1515
185836

Parsons, Susan

From: Griffin-Valade, LaVonne
Sent: Wednesday, December 19, 2012 10:08 AM
To: Moore-Love, Karla; Parsons, Susan
Subject: FW: Please, Testimony for troday to be filed...Fw: Portland's Open Reservoir NON Variance
Attachments: Auspicious Hearings Officer Helm.pdf; LongTerm2-WhitePaperFinal.pdf

---

From: Golden Age Muse [mailto:goldenagemuse@yahoo.com]
Sent: Wednesday, December 19, 2012 9:05 AM
To: City Auditor Griffin-Valade
Subject: Please, Testimony for troday to be filed...Fw: Portland's Open Reservoir NON Variance

Good Morning,
Can you please enter this as my testimony for today for the record.
Thank You,
Beth Giansiracusa

----- Forwarded Message -----
From: Golden Age Muse <goldenagemuse@yahoo.com>
To: Commissioner Fritz <amanda@portlandoregon.gov>
Cc: Sacred Circle <list@sacredcircledance.org>
Sent: Friday, November 2, 2012 4:02 PM
Subject: Portland's Open Reservoir NON Variance

Dear Commissioner Fritz,

Will you hear me? I said at the Mt. Tabor Reservoir Rally last Sunday that we didn't have a Variance... You later turned to Floy Jones and asked her, "Do we have a variance?" and she answered "yes." This concerns me. Why is Floy Jones promoting a bureaucratic tool that DOES NOTHING?

1. The variance did not stop the construction on the Buttes... as per this release from Dave Leland of the Oregon State Health Department it doesn't even do what it was intended to do:

"State regulators this week denied a request for construction delays on projects to replace Portland's open-air reservoirs.

The Portland City Council in February asked to push back the projects 5 1/2 to 8 1/2 years.

But the state, in a letter released Friday but dated Thursday, said the city's latest request 'backtracked on years' of previous pledges without a compelling rationale.' That means Portland must shut down its uncovered reservoirs by Dec. 31, 2020."
http://www.oregonlive.com/portland/index.ssf/2012/05/portland_must_comply_with_plan.html

2. **"Backtracked on years' of previous pledges"?** Would this be Joe Glicker and friends? Glicker, author of the EPA Open Reservoir Manual masterminding misinformation for the LT2 clause in the Clean Drinking Water Act and former PWB Big Wig Engineer, then onto Montgomery Watson and now VP of CH2M HILL, private industries with their worldwide, governmental, educational influence? Not to mention the NATIONAL BONDS held by GE or GOLDMAN SACS and the outrageous budget of Portland Water Bureaus'? Would this give credence to **"following the money?"**
http://friendsofreservoirs.org/background.html http://littlesis.org/org/522/CH2M_Hill_Companies%2C_LTD.

3. **"without a compelling rationale"?** What is more compelling?

- Over a Billion dollars of municipal Bond debt + interest
- The lack of sustainable livability for Citizens of Portland footing the bill http://www.yelp.com/topic/portland-pdx-

185836

water-bureau-on-crack

- Ruining a pristine water system grandfathered in and legally defendable under the Clean Drinking Water Act. *See attached LongTerm2-White Paper pdf http://bojack.org/images/fernandez12-11.pdf
- Making it susceptible to privatization... Charlie Hales worked/s here http://www.hdrinc.com/markets/water and voted to privatize *voted for the Regional Water Plan that mixes water sources last time on city council, now next Mayor?
- Having the Auspicious Portland Hearings Officer Helm grant from the seat of the County to PWB, 7 permits to do harm in the Bull Run Water shed. (conflict of interest charges brought against him and when he won, he laughed and admitted to it... you see, when the citizen said he was in conflict of interest, she forgot to site the Oregon Constitution)
- City Attorney, in defending the 7 permits to do harm, reveals "The Master Plan"; designed to shadow the concurrent 10 year Variance. *see attached Auspicious pdf
- This Variance was made useless by the very process we think it protects us from and was designed during Vera Katz reign, as a Bureaucratic tool used to manipulate such long time players as Floy Jones, Friends of Reservoirs, Mt. Tabor Neighborhood Association and/or other associations and Regna Merritt employed by Physicians for Social Responsibility (PFSR). PFSR receives monies from the City of Portland.
- Psych Ops (reframing) from the PWB and State Department, let them believe in the lie, all the while run full steam ahead to eliminating our not broken, pristine, Open Reservoirs.
  http://public.health.oregon.gov/HealthyEnvironments/DrinkingWater/Rules/LT2/Documents/pwb/VarianceComments-Public.pdf
- Psych Ops ploy from PWB as their boy Shaff, cries wolf... MAY BE Cryptosporidium~ from Thanksgiving 2009 in Washington Reservoir...Tinkle-gate emptied Mt. Tabor... May BE E. Coli this year... Washing Reservoir closed. http://bojack.org/2011/06/did_portland_really_need_to_du.html
- The hidden: **The UV engineering Firm Carollo**: *United States of America v. Carollo, Goldberg and Grimm....* **Convicted for Roles in Conspiracies Involving Investment Contracts for the Proceeds of Municipal Bonds**
  http://www.justice.gov/opa/pr/2012/May/12-at-620.html
  http://www.rollingstone.com/politics/news/the-scam-wall-street-learned-from-the-mafia-20120620

- Carollo, doing business with PWB http://bojack.org/2011/09/glug_glug_who.html
  http://www.portlandoregon.gov/water/article/364693?archive=2011-09
  http://bojack.org/2012/01/talking_back_to_carollo.html

- Carollo's long history in the shadows **http://bojack.org/2012/07/new_portland_water_bonds_will.html**

Have I forgotten anything else more Compelling Commissioner Fritz? Rationale? This is INSANE.
So, NO Commissioner Fritz, we do not have a viable variance.... **WE MUST INSIST ON A WAIVER** The only people in Government who could have made the decision to use such words as "Backtracked on years' of previous pledges" denoting a hidden agenda in full swing and the lies MONEY buys would be either Gail Shibley's boss, the head of Oregon's Human Services and Public Health, Mel Kohn or his boss, Governor Kitzhaber... Right, let's write Kitzhaber and tell him "we know what you did last night"... so no to Floy's bureaucratic waste of time writing Kitzhaber.

Backtracking on Pledges or compelling rationale does not make what is happening LEGAL or IN Compliance with the Clean Drinking Water Act... As we speak, science and lack of evidence to support the Rationale behind covering reservoirs, is under investigation by the Obama Administration. In sort, the LT2 Rule does not hold water and was designed by Glicker, his friends and the Banksters to extort monies from municipals by creating a Rule that required it.

In case my point got lost in all the facts... ***WE INSIST THAT YOU WORK FOR A WAIVER*** and forget any semblance of useless Variances. And bring David Shaff, head of the PWB, up for charges the next time he cries wolf, cause that is what will happen, mark these words well.

Beth Giansiracusa
Water Ninja
PS further reading:
http://bojack.org/fastsearch?query=uninate+in+mt+tabor+reservoir

FAX To: Bill Carpenter
From: Nancy ... Feb. ... 2012 ogec2 ...

CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Linda Meng, City Attorney
1221 S.W. 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax No.: (503) 823-3089

185836

January 9, 2012

KENNETH D. HELM
HEARINGS OFFICER
C/O SANDY INGALLS
CLACKAMAS COUNTY
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
150 BEAVERCREEK ROAD
OREGON CITY, OR 97045

Re: City of Portland Application for Conditional Use, File Nos. ZO444-11-C, ZO445-11-D, ZO446-11-V
City Response To Comments: Conditional Use Application.

Dear Hearings Officer Helm:

The City of Portland submitted a comprehensive application for a conditional use permit to allow redevelopment of the City's Bull Run "headworks" site. Headworks is the location of the City's water withdrawal and treatment facility in the Bull Run watershed, just below the City's Bull Run Dam 2. The City proposes to make significant changes at the site to allow it to comply with new legal obligations related to water treatment and downstream fish habitat protection and otherwise to improve and replace outdated facilities. *See* Application, pp. 2-3; Hearing record, Statement of Greg Winterowd.

Clackamas County staff has recommended approval of the City's application. At a hearing on December 15, 2011, and in post-hearing comments, certain Portland citizens have raised questions about the City's application and urged its rejection. Nothing these citizens have presented, however, justifies denial of the City's application. The City should be granted a conditional use permit, design review approval, and variance, as recommended by County staff.

A. POSSIBLE DELAY OR PHASED DEVELOPMENT OF PERMIT IMPLEMENTATION

1. The Conditional Use Permit Is Still Required

Just days before the hearing on this matter, the City learned that it may not have to build a UV treatment plant immediately. Such a plant would be part of the facilities allowed by the

EXHIBIT 22
Z0444-11-C
9 pages

conditional use permit. The State of Oregon has proposed to grant the City a variance from the treatment obligation, subject to certain conditions.

As the City explained at the hearing on December 15, this does not eliminate the need for a conditional use permit. To begin with, the variance has not been granted, and the proposal to grant a variance is still open for public review.

Secondly, even if the City receives a variance from the UV plant obligation, that variance remains contingent on the continued minimal detections of the *Cryptosporidium* pathogen in Bull Run water. If the City detects *Cryptosporidium* in sufficient quantity during the term of the variance, the State can revoke the variance and require construction of the UV plant. *See* discussion, Exhibit 11. Given the risk of such an event, the only prudent step for the City is to obtain a conditional use permit now so that if a plant is needed some time in the next ten years, the project can move ahead. The Zoning and Development Code specifically (and wisely) contemplates a ten-year term for any "institutional use" conditional use permit, and staff has recommended that the City's permit last that long.

Thirdly and most immediately, as the City explained at the December 15 hearing, part of the development allowed by the conditional use involves the installation of certain underground pipes and a water outfall structure. These particular facilities were called out at the hearing with the submission of Attachment B to Exhibit 11. The City must install these facilities to comply with legal obligations to reduce water temperatures and protect endangered fish.

Citizen commenter Nancy Newell believes the uncertainty about drinking water regulations makes the City's application "not ripe." Post-Hearing Exhibit 18. She wants the application denied and wants the County to direct the City to resubmit only those parts of its plan that deal with water flows for fish.

Regna Merritt also wants the application denied on essentially similar grounds. She believes there are "important, expensive, and in some cases risky individual projects" that should be evaluated individually rather than as part of the pending conditional use application. Post-Hearing Exhibit 19.[1]

These suggestions must be rejected. No provision of the County Code justifies such a step. The standards for approval of conditional uses do not allow the County or the Hearings Officer to second-guess the applicant on the need for or scope of a project. ZDO 1203. In

---

[1] Commenter Regna Merritt also impugns the motives and competence of the City and the County staff. Her attacks are irrelevant to the Hearings Officer's decision and do not merit a response.

addition, the Code specifically contemplates that certain public, institutional uses require time to implement; the standard duration of an institutional use permit is ten years.

Here, a ten-year permit is exactly what the City needs. If the City receives a drinking water treatment variance, the variance will last for ten years, but it will remain constantly subject to revocation should water quality change. Thus, even if a variance is approved, the City may need to build its treatment plant sometime in the next ten years. Approval of this conditional use permit will allow the City to take that step, if necessary, without delay, so that it can stay in compliance with state and federal drinking water standards.[2]

2. Proposals For Phased Development: Fish Flow Facilities

As the City described at the December 15 hearing, the bulk of the City's proposed development will be delayed if the State of Oregon Health Authority issues a drinking water variance to the City's water supply system. But part of the project, certain new underground piping and a water outfall structure, must proceed immediately so that the City can be in compliance with its obligations under the Endangered Species Act. That part of the project was shown on Figure 4.4.1 of the original application and was called out for special notice in a highlighted version of Figure 4.4.1 submitted at the hearing as Attachment B to Exhibit 11. These fish flow facilities involve the construction of no buildings, no new parking, and no landscape alterations.

The City suggested, and staff endorsed, a new condition of approval that would allow the fish facilities to proceed pending other development. That condition reads:

> Fish-flow piping improvements shown on Figure 4.4.1 may be constructed following approval of development and grading permits. Operational use of fish-flow piping improvements shall be conditioned upon completion of site distance improvements required by Condition V.6 below.

---

[2] As noted in the application narrative, moreover, the UV plant and other proposed buildings, piping, and site improvements are all carefully located to accommodate all possible improvements in a very limited space. The City cannot simply move one or another of the buildings around the site without jeopardizing the function of the facility as a whole. Thus, for instance, the City cannot, as Regna Merrit suggested, move the Operations Building to the proposed UV building site. If it did so, there would be nowhere for the UV plant should it have to be constructed.

No commenter has opposed the construction of fish flow improvements at the Bull Run facilities. The City urges the Hearings Officer to include in his order this condition, to insure that this vital project can proceed expeditiously.

3. Proposals for Phased or Delayed Development: All Other Facilities

An institutional conditional use approval lasts for ten years, which by itself assumes the possibility of delayed or phased development. ZDO 1203.02.A. In this case, the potential for partial or phased development arises, in addition, because the City may be granted a variance from safe drinking water rules. Those rules, of course, provided a primary impetus for many of the project components, particularly the UV plant itself.

There would appear to be several paths under the County Code to handle delayed or phased development under an approved Conditional Use Permit. This is true especially for an application, such as this one, that already received detailed design review and comprehensive staff analysis. First, and most simply, since the permit itself endures for ten years, the permittee (here the City) could simply proceed to implement its plans, without change, over the life of the permit. The only practical difficulty with such an approach would be ensuring the proper connection of particular development conditions to particular pieces of the development. To deal with that, however, the City has submitted proposed additional conditions that insure that each part of the development would proceed only consistent with it appropriate development conditions. *See* Exhibit 11, proposed conditions on landscaping and parking, inserted as new "Planning and Zoning Division Conditions (5) and (6)."

Alternatively, the permittee could accept the permit, but seek "minor modifications" from the original approval if such were required by slightly changed conditions. ZDO 1305.04. This allows some flexibility over time, while still insuring that any proposed changes in the development are fully considered, compliant with applicable development standards, do not fundamentally change the proposal, and are subject to appeal.

