004-2006.

Confidential Client, Wood Waste Landfill, Southern Oregon.
Project Manager. Assisted the client with resolving issues related to seepage discharges from an unlined, wood waste landfill to an adjacent, fish-bearing stream containing federally listed salmonids. Tasks included conducting a Level I-IV Ecological Risk Assessment and managing a Human Health Risk Assessment. Developed recommendations for reasonable remedial actions used during successful negotiation with Oregon Department of Environmental Quality.

PROFESSIONAL EXPERIENCE

Latimer Environmental LLC, Portland, Oregon. **2010-2016**
Owner / Environmental Planner. Continued and expanded line of environmental planning services.

ICF International, Inc. / Jones & Stokes, Inc.* / Beak Consultants, Inc.* **1995-2010**
Portland, Oregon.
Senior Ecologist / Environmental Planner. Developed environmental service lines during a 15-year tenure, and participated in small to large teams on a wide variety of projects. Member of Board of Directors and officer of Beak Consultants, Inc. Natural resources group team manager for two years with Jones & Stokes. (*Serial acquisitions.)

Tulane University / USFS Southern Forest Research Station **1994-1995**
New Orleans, Louisiana.
Project Manager. Study sponsored by the U.S. Department of Energy investigating the environmental fate, transport, and toxicology of heavy metal contamination in the cypress wetlands of Bayou Trepagnier due to long-term oil refinery discharges. The work product was a series of reports documenting the work and a resulting set of recommendations pertaining to proposed remediation and monitoring of the site. Recommendations were based on

environmental risk. Articles documenting the new analytical methodology and study findings were also published. Analytic methods included dendrochemistry, soils and water chemistry (ED/WD X-ray spectroscopy, X-ray Scanning Electron Microscopy, inductively-coupled plasma emission spectroscopy, and atomic absorption spectroscopy). Concurrently served as Co-Indicator Lead for Dendrochemistry, US Forest Service Forest Health Monitoring Program.

US Forest Service, Siskiyou National Forest, Powers, Oregon **1989-1992**
District Botanist (Seasonal - Professional Grade). Administered the district sensitive plant program for the species-diverse Siskiyou National Forest. Conducted botanical surveys; developed survey protocols and the underlying geographic information systems. Responsible for botanical and ecological portions of NEPA documents, including preparation of Biological Evaluations, Resource Assessments, Environmental Impact Statements (EIS), and related mitigation planning.