

**AUTHORIZE WATER RATES AND CHARGES**

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Item # 466

184626

Water Rates TESTIMONY

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Date 5-18-11

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Item # 466

TESTIMONY  
Water Rates

184626

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

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<del>Left</del> Casey Berger	2753 NW Meade Vista 97210	
✓ Michael Wilson		

Date 5-18-11

# Myth vs. Fact

## On the Portland Water Bureau's plan to spend \$500 million for new drinking water treatment and reservoir projects

**MYTH:** The Portland Water Bureau (PWB) has no other option to comply with federal Cryptosporidium rules (LT2) than to build a half-billion dollars in new treatment and reservoir projects.

**FACT:** The City could spend hundreds of millions less to comply with the federal LT2 rule.

**Background:** The City of Portland is obligated to cover or treat its open drinking water reservoirs under the federal Long-Term 2 Enhanced Surface Water Treatment Rule (LT2). The PWB has elected to replace the reservoirs instead of the less expensive downstream treatment of reservoir water, which would leave the reservoirs intact but still achieve full compliance with LT2. This option is often referred to as "treatment at the outlet." In a presentation dated March 14, 2004, PWB consultant McGuire Environmental estimated the cost of treatment at the outlet to be between \$106 million and \$151 million, depending on design, for an Ultraviolet treatment system located at Mt. Tabor.<sup>1</sup> Assuming additional smaller treatment plants at other locations in the distribution system, the PWB could still save hundreds of millions of dollars over its current plan: replace the open reservoirs and install upstream treatment at Bull Run, at a combined cost of \$500 million (\$100 million for treatment and \$400 million for reservoirs). Unfortunately, the PWB has dismissed other options and never offered the City Council an opportunity to investigate them further or consider alternative programs which would still achieve full compliance with the federal LT2 rule, but at a much lower cost.

**MYTH:** The Portland City Council considered various alternatives and then elected the current \$400 million reservoir program over all other LT2 compliance options.

**FACT:** The Portland City Council has been steered into the current \$400 million reservoir replacement program, never being offered the opportunity to consider—much less choose—another less expensive LT2 compliance option like treatment at the outlet.

**Background:** On March 25, 2009, the PWB went to City Council seeking immediate approval for a plan to comply with looming LT2 deadlines. The City needed a reservoir "treat or cover" plan in place by April 1—seven days away. The Water Bureau intended to submit the plan that afternoon and needed Council approval immediately. The Council objected to the rushed timeframe for such a major decision. Commissioner Amanda Fritz even asked, "Why did we not have this discussion a month ago?"<sup>2</sup> Nonetheless, with a federal deadline looming, the Council had little choice but to approve PWB's construction timeline so as to meet the deadline. The PWB-developed plan was not a decision package. There was only one option: construction of a Bull Run treatment plant and \$400 million in new reservoir projects. An alternative program—treatment at the outlet—would have also achieved full LT2 compliance and at a much lower cost, but was not brought to City Council. PWB dictated the plan, and then forced the City Council to approve it by running right up against the federal deadline to have a plan in place. **FACT:** the City Council can still change the plan.

<sup>1</sup> Presentation to the Mt. Tabor Independent Review Panel by McGuire Environmental titled "Option 3: Treatment of Open Finished Reservoir Effluents," March 16, 2004

<sup>2</sup> Portland City Council PM Session March 25, 2009; Video transcript minute 135:09  
<http://www.portlandonline.com/index.cfm?print=1&a=237340&c=51112>



**MYTH:** The City of Portland can request and achieve a variance from the \$100 million Bull Run treatment obligation, but not for the \$400 million reservoir replacement program.

**FACT:** Both the Safe Drinking Water Act and Oregon State law allow a variance from the EPA LT2 reservoir mandate as well as treatment mandates.<sup>3</sup> The Portland Water Bureau has acknowledged this.<sup>4</sup>

**Background:** Legal research conducted for the Portland Water Users Coalition has confirmed that a variance is available from LT2 “treat or cover” mandates for open reservoirs, under both the Safe Drinking Water Act and Oregon law.<sup>5</sup> In his presentation to the Portland City Council March 25, 2009 Portland Water Bureau Administrator David Shaff acknowledged that EPA has the “discretion” to grant a variance from LT2 treat or cover mandates for open reservoirs, but that EPA has refused. This point is now moot, as EPA has delegated LT2 primacy to the State of Oregon. Now that scientific evidence proves the absence of Cryptosporidium in our open reservoirs, the City has strong justification to pursue a reservoir variance with state regulators. The State is able to use its authority under federal and state law to consider a reservoir variance based on the scientific data now available for Portland’s water system, including 17,000 liters of water sampled from Bull Run and our open drinking water reservoirs which detected no Cryptosporidium.