Finally, at the hearing of December 15, the staff suggested that the conditional use approval could designate the proposed site plan as a "master plan." *See* ZDO 202, Definitions. Any piece of a phased development that differed from the master plan would be subject thereafter to further design review, which could accomplish the same result as a "minor modification" process. Staff members have made clear to the City that they used the phrase "minimal design review" to reflect the fact that staff has already comprehensively reviewed and approved the City's detailed plans and charged the City a fee of $35,417. Any future additional design review would focus only on proposed alterations in the detailed plans and would be subject to the minimum design fee (under the current fee structure) of $625 per phase.

Commenter Regna Merritt objects to the staff's proposal of a "master plan," but provides no legal or practical basis for that objection. She merely asserts that subsequent "minimal design review" will be inadequate. In this, she misunderstands the process. The City's plans are already detailed and have already undergone detailed review. Any future "design review" would simply consider changes to the existing plans, not a wholesale alteration of the "master plan."

The existing comprehensive application and careful staff review demonstrate, in addition, that Ms. Merritt's particular concerns are baseless. For instance, she expresses concern about the seismic safety of the "ops building." But she fails to note that the City, in compliance with ZDO 1002.03, engaged a geotechnical team to assess the seismic hazard and slope stability of the site and to review and recommend building placement and construction standards to insure facility safety and adequate seismic performance. *See* Exhibit E, City's Application for Conditional Use and Application, Section 3, pp 45-46. Similarly, Ms. Merritt suggests that the City's proposal would require the "logging of many trees." In fact, the staff have already reviewed the City's proposal and concluded that it meets or, with recommended conditions, will meet all standards related to protection of natural features and sustainability. ZDO 1002, 1005. Staff Report at 24-30; Application, pp. 45-56; Application, Figures 4.2.1, 4.2.2. In the very constrained site conditions, some trees must be removed but only for later phases of the project and only in conjunction with a mitigating landscaping plan.

Thus, the application meets all standards; the staff's recommendation for approval should be adopted. From the City's perspective, there are a number of paths to allow for development of its site during the life of the Conditional Use Permit. The City will act under the direction of the County. But whatever subsequent path is taken, the City urges most strongly that the Hearings Officer, pursuant to the City's request and the staff's recommendation, insure that his final order contain, at minimum, the following terms and conditions.

1. The City's consolidated application for a conditional use, design review, and variance approval for its comprehensive headworks facility project should be granted.

2. The City should be authorized immediately to construct the fish flow facilities, conditioned only on the site distance improvements identified in Appendix D.

B. THE ISSUE OF MERCURY

Several commenters expressed concern about the use of mercury in the UV lamps that will be used in the treatment plant. They are worried that if lamps break, the mercury may be released into the City's water supply. Comments of Scott Fernandez, Regna Merritt; Hearing

comments by Floy Jones. The City has fully considered these issues and will protect its customers from any such releases. *See* Exhibit 12.

In any case, the commenters' concerns are not relevant to this land use application. The risk of mercury in drinking water is regulated under federal and state statutes and regulations related to safe drinking water. 42 USC §300f et seq., ORS 448.115 et seq., 40 CFR § 141.62; OAR 333-061-0030, Table 1. There is no land use standard that allows the County or the Hearings Officer to review and judge the City's conditional use application on grounds related to the risk of using mercury lamps in UV water treatment plants. Thus, Commenter Merritt is wrong to demand that, in this process, the City must describe the conditions that could lead to "the potential release of mercury at the site. . . ." Exhibit 19.

Similarly, Ms. Merritt's reference to ZDO 1021, Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments, is misplaced. To begin with, that provision does not apply to review of the City's application. ZDO applies only to multifamily developments of five units or more, commercial or industrial uses, or uses subjection to Section 800 of the ZDO. The City's water facilities fit into none of those categories. The City's water "utility facilities" are "institutional uses" under ZDO 202.

In an abundance of caution, however, and at the request of staff, the City considered the ZDO 1021 standards in its application and staff has concluded that the City's plans comply with those standards. In particular, the City and staff included in their review Standard 1021.04(C), Special Wastes or Recyclable Materials. That standard provides in part:

> Environmentally hazardous wastes defined in Oregon Revised Statutes 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.

In response to this direction, the City's application noted that "no special [i.e., hazardous] waste or recyclable materials are associated with the proposed use." Application, p. 79. Under ZDO 1021.04(C), hazardous wastes are such materials as are defined as hazardous under ORS 466.005. The statute itself essentially defers the definition to rules of the Department of Environmental Quality. The Oregon rules, and the federal rules which they implement and upon which they rely, deal expressly with lamps that contain mercury. OAR 340-113-000 et seq., 40 CFR Part 273. They are not classified as hazardous waste or materials under the law.

To begin with, by definition, new, functioning lamps are not waste. Only lamps that are discarded or intended to be discarded are waste. 40 CFR § 273.5(c). Further, discarded lamps

containing mercury are not defined or treated as hazardous waste. They fit into a different category: "universal waste." OAR 340-113-020; 40 CFR §273.5. [3]

As a result, even if ZDO 1021 standards did apply to the City's institutional use, the special rules in ZDO 1021.04(C) related to hazardous waste are not relevant. At most, the City's UV plant will generate a small amount of "universal waste" in the form of spent lamps; the City's UV plant will not produce hazardous waste. As a small scale quantity handler of "universal waste," the City will, of course, comply with all state and federal rules for the proper handling and disposal of its lamps. It will return the lamps to the manufacturer for recycling. The City's plan for compliance, however, is not relevant to its conditional use application because its lamps are not hazardous materials.

As Commenter Scott Fernandez and Exhibit 12 note, if operating lamps break in a UV plant, mercury can be released into the water stream. That "spill or release" would then becomes a matter of concern under state and federal regulations, not county rules. Clackamas County's code, at most, deals with the handling and disposal of hazardous materials, not spill response. The City's system conveys its water to users in massive conduits, all of which have locations where they can be closed down before the water reaches any customers. The City can and will prevent its customers from drinking water containing dangerous mercury contamination. Exhibit 12. But the risk of contaminated drinking water has nothing to do with the land use criteria under which the City's conditional use application is judged.

The City's application fully complies with any applicable Clackamas County rules regarding waste handling. The staff was correct to declare that the City's "plan for recycling and garbage is satisfactory." Exhibit 8.

C. IMPARTIALITY OF HEARINGS OFFICER

Commenter Nancy Newell asserts that Hearings Officer Ken Helm has a conflict of interest because he serves as a part time hearings officer for the City of Portland, whose application is before him in his capacity as a hearings officer for Clackamas County. She presents no evidence, let alone clear and convincing evidence, that Hearings Officer Helm has either a real or potential conflict of interest. There is no reason for Mr. Helm to recuse himself.

---

[3] At hearing, the City's Counsel mistakenly relied on the quantity or "reportable quantity" of mercury to explain the City's declaration that its project did not involve "special wastes." A review of the City's application and applicable law revealed that error. The legal basis for the City's response to the requirement of ZDO 1021.04(C), explained in the text, is that spent or discarded mercury containing lamps are classified as universal, not hazardous, waste.

The appropriate standard to review any claimed conflict of interest is enunciated in the Oregon statutes related to government ethics. ORS 244.010 et seq. That statute defines actual and potential conflicts of interest for public officials. An actual conflict of interest arises if a pubic official confronts a decision the results of which "would be to the private pecuniary benefit or detriment of the person or the person's family or any business with which the persons or a relative . . . is associated. . . ." ORS 244.020(1). A potential conflict of interest arises if the decision "could be" pecuniary effects of the sort described in the statutes. ORS 244.020(12). A "business" is defined as "any . . . legal entity operated for economic gain." ORS 244.020(2). Governmental entities are not included in the statutory definition of "business."

In this case, Hearings Officer Helm has already explained that his decision will not provide him any private pecuniary benefit or detriment. Nor can any decision he makes affect the pecuniary interests of any business with which he is associated. At most, Ms. Newell suggests that the City of Portland, which employs Mr. Helm as a part time hearings officer, may be advantaged or disadvantaged by the decision. But that does not create a conflict of interest. For, even if the decision did advance the pecuniary interests of Portland (and it does not), the City of Portland, is not a "business with which [the Hearings Officer] . . . is associated." ORS 244.020(3). Mr. Helm has neither a real or potential conflict of interest in this case.[4]

Neither does Hearings Officer Helm faces a conflict of interest under the Oregon Bar's Rules of Professional Conduct, even if those standards were relevant here, which they are not. Those rules, most generally, prohibit lawyers from representing clients with conflicting interests. Mr. Helm serves as an independent Hearing Officer for the City of Portland and Clackamas County. Neither government is Mr. Helm's client any more than the State of Oregon is the "client" of a circuit court judge.

D. CONCLUSION

The City of Portland has met every standard and criteria for approval of a conditional use permit, design review, and request for variance. Staff has recommended approval with appropriate conditions. No commenter has identified any Clackamas County land use rule or development standard that justifies denial of the City's application.

---

[4] In dealing with a related ethical issue, the Oregon legislature well understood that persons in this state may serve in more than one governmental capacity. In such cases, some public officials might face "potentially conflicting public responsibilities." Nonetheless, the Legislature declared that the holding of multiple offices "does not constitute the holding of incompatible offices unless expressly stated in the enabling legislation." ORS 244.010(4). Here, Hearing Officer Helm faces *no* conflicting public responsibilities, and there is, *a fortiori,* no grounds to assert that his service in two similar public offices, one for Clackamas County and one for the City of Portland, creates a conflict of interest.

The Hearings Officer should approve the City's consolidated application for conditional use, design review, and variance and grant the conditional use permit and variance. The permit should include conditions identified by County staff, including amendments to those conditions submitted by the City and accepted by staff, found in Attachment A to Exhibit 11.

Very truly yours,

Terence L. Thatcher
Deputy City Attorney

TT:lgm

185836

Agenda Item 1453, 1456-1458 TESTIMONY REGULAR AGENDA

WASHINGTON PARK, POWELL BUTTE RESERVOIR IMPROVEMENTS

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ MARY SAUNDERS	2937 NE 22 Ave. 97212	swirlingtheuniverse@gmail.com
✓ Floy Jones	2204 S.E. 59th 97215	floy21@msn.com
✓ Dee White	3836 SE 49th 97206	deewhite1@mindspring.com
✓ Michael Morgan	333 NW 9th Avenue #1014 97209	michaelmorgan@ipns.com
✓ BRAD YAZZOLINO	6451 SE MORRISON CT 97215	brad@bradyazzolino.com
✓ Nancy Newell	3917 NE Skidmore St 97211	ogec2@hotmail.com
✓ Beth Giansiracusa	2850 NE LAWRENCE #4B 97232	GOLDEN
✓ Cherie Lambert Holenstein		

Date 12-12-12

Page 1 of 1

185836

Moore-Love, Karla

From: Lawrence Hudetz [hudechrome@gmail.com]
Sent: Wednesday, December 12, 2012 8:56 AM
To: Moore-Love, Karla
Subject: RoseMarie Opp/please place in appropriate records.
Attachments: December 12, 2012 Place in record on reservoirs.doc; LT2 letter to Administrator Jackson 10.13.11-1.pdf; Dec. 12, 2012 letter for the record on emergency ord..doc

Karla,
There are so many items concerning water today.
I found it somewhat overwhelming as to responding, so would appreciate your placing in the proper records.

I have attempted to put the Reservoir issues/items in one letter along with the Congressional letter to EPA.

The other letter is regarding the earlier emergency ordinances with a request to change the status to allow public awareness and input.

I believe that Nancy Newell will be contacting you this morning to have items pulled.
If she cannot reach you, I request that those than can be pulled for discussion be, as some people are planning to testify.

Thank you so much for your assistance.
It is comforting for us to have you as our council clerk.
Sincerely,
RoseMarie Opp

hudechrome@gmail.com

Please Place my comments into appropriate records. Dec. 12, 2012
Re: City Council Hearing on Dec. 12, 2012
Item # 1456, 1457,
Item # 1453, 1456 – 1457

185836

Apparently all these items have to do with the Reservoirs in our city, one with Mt. Tabor and primarily the focus of items are on the Washington Park Reservoir.

First, these Reservoirs have been placed on the National Historic Register and that should mean something, however, our council has ignored the importance of them and sees fit to destroy them and change them forever by moving towards corporate designed systems.
The Bull Run Water System has served us extremely well for 100 years, is gravity fed, and only needs to be maintained well as it is truly sustainable.

I am placing in the record an October 13, 2011 letter by our Congressional delegation to Lisa Jackson, Administrator of EPA.
In the letter, they write that they reacted with considerable enthusiasm to the news that EPA is reviewing its LT2 rule and specifically considering new or innovative alternatives to covering reservoirs. They discuss our unique water characteristics of Portland's Bull Run watershed. They ask to consider delaying implementation of the LT2 requirement to cover reservoirs.

Delay is the request and delay the council needs to do today instead of moving forward on projects. We all know that New York has been granted a huge time frame of delay and it is unconscionable that our council will not do the same. In my opinion, our PWB and city council have been hell bent on destroying the treasure and asset of our community by fast tracking and putting us into so much debt as to lead to others being able to come into our community to claim our water assets. This path PWB and including the council who have repeatedly refused to listen to the businesses and citizens of our city can very likely lead to privatization and loss of our water rights. Our Portland Water Bureau is already acting like a corporation favoring corporate interests instead of public interests here.

The Citizens of Portland's Water have repeatedly asked for a Waiver. Council has refused. The Variance, which is the avenue, Leonard and Council preferred as it is temporary and has allowed them to continue to give out contracts for projects has not been in the best interests of the community. A Waiver would put a stop to projects not needed, debt and water rate increases and to degrading our water quality. Council should ask for the Waiver.

Evidently our council is more interested in assisting corporations, what are we to think if for years we have been in council, pleading and they go instead against the public interest? Are they really more interested in what? In their political careers rather than the health of the community, financial and otherwise?

Open reservoirs as stated many times is the healthy choice, not the closed storage tanks. Radon prevalent in our area needs those open reservoirs for radon to dissipate rather than come into our workplaces and homes. Respect and preserve the Reservoirs. They are the heart of our city. Council has been given every opportunity to do so with the EPA review, congressional delegation requesting a delay on this matter and the New York success with their requests. Everything points to that the Council should stop today 12/12/12 and refuse to accept moving forward with these items.

Sincerely,
RoseMarie Opp

Enclosed: Congressional letter

185836

Congress of the United States
Washington, DC 20510

October 13, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to ask that as your agency reviews the Long Term 2 Enhanced Surface Water Treatment (LT2) Rule, you include an assessment of the unique circumstances relevant to the City of Portland's drinking water system. The City of Portland is wrestling with the immense cost and uncertain benefits of covering its water reservoirs, and would appreciate every possible degree of cooperation and flexibility from the Environmental Protection Agency in addressing this issue.

To place this request in context, you might recall that the City sought flexibility regarding the requirement to treat drinking water for Cryptosporidium two years ago. You and your team were extremely helpful and worked with Portland to institute a testing regimen for Cryptosporidium that would provide sufficient evidence for regulators to consider a variance from those requirements. The City tested 17,000 liters of water and found zero Cryptosporidium. Thank you so much for your agency's support in this process. You have now transferred responsibility for this issue to the State of Oregon.

In regard to the issue of reservoir covering, however, the City made a similar request for a waiver or variance, but your agency indicated that there was no path for a waiver or other form of flexibility. As disappointing as this was, given the enormous cost and uncertain benefits of covering the City's reservoirs, the City had to accept the finality of your agency's determination.

Thus, we reacted with considerable enthusiasm to the news that EPA is reviewing its LT2 rule and specifically considering new or innovative alternatives to covering reservoirs.

In light of that news, we request that your team thoroughly explore whether there are more cost-effective ways to counter the risks of contaminated water, taking into full account the unique and extraordinary water supply characteristics of Portland's Bull Run watershed and other attributes of Portland's drinking water system.

In addition, we respectfully request that while your agency's review is underway, you consider delaying implementation of the LT2 requirement to cover reservoirs, for water systems whose unique circumstances could warrant alternatives to protecting public health.

Finally, it would be of great help if your team could create a working dialogue with the City of Portland as you conduct this review. They stand ready to provide all possible information relevant to this issue.

We thank you for your attention to this matter that is so important to local communities and look forward to working with you on it.

Respectfully yours,

Jeffrey A. Merkley
United States Senate

Ron Wyden
United States Senate

Earl Blumenauer
United States Congress

Kurt Schrader
United States Congress

Peter DeFazio
United States Congress

185836

December 12, 2012
City Council Hearing
Re: *1428 *1429

Please place in record.

I do not understand why and I object having these items placed under emergency ordinance. I hope council will take these off of emergency and allow the public to have adequate time and input on these items.

This is apparently a long range strategy, therefore not an emergency.
Item 1428 involves a type of partnership with Lucid Energy and our Portland Water Bureau. As I read further a 20-year lease on our water facilities.

We need transparency and details on this matter, which is committing our community to a long term lease involving our water. This should not be fast tracked. Commissioner Leonard is leaving and ought not be fast tracking projects and negotiations of such a serious nature without proper public notification and input.

RoseMarie Opp

Submitted by Floy Jones

AUDITOR 12/11/12 AM11:59

PUBLIC HEALTH DIVISION
Drinking Water Program
John A. Kitzhaber, MD, Governor

Health

800 NE Oregon Street, #640
Portland, OR 97232-2162
Phone 971-673-0405
FAX 971-673-0694
TTY-Nonvoice 971-673-0375

May 17, 2012

185836

David Shaff, Administrator
Portland Water Bureau
1120 SE 5th Avenue
Portland, OR 97204

Dear David:

This letter responds to your February 10, 2012 request for a delay to the Portland Water Bureau (PWB) compliance schedule for meeting the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) requirements for uncovered finished water reservoirs. PWB must complete two projects to comply; PWB proposes delaying the eastside project 8.5 years and the westside project 5.5 years.

Background

LT2 and EPA

LT2 requires all public water systems that store treated ("finished") water in uncovered reservoirs to either cover the facilities or treat the effluent to achieve inactivation and/or removal of 99.99% of viruses, 99.9% of *Giardia* and 99% of *Cryptosporidium*. Water systems had to either meet this requirement or be on an approved compliance schedule no later than April 1, 2009.

PWB chose to provide covered reservoirs rather than treat the effluents of existing reservoirs and so notified the Environmental Protection Agency (EPA), the Primacy agency for the LT2 rule at the time. PWB would comply by constructing covered reservoirs and, upon completion, disconnecting PWB's five uncovered reservoirs. Further, PWB proposed dates for disconnecting the Mt. Tabor and Washington Park uncovered reservoirs to the EPA: the three reservoirs on Mt. Tabor would be disconnected by December 31, 2015, and the two in Washington Park would be disconnected by December 31, 2020.

On March 25, 2009, PWB submitted to EPA additional detail regarding interim milestone deadlines as part of PWB's proposed compliance schedule. The schedule reiterated the original completion dates proposed by PWB to no longer

rely on uncovered finished drinking water reservoirs. In a memo to Commissioner Leonard also dated March 25, 2009 (the date of PWB's proposed compliance schedule to EPA), PWB stated that the compliance schedule option being proposed by PWB to EPA "allows some projects to be built concurrently without interfering with operations and customer service." Two days later, EPA accepted and approved the schedule as submitted by PWB.

Thus, the completion dates which PWB is subject to are the dates PWB proposed to EPA.

Prior to LT2 requiring this action, PWB expressed its clear intent to cover its uncovered reservoirs on numerous occasions. For example, PWB wrote a letter to EPA September 18, 2002 describing proposed action to improve PWB's lead (Pb) control program, essential to minimize exposure to this potent neurotoxin. In this letter, PWB cited covering or replacing the existing uncovered reservoirs as the primary long-term strategy to reduce lead exposure through drinking water, and stated an anticipated date of July, 2006 for covering or replacing all uncovered reservoirs.

LT2 and OHA
On July 8, 2009, EPA granted the Oregon Health Authority (OHA) Interim Primacy for the LT2 rule, and OHA continues to have Interim Primacy over LT2.

As the lead enforcement agency, OHA has discretion under state statutes and rules to extend formal compliance schedules, and has done so on occasion at the request of water suppliers. If a water supplier requests an extension to an agreed-upon compliance schedule, OHA thoroughly reviews the request to determine if a delay is necessary and thus an extension is warranted under the circumstances.

More specifically, the water supplier must be able to demonstrate continuing, steady progress toward compliance, and that specific, unforeseen circumstances outside the water supplier's control have caused the delay. Examples of such circumstances have included delays in construction due to weather, contractors, equipment availability, supply delivery, or unexpected geologic conditions; delays in necessary state or federal project funding; and delays in permitting and approvals by other governmental agencies. In all cases, OHA re-evaluates interim public health risk and mitigation measures required in the compliance agreement to assure that public health is protected during the unavoidable delay.

185836

Prior PWB Request

OHA followed the practice outlined above when, on June 8, 2010, PWB requested a modification from OHA of one of the interim milestone deadlines in the original LT2 compliance schedule. PWB's request included demonstration of continuing, steady progress towards compliance, and articulated the specific circumstances that caused the need for a delay. OHA approved this interim milestone modification on June 15, 2010. We noted then and do again today that PWB did not request any change to its ultimate compliance date, and the date of disconnecting the reservoirs from the water system remained unchanged.

Current PWB Request

PWB now requests a modification that results in project delays of 8.5 years and 5.5 years based on unchanged circumstances, and an apparent multi-year suspension of effort toward regulatory compliance. Figure 1 below is reproduced from PWB's current request to OHA:

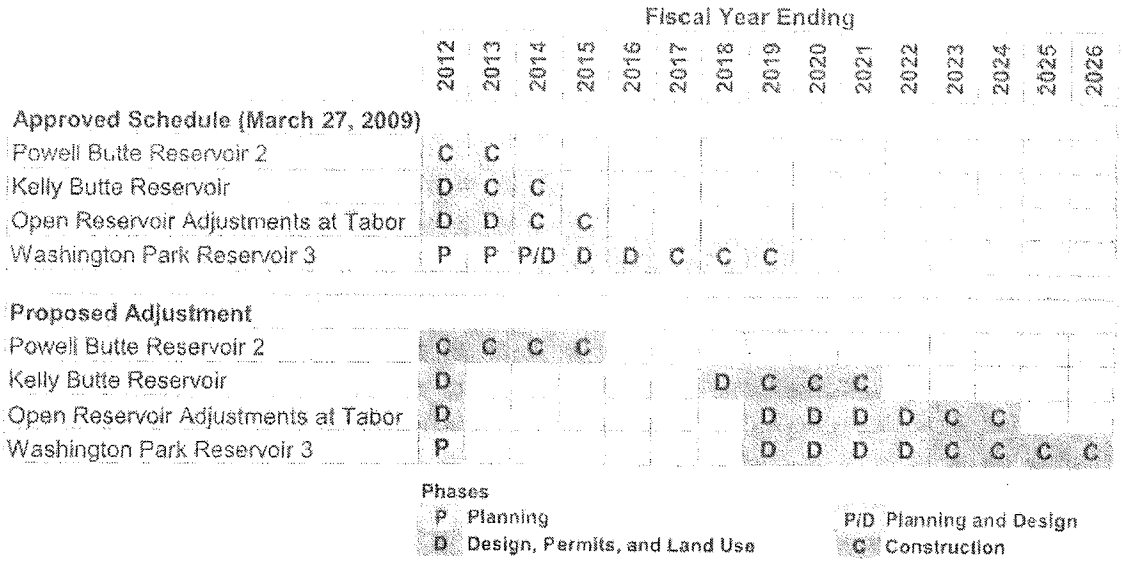


Figure 1. Time Line Showing Approved Schedule and Proposed Adjustment for Major Projects[a]

[a]Small supporting system improvement and transmission projects are shown in the detailed schedule available as Attachment B

Benefits of Covered Reservoirs

EPA has long stated that storage of treated drinking water in uncovered reservoirs can lead to significant water quality degradation and increased health risks to consumers (See, *e.g.*, Uncovered Finished Water Reservoirs Guidance Manual,

EPA, April 1999; Federal Register, January 5, 2006, pp 713-715). The LT2 requirement to cover or treat water from uncovered reservoirs is intended to protect against the potential for recontamination of treated water by disease-causing organisms such as viruses, *Giardia* and *Cryptosporidium*. Such recontamination can occur from a wide variety of sources, including bird and animal wastes, human activity, algal growth, insects and airborne deposition. Uncovered reservoirs have also been known to cause water quality degradation such as increases in turbidity, bacteria growth, particulates, disinfection by-products, taste and odor problems, and nitrification of chloraminated water. Over the years, a number of specific contamination incidents associated with Portland's uncovered reservoirs have been reported by PWB and the local media.

Nationally, most uncovered reservoirs were constructed between the late 1800s and the early 1940s. Since then, it has been the standard of practice within the drinking water industry to cover newly constructed finished drinking water reservoirs, as indicated in the Ten State Standards, US Public Health Service standards, American Water Works Association policy, EPA regulations, as well as Oregon construction standards. According to EPA's Uncovered Finished Water Reservoir Guidance Manual, 750 uncovered reservoirs were in use across the United States in the mid-1970s, with the number falling to approximately 300 by 1992. According to EPA, the number dropped to 81 by 2006. In 2012, only 38 uncovered reservoirs remain in the US, including 5 in Portland. Uncovered reservoir projects in two other Oregon communities are complete and a third Oregon community will complete its project this year.

Public Health and Security Co-Benefits

In addition to the risks associated with uncovered reservoirs identified above, there are also important co-benefits to covering or replacing uncovered reservoirs. Because uncovered reservoirs allow for atmospheric exchange with the water, the associated water chemistry changes can interfere with optimizing corrosion control treatment. This interference may result in higher concentrations of lead (Pb) in water at the tap. In addition, the chlorine on which PWB depends to treat its water can dissipate in uncovered reservoirs, depleting disinfectant residuals in the distribution system intended to protect against bacterial regrowth and recontamination. Finally, uncovered reservoirs present security risks for intentional contamination of or damage to the water supply.

Conclusion

PWB requests a delay in complying with the federal uncovered finished water reservoir requirement. However, PWB's request does not identify any specific circumstances not previously known to PWB when PWB a) proposed its compliance schedule in 2009, or b) proposed its interim milestone modification in 2010. Further, the proposed timing appears to reflect a suspension of effort to comply with the mandated regulation, rather than continuing, steady progress toward regulatory compliance.

Thus, PWB's compliance schedule approved by EPA on March 27, 2009, with the interim milestone modification approved by OHA on June 15, 2010, remains in effect.

We are mindful of the technical and economic challenges communities face in providing safe drinking water to their consumers. OHA remains committed to working with PWB as you work steadily to comply with regulatory requirements.

Sincerely,

Dave Leland, PE, Manager
Drinking Water Program

DEL:dw

Submitted by Floy Jones

City of Rochester
Department of Environmental Services
10 Felix Street
Rochester, New York 14608
www.cityofrochester.gov

one city Bureau of Water

185836

AUDITOR 12/11/12 AM11:56

December 20, 2011

John Felsen, Manager
Monroe County Department of Public Health
Division of Environmental Health
P.O. Box 92832
111 Westfall Road
Rochester, NY 14692-8932

RE: City of Rochester LT2 Rule Bilateral Compliance Agreement

Dear Mr. Felsen:

The City of Rochester respectfully requests your approval to amend the August 18, 2011, Bilateral Compliance Agreement (BCA) regarding compliance with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). The August 18, 2011, BCA requires the City of Rochester to bring its three (3) uncovered finished-water reservoirs into compliance with the LT2 rule by December 31, 2014. We have currently completed the first leg of our BCA agreement to install a synthetic liner on Highland Reservoir at a cost of over $4 million. We are currently on schedule to complete the second leg of our LT2 compliance program to install a synthetic liner and floating cover on Rush Reservoir by December 31, 2012, at a cost of over $11 million.

