

Written Testimony - Agenda Item 1008/983

Agenda Item	Name or Organization	Position	Comments	Attachment	Created
983	Arlene Kavlock, Portland Rowing Club	Support	I would like to thank Commissioner Mapps and his staff for having given those of us who would be profoundly effected by the original overwater structure proposals from BES opportunities to express our concerns. Commissioner Mapps not only heard our concerns, but acted on them. I support the approval of the amended BES recommendations regarding stormwater fees.	No	11/24/23 10:31 AM
983	Jas. Adams	Support	I support Commissioner Mapps' decision not to include in Agenda Item 983 the proposal by BES in Agenda Item 742 to impose a stormwater infrastructure user fee on overwater structures, which have no need for and do not use the City's stormwater infrastructure to channel rain runoff that such structures directly discharge into rivers.	Yes	11/26/23 1:19 PM

## AGENDA ITEM 983 ON PORTLAND CITY COUNCIL AGENDA (NOVEMBER 29, 2023)

### WRITTEN TESTIMONY IN SUPPORT OF OMITTING IN AGENDA ITEM 983 THE PROPOSAL IN AGENDA ITEM 742 TO IMPOSE A USER FEE ON NON-USERS OF STORMWATER INFRASTRUCTURE

I commend Commissioner Mapps for not including in Agenda Item 983 the proposal to impose an infrastructure user fee on non-users of stormwater infrastructure.

I own a 28' sailboat moored in a nonprofit marina on the Columbia River that would be adversely affected by the imposition of a stormwater infrastructure user fee on overwater structures. Agenda Item 983 is an updated version of the infrastructure fee adjustment proposed by the Bureau of Environmental Services (BES) in Agenda Item 742. Notably, Agenda Item 983 does not include BES's proposal in Agenda Item 742 to impose a stormwater infrastructure user fee on overwater structures like marine clubhouses and houseboats.

The BES' rationale in Agenda Item 742 for proposing a user fee on non-users of stormwater infrastructure was to point to general benefits that accrue to all, including control of river flooding and protection from toxic components contained in building construction materials. Because those benefits are not directly related to maintenance of stormwater infrastructure, however, they could be considered only if the revenue action were in the form of a tax measure approved by City voters.

The essential distinction between a fee and a tax was explained by the Oregon Supreme Court in 2016: "Although the challenged fee was labeled a fee rather than a tax, it was not being assessed to cover costs associated with district's use of city's streets, but rather was to be expended for general public purposes." *Northwest Natural Gas Co. v. City of Gresham*, 359 Or 369 (2016).

After the November 14th listening session about Agenda Item 742, where I commented on the illogicality of imposing a user fee on non-users of stormwater infrastructure, I received a week later an email from Commissioner Mapps' office:

*"We are writing to inform you that the Council date for the Rate Study will be November 29<sup>th</sup>, and the Ordinance being voted on will NOT bill Overwater Structures for stormwater services. \* \* \*." "We heard many of you had only recently learned of the proposed changes; we heard about your investments in cleaning up the river without access to the Clean River Rewards program; and many of you are seniors living on fixed incomes." "The ordinance that will be voted on by Council on November 29<sup>th</sup> continues the current status of EXEMPTING Overwater Structures for stormwater billing."*

The City is entitled to cite policy considerations as the basis for its decision not to impose an infrastructure use fee on overwater structures. But there is also a simple legal aspect at play here that merits mention: An infrastructure user fee cannot rationally be imposed on non-users of the infrastructure.

Overwater structures are already within the body of water into which terrestrial stormwater run-off is channeled across land by city conduits. Because precipitation runoff from overwater structures goes directly into the water, overwater structures neither need nor use stormwater infrastructure to handle rainwater. Moreover, no discernible service directly related to stormwater is provided to owners of overwater structures as the *quid pro quo* for imposing a stormwater infrastructure fee. A stormwater infrastructure fee cannot be imposed on overwater structures that do not connect with stormwater infrastructure. A user fee can be imposed only on users of city infrastructure.