**MYTH:** The EPA is the decision-maker on the City’s treatment and reservoir variance application.

**FACT:** The State of Oregon will decide whether to grant Portland a variance from LT2 reservoir and treatment obligations, or a modification of the City’s current reservoir construction timeline.

**Background:** The State of Oregon has been delegated “primacy” for implementation of the Long-Term 2 Enhanced Surface Water Treatment Rule (LT2) by the EPA as authorized by the Safe Drinking Water Act (SDWA). As such, it is the Oregon Health Authority that the City of Portland Water Bureau will submit its request to for a source water treatment variance. As mentioned earlier, a variance from reservoir mandates is also available under the SDWA and LT2 regulation, and it is within the State’s authority to grant such a variance. But, a reservoir variance is only available if the City requests it, and as of today the Portland Water Bureau has no intention to prepare or submit a variance request from open reservoir treat or cover mandates despite clear scientific evidence now proving an absence of Cryptosporidium in Portland’s open drinking water reservoirs. The Water Bureau has made it clear that they do not plan to seek a variance for the reservoirs. But it is not clear that this is the policy set by the City Council.

**MYTH:** Portland cannot delay the PWB’s planned reservoir projects; the schedule is unalterable.

**FACT:** Portland can delay the reservoir projects, such as Powell Butte II; the City must simply seek a modification to its LT2 compliance schedule and submit a revised timeline to the State of Oregon.

**Background:** There are no specific provisions, either in the SDWA, or in the LT2 Rule, for adjusting an approved schedule, nor are there possible reasons a modification would be disallowed.<sup>6</sup> PWB Administrator David Shaff asserts that the City would need a “technical” justification for requesting a modification to its reservoir construction schedule. However, there is no basis in law or regulation for such claim.<sup>7</sup> In fact, Oregon Drinking Water Program Administrator David Leland confirmed in a radio interview on KBOO 90.7 FM on Tuesday, May 10 that the state could consider a schedule modification, but the City would need to request it first.

<sup>3</sup> See ORS 448.135(2); see also 42 U.S.C. 300g-4(a)(1)(B)

<sup>4</sup> Portland City Council PM Session March 25, 2009; Video transcript minute 49:47—David Shaff: “It’s important to note that EPA has discretion on this. It may, quote may, grant a variance.” [for reservoirs] <http://www.portlandonline.com/index.cfm?print=1&a=237340&c=51112>

<sup>5, 6, 7</sup> Legal opinion prepared by Reed Smith LLP for the Portland Water Users Coalition, May 16, 2011; available at [www.foresttofaucetpdx.blogspot.com](http://www.foresttofaucetpdx.blogspot.com)

Submitted by Floy Jones and Dee White, Friends of the Reservoirs

Water bills have increased by more than 43% over the last 3 years. FOR does not support the proposed 12.9% increase. We do not support spending \$500 million for LT2 design and construction or increases for excessive spending in '07,'08,'09. 40% of the 12.9 % increase is for "deferred rate increases."

FOR supports renegotiating the PWB's \$400 million LT2 open reservoir compliance plan- delaying compliance, removing LT2 design and construction costs from this budget, collecting necessary giardia data in support of applying for the Safe Drinking Water Act open reservoir "treatment technique" variance confirmed as available by three (3) legal opinions, and seeking permanent regulatory relief in the spirit of the ongoing efforts by NYC to permanently retain their Hillview open reservoir. See NYC's March 2011 Executive order regulatory reform comments addressing LT2.

There is no deadline in the EPA LT2 rule for complying with the open reservoir "treat or cover" requirement designed to reduce the level of disease in the community- a non-existent problem. There is no basis in the law for the PWB suggestion there must be a "technical" reason for deferral :

The State Drinking Water Program assumed primacy of the LT2 rule well over a year ago, including supervision of the open reservoir "treatment technique" requirement. NYC's legal team, Foley Hoag, and now the Water Users Coalition's legal council all confirm the applicability of a SDWA variance for the open reservoirs. Our efforts in 2007 assured that Oregon law was in line with the SDWA with regard to a reservoir variance. The AwwaRF 3021 Crypto sampling of 7000 liters at Portland's open reservoirs utilized an improved sampling method. EPA's sampling method fails to distinguish between harmful and harmless Crypto which is a reason why as reported by the Oregonian in January 2011, the costly EPA LT2 rule does not appear to be providing benefit to any community let alone to our Bull Run system.

The Water Bureau's \$400 million reservoir burial plan was brought to Council without any public involvement in defiance of the intent of the 2004 reservoir panel ordinance 36237. Renegotiate the reservoir compliance schedule, apply for a reservoir "treatment technique" variance thru the State and seek permanent relief as NYC is doing.