The third and final leg of our compliance plan involves installing ultraviolet disinfection (UV) reactors at Cobbs Hill Reservoir and Highland Reservoir. The total expected cost of this third leg is approximately $15 million. We are specifically requesting an alteration of the milestone dates for both the Cobbs Hill Reservoir UV project and the Highland Reservoir UV project. We request approval to modify our BCA completion date for the Cobbs Hill Reservoir and the Highland Reservoir UV projects from December 31, 2014, to December 31, 2024.

We are making this request for the following reasons:

1. Like many other cities in New York, Rochester is experiencing financial hardship. The current economic recession has contributed to the city's difficult finances and the loss in population has also put pressure on the city's finances. Its population has dropped precipitously by 15% since 1990, while water consumption has decreased by 40% during the same period. We have lost commercial, industrial and residential customers. This results in fewer ratepayers paying an ever increasing share of the costs to make capital improvements to the water system. While the population decreased by 10% since 2000, the water rates have increased 44%. We have sought alternative funding sources such as congressional earmarks, EPA appropriations, and NYSDWSRF funding, but we have been unable to secure outside funding to lessen the financial hardship for the Cobbs Hill and Highland UV improvements. Due to the capital investment needs of the water system, we are carrying a very high debt load with a total principal and debt load payment of approximately $5.5 million due in 2014. This debt load includes the $15 million we have already spent on LT2ESWTR compliance projects. It does not include the $15 million we expect to spend as part of the Cobb Hill and Highland UV project.

2. The City's resources are limited and barely adequate to cover all the "typical" capital investments required to keep an old water system like Rochester's running properly. Without question, the City's highest priority is to upgrade its conduits and distribution mains. Failure to make this investment will jeopardize future system reliability, which may have serious public health implications. Over the next four years, the City has budgeted over $20 million for cleaning and lining mains, conduit replacement, and water main replacement. Other funded priorities for the city include: 1) equipment replacement at the Filtration Plant (approaching 20 years old), 2) system security, 3) SCADA upgrades, and 4) conduit and distribution vault rehabilitation. Another $15 million is budgeted for these efforts. The City believes these projects will produce measurable, documented public health benefits. The same cannot be said for the LT2 rule's UV requirement, since not one case of cryptosporidiosis has ever been linked to Rochester's drinking water. We feel our limited financial resources are better spent on making improvements to the transmission and distribution systems that would reduce the number of water main breaks and the associated interruption of service. This would also reduce the potential to incur contamination resulting from the breaks.
3. US EPA Administrator Lisa Jackson recently announced a review of the LT2 rule. Ms. Jackson was prompted to review the LT2 rule because of requests from New York City, US Senator Charles Schumer, and others to reevaluate the effectiveness of the regulation in light of new data that brings into question the assumptions upon which the LT2 rule was promulgated.

Amending our BCA milestone compliance dates will afford the City of Rochester the ability to continue to fund projects with the greatest measurable benefit to our system. Furthermore, by deferring the compliance dates for the UV improvements, we would be able to benefit from potential improvements to the regulations that may result from USEPA's review that is currently ongoing. Most of all, the City of Rochester would be afforded the ability to lessen the already heavy financial burden to its ratepayers by deferring approximately $15 million in capital expense to a date when the debt load will not be as onerous. The average annual water debt between 2011 and 2024 is $3.81 million while the 2025 debt drops to $0.44 million.

Based on local public health records, the City does not believe Cryptosporidum is a problem in its water supply. Source-water testing dating back to the 1980s has never recovered Cryptosporidium oocysts. The source water is also filtered. If an extension to our BCA is granted, the City will begin monthly testing for Cryptosporidium at both Highland and Cobbs Hill Reservoirs. If test results show Cryptosporidium is present, the City will reassess the situation with the Monroe County Department of Public Health and develop plans to address the needed improvements at Cobbs Hill and Highland Reservoirs.

We would appreciate an expeditious response to this request. We are about to commence design of the Cobbs Hill and Highland UV projects and an early indication of your response would allow us the leeway to minimize some of the early design costs that would be foregone if our milestone changes are approved.

Respectfully,

Robert L. Morrison

Robert L. Morrison
Director

CC: Paul Holahan

City of Rochester
City Hall Room 308A, 30 Church Street
Rochester, New York 14614-1290
www.cityofrochester.gov

onecity ROCHESTER
Thomas S. Richards
Mayor

185836

September 12, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

The City of Rochester, New York, is seeking clarification on the EPA's position regarding uncovered finished-water reservoirs. My interest stems from your response of August 19, 2011, to the Honorable Charles E. Schumer's letter of July 20, 2011, where you write "the EPA will review the LT2 rule and evaluate whether there are alternate ways to manage risk while assuring equivalent or improved public health protection."

As a result of the LT2 rule, the City is now in the process of making modifications to its three uncovered finished-water reservoirs in order to comply with this regulation. This multi-year, multi-million-dollar project includes reservoir lining, reservoir covering and installation of ultraviolet reactors at a cost of $25,000,000.

At a time of severely strained budgets and people rightly demanding that public funds be judiciously spent, this regulation imposes expenditures that are too onerous and benefits that are, at best, difficult to measure. Implementation of the LT2 rule also comes at a time when the City needs to make major investments in its aging infrastructure by implementing already-identified system upgrades with clearly quantifiable benefits, such as transmission and distribution pipe renewal, as well as pressure improvements in the high-elevation service area and lead service pipe abatement.

The City of Rochester has provided its citizens and customers high-quality water for 135 years without experiencing any water-related disease outbreaks. Furthermore, there has not been a single confirmed case of *Cryptosporidium* or *Giardia* attributable to the City's water supply system.

The City has been and remains committed to delivering safe water to all its customers. However, since EPA's review of the LT2 rule may identify more cost-effective ways to protect public health than currently required, I request that a moratorium on the implementation of this regulation's requirements specific to uncovered finished-water reservoirs be put into effect immediately and written approval be given to the City of Rochester to suspend its compliance schedule until a final determination is made regarding the rule. I believe this will ensure that scarce public funds are expended in the most productive manner possible for protecting public health.

Sincerely,

Thomas S. Richards
Mayor

Phone: 585.428.7045 Fax: 585.428.6059 TTY: 585.428.6054 EEO/ADA Employer

3

185836

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 30 2011

OFFICE OF WATER

The Honorable Thomas S. Richards
Mayor of Rochester
City Hall Room 308A
30 Church Street
Rochester, New York 14614

copy: DES
orig: Mayor

Dear Mayor Richards:

Thank you for your September 12, 2011, letter in which you seek clarification of the U.S. Environmental Protection Agency's (EPA) position on uncovered finished water reservoirs and request an immediate moratorium on implementation of the federal Long Term 2 Enhanced Surface Water Treatment Rule requirements as they relate to the city of Rochester. To effect this change, I understand that you are seeking our written approval to suspend your city's LT2 compliance obligations pending the EPA's regulatory review of the LT2 rule.

The LT2 rule requirements are still in effect. The rule is important for drinking water quality and public health protection. The provision that requires drinking water systems either to cover their finished water reservoirs or to treat the water leaving uncovered reservoirs before distribution to consumers is intended to protect against the potential for recontamination of treated drinking water with disease causing organisms, specifically *Cryptosporidium*, *Giardia* and viruses.

Many public water systems have already taken action to protect their drinking water as required by the rule, and many others are on a path to do so in the near future. In the 1970s, there were an estimated 700 uncovered reservoirs in the United States. In 2006, at the time the LT2 rule was promulgated, the number of uncovered reservoirs had been reduced to 81. Since then, public water systems have taken steps to cover, decommission or treat the water before distributing it to consumers at an additional 38 reservoirs. Today, only 43 uncovered finished water reservoirs are still in use, and all are under enforceable schedules to meet the LT2 rule's cover or treat requirements. Of those 43 reservoirs, most are currently undergoing construction or have schedules to complete construction during the next few years.

In her August 19, 2011, letter to U.S. Senator Charles E. Schumer, Administrator Lisa Jackson said that the EPA will review the LT2 rule and evaluate whether there are alternate ways to manage risk while ensuring equivalent public health protection. As you know, the EPA has committed to reviewing the LT2 rule as part of the agency's *Final Plan for Periodic Retrospective Review of Regulations.* In addition, the LT2 rule is among more than 70 rules that the EPA must review under the Safe Drinking Water Act's next review cycle to be completed by 2016. Under the Safe Drinking Water Act, the EPA must review existing national primary drinking water regulations at least every six years and revise them as appropriate. Additionally, the Safe Drinking Water Act specifies that any rule revision must maintain or provide for greater public health protection.

The EPA will conduct a thorough review of the LT2 rule. As part of the review, the EPA will assess and analyze new data and information regarding occurrence, treatment, analytical methods, health effects and risk from *Cryptosporidium*, *Giardia* and viruses to evaluate whether there are new or additional ways to manage risk while ensuring equivalent or improved public health protection. Science will drive our ultimate decision.

The rule review process does not provide a basis to modify the city's LT2 compliance obligations. However, there may be specific, articulable facts that warrant compliance schedule adjustments. Many public water systems face multiple challenges in managing, maintaining and operating those systems. Infrastructure construction projects can also present challenges. It is entirely appropriate for primacy agencies to consider these system specific facts when evaluating a request to adjust a compliance schedule. If a schedule adjustment is appropriate, the public water system should have in place robust interim measures to ensure public health protection, and those interim measures should remain in effect until that system comes into compliance with the rule.

During the spring of 2012, the EPA intends to hold a public meeting to focus on the uncovered reservoir issue. The city of Rochester is invited to present information, which the EPA would be happy to consider as part of its regulatory review process. We at the EPA look forward to continuing to work with the city of Rochester and other stakeholders.

In the meantime, I thank you for sharing your concerns. The EPA appreciates your city's commitment to delivering safe water to its customers. If you have questions, please feel free to contact me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at (202) 564-9601.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

5

185836

City of Rochester
Department of Environmental Services
10 Felix Street
Rochester, New York 14608
www.cityofrochester.gov

one city Bureau of Water

January 9, 2012

John Felsen, Manager
Division of Environmental Health
Monroe County Department of Public Health
P.O. Box 92832
111 Westfall Road
Rochester, NY 14692-8932

RE: City of Rochester, NY, PWS ID: NY2704518
Bilateral Compliance Agreement

Dear Mr. Felsen:

The City of Rochester respectfully requests your approval to amend the August 18, 2011, Bilateral Compliance Agreement (BCA) regarding compliance with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). The August 18, 2011, BCA requires the City of Rochester bring its three (3) uncovered finished-water reservoirs into compliance with the LT2 rule by December 31, 2014. We have currently completed the first leg of our BCA agreement to install a synthetic liner on Highland Reservoir at a cost of over $4 million. We are currently on schedule to complete the second leg of our LT2 compliance program to install a synthetic liner and floating cover on Rush Reservoir by December 31, 2012, at a cost of over $11 million.

The third and final leg of our compliance plan involves installing ultraviolet disinfection (UV) reactors at Cobbs Hill Reservoir and Highland Reservoir. The total expected cost of this third leg is approximately $15 million. We are specifically requesting an alteration of the milestone dates for both the Cobbs Hill Reservoir UV project and the Highland Reservoir UV project. We request approval to modify our BCA completion date for the Cobbs Hill Reservoir and the Highland Reservoir UV projects from December 31, 2014, to December 31, 2024.

For reasons described in our December 20, 2011, correspondence we request revisions to the following milestones as detailed below.

Highland Reservoir Ultraviolet Disinfection Project

Milestone Item No.	Original Milestone Date	Revised Milestone Date	Milestone Action
H	November 30, 2011	April 30, 2021	Hire/Retain UV Design Consultant

I	October 31, 2012	April 30, 2022	Submission of UV Plans to DOH
J	January 31, 2013	July 31, 2022	Award Highland UV Construction Contract
K	February 28, 2013	September 30, 2022	Begin Highland UV Construction
L	January 31, 2014	September 30, 2023	Place Highland UV into Service

Cobbs Hill Reservoir Ultraviolet Disinfection Project

Milestone Item No.	Original Milestone Date	Revised Milestone Date	Milestone Action
A	November 30, 2011	November 30, 2021	Hire/Retain UV Design Consultant
B	February 28, 2013	February 28, 2023	Submission of UV Plans to DOH
C	July 31, 2013	July 31, 2023	Award Cobbs Hill UV Construction Contract
D	December 31,2013	September 30, 2023	Begin Cobbs Hill UV Construction
E	December 31, 2014	December 31, 2024	Place Cobbs Hill UV into Service

If these suggested revisions meet with your approval, the City is prepared to sign a new Compliance Agreement that reflects these new milestone dates.

Please feel free to call upon me to discuss this letter at any time.

Sincerely,

Robert L. Morrison
Director
Rochester Water Bureau

CC: D. Rowley, NYSDOH
P. Holahan

185836

City of Rochester
Department of Environmental Services
10 Felix Street
Rochester, New York 14608
www.cityofrochester.gov

one city Bureau of Water

March 16, 2012

John Felsen, Manager
Division of Environmental Health
Monroe County Department of Public Health
P.O. Box 92832
111 Westfall Road
Rochester, NY 14692-8932

RE: City of Rochester, NY, PWS ID: NY2704518
Bilateral Compliance Agreement

Dear Mr. Felsen:

The City of Rochester respectfully requests your approval to amend the August 18, 2011, Bilateral Compliance Agreement (BCA) regarding compliance with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). The August 18, 2011, BCA requires the City of Rochester bring its three (3) uncovered finished-water reservoirs into compliance with the LT2 rule by December 31, 2014. We have currently completed the first leg of our BCA agreement to install a synthetic liner on Highland Reservoir at a cost of over $4 million. We are currently on schedule to complete the second leg of our LT2 compliance program to install a synthetic liner and floating cover on Rush Reservoir by December 31, 2012, at a cost of over $11 million.

The third and final leg of our compliance plan involves installing ultraviolet disinfection (UV) reactors at Cobbs Hill Reservoir and Highland Reservoir. The total expected cost of this third leg is approximately $15 million. The City, with assistance from MCDPH and NYSDOH, prepared a *Cryptosporidium* and *Giardia* Action Plan (CGAP) that describes the monitoring, sampling and testing of water discharging from both reservoirs that the City will conduct, and the actions to be taken in case the results show elevated counts of cysts or oocysts.

The CGAP was presented to and approved by the EPA earlier this week. In view of this, the City of Rochester is specifically requesting an alteration of the milestone dates for both the Cobbs Hill Reservoir UV project and the Highland Reservoir UV project. We request approval to modify our BCA completion date for the Cobbs Hill Reservoir and the Highland Reservoir UV projects from December 31, 2014, to December 31, 2024. The CGAP document is attached to this letter.

For reasons described in our December 20, 2011, correspondence we request revisions to the following milestones as detailed below.

Highland Reservoir Ultraviolet Disinfection Project

Milestone Item No.	Original Milestone Date	Revised Milestone Date	Milestone Action
H	November 30, 2011	April 30, 2021	Hire/Retain UV Design Consultant
I	October 31, 2012	April 30, 2022	Submission of UV Plans to DOH
J	January 31, 2013	July 31, 2022	Award Highland UV Construction Contract
K	February 28, 2013	September 30, 2022	Begin Highland UV Construction
L	January 31, 2014	September 30, 2023	Place Highland UV into Service

Cobbs Hill Reservoir Ultraviolet Disinfection Project

Milestone Item No.	Original Milestone Date	Revised Milestone Date	Milestone Action
A	November 30, 2011	November 30, 2021	Hire/Retain UV Design Consultant
B	February 28, 2013	February 28, 2023	Submission of UV Plans to DOH
C	July 31, 2013	July 31, 2023	Award Cobbs Hill UV Construction Contract
D	December 31,2013	September 30, 2023	Begin Cobbs Hill UV Construction
E	December 31, 2014	December 31, 2024	Place Cobbs Hill UV into Service

If these suggested revisions meet with your approval, the City is prepared to sign a new Compliance Agreement that reflects these new milestone dates.

Please feel free to call upon me to discuss this letter at any time.

Sincerely,

Robert L. Morrison

Robert L. Morrison
Director, Rochester Water Bureau

CC: David Rowley, NYSDOH
Paul Holahan, City of Rochester

City of Rochester, New York

Department of Environmental Services

Bureau of Water

CITY OF ROCHESTER *CRYPTOSPORIDIUM* AND *GIARDIA* ACTION PLAN

Paul M. Holahan
Environmental Services Commissioner

Robert L. Morrison
Water Bureau Director

March 2012

City of Rochester *Cryptosporidium* and *Giardia* Action Plan

Introduction

The purpose of this document is to provide guidance for intra- and inter-agency action and coordination in response to the presence of *Giardia* cysts or *Cryptosporidium* oocysts in water leaving the City of Rochester's (City) Highland reservoir or Cobbs Hill reservoir.

This *Cryptosporidium* and *Giardia* Action Plan (CGAP) outlines potential responses to test results that show any elevated concentrations of cysts or oocysts in water leaving these reservoirs. The CGAP is required under the City's Bilateral Compliance Agreement (BCA), in accordance with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule), as a condition for the City to postpone the BCA completion date from December 31, 2014, to December 31, 2024.

The CGAP has been tailored to match Rochester's uniquely efficient system design, robustly redundant operational features and consistently high water quality.

Background

Since 1876 the City of Rochester customers have relied upon the pristine waters of two of the Finger Lakes, Hemlock Lake and Canadice Lake, for their drinking water supply. These lakes and surrounding 61 square miles of watershed are "upland" in the hills of Livingston and Ontario counties, about 30 miles south of Rochester.

Over the system's 136-year history, watershed protection has been the City's first treatment barrier to assure drinking water quality. The cornerstone of this effort was the City's ownership of approximately 7,000 acres in the watershed, including the entire shorelines of both lakes. In 2010 the City sold this watershed property to the New York State Department of Environmental Conservation (DEC). The preservation of the watershed controlling runoff into the lakes was a principal consideration in the significant investment by the State and continues to be an operational focus of both the State and the City.

Rules and regulations govern the use of the watershed land restricting public access at the north end (where the intake pipe is located) and limiting activities that might have deleterious effects on the water quality. State DEC and City Water Bureau personnel continue to observe land use and look for any potential threats of pollution or contamination to the lakes.

The fact that no *Giardia* cysts or *Cryptosporidium* oocysts were recovered during the City's LT2-rule monitoring supports the value of the City's watershed protection efforts. Moreover, not one single confirmed incident of giardiasis or cryptosporidiosis has ever been attributable to the City's water system.

Rochester's drinking water system is one of the most reliable systems in the world because of its source water redundancy (Hemlock Lake or Lake Ontario), abundant system storage (over 230 million gallons) and extraordinary operational flexibility.

The City supplements its Hemlock Lake water supply with Lake Ontario water purchased from the Monroe County Water Authority (MCWA). Each system by itself is capable of meeting the city's maximum demand. The two supply systems are located 45 miles apart. This significant geographical separation makes failure (be it an accident or a malevolent act) at one location very unlikely at the other.

The Hemlock Lake and Lake Ontario water treatment plants both employ filtration and disinfection. A third filtration plant on Lake Ontario, about 18 miles east of the existing one, currently under construction and slated to be in service in 2013, will add yet another level of dependability.

Highland and Cobbs Hill reservoirs are located within the city and provide ample reserve capacity to shut down and drain each reservoir for inspection, maintenance or repairs. Highland reservoir has a capacity 26 million gallons and has been in service for 136 years. Cobbs Hill reservoir, with a capacity of 144 million gallons, has been in service for 104 years. In the past, each reservoir has been removed from service for inspection, cleaning and repair work without any diminution in water quality or quantity delivered into the system.

Significant improvements were made to Highland reservoir in 2010, including installing a synthetic liner, as well as reconfiguring the reservoir inlet piping to provide better circulation that results in enhanced water quality.

A third reservoir in the town of Rush, also in service for 136 years, provides 63 million gallons of additional balancing storage. This reservoir will be lined and covered in 2012 as part of the City's ongoing program to achieve compliance with the LT2 rule.

Considering that the city's average daily water demand is 20 million gallons, there is sufficient storage capacity to last for several days in case of an emergency. Multiple connections to the MCWA distribution system that are normally closed can be readily opened to provide additional supply, thus increasing the overall reliability of the system.

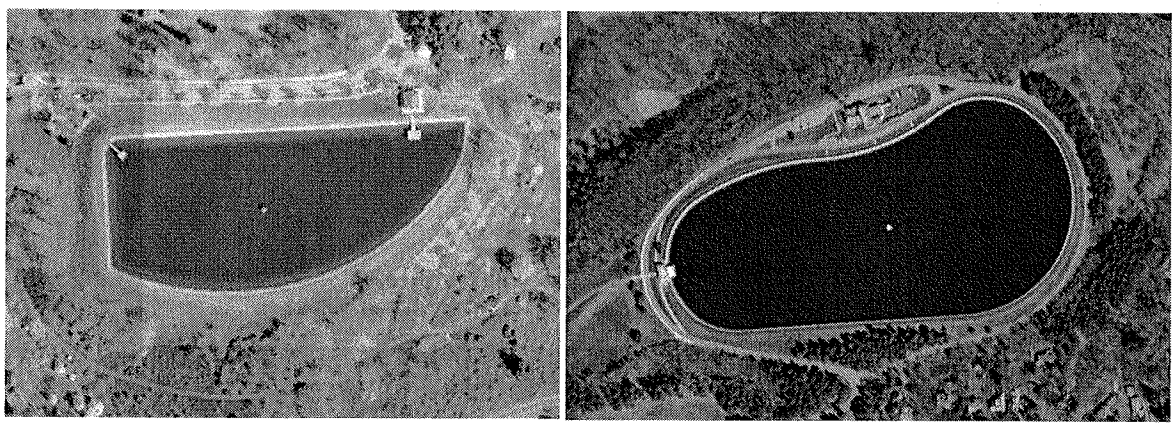
Attachment A shows a schematic of the City's water system including the Hemlock Lake and Lake Ontario supply sources, as well as the treatment, transmission and storage facilities in between the two lakes. Attachment E provides a skeletonized block diagram depicting the salient features of the supply system and the interaction among its various components.

Located in parkland settings and surrounded by eminently residential and light commercial areas, Highland and Cobbs Hill reservoirs are protected from industrial

contamination. Sitting atop the two highest peaks in the city with no neighboring land above them precludes any storm water runoff from emptying into the reservoir bowls.

Chlorine is added at the reservoir outlet lines. Continuous chlorine residual monitoring and frequent laboratory testing for turbidity, total coliform and *E coli* ensure the safety of the drinking water. See Attachment G for a full monthly report of all sampling, testing, monitoring and related activities.

Aerial photographs of the two City reservoirs are shown below. For additional photos see Attachment D.



Highland and Cobbs Hill Reservoirs

Because of redundancy in source waters and ample system storage, the City is able to operate with one or both reservoirs bypassed. Piping and valving reconfigurations to automate the shutdown and bypassing of the reservoirs have already been made at Highland reservoir and will be made at Cobbs Hill reservoir within the next two years. Operationally, this means that a reservoir can be quickly removed from service in the event of a contamination episode.

Expeditious shutdown and bypassing of the reservoirs, in addition to a long-established water main isolation and flushing strategy, make for a rapid and effective means of disposing to waste any water of questionable quality that might enter the distribution system from either reservoir. Also, pumping from the Lake Ontario supply source would ensure that the customers receive safe water should such an episode occur.

City Water Bureau personnel assigned to the storage facilities conduct daily inspections of the reservoirs (see Attachment F), as well as all appurtenant equipment and instrumentation. Periodic Engineering assessment of the structures (including underwater inspection) assures the proper operation of the system.

Access to the reservoirs by the public or wildlife is restricted and monitored. A perimeter fence surrounds each reservoir to prevent direct access by the public. Video

surveillance cameras are strategically positioned at each reservoir and monitored 24 hours a day by City staff. Bird wiring installed at both reservoirs serves as a deterrent for geese, ducks and other fowl and has proven to be remarkably effective in preventing avian intrusion.

In addition to the safeguards in place at the supply source and storage reservoirs, the following annual inspection, maintenance, repair and replacement programs provide the necessary means to avert any water quality degradation within the distribution piping:

- Water main replacement and rehabilitation (practically all the transmission and trunk mains have an interior cement liner to impede corrosion and iron bacteria, while 65% of all the smaller distribution mains are also lined).
- Water main flushing (to remove corrosion products and maintain adequate chlorine residuals).
- Valve exercising and verification (to provide adequate isolation and prevent dead-end conditions).
- Leak detection and control (8.7 breaks/year/100 miles of main as opposed to the national average of 27 breaks/year/100 miles*).

Since water entering each reservoir has been filtered and disinfected at the treatment plant and has not been exposed to the elements on its 30-mile route into the City's service area, the City infers that any elevated counts, in either cysts or oocysts, must be related to circumstances within or adjacent to Highland and Cobbs Hill reservoirs. Therefore, the focus of the CGAP is on operations and water quality at these reservoirs.

To monitor the concentration of *Giardia* cysts and C*ryptosporidium* oocysts during the BCA-completion postponement period, the City will collect 50-L samples twice a month at each reservoir outlet. Samples will be tested by a certified laboratory using EPA Method 1623: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA (EPA 815-R-05-002, Dec. 2005). At the conclusion of each year of testing, the City will provide the EPA and the NYSDOH with a technical memorandum describing any proposed changes to the CGAP.

**From EPA's August 15, 2002, Distribution System Issue Paper entitled, New or Repaired Water Mains, published by the USEPA Office of Water/Office of Ground Water and Drinking Water.*

Cryptosporidium and *Giardia* Action Plan

Guidelines for Inter-Agency Notifications and Coordination

"No Action" Level: 0-3 *Giardia* Cysts/50 L or 0-1 *Cryptosporidium* Oocysts/50 L detected in water leaving either Highland reservoir or Cobbs Hill reservoir

- Highland and Cobbs Hill monitoring results will be emailed by the City's contract laboratory to distribution list included as Attachment B.
- NYSDOH, MCDPH and City staff will routinely review water quality and disease/syndromic surveillance data for parameters listed in Attachment C.
- Continue routine sanitary surveys (Attachment C) of reservoir facilities by City staff.

Action Level 1: 4-7 *Giardia* Cysts/50 L or 2-4 *Cryptosporidium* Oocysts/50 L detected in water leaving either Highland reservoir or Cobbs Hill reservoir

- Follow steps in "No Action" Level above.
- The City's contract laboratory will immediately contact by email and phone the City's Manager of Water Production and Treatment when concentrations of cysts or oocysts meet Action Level 1 conditions.
- The Manager of Water Production and Treatment will contact by email and phone the key individuals for the involved agencies (MCDPH, Water Bureau, NYSDOH) as indicated in Attachment B.
- City staff will assemble all available relevant water quality (Attachment C), water system operations, meteorological data and protozoan data (*Giardia* and *Cryptosporidium*). NYSDOH and MCDPH will provide relevant disease/syndromic surveillance information for the period surrounding the sampling date. These data will be assembled and reviewed by staff at the City, MCDPH and NYSDOH.
- City staff will immediately collect repeat sample from reservoir outlet for *Giardia* and *Cryptosporidium* analysis.
- City staff will also assemble and review information concerning operations at the Hemlock Filtration Plant and at Rush reservoir.
- As soon as possible after notification, City staff will confer with MCDPH and the NYSDOH to determine if any further action is warranted. Further action could include:
    - No further action;
    - More frequent and expanded *Giardia* and *Cryptosporidium* monitoring to include samples from inlet and outlet structures and within reservoir bowl;
    - Expanded turbidity, total coliform and *E. coli* monitoring to include samples from inlet and outlet structures and within reservoir bowl;
    - Expedited sample processing times;

- Sanitary survey of reservoir facilities by City and MCDPH staff;
- Shutdown reservoir; or
- Escalation to Action Level 2.