BES' proposal to levy a user tax on non-users of stormwater infrastructure brings to mind Humpty Dumpty, who imagined he could define words any way he wanted. From Lewis Carroll's **THROUGH THE LOOKING GLASS**:

When / use a word," Humpty Dumpty said in rather a scornful tone, "it means just what I choose it to mean -- neither more nor less."

"The question is," said Alice, "whether you CAN make words mean so many different things."

Full credit is due to Commissioner Mapps for dropping BES's proposal to impose a user fee on non-users of City infrastructure. The action speaks for itself. It also seems worthwhile for the public record to contain at least some mention of the inherent illogicality of imposing a stormwater user fee on non-users of stormwater infrastructure. That fundamental point may help guide not only the other members of the present City Council but also future members of the expanded City Council going forward.

Respectfully submitted,

Jas. Adams

Agenda Item	Name or Organization	Position	Comments	Attachment	Created
983	Tom Liptan	Support with changes	<p>Dear Portland City Council,</p> <p>I am one of 177,000 single family residences who have been paying an inequitable flat stormwater fee for more than 40 years. The new tier structure will not eliminate the inequities of the flat rate because the tiers will create 3 flat rates which will benefit some and still injure the majority of rate payers, especially many of those least able to afford the fees. Equity rests in the measurement of all properties and contrary to what BES says I have found that measuring all properties is administratively feasible. The one-time costs to each single family residence would be less than a cup of coffee. I have mentioned this to BES numerous times. Imagine the difficulty BES will have to measure 1600sf compared to 1601sf and the difference in cost is \$15 month. And I'm sure many of these smaller properties are inhabited by seniors living on fixed income and others who will be inequitably burdened, especially since the stormwater rates are proposed to go up over the coming years. These expected increases make it even more important to get the measurements right.</p> <p>Another flaw or mistake in the new rate system is the exclusion of compacted gravel lots, which have been excluded for more than 40 years. I urged BES to remove the exemption, measure these properties and gain, by my estimate more than \$500,000 in revenue. I have mentioned this to BES numerous times. Although BES has said the cost is not worth the effort to find and measure these properties my research confirms the opposite. You may wonder why these properties are excluded and the answer lies hidden in the past, but today BES contradicts this exclusion by having within their own Stormwater Management Manual a requirement to provide drainage for compacted gravel. I've attached some photos of one property with 5 acres of compacted gravel that offers an example of these properties' drainage and pollution problems.</p> <p>Regarding the new ESU, I'm worried this "proxy" looks like a tax in disguise. And something that looks like a tax could prompt litigation. Even if BES prevailed in a lawsuit the cost to the city could be much more than figuring out a more secure rate.</p> <p>I request that you send this back to BES to adequately address the above issues.</p> <p>Thank you for all your efforts.</p> <p>Sincerely, Tom</p> <p>Tom Liptan 7707 SE Madison St Portland, Or 97215 503 730-7467</p>	Yes	11/27/23 12:47 PM
983	Portland Utility Board (submitted by PUB staff on behalf of Board)	Support	Please accept the attached written testimony of the Portland Utility Board. Note that the testimony was approved by the Board when the item was originally scheduled as item 942, so the Board has not had a public meeting to consider changes made since the original submission and will be unable to do so prior to the hearing.	Yes	11/28/23 11:12 AM





# PORTLAND UTILITY BOARD

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**Julia DeGraw**

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City Budget Office  
1120 SW 5<sup>th</sup> Ave, Ste 1010  
Portland, Oregon 97204

To: Mayor Ted Wheeler, Commissioner Mingus Mapps, Commissioner Carmen Rubio, Commissioner Dan Ryan, Commissioner Rene Gonzalez, Auditor Simone Rede

Cc: Dawn Uchiyama, Farshad Allahdadi, Anthony Martin, Aaron Abrams, Tim Grewe

Re: PUB Support for BES Rate Study Recommendations

Date: October 31, 2023

The Portland Utility Board (PUB) serves as a community advisory board for the Bureau of Environmental Services (BES) and the Portland Water Bureau (PWB). Please accept this letter of support from the PUB for the BES Rate Study Recommendations planned for Council consideration on November 8, 2023.