Regina Merritt / PSR  
testimony to Council  
5.18.2011

## Questions and Answers about Portland's Open Reservoirs

184626

### Do Portland's open reservoirs provide safe drinking water?

Yes. According to Dr. Gary Oxman, Multnomah County Health Officer, we have superb water and a well-designed system. There is no evidence of any environmental, chemical, microbial or bacteriological disease caused by our drinking water system.

[Listen to his assessment here.](#)

### Is Portland required to discontinue use of the open reservoirs at Mt. Tabor and Washington Park?

No. The LT2 rule does not require that Portland discontinue the use of its open reservoirs. It requires "changes to how open finished drinking water reservoirs are utilized, managed and/or operated. The Rule requires that water systems with uncovered finished water reservoirs, like those at Mt. Tabor and Washington Parks, either cover the reservoirs or provide treatment at the outlets of the reservoirs to inactivate *Cryptosporidium*, *Giardia*, and viruses".<sup>1</sup>

A nine-year consultant study of the open reservoirs<sup>2</sup> indicated that "treatment at the outlet" is feasible. Yet, on March 25, 2009 the PWB brought a report to City Council and sought immediate approval for a \$400 million reservoir burial plan to bring the City into compliance with the LT2 Rule. The Bureau stated that they must submit the plan to the EPA that very afternoon. Council was never given opportunity to consider or debate other compliance options such as treatment at the outlet, a variance or variable timeframes for compliance.

### How much will it cost to bury our water?

The PWB reservoir burial plan is estimated to cost \$400 million - and likely will cost several hundred millions more with debt service. Water rates were increased by 43% over the last three years. "Deferred rate increases" account for 40% of the Bureau's requested 13.9% increase for the next fiscal year. The Water Bureau's 5-year financial plan shows rates increasing by 85%. In addition to water rate increases the Bureau plans to continue to increase the base charge for water.

### Would it be cheaper to maintain the open reservoirs than build covered storage?

Yes, we believe it would be less expensive. A consulting firm, Montgomery Watson Harza Global, was hired by the Water Bureau and studied the open reservoirs under a 9-year contract (1995-2004). In a 2001 document<sup>3</sup>, that firm rated the reservoirs as being

<sup>1</sup> City of Portland Official Statement on \$73 million Water Bond document, 2010 p. 23

<sup>2</sup> Montgomery Watson Harza - Open Reservoir Study Tech Memorandum 2.7 - Water Quality Evaluation page 50 November 2001

<sup>3</sup> Montgomery Watson Harza Global - City of Portland Water Bureau Open Reservoir Study Technical Memo 5.7 Facilities Evaluation November 2001

in “good condition” and listed projects (see pp. C1-5 in this link) that, if completed over a 20-year period, would maintain the safe function of reservoirs until **2050** if work started in 2003.

The majority of these projects were completed under four contracts between 2003 and 2011. A \$23 million Slayden Construction open reservoir upgrade contract, which was awarded in 2007 one year after the LT2 rule was finalized, ended in March 2011. The total approximate cost of the four contracts is \$45 million. Ratepayers water bills will reflect these costs over the next 25 years.

We believe a \$400 million (plus debt service) new construction program for replacement of open reservoirs will be much more expensive than low cost alternatives like "treatment at the outlet" or variances available to the City.

**Why isn't Portland pursuing a delay and/or a variance to avoid treating-or-covering the reservoirs?**

This is a question we ask every day. The requirement that drinking water systems “treat or cover” to treat Cryptosporidium, Giardia and viruses is a “treatment technique”. The Safe Drinking Water Act includes a variance provision for “treatment techniques.”<sup>4</sup> Federal rules like LT2 do not trump federal laws such as the Safe Drinking Water Act.

New York City’s legal team confirms the availability of a reservoir variance through the Safe Drinking Water Act.<sup>5</sup> Foley Hoag, the firm that represented Portland in its legal challenge also noted the availability of a “treatment technique” variance for open reservoirs citing Section 1415(a)(3) of the Act. A new legal opinion<sup>6</sup> confirms the availability of a variance. NYC has preserved its right to apply for such a variance through its deferral request. In January 2011, reporter Scott Learn of The Oregonian confirmed that NYC is contemplating seeking a reservoir variance. That is confirmed in their 2011 Water Bond document, as is their intent to request a deferral through 2034.

In 2007, community stakeholders worked with the Oregon state legislature to pass legislation signed into law by Governor Kulongoski. The new legislation brought Oregon law into line with the Safe Drinking Water Act and made available, for the first time, a “clean water variance” for Oregon drinking water systems with extraordinarily high water quality and rigorous protections in place. (Portland, Baker City and Bend were three such cities.) See ORS 448.135(2)

**Could the City of Portland just ignore the LT2 rule?**

No organization has ever suggested ignoring the rule. Securing treatment at

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<sup>4</sup> 42 U.S.C. 300g-4

<sup>5</sup> [Click here for March, 2009 New York City Legal Opinion on LT2 variance](#)

<sup>6</sup> ReedSmith Opinion May 16, 2011



reservoir outlets, a “treatment technique” variance or a “waiver” (either legislative or administrative) are all legitimate means of complying with this rule. And remember: the “treatment at the outlet” alternative was never independently researched and is an alternative that the PWB has never allowed the Portland City Council and the public to consider and debate.