Action Level 1: De-escalation Plan

If results from two successive sampling events indicate that *Giardia* or *Cryptosporidium* concentrations have dropped below 3 cysts/50 L or 1 oocysts/50 L:

- All available relevant water quality, water system operations, meteorological data and disease/syndromic surveillance information for the period surrounding the sampling date (taking into account the incubation period for *Giardia* or for *Cryptosporidium*) will again be reviewed by City and MCDPH staff. If data indicate there is no need for continued response actions, Action Level 1 will be rescinded or modified, as appropriate.

Action Level 2: >7 *Giardia* Cysts/50 L or >4 *Cryptosporidium* Oocysts/50 L detected in water leaving either Highland reservoir or Cobbs Hill reservoir

- Follow steps in Action Level 1 above.
- The City's contract laboratory will immediately contact by email and phone the City's Manager of Water Production and Treatment when concentrations of cysts or oocysts meet Action Level 2 conditions.
- The Manager of Water Production and Treatment will contact by email and phone the key individuals for the involved agencies (Water Bureau, MCDPH, NYSDOH) as indicated in Attachment B.
- The City will immediately start weekly monitoring for *Giardia* and *Cryptosporidium* at inlet and outlet structures and within the reservoir bowl. Samples will also be collected daily for total coliform, E. coli and turbidity at inlet and outlet structures and within the reservoir bowl. The first samples will be collected within 24 hours of notification. To the extent practicable, sample turnaround time will be expedited.
- City staff will assemble all available relevant water quality (Attachment C), water system operations, meteorological and protozoan data (*Giardia* and *Cryptosporidium*). NYSDOH and MCDPH will provide relevant disease/syndromic surveillance information for the period surrounding the sampling date. These data will be assembled and reviewed by staff at the City, MCDPH and NYSDOH.
- In deciding if additional actions are warranted, the data will be evaluated with respect to historic seasonal and temporal trends.
- MCDPH and City staff will conduct a sanitary survey of the impacted reservoir to qualitatively assess and document possible issues associated with existing sanitary barriers. This will include but not be limited to documenting:

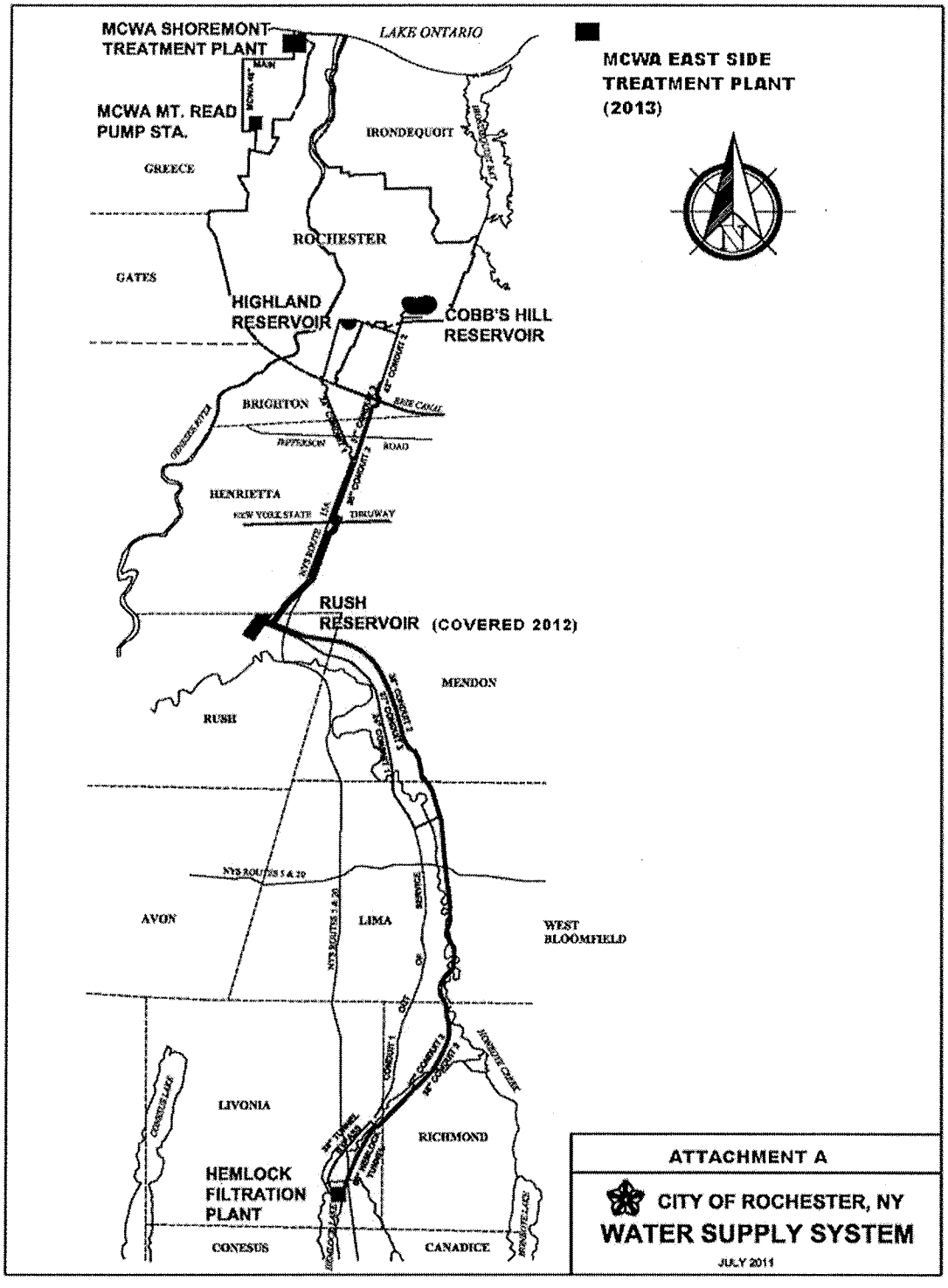
- Evidence of increased presence of waterfowl, birds and other wildlife;
- Evidence of increased fecal matter in/near the affected reservoir;
- Visual inspection of wiring, fencing and other barriers to wildlife
- Senior staff at the City, MCDPH and NYSDOH will confer as soon as possible. Based on consideration of all available relevant information and data, senior staff will decide: (1) whether to bypass the affected reservoir; (2) whether to notify the public and/or health care provider organizations; (3) whether to undertake any other response actions; (4) whether to escalate to a boil-water advisory for the affected reservoir's service area; (5) the form, content and mechanism for effectively and rapidly communicating with the public; and (6) whether there are potential concerns or issues with the existing conditions at the reservoirs that might have contributed to the elevated levels of *Giardia* and *Cryptosporidium;* (7) whether to collect *Giardia* and *Cryptosporidium* samples from distribution system locations.

Action Level 2: De-escalation Plan for either Highland reservoir or Cobbs Hill reservoir

If results from two successive sampling events indicate that *Giardia* or *Cryptosporidium* concentrations have dropped to No Action levels of 0-3 *Giardia* cysts/50 L or 0-1 *Cryptosporidium* oocysts/50 L, de-escalation may occur as follows:

- All available relevant water quality, water system operations, meteorological data and disease/syndromic surveillance information for the period surrounding the sampling date (taking into account the incubation period for *Giardia* or for *Cryptosporidium*) will again be reviewed by City and MCDPH staff. If data indicate there is no need for continued response actions, Action Level 2 will be rescinded or modified, as appropriate.
- Any parties notified of the alert will be informed that the alert has been rescinded (e.g., via the HAN).

Attachment A



185836

Attachment B

Distribution List for Action Plan

Paul Holahan (City of Rochester – Environmental Services Commissioner)

Robert Morrison (City of Rochester – Water Bureau Director)

Leonard Schantz (City of Rochester – Production and Treatment Manager)

David Rowley, P.E. (NYSDOH – Senior Sanitary Engineer)

John Frazer, P.E. (MCDPH – Associate Public Health Engineer)

Kenneth Naugle, P.E. (MCDPH – Senior Public Health Engineer)

Attachment C

Water Quality, Water System and Disease/Syndromic Surveillance Parameters to be reviewed

A. Water Quality and Water System Parameters

- *Cryptosporidium* and *Giardia* test results for reservoirs.
- Meterological data for the period in question.
- Reservoir operational data, including flows, chlorine residual (In, Out), algae counts, pre- and post-chlorine total coliform and *E. coli* test results and turbidity data. The table below summarizes sampling frequency for each parameter.

Frequency	Parameter	Locations	Comment
Continuous	Free chlorine, conductivity, flows	Reservoir Outgoing water	Cl calibration checked daily, conductivity weekly and flow annually
Daily	Turbidity, free chlorine	Reservoir Incoming and Outgoing water	Daily Operator grab sample checks
Weekdays	Total coliform, *E. coli,* Heterotrophic Plate Count bacteria, pH, conductivity	Reservoir Incoming and Outgoing water	Samples tested at City's ELAP certified laboratory
Weekly during summer	Microscopic algae counts	Reservoir Outgoing water	Total cell count using inverted microscope
Data are archived in a database to facilitate statistical analyses, e.g. trend analysis.			

- Available test results from distribution system at coliform sample sites and at fire houses with chlorine/conductivity sensors.
- Operational records for Hemlock Filtration Plant and Rush reservoir.
- Customer Complaints.
- Source water data.
- Protocol for collecting samples within the reservoir bowl can include surface samples as well as samples collected at different depths within the water column.

B. Disease/Syndromic Surveillance Parameters

- Giardiasis and cryptosporidiosis Surveillance Data by MCDPH staff using EDSERV.
- Clinical Lab Surveillance Data.

C. Base Elements of Sanitary Survey

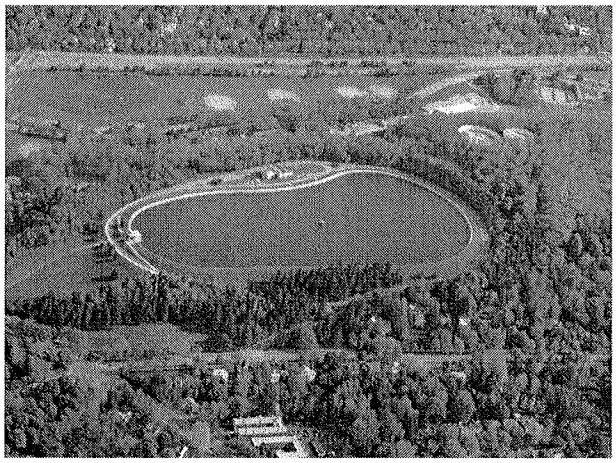
- Documentation of wildlife activity, such as birds and waterfowl, entering the reservoir.
- Documentation of any fecal matter near the reservoir.
- Inspection of bird wiring, fencing and other barriers to wildlife.

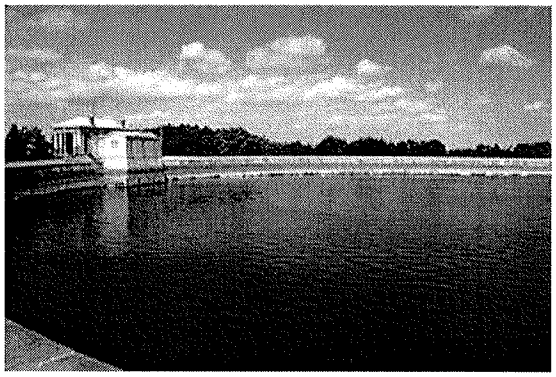
Attachment D

Reservoir Photos

Highland Reservoir

Cobbs Hill Reservoir





Attachment E

Attachment F

Sample Daily Reservoir Inspection Notes

Date	Time	Reservoir	ID	Comments
02-06-12	09:45	Highland	RC	Leaf mass in east corner. Slight algae growth. Two bird wires down.
	10:30	Cobbs Hill	RC	Expansion joint for electric lights-first pole east of Radio Center. Two bird wires down. Floating trash east side (cleaned).
02-07-12	08:30	Cobbs Hill	RC	Good
	09:30	Highland	RC	Good
02-08-12	08:30	Cobbs Hill	RC	Four ducks east end.
	09:30	Highland	RC	Good
02-09-12	08:30	Cobbs Hill	RC	Good
	09:30	Highland	RC	Good
02-10-12	08:20	Cobbs Hill	RC	Good
	09:30	Highland	RC	Good
02-11-12	08:00	Cobbs Hill	RC	Good
	09:15	Highland	RC	Algae getting darker & thicker.
02-12-12	08:30	Cobbs Hill	RC	Good
	09:30	Highland	RC	Good. Same as yesterday.
02-13-12	08:00	Cobbs Hill	RC	Good
	10:30	Highland	KM	Good. Same as yesterday
02-14-12	13:00	Highland	KM	Sycamore seeds at west end and floating at east end. Starting to plug the screens.
	16:00	Cobbs Hill	RC	Good
02-15-12	09:00	Cobbs Hill	RC	Good
	10:30	Highland	RC	Seeds floating east end.

Attachment G

WATER PRODUCTION OPERATIONS

January 2012 MONTHLY REPORT

185836

City of Rochester
Bureau of Water
10 Felix Street
Rochester, New York 14607

March 30, 2012

Attn.: Mr. Paul Holahan, Commissioner – Department of Environmental Services

Re.: **Long Term 2 Enhanced Surface Water Treatment Rule**
Bilateral Compliance Agreement – Revision #4
City of Rochester (PWS # 2704518) – New York

BILATERAL COMPLIANCE AGREEMENT

Gentlemen:

The Long Term 2 Enhanced Surface Water Treatment Rule (LT-2), (Federal Register, Part 141.714) requires that all uncovered finished water storage facilities meet one of the following requirements no later than April 1, 2009:

1. Install a cover;
2. Install treatment to achieve 2-log cryptosporidium inactivation;
3. Be on a state approved compliance schedule for achieving one the first two requirements.

The New York State Department of Health (NYSDOH), the Monroe County Department of Public Health (MCDOPH), and the City of Rochester have been actively engaged in developing a realistic time frame for compliance with LT2. At this time, MCDOPH and NYSDOH require the City of Rochester to formally agree to an enforceable compliance schedule to ensure compliance with LT-2.

Based on the project schedule developed by City of Rochester staff, and logistics of the improvements required, the project has been divided into three sections, based on the City's three existing uncovered finished water storage facilities; Highland, Cobbs Hill, and Rush Reservoirs. The following compliance dates have been established for each reservoir:

Highland Reservoir:

Milestone Item No.:	Milestone Date:	Milestone Action:
A.	April 1, 2009	Hire / Retain Consultant
B.	November 1, 2009	Submit Plans to DOH
C.	April 30, 2010	Award Highland Construction Contract
D.	May 24, 2010	Begin Phase I Construction: *Structural Modifications*
E.	August 2, 2010	Begin Phase II Construction: *Liner Improvements*
F.	August 30, 2010	Complete Phase I Construction
G.	February 1, 2011	Complete Phase II Construction
H.	April 30, 2021	Hire / Retain UV Design Consultant

Highland Reservoir: *(Continued)*

Milestone Item No.:	Milestone Date:	Milestone Action:
I.	April 30, 2022	Submission of UV Plans to DOH
J.	July 31, 2022	Award Highland UV Construction Contract
K.	September 30, 2022	Begin Highland UV Construction
L.	September 30, 2023	Place Highland UV into Service

Cobbs Hill Reservoir:

Milestone Item No.:	Milestone Date:	Milestone Action:
A.	November 30, 2021	Hire / Retain UV Consultant
B.	February 28, 2023	Submit UV Plans to DOH
C.	July 31, 2023	Award Cobbs Hill UV Construction Contract
D.	September 30, 2023	Begin Cobbs Hill UV Construction
E.	December 31, 2024	Place Cobbs Hill UV into Service

Rush Reservoir:

Milestone Item No.:	Milestone Date:	Milestone Action:
A.	March 31, 2010	Hire / Retain Design Consultant
B.	December 13, 2010	Submit Plans to DOH
C.	April 30, 2011	Award Rush Construction Contract
D.	May 31, 2011	Begin Rush Liner & Floating Cover Construction
E.	October 1, 2012	Complete Liner & Floating Cover Construction
F.	October 31, 2012	Place Rush into Service

Please note that any alteration to the Milestone Items, Milestone Dates, and/or Milestone Actions listed above requires approval by MCDOPH and NYSDOH, and the execution of a new **Compliance Agreement** reflecting the modified items. Should the City of Rochester fail to meet these compliance dates, it will be subjected to enforcement action and penalties as deemed necessary by MCDOPH and NYSDOH.

In entering into this compliance agreement, the City of Rochester agrees to fully implement all sampling and action items outlined in the Cryptosporidium Giardia Action Plan (CGAP) attached to this BCA for the duration of the compliance agreement period (through 2024).

The undersigned parties agree to this **Bilateral Compliance Agreement**.

Paul Holahan, Commissioner
City of Rochester
Department of Environmental Services

Dated: March 30 2012

John Felsen, Manager
Monroe County Department of Public Health
Division of Environmental Health

Dated: March 30, 2012

David Rowley, P.E., Western Region Water Supply Field Coordinator
New York State Department of Health
Western Region Field Office

Dated: March 30, 2012

Attachment(s):

1. City of Rochester Cryptosporidium and Giardia Action Plan (CGAP) - March 2012

Bilateral Compliance Agreement (BCA) Document Amendment(s):

1. Original Agreement - March 25, 2009
2. Revision # 1 - December 29, 2009
3. Revision # 2 - March 11, 2011
4. Revision # 3 - August 18, 2011
5. Revision # 4 - March 30, 2012

End.

Submitted by Floy Jones

185836

AUDITOR 12/11/12 AM11:58

WASHINGTON PARK RESERVOIRS HISTORIC STRUCTURES REPORT

Reservoir Nos. 3 and 4

City of Portland Water Bureau

December 2010

CASCADE DESIGN
PROFESSIONALS, INC.

THE OFFICE OF ROBERT DORTIGNACQ, AIA

TABLE OF CONTENTS

EXECUTIVE SUMMARY

Tabular Summary E-4

INTRODUCTION

Washington Park History and Significance I-1
Project Scope and Approach I-3
Final Report Format I-5
Methodology for Repairs I-6
Treatment Guidelines I-6
Alternatives for Treatment I-6
Prioritization I-7
Procedures I-8
Skill Level of Practitioners I-9
Summary of Findings I-9
Documentation I-9
Implementation Plan I-10

RESERVOIR 3

Gatehouse 3 ..... R3-1
Concrete Walls, Floor and Roof R3-1
Metal Decking, Balcony R3-3
Doors R3-4
Windows R3-5
Interior Space R3-6
Entry Steps R3-7
36Weir Building R3-8
Concrete Walls, Floor and Roof R3-8
Door R3-9
Window R3-10
Interior Space R3-11
Entry Steps R3-12
Site R3-13
Reservoir Structure and Dam R3-13
Site Wall (Parapet Wall Assembly) R3-15
Walkways and Walls R3-17
Stairways R3-19
Other Features R3-20

RESERVOIR 4

Gatehouse 4 ..... R4-1
Concrete Wall, Floor and Roof R4-1
Metal Balcony R4-3
Doors R4-4
Windows R4-5
Interior Space R4-6

Entry Steps R4-7

Pump House 1 ..... R4-8
Concrete Wall, Floor and Roof R4-8
Doors R4-10
Windows R4-11
Interior Space R4-12
Entry Steps and Context R4-13
Generator Building R4-14
Concrete Wall, Floor and Roof R4-14
Doors R4-15
Windows R4-16
Interior Space R4-17
Entry Steps and Context R4-18
Site R4-19
Reservoir Structure and Dam R4-19
SiteWall (Parapet Wall Assembly) R4-21
Walkways R4-23
Other Features R4-25
Fountains R4-27

APPENDICES

A Bibliography
B Construction and Materials Reference Guide
C Historic Preservation Briefs

LIST OF FIGURES

Figure 1 Site Plan I-4

EXECUTIVE SUMMARY

The Washington Park Reservoirs structures and buildings are nationally significant as part of an early design for a city's open water system. The system is historically significant for its initial construction and subsequent additions involving monumental civic undertakings, for the exemplification of early concrete engineering construction technology, and for its architectural design. As recognition of their historic importance, the buildings, structures, and site were nominated to the National Register of Historic Places as the Washington Park Reservoirs Historic District on January 15, 2004. Generally, those features within the district boundary that date from the initial construction in 1894 through construction and additions dating to 1951 are considered historic contributing.

This report focuses on the historic and architectural nature of the facilities, as defined in the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings. While the treatment Standards are designed to be applied to all historic resource types included in the National Register of Historic Places – buildings, sites, structures, districts, and objects – the Guidelines apply to buildings and site amenities, such as stairs, walkways, etc., only.

As stated in the Secretary of the Interior's Standards, "Work that must be done to meet accessibility requirements, health and safety requirements, or retrofitting to improve energy efficiency is usually not part of the overall process of protecting historic buildings; rather, this work is assessed for its potential impact on the historic building." The Water Bureau interprets "health and safety requirements" to include compliance with the Environmental Protection Agency (EPA) new drinking water rule, issued in January 2006, under the Safe Drinking Water Act called the Long Term 2 Enhanced Surface Water Treatment Rule, (LT2). The Water Bureau's responsibility to the public and to comply with Federal laws for drinking water and structural/seismic safety may override aesthetic concerns expressed herein.

Concerns such as facility security, ability to perform after a natural or man-made disaster, maintenance concerns or vulnerability to operational failure are beyond the scope of this report.

From a historic perspective, the historic resources in the Washington Park Reservoirs Historic District are, for the most part, in good condition. The structures and buildings were carefully designed and were built for durability and low maintenance. Those considerations have allowed the structures to age gracefully. The facilities are used on a day to day basis. Very few original construction components have been lost or removed. There have been some minor modifications to the facilities to allow continued safe and environmentally responsible operation. In many cases, these alterations, such as new electronic measuring or pipe controls, supplement the historic resources instead of replacing them. Most of the significant prior deterioration, which included the decorative concrete finishes on the two gate houses and structural damage at the pump house, has been repaired previously. Some components have recently been renovated, such as site stairs and reservoir basin and wall repairs. Other components, such as roofing and paving, may now be in serviceable condition but are noted to be replaced shortly. Still other features may be advised to be replaced for restoration purposes.

The Portland Water Bureau contracted with Cascade Design Professionals, Inc. and Robert Dortignacq, historic architect, in early 2010 to develop a Reservoirs Historic Structures Report (RHSR), in order to provide expert advice on the condition, maintenance, rehabilitation and preservation of the historic features within the Washington Park Reservoirs Historic District.

The work on this RHSR included a review of existing historic research and documentation of the features, review of prior alterations, visual observations to physically determine the condition of the resources, assessment of the findings, and development of recommendations for preservation. Recommendations for preservations could change with respect to cost, schedule, and/or scope depending on implementation of Reservoirs Program for LT2. A Tabular Summary (included at the end of this section) was developed and includes preservation recommendations that are noted sufficiently to define the overall scope of the project, uncover significant unknowns, and provide a basis for establishing a construction planning budget. They are not defined to a construction bid level in nature, but rather are intended to provide a comprehensive, overall condition assessment of the historic features, and to provide a strategy for their continued preservation. Specific repair methods and development of rehabilitation construction documents were not part of this project scope.

The history and significance of the district and its context have been well-researched and documented, and therefore, that information is not repeated in this report. Instead a condensed statement of history and significance is provided for the user's reference. In addition, a Construction and Materials Reference Guide discussing the type of deterioration and typical remedial treatment for the different materials used in the district has been specifically developed, and is included in the appendix. A brief bibliography is also included for further reference. As the sole owner and operator of the facilities, the Portland Water Bureau has an extensive library documenting the initial construction, prior projects, and maintenance, as well as photographs.

The Reservoirs Historic Structures Report (RHSR) includes the analysis of historic resources as identified in the Washington Park Reservoirs Historic District National Register nomination. The buildings, structures, and objects included in this analysis are those noted as "contributing" according to the historic district National Register nomination. A total of eleven (11) historic resources were reviewed; five (5) contributing buildings, four (4) contributing structures (each reservoir and its dam), and two (2) objects (fountains).

Reservoir 3

Gatehouse 3
36 Weir Building
Site (Reservoir Structure and Dam, Site Wall [Parapet Wall] Assembly, Stairway, Walkways)

Reservoir 4

Gatehouse 4
Pump House 1
Generator Building
Fountain Structures

Site (Reservoir Structure and Dam, Site Wall [Parapet Wall] Assembly, Walkways, Stairways, Valve Tunnels)

Several historic resources that were not included in the 2004 nomination are also discussed: the access stairways between the reservoirs, related tunnels, access and connecting drives, stairs and paths, and the site improvement remains of the former caretaker's cottage.

This report discusses the components of these resources, e.g., the doors, windows, and structure, by similar construction groupings for ease of identity and recommendations. The Historic District boundary, including structures and other features, is shown on the Site Plan in Figure 1 in the Introduction.

A Technical Memorandum was issued in the performance of this work. Technical Memorandum No.1 (TM1) presented a review of background information, results of site visits and staff interviews, and an assessment of the condition of each reservoir component and bulleted recommendations for the preservation treatment of the various reservoir components. TM1 has been edited into this Final Report, along with the cost estimate and Tabular Summary.

In conjunction with preparation of the Technical Memorandum and Final Report, progress meetings were held with stakeholders and the neighborhood association. A 'Conditions Workshop' was held with Portland Water Bureau staff and stakeholders to review report findings, recommendations, and alternatives. The Condition Analysis and Recommendations are organized by reservoir, then by subcomponent to facilitate use of the report. The report is provided in a loose leaf binder and in electronic format to further allow ease of use and periodic updating of preservation projects.

The Tabular Summary below is a condensed version of the main report following its organization. It contains an abbreviated version of the observations and recommendations, as well as a prioritization, cost estimate, and mechanic skill level judgment. The Summary uses abbreviations to facilitate sorting according to Structure and Component. The Structure (first column) is identified by its affiliated Reservoir, such as "GH3" for Gatehouse at Reservoir 3. The Component (second column) for each structure is further abbreviated by using letters from the component, such as "CONC" for concrete walls, floor and roof. The third and fourth columns briefly describes the work and recommended treatment. For some recommendations there may be alternative, but equally acceptable solutions. Those are labeled as sub items, e.g.: A.1, A.2. A detailed explanation of the observations and recommendations is found in the main body of the RHSR. The fifth column notes the assigned priority, Short (less than 5years), Long (5-10 years), or Maintenance level. The sixth column notes the estimated cost for the anticipated work including ten percent contingency. The seventh and final column assigns a construction skill (practitioner) level for each recommendation that ranges from 'A', an historic preservation specialist, to 'C', a qualified contractor or PWB staff.

Please Note: As work is completed on these facilities, appropriate documentation should be provided.