Over the past several years, the PUB has engaged with BES staff and consultants regarding the sewer and stormwater rate study to understand challenges and share feedback at each stage in the project. In July 2019, BES provided board members with an overview of sewer and stormwater rates, priorities for the rate study and a project plan. In July 2021, BES provided an update on the Rate Study including Phase I due diligence and environmental scan and Phase II planned outputs and progress. In April 2022, BES shared a preliminary report regarding the Rate Study results and received feedback from Board members. In April 2023, the PUB engaged with BES in a technical discussion and feedback session regarding preliminary recommendations.

Finally at the PUB's October 3, 2023 Board meeting, BES returned to provide a summary of feedback received and presented the final Rate Study Recommendations. The PUB centers equity in our considerations and recognizes the value of ensuring that costs are recovered in proportion to the demands on the system. The Board has advocated for and is supportive of the more equitable tiered rate approach proposed. The Board commends BES' work to balance the impacts on all Portlanders with the bureau's capacity to implement cost effective changes. The PUB unanimously supported the final Rate Study Recommendations and wished to document that support in this letter.

The PUB greatly appreciates your consideration of these comments and looks forward to continuing to work with you during the annual utility rate setting process.

Agenda Item	Name or Organization	Position	Comments	Attachment	Created
983	Dave Lear	Oppose	<p>I oppose a rate re structure when it targets specific, low impact users. The idea that docks and floating homes need to support stormwater discharge is outrageous. We are regulated by the following fees: Title 28 Floating Structures, Chapter 28.03 Administration and Enforcement</p> <p>L. "Impervious Area" means the area of a property that does not allow rainwater to percolate naturally into the ground. Does this include abandoned RV's and Tents?</p> <p>S. "Ratepayer" means a person who has the right to possession of a property and:</p> <ol style="list-style-type: none"> <li>1. Who causes or permits the discharge of sanitary sewage into the public sewer system, or</li> <li>2. Whose use of the property directly or indirectly benefits from stormwater management services provided by the City. (This does not apply to Dock, Houseboat owners, RV and Tent Owners)</li> </ol>	No	11/28/23 1:59 PM
983	Maren Calvert, attorney at Schwabe, Williamson & Wyatt	Oppose	<p>Commissioner Mapps did an excellent job listening to the people of Portland about the flaws in the BES Proposed Code related to overwater structure stormwater fees. Unfortunately, simply removing the phrase "overwater structures" from the Proposed Code does not solve all of the problems. The Revised Proposed Code still significantly expands stormwater fee authority, fails to achieve equity, creates an illegal "special purpose tax." Moreover, the report admits, the current structure is consistent with the market – and developing trends in the market. Let's get back to work on things that matter.</p>	Yes	11/28/23 2:06 PM
983	Anonymous	Support with changes	<p>We thank the commissioners for acquiescing to the wishes expressed by owners of overwater structures, but I am disturbed that the BES continues to make questionable and even untrue assertions in the matter.</p>	Yes	11/28/23 4:53 PM
983	Mark Birnbaum, Jantzen Beach Moorage	Support with changes	<p>BES states its #1 objective in proposed rate structure* is to:</p> <ol style="list-style-type: none"> <li>1. "Adjust all rates to ensure that all customers are billed fairly based on the cost of serving them. The "cost of service" principle is the underlying basis for all recommendations.</li> </ol> <p>BES sidesteps the overall picture the vast majority of overwater structures exist in.</p> <ol style="list-style-type: none"> <li>a) Overwater structures, at the very least, are coupled with land for parking, green space and access. We pay our fair share of stormwater off-site and on-site. Wherever sanitary service is consumed, we pay that, too.</li> <li>b) BES provides no service to the rainwater that falls around the overwater structures. There is no cost of servicing that rainwater; it is not captured or treated.</li> </ol> <p>Still BES recommended a rate for rain falling around overwater structures. In the last week that recommendation, #7, was removed from the ordinance language at the direction of the BES Commissioner. Given the history, we expect it will be back in some form, again.</p> <p>* <a href="https://www.portland.gov/bes/rate-study">https://www.portland.gov/bes/rate-study</a></p>	No	11/29/23 9:20 AM





November 28, 2023

**Maren L. Calvert**  
Admitted in Washington, Oregon,  
California and Hawaii  
D: 360-597-0804  
mcalvert@schwabe.com

**VIA EMAIL:**

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Portland City Council  
c/o Council Clerk  
1221 SW 4th Avenue, Room 130  
Portland, OR 97204

RE: **AGENDA ITEM 983 - BES Revised Proposed New Chapter 17.36 – Still a Tax**  
Our File No.: 141818-281766

Dear Mayor Wheeler and Commissioners Rubio, Ryan, Gonzalez, and Mapps:

As you may know, the proposed code submitted to you by Portland’s Bureau of Environmental Services (BES) for consideration today as agenda item 983 has been placed on and taken off the Council meeting agenda several times in the last few months. The adjustments to your calendar reflect Commissioner Mapps’ efforts to understand objections being raised by dozens of overwater structure owners and other Portland residents regarding the proposed code. More than 100 people participated in Commissioner Mapps’ meetings and listening sessions.

The objections focused on the imposition of stormwater fees on overwater structures; changes to the definition of impervious surface; expansion of stormwater fees to pervious surfaces; the creation of a stormwater tax, and the poor quality of Galardi Rothstein Group’s research and supporting documents.

**Overwater Structures**

As a result of Commissioner Mapps’ efforts, BES and the City attorneys’ office have removed the phrases “overwater structure” and “overwater billable area” from the Revised Proposed Code presented to you today. While this change is helpful, it is not sufficient. BES’s proposed changes to the definition of impervious surface, assignment of fees to pervious surfaces, and efforts to impose a tax still exist in the Revised Proposed Code.

### **Definition of Impervious Surface**

Currently, the City imposes stormwater fees on impervious surface area. The phrase is defined in Portland City Code (“PCC”), and most laws in the country, as: “the area of a property that does not allow rainwater *to percolate naturally into the ground.*” PCC 17.36.020.L (emphasis added).

Eight years ago, BES attempted to impose a stormwater fee on overwater structures, just as it has attempted to do, this year. Portland’s Administrative Review Committee (ARC) struck down the BES effort in 2017, when it ruled that overwater structures do not fall within Portland’s definition of ‘impervious area.’

Unfortunately, BES is trying again. The Revised Proposed Code will change the definition of ‘impervious area’ to: **“any surface exposed to rainwater off of which most water runs.”** Proposed Code 17.36.020.J. *This extremely broad definition will allow stormwater fees to be imposed on overwater structures, even though the phrase “over water structures” has been removed from the code.*

Moreover, this broad definition expands the scope of stormwater fees that can be imposed on over-land property owners as well. The new proposed definition applies to literally everything outside: trees, grass, dogs, people – anything that onto which rain may fall. But BES’s Chapter 17.36 re-write does not stop there. BES wants to impose stormwater fees on *pervious* surfaces, too.

### **Charging Fees for Pervious Surfaces**

The new Revised Proposed Code imposes a “user charge” on all impervious *and* pervious areas in Portland. See Revised Proposed Code 17.36.020.Q (“‘Stormwater Billable Area’ means the sum of a property’s impervious area and area of pervious pavement, excluding areas covered by compacted soils and compacted gravels.”).<sup>1</sup> While the language of the code speaks to “pervious pavement” (as it did in the previous version of the Proposed Code), BES has expressly stated it interprets this language to allow stormwater fees on slatted decks (or docks) – both of which are pervious and neither of which are pavement.<sup>2</sup> In other words, BES wants this City Council to expand its authority to impose stormwater fees on all property in Portland, of any kind.

While BES claims its proposed changes are ‘revenue neutral,’ (1) it has never provided any evidence to substantiate that claim, and (2) given this massive expansion of its authority, the claim is unlikely to be true for long.

Both over water and over land structure owners should also be extremely concerned about this massive expansion of BES’s stormwater fee charging authority.

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<sup>1</sup> “BES does not currently charge for compacted gravel/soil parking lots because it is not administratively feasible to do so at this time.” City of Portland, Bureau of Environmental Services, Rate Study and Overwater Structure Questions and Responses, dated September 15, 2023 (“BES Responses”), page 4.

<sup>2</sup> *Id.* at p. 3 (“BES staff are seeking to add slatted docks to a list of surfaces that are considered billable because of their impacts on water quality. BES does not consider slatted docks to be impervious area.”)

## Improper Tax

As this Council knows, the City does not have authority to impose a tax via a proposed ordinance, like this one. But that is precisely what BES has done.

In the Summary of proposed changes to Chapter 17-36 provided in the City Council packet, at pages 3 and 6, BES admits it proposes to redefine the term “Ratepayer” to “facilitate levying *special tax assessments* on property owners for past due tenant bills.” Page 13 of the new Revised Proposed Code (file named “full chapter 17.46\_updated”) also explicitly provides in proposed section 17.36.080.A.1, that the City can “certify” overdue user charges, fees, and penalties to the County to become “special tax assessments” on real property. This power does not exist in the current City Code and BES has not taken the steps necessary to impose this new tax on Portland property owners.

This City Council recently adopted Resolution 37629 (Enterprise Zone Expansion) and Emergency Ordinance 191451 (Downtown Business Incentive Tax Credit) to deal with the billions of dollars in lost revenue this City has suffered from the recent mass exodus of Portland residents who are frustrated by “what they pay to live here, taxes-wise, and what they get in return, services-wise.”<sup>3</sup> BES’s Revised Proposed Code, imposing stormwater fees on both impervious and pervious surfaces (more than doubling the City’s fee-imposition authority), will make matters worse.

Despite spending more than \$400,000 in consulting fees on Galardi Rothstein Group,<sup>4</sup> BES has not provided this City Council with a report to substantiate its Revised Proposed Code. BES and the Public Utility Board claim the changes increase equity, but they do not *demonstrate* it. Claiming equity without proving it, is simple white-washing.

Moreover, the Galardi Rothstein Group report does not demonstrate that the Revised Proposed code is revenue neutral. The report does not explain how any of the changes in the Proposed Code ensure the City’s most voluminous or harmful stormwater contributors pay the most stormwater fees or how they are intended to improve the City’s operations in any way. Instead, the Galardi Rothstein Group report admits: “**current approaches** used by the [BES stormwater system code] **generally align with industry standards and trends.**”<sup>5</sup> In short, no changes are necessary.

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<sup>3</sup> <https://www.axios.com/local/portland/2023/08/16/portland-migration-leaving-cost-multnomah-county-1-billion>

<sup>4</sup> Deborah Galardi was a Project Manager for ECONorthwest from 1988 to 1990 and an economist at CH2M from 1990 to 1995. In 1995, she served a one-year term as a Project Manager for the Mayor of the City of Portland, before opening the Galardi Rothstein Group in 1996. See <https://www.linkedin.com/in/deborah-galardi-a707726/>. The Galardi Rothstein Group now bids on city contracts to provide economic and financial consulting. See e.g. [https://bend.granicus.com/MetaViewer.php?view\\_id=9&event\\_id=793&meta\\_id=61371](https://bend.granicus.com/MetaViewer.php?view_id=9&event_id=793&meta_id=61371) (\$283,050 transportation, water, sewer system development charge consulting); <https://bids.newbergoregon.gov/galardi-rothstein-group>; [https://www.ashland.or.us/SIB/files/010521\\_Approval\\_of\\_a\\_Professional\\_Services\\_Contract\\_for\\_Water\\_and\\_Storm\\_Drain\\_SDC\\_Updates\\_CCFinal.pdf](https://www.ashland.or.us/SIB/files/010521_Approval_of_a_Professional_Services_Contract_for_Water_and_Storm_Drain_SDC_Updates_CCFinal.pdf) (\$49,660 water and storm drain system development charges).

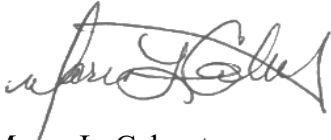
<sup>5</sup> Galardi Rothstein Group, Rate Study Packages Memorandum, August 15, 2022, p. 1 (the “Rate Study”) (emphasis added), available at: [https://www.portland.gov/bes/rate-study?utm\\_medium=email&utm\\_source=govdelivery#toc-city-council-documents](https://www.portland.gov/bes/rate-study?utm_medium=email&utm_source=govdelivery#toc-city-council-documents).

Portland City Council  
November 28, 2023

When there is so much going on, and so much at stake to reorganize Portland government and revitalize the Portland community, City Council should not be spending its time on unsubstantiated proposals that do more harm than good.

Vote “No” on the BES Revised Proposed Chapter 17.36. This City has real work to do. Let’s get back to it.

Best regards,

A handwritten signature in black ink, appearing to read "Maren L. Calvert". The signature is fluid and cursive, with a large initial "M" and "C".

Maren L. Calvert

MLCA

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City of Portland, meeting of the city council

1120 SW Fifth Avenue, Room 100

Portland, OR 97204

Commissioner Mapps and the council of the city of Portland,

I would like to thank you for listening to the concerns of the community of residents of overwater structures in Portland, and thus exempting overwater structures from new stormwater fees as originally proposed in **agenda item 983**.

Unfortunately, while acquiescing to our concerns, the BES seems to stand by its allegations in writing [HERE](#), to which I respond as follows...

1. Owners of overwater structures have always paid their fair share of stormwater fees based on the on-land portions of our properties.
2. Overwater structures do not (and never have) directly impacted stormwater infrastructure, which is proven by simple common-sense
3. The concept of an "indirect impact" for stormwater infrastructure is questionable, as county drainage districts fees and city road infrastructure fees cover the same areas. It is not clear that the "indirect impacts" cited by the BES rate study are thus double-charged or not.
4. The BES rate study by Galardi Rothstein Group cost at least \$350k and took several years to produce, yet at no time does the study exercise the basic due diligence of referencing the government agencies responsible for water quality in Portland. Instead, the BES and Galardi Rothstein Group freely and casually make allegations about overwater structures potentially affecting water quality and proposing fees as a solution.
  - The rate study cites general studies on the general topic of water quality and the impact that some materials can have, without any reference to Portland water quality or overwater structures in Portland.
  - We who reside in overwater structures live and work directly on the water. We spend most of our lives within inches of the water, and we are extremely sensitive to any effects on water quality. Accusations that we are contaminating that water must be proven, not merely alleged, as the rate study authored by the Galardi Rothstein Group does. These allegations, lacking facts about Portland water quality, approach the definition of libel.
  - BES and Galardi Rothstein Group use these allegations merely for the purpose of **greenwashing**.
  - It is not unlike the analogy of someone saying "*studies show there is hunger in the world, so we will impose a new fee on grocery stores, and use the funds to offset carbon emissions*". What the analogy is trying to show is how the allegations cite general facts but nothing specific to Portland, but even if they did, the proposed solution does nothing to fix the problem. That was the situation with the BES proposal.

We strongly recommend that the BES and Galardi Rothstein Group either retract their speculative allegations on the impact of overwater structures on Portland water quality, or else provide facts from the agencies responsible for water quality directly implicating overwater structures anything resembling the allegations.

Thank you,

Timothy J Gorman, resident, 173 NE Bridgeton Rd, slip 3, Portland OR 97211

Agenda Item	Name or Organization	Position	Comments	Attachment	Created
983	Bob Wilson, Tyee Yacht Club	Oppose	<p>I would question as to why it is so important to the BES to charge for stormwater that they do not in any way affect. As you can see from the materials presented by BES, that less than half of one percent of the cities area is floating structures. The truth is that the majority of the floating structures are recreational in nature. Most of us live somewhere else and pay our stormwater charges at our home. If the Marina, Yacht Club, or moorage has land properties the stormwater charges are paid on them. I am sure that the history of the attempts to charge the owners of the floating structures for the rain that runs off into the river is self-explanatory.</p> <p>We do not create, or add to pollution in the river. Do you believe that the federal government, EPA, Corp of Engineers or the Coast Guard would allow us to continue. Also the state of Oregon division of state lands and DEQ would be involved if this proved to be true.</p> <p>We are using the river as our recreational area and do everything possible to maintain and improve the quality of the shoreline and the water. Floating structures are unique in the fact that they are of no use to anyone without water.</p> <p>As a past president of the waterfront organizations of Oregon, I became involved with this in 2015. It would be nice if this journey could end here with protection for the recreational boating community. Thank you.</p>	No	11/29/23 9:32 AM
983	Vigor	Support with		Yes	11/29/23 10:20 AM



