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7 BEFORE THE HEARING EXAMINER  
8 CITY OF SEATTLE

9 In the Matter of the Appeal of )  
10 TreePac Environmental Impact Review ) Hearing Examiner File:  
11 (TEIR) and Greenwood Exceptional ) **W-21-007**  
12 Trees (GET) of the November 15, 2021 )  
13 Determination of Non-Significance by Brennon ) OPCDs RESPONSE TO APPELLANTS'  
Staley, Office of Planning and Community ) MOTION FOR EXTENSION OF TIME  
Development. ) FOR DISCOVERY

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14 **I. RESPONSE**

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16 **A. Service of the Core Documents was delayed due to an unfortunate typo.**

17 OPCD recognizes that the Appellant was supposed to have received the list of core documents  
18 on January 7, 2022, but did not receive the documents until Monday, January 10. This was due to an  
19 unfortunate typing error on the Certificate of Service which listed the email address of the Appellant  
20 to end in @pacificnest.com rather than the correct @pacificwest.com. This led to an email being sent  
21 to the wrong email address which then led to the documents not being personally received by the  
22 Appellant until the next Monday. OPCD would like to be amenable to Appellants' request to amend  
23

1 the case schedule to allow a few days of extra time due to the delay in the Appellants' personally  
2 receiving the core documents.<sup>1</sup>

3 With that understanding, there are some requested dates that OPCD will agree to amend, and  
4 others that OPCD objects to.

5 **B. Witness and Exhibit List change**

6 OPCD does not object to Appellants' request to amend the due date for the Appellants'  
7 Witness and Exhibit list from January 20 to February 10.

8 However, if the Hearing Examiner grants that change, then the February 3 deadline  
9 currently set for Rebuttal Witness and Exhibit Lists should be stricken from the case schedule.

10 OPCD agrees that the City's List of Witnesses and Exhibits would then be due on February  
11 17.

12 **C. Motion for Subpoenas**

13 OPCD does not object generally to the motion schedule proposed by the Appellant for  
14 subpoenas, so long as the nature of the subpoenas are related to compelling certain persons to  
15 attend the hearing. The Appellant has not had any communication with OPCD or OPCDs counsel  
16 about subpoenas and it is appropriate to point out that the Appellant indicated that a motion for  
17 subpoenas was to be filed on January 12 and OPCD has not been served with any motion for  
18 subpoenas.

19 Regardless, so long as OPCD is served this Friday, January 14, with a motion for  
20 subpoenas, OPCD is willing to have a deadline of Friday, January 21 set for OPCDs response, this  
21 is based on having one week to respond. This would still allow the Hearing Examiner to make a  
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23 <sup>1</sup> The documents were filed timely with the Hearing Examiner and the Appellants did have access to the documents through the Hearing Examiner website.

1 decision by January 25 as proposed, and have the Appellant serve the subpoenas by January 27 as  
2 proposed.

3 **D. Request for Interrogatories**

4 The Appellants' proposed schedule for Interrogatories was based on the Appellant serving  
5 OPCD with Interrogatories on Tuesday, January 11. As of the filing of this response on Friday,  
6 January 14, OPCD has not yet been served with any request for interrogatories.

7 Because OPCD has not yet received a request for interrogatories, OPCD objects to the  
8 proposed deadline of February 3 to respond to Interrogatories that it has not yet received. However,  
9 OPCD is amenable to the date for discovery cutoff to be amended from February 9 to February 14,  
10 allowing the Appellant to serve interrogatories by the end of the day today, January 14 and allowing  
11 OPCD the standard thirty days to respond.

12 If OPCD is not served with a request for interrogatories by the end of the day today, January  
13 14, and is then served sometime in the future, OPCD would at that time request a status conference  
14 to discuss the potential scheduling concerns.

15 **II. CONCLUSION**

16 In conclusion, OPCD is amenable to some of the requested amendments to the case  
17 schedule, and provides this table showing the remaining case schedule and the amendments OPCD  
18 will agree to in standard strikethrough/ underline format:  
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Filing Event	Due Date
Prehearing Motions	January 14
<u>Appellant to serve Request for Interrogatories</u>	<del>January 11</del> <u>January 14</u>

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1	<u>Appellant to serve Motions for Subpoenas</u>	<del>January 12</del> <u>January 14</u>
2	<del>Appellant Witness and Exhibit List</del>	<del>January 20</del>
3	<u>City's Response to Appellants' Motion for</u>	<u>January 21 (so long as such motions are served</u>
4	<u>Subpoenas</u>	<u>on January 14 allowing for 1 week)</u>
5	<u>Hearing Examiner's Decision on Motion for</u>	<u>January 25</u>
6	<u>Subpoenas</u>	
7	<u>Appellant to serve the Subpoenas to attend the</u>	<u>January 27</u>
8	<u>Hearing dates</u>	
9	Response to Prehearing Motions	January 28
10	<del>Rebuttal Witness and Exhibit List</del>	<del>February 3</del>
11	Reply to Prehearing Motions	February 4
12	Discovery Deadline	<del>February 9</del> <u>February 14 (so long as discovery</u>
13		<u>requests are served by January 14)</u>
14	<del>2<sup>nd</sup> Rebuttal Witness and Exhibit List</del>	February 10
15	<u>Appellants' Witness and Exhibit List</u>	
16	Hearing Examiner's Decision on Motions	February 11
17	<u>(except Motions for Subpoenas as provided</u>	
18	<u>above)</u>	
19	Electronic and hardcopy of Exhibits to file with	February 17
20	Hearing Examiner	
21	<u>City's List of Witnesses and Exhibits</u>	<u>February 17</u>
22	Remote Hearing Dates	February 28 – March 2 (if needed)
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2 DATED this 14th day of January, 2022.

3 ANN DAVISON  
4 Seattle City Attorney

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14 *Planning & Community Development*  
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1 **CERTIFICATE OF SERVICE**

2 I certify that on this date, I electronically filed a copy of the foregoing document with the  
3 Seattle Hearing Examiner using its e-filing system.

4 I also certify that on this date, a copy of the same document was sent via email to the  
5 following parties:

6 TreePac Environmental Review  
7 512 N. 82<sup>nd</sup> Street  
8 Seattle, WA 98103  
9 Richard Ellison, Chair & Vice President  
Pro Se Appellant  
treesandpeople@pacificwest.com

10 Dated this 14th day of January, 2022, at Seattle, Washington.

11 /s/ Ianne T. Santos  
12 IANNE T. Santos, Legal Assistant