Washington Park Reservoirs Historic Structures Report
Condition Analysis and Recommendations
TABULAR SUMMARY

Structure	Component	Observation	Recommendation	S	L	M	Cost	Contractor Skill Level [2]
RESERVOIR 3 GATEHOUSE 3								
GH3	CONC	Wall surface spalling; deteriorated and exposed reinforcing; some hairline cracks	Option A.1: Clean concrete exterior; test for water absorption; install cementitious patching, apply breathable sealer; retain below waterline wall as is	X			$35,000	A
GH3	CONC	Roof drain prone to clogging; some leakage	Option A.2: Install new interior drainlines; provide overflow to one line	X			$5,000	B
GH3	CONC	Roofing deteriorated	Option A.3a: Provide new membrane roof	X			$19,000	C
			Option A.3b: Provide new elastomeric coating at roof deck and interior of parapet	X			$10,000	C
			Option A.4a: Provide new elastomeric coating at roof coping	X			$8,000	B
			Option A.4b: Provide new standing seam coping at parapet and its interior side		X		$25,000	B
			Option A.5: Preserve existing Ransome floor lights			X	-	-
GH3	BALC	Non-historic balcony	Option A.1: Maintain deck until it needs major repair or is no longer necessary			X	-	-
GH3	DOOR	Non-original doors	Option A.1: Maintain existing metal door assembly; preserve existing cast iron sill			X	-	-
			Option A.2: Replace doors and frame; preserve existing cast iron sill		X		$12,000	B
GH3	WIND	Wood members weathered; operable - not operating	Option A.1: Preserve wood windows; provide minor repairs		X		-	-
GH3	INT	Metal stair has rust	Option A.1: Maintain metal stairway, wood cabinet, and existing historic mechanical equipment intact			X	-	-
			Option A.2: Provide limited interpretive tours, develop portable signage and graphic		X		$4,000	-

Structure	Component	Observation	Recommendation	S	L	M	Cost	Contractor Skill Level [2]
			Option A.3: Provide additional documentation, inventory and photographs of existing historic mechanical equipment		X		$4,000	A
GH3	STEP	Spalling on lower steps	Option A.1: Preserve, patch and repair entry steps, clean concrete surfaces, patch tests, patch spalled areas		X		$4,000	B
		Portions of original plaza missing	Option A.2: Preserve remains of original plaza and sidewalk, restore missing portions; coordinate work with adjacent site paving		X		$10,000	B
RESERVOIR 3								
36 WEIR BUILDING								
WB3	CONC	Exterior walls and roofing in good condition; small roof drain prone to clogging	Option A.1: Clean concrete exterior, test for water absorption, apply breathable sealer, if needed			X	$8,000	A
			Option A.2: Consider a cementitious or concrete finish coating		X		$20,000	A
			Option A.3: Revise existing roof drain; provide free standing roof drain, or revise the drain	X			$4,000	B
WB3	DOOR	Door and frame in fair condition; need repainting; exterior light rusty	Option A.1: Maintain existing non-original door			X	-	-
			Option A.2: Replace current door when worn out		X		$2,000	B
			Option A.3: Replace current light fixture when worn out		X		$1,000	C
WB3	WIND	Non-historic window in good condition	Option A.1: Maintain existing non-original window			X	-	-
			Option A.2: Replace current window when worn out		X		$1,500	B

Submitted by Floy Jones

185836

Resolution No.

AUDITOR 12/11/12 AM11:59

Approve the Water Bureau's Security Initiatives at Hazelwood, Washington Park, Texas St., N. Vernon Tanks, and Bull Run Watershed.

WHEREAS, the Portland City Council agreed to collaborate on Infrastructure initiatives; and

WHEREAS, the Water Bureau Security personnel have developed a security plan for the City's water system; and

WHEREAS, the Water Bureau owns several properties where a mutual benefit between the public and the City can be shared; and

WHEREAS, the Portland Water Bureau has recently acquired property with a structure at the entrance of the Bull Run Watershed which will house a Ranger who will interface with the surrounding community to provide a secure perimeter around the protected watershed of Portland's source water; and

WHEREAS, the proposed 2006/07 Water Bureau Budget reflects the addition of 6 security specialists who are more highly trained than contract staff utilized in past years; and

WHEREAS, the Water Bureau Security Plan calls for 24 hour staffing at Washington Park by trained Water Bureau Security Specialists; and

WHEREAS, the Water Bureau Budget includes upgrade and augmentation of security infrastructure and utility infrastructure repair at Washington Park; and

WHEREAS, the Water Bureau Security Plan calls for an expansion of the bureau's practice of utilizing citizens within neighborhoods adjoining the reservoirs for "passive security" purposes; and

WHEREAS, the community served by the reservoirs at Washington Park have a keen interest in the security of the reservoirs; and

WHEREAS, water utilities around the country are embracing their communities as a security resource for sensitive facilities through programs like the American Water Works Association's "Water Watchers" and others; and

WHEREAS, the Water Bureau Security Plan calls for public access to the areas around Reservoir 3 during daylight hours to increase activity around the reservoir and deter wrongdoing; and

WHEREAS, the Water Bureau Security Plan calls for public access to the areas around the Hazelwood Test Well facility; the Texas Street Tanks, and the Vernon Tanks; and

185836

WHEREAS, the public can enjoy a mutual benefit while engaging in activities which serve the public good; and

WHEREAS, employing the public as a security element is a well established, effective practice that the Water Bureau has implemented at its facilities at Mt. Tabor, and will implement at Hazelwood Test Well, Texas Street Tank, and Vernon Tank, and on the perimeter of the Bull Run Watershed; and

WHEREAS, the connection between the public and its water utility can be strengthened through these initiatives;

NOW, THEREFORE, BE IT RESOLVED that the Portland City Council supports the Water Bureau's security initiatives at Washington Park, Hazelwood, Texas Street Tank, Vernon Tank, and at the entrance to the Bull Run Watershed as described in the Water Bureau Security Plan; and

BE IT FURTHER RESOLVED that the Portland City Council recognizes the value of the Water Bureau's efforts to strengthen its relationship with the community it serves.

Adopted by the Council,

Commissioner Randy Leonard
Ty Kovatch
June 13, 2006

GARY BLACKMER
Auditor of the City of Portland
By
Deputy

1453, 1456-1458
Submitted by Floy Jones

AUDITOR 12/11/12 AM11:50

185836

November 19, 2012
updated December 10, 2012

Oregon Health Authority
800 N.E. Oregon Street, suite 930
Salem, OR 97232
Sent via e-mail

Dear Ms.Shibley and Mr. Leland,

This letter addresses the Oregon Health Authority's May 17, 2012 denial of the City of Portland's request to defer projects related to the EPA LT2 "treat or cover" requirement for uncovered reservoirs. In denying Portland's request to change the compliance timeline, OHA states as justification, "the water supplier must be able to demonstrate continuing, steady progress toward compliance..." barring construction delays.

Recently we uncovered information that the City of Rochester requested and secured a 10-year reprieve from the EPA LT2 reservoir "treat or cover" requirement for their two historic open reservoirs set in city parks. The reasons outlined in their request letter are 1) financial hardship, 2) limited resources and 3) LT2 rule revision. Rochester worked with state and local public health officials and the EPA to quickly secure approval. Rochester's case makes clear that utilities are not required to "demonstrate continuing progress toward compliance" barring construction delays, and that having any timeline in place is in itself compliance, and that economic hardship and rule revision are valid reasons for deferral. Rochester has three open reservoirs, two of which are historic open reservoirs set in city parks. While Rochester is installing a synthetic cover on the one open reservoir more removed from town, that city has approval for a 10-year deferral on all work (including planning and design) on their two historic open reservoirs set in parks until 2024.

The Mayor of Rochester wrote to EPA's Lisa Jackson in September 2011 stating "At a time of severely constrained budgets and people rightly demanding that public funds be judiciously spent, this regulation imposes expenditures that are too onerous and benefits that are, at best, difficult to measure." City officials followed in December with a letter to their public health officials. You will find

details of their request arguments in the attached December 20, 2011 letter.

There are three reasons at the base of Rochester's approved 10-year deferral. These reasons apply equally to Portland.

1) **Financial hardship**

Rochester argued that their water demand has declined and water rates have risen. Water demand in Portland has declined for 26 years with steeper declines since 2008 when Portland water rates rose dramatically. Rochester states that their water rates have risen 44% since 2000. Portland water rates have risen 61% just since 2008. The Portland Water Bureau (PWB) is projecting next year's rate increase at 14.8% in large part to address the $130 million Powell Butte LT2 project and the $80 million Kelly Butte LT2 project. It is worth noting that Portland's LT2 project costs are roughly 10 times greater than Rochester's LT2 project costs, that Portland is in an even weaker financial position than Rochester and that Portland faces an even greater economic challenge funding these projects on the current, compressed timeline.

2) **Economic resources limited**

In their letters, Rochester rightly argued that "limited financial resources are better spent on making improvements to the transmission and distribution system that would reduce the number of main breaks and the associated interruption of service." The same can be said for Portland.

Rochester sought the 10-year delay so that they could pay off bond debt. Rochester argued that they have a high debt load, stating that their debt includes $15 million for LT2. Portland has a higher debt load, with the Portland Water Bureau debt alone recently surpassing the total debt for all bureaus in the City of Rochester. Portland's Annual Debt Report 2010-11 states that 75% of the $244 million in new debt taken on by Portland that one year was for water and sewer infrastructure; this is the state of financial affairs *before* PWB faces the bulk of LT2 funding (total PWB debt was at $394,780,000 by 2010/11). In 2012, the PWB issued another 25-year $76.5 million bond. According to a June 2012 City of Portland Auditor report, PWB debt service has increased 52% from fiscal years 2007 through 2011.

In his letter, the Mayor of Rochester contends, "people rightly demand public funds be judiciously spent." Remember that recently (August 2011) the Portland Water Bureau closed out a $23 million contract which completed upgrades to open reservoirs. According to a nine-year consultant study, these upgrades will keep the reservoirs safely operating until 2050.

For comparison, this is about what Rochester's entire LT2 plan will cost. Is it judicious to first pay to upgrade the reservoirs only to then pay to replace them?

3) **Rule revision**

Rochester argued that the rule revision was prompted in order to "reevaluate the effectiveness of the regulation in light of new data that brings into question the assumptions upon which the LT2 rule was promulgated." Rochester's Mayor requested that "written approval be given to the City of Rochester to suspend its compliance schedule until a final determination is made regarding the rule" arguing that this is to "ensure that scarce public funds are expended in the most productive manner possible for protecting public health."

At the time of their deferral approval, Rochester did not possess extensive disease surveillance data nor had they sampled their open reservoirs for *Cryptosporidium*. In Portland, extensive disease surveillance data clearly demonstrates that there are no public health issues associated with Portland's drinking water. As OHA is aware, the PWB participated in the American Water Works Association Research Foundation *Cryptosporidium* Study #3021 sampling 7,000 liters of water at the outlets of Portland's open reservoirs at Mt. Tabor and Washington Parks. According to the published study, Portland and all participating utilities already meet the goal of the LT2 rule. As part of their approved deferral, Rochester collects 50 liters of water to sample for *Cryptosporidium* at reservoir outlets twice per month. (See attached material.)

Rochester documented the mitigation strategies in place at their open reservoirs. Portland employs similar open reservoir mitigation strategies including isolation valves, new security equipment including cameras, sensor equipment on perimeter fencing, security guards, on-site chlorination facilities, twice per year cleaning, to name a few.

Portland's drinking water is very, very safe. There have never been any public health problems associated with Portland's open reservoirs. The EPA has documented public health problems, deaths and illnesses only with covered storage facilities, while open reservoirs have safely provided drinking water to tens of millions across the nation for over 100 years.

OHA is aware of Portland's May 27, 2012, buried tank contamination event. Among the items vandals tossed into the breached buried tank was an unopened bottle of hydrochloric acid. All source water *Cryptosporidium* outbreaks have occurred in systems whose watersheds are not protected such that they are required to install a costly chemical filtration plant.

In light of new information that confirms that EPA is not requiring continued, steady project progress, what further action or information is required by the OHA to secure approval of a 10 or even 25-year delay so that Portland is able to pay off its water bonds, limit further rate increases, and benefit from the LT2 rule revision process?

We look forward to an expeditious response to this letter so that Portland ratepayers can be spared the burden of the imminent $80 million Kelly Butte LT2 project. Citizens of Portland are committed to retaining Portland's open reservoirs as an integral part of our grand Bull Run system and will continue to work diligently in support of sound science as the LT2 rule revision process proceeds.

Sincerely,

Floy Jones for **Friends of the Reservoirs**

Stephanie Stewart for **Mt. Tabor Neighborhood Association**

Jeff Boly for **Arlington Heights Neighborhood Association**

Gary Berger for **Hillside Neighborhood Association**

Anne Dufay for **SE Uplift Neighborhood Coalition**:

North Tabor Neighborhood Association
Mount Tabor Neighborhood Association
Montavilla Neighborhood Association
Sunnyside Neighborhood Association
Buckman Neighborhood Association
Hosford Abernathy Neighborhood Association
Richmond Neighborhood Association
South Tabor Neighborhood Association
Foster Powell Neighborhood Association
Creston - Kenilworth Neighborhood Association
Brooklyn Neighborhood Association
Reed Neighborhood Association
Eastmoreland Neighborhood Association
Sellwood Moreland Neighborhood Association
Woodstock Neighborhood Association
Mount Scott Arleta Neighborhood Association
Brentwood Darlington Neighborhood Association
Ardenwald - Johnson Creek Neighborhood

Association
Kerns Neighborhood Association
Laurelhurst Neighborhood Association

Juliana Lukasik for **Central Eastside Industrial Council**

Kent Craford for **Portland Water Users Coalition Members**:

ALSCO, American Linen Division
American Property Management
Ashland Hercules Water Technologies
The Benson Hotel
BOMA Portland
Darigold
Harsch Investment
The Hilton Portland and Executive Tower
Mt. Hood Solutions
New System Laundry
Portland Bottling
SAPA Inc.
Siltronic Corp.
Sunshine Dairy Foods
Vigor Industrial
Widmer Brothers Brewing
YoCream

Regna Merritt for **Oregon Physicians for Social Responsibility**

Ron Carley for **Coalition for a Livable Future**

Sean Stevens for **Oregon Wild**

Maxine Wilkins and Michael Meo for **Eastside Democratic Club**

David Delk for **Alliance for Democracy**

Representative Alissa Keny-Guyer

Eileen Brady

Portland Business Alliance

Attachments (2)