Alan Sprott  
[Alan.Sprott@vigor.net](mailto:Alan.Sprott@vigor.net)

November 29, 2023

Honorable Mayor Ted Wheeler  
Commissioner Dan Ryan  
Commissioner Mingus Mapps  
Commissioner Carmen Rubio  
Commissioner Rene Gonzalez

1221 SW Fourth Avenue  
Portland, Oregon 97204

Re: Comments Regarding the Bureau of Environmental Services Stormwater Rate Proposal

Dear Mayor Wheeler and Commissioners:

Vigor has been a fixture on Swan Island for 25 years, repairing ships in support of the U.S. Navy, U.S. Coast Guard, other branches of the military, and commercial customers. In addition to our ship repair work, Vigor has played a key role the clean energy industry, fabricating major components of hydroelectric dams, building a number of wave energy devices, and engaging closely in wind energy development. As an employer providing more than 1,000 industrial jobs in the Portland region, we also have a record as a good steward of the environment, and believe we can be a part of building clean energy technology that will power our future.

When developing policies and recommendations such as those before Council regarding Bureau of Environmental Services' (BES) rate study, it is critical the city conduct robust outreach and stakeholder engagement. This is particularly true when new policy could introduce additional costs of doing business which impact those who provide family wage jobs in our region. While this process did not initially conduct that type of rigorous outreach, we are grateful Commissioner Mapps and his office heard our concerns and helped ensure they were considered.

Efforts to adequately collect fees for use of the stormwater system are well-founded. However, the manner in which BES originally planned to adjust their methodology would have both collected additional fees without providing new services, and did not account for

the actions businesses like ours undertake to address this issue on our own. Commercial and industrial ratepayers with overwater structures generally operate under industrial stormwater permits issued by the State of Oregon Department of Environmental Quality (DEQ). Such state DEQ permits establish pollutant limits, best management practices, corrective actions, and enforceable conditions for managing stormwater (with related permit fees) subject to governmental oversight. In order to comply with these permits, ratepayers invest considerable resources into training, infrastructure improvements, and treatment to address stormwater conditions that are unique to their properties. Vigor's ongoing investment in this area has been in the millions of dollars, all of which augments the city system and serves to improve water quality in the Willamette River.

Vigor was disappointed to learn that BES originally aimed to include overwater structures, which are subject to the DEQ stormwater permit, in the new fee structure. This gave no consideration to the significant investments of many companies like Vigor to manage stormwater to much higher standards than unpermitted properties. We are grateful that after some delay, our input was considered in the newly-filed ordinance language.

While the stakeholder engagement during the development of this policy proposal could have been improved, the current outcome speaks to a willingness to take the necessary time to get it right. As we move into the related rulemaking process, we hope to continue this effective engagement. This will be particularly important for policies and programs such as Clean River Rewards, and other related changes to be made in the next several months.

Thank you for the opportunity to provide comment and we look forward to our continued work together on this and the many policies to will help ensure Portland remains the city that works.

Respectfully,

A handwritten signature in black ink, appearing to read "Alan Sprott", with a long, sweeping horizontal line extending to the right.

Alan Sprott  
Vice President, Environmental Services



**Portland City Council Meeting - Wednesday, November 29, 2023 9:30 a.m.**

<b>Agenda Item</b>	<b>First Name</b>	<b>Last Name</b>
983-1	Ron	Schmidt
983-2	Timothy	Gorman
983-3	Stephen	Harkins
983-4	Jas. (James)	Adams
983-5	Maren	Calvert
983-6	Bob	Sallinger
983-7	Justin	Teutsch
983-8	Mark	Birnbaum
983-9	George	Whitney
983-10	Mike	Ryther