### Can Portland fight the LT2 rule?

The City can fight for a delay and/or alternative methods of compliance. Indeed, the PWB is working to secure a variance for source water treatment but has put little-to-no effort into securing a variance or alternative compliance strategy for the reservoirs.

Though the City’s policy was to pursue a “dual-track” for compliance, the PWB’s efforts with regard to defending our safe, open reservoirs has been astonishingly absent. A comparison with the efforts of New York City to defend their Hillview open reservoir reveals the PWB lack of effort.

Since 2007 the PWB has spent considerable rate-payer dollars in pursuit of a \$400 million reservoir burial “track”. During the same time frame, New York City (NYC) conducted extensive sampling of their Hillview reservoir, collecting data in support of a Safe Drinking Water Act reservoir variance. NYC then submitted the data report as part of a deferral request, preserving the right to apply for a reservoir variance in the future.

The result? NYC has secured a deferral until 2028 and is seeking further extension to 2034. New York is also pursuing other critical avenues to fight unreasonable reservoir requirements.

Specifically, the City of New York is taking advantage of President Obama’s recent invitation to comment on streamlining or elimination of unduly burdensome federal regulations. "The EPA recently began a new retrospective review of our existing regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed, as called for by President Obama in Executive Order 13563(3 pp, 56K, About PDF). The purpose of this review is to make the Agency's regulatory program more effective or less burdensome in achieving its objectives." [EPA website](#)<sup>7</sup>

On March 18, 2011 NYC submitted substantive, detailed comments (see pages 8-10) and very specific objections to LT2 Open Reservoir requirements, unlike the City of Portland. **By late May or early June, we will see the EPA's preliminary plan for periodic retrospective reviews, as well as an initial list of regulations that the agency plans to review first.**

Rochester, New York dismissed their reservoir burial plan in 2010 subsequent to an independent review which demonstrated that installation of UV reactors lowered their costs of LT2 compliance to \$25 million. Their new method of compliance preserves historic open reservoirs set in city parks.

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<sup>7</sup><http://www.epa.gov/improvingregulations/>

See <http://www.cityofrochester.gov/reservoirs/>  
and [http://www.oregonlive.com/environment/index.ssf/2011/03/concerns\\_rise\\_on\\_portlands\\_cos.html](http://www.oregonlive.com/environment/index.ssf/2011/03/concerns_rise_on_portlands_cos.html)

Is there a hard deadline for treating or covering open reservoirs?

There is no deadline in the LT2 Rule for treating or covering reservoirs. There was only a deadline for submission of a plan.

See LT2 Rule (II. Summary of the Final Rule B-3 with details in Section IV.F)

This was re-confirmed by the EPA in a personal correspondence to Stephanie Stewart of the Mt. Tabor Neighborhood Association in an email dated March 19, 2009. It reads:

From: Winiecki.Eric@epamail.epa.gov  
**Sent: Thursday, March 19, 2009 8:41 AM**  
 To: stewartstclair@gmail.com  
 Subject: Fw: LT2 Rule Non-Compliance Penalties

Ms. Stewart,

Public water systems subject to the LT2 Rule uncovered reservoir requirements must have an approved schedule in place by April 1, 2009 for complying with the Rule. For systems that are not in compliance with the requirement on April 1, EPA can issue an administrative order to noncompliers. If a water system violates an administrative order, EPA can assess penalties up to \$37,500 per day of noncompliance. There is no specific deadline for installing reservoir covers... the requirement is to have an approved compliance schedule in place by April 1.

Eric Winiecki  
 Drinking Water Enforcement Coordinator  
 EPA Region 10

(Note: Highlighting is ours)

Deadlines for completion of reservoir work were chosen by the PWB. The process used by the Bureau for determining those deadlines ignored or defied that process established by Council Resolution No. 36237 adopted by City Council on July 28, 2004. The resolution calls for "meaningful public process ... in future actions related to the open reservoirs."

The City of Rochester, New York submitted a plan with a schedule to the EPA and then withdrew and reevaluated it due to community opposition. The EPA allowed the City to re-submit a new schedule/ plan and then approved it. Why can the City of Portland not do the same and re-submit a schedule and/or plan?

New York City (NYC) applied for and secured a delay in reservoir treat-or-cover work. In a September 2009 correspondence between Portland Water Bureau's Ed Campbell and NYC's Deputy Chief of the Environmental Law Division, a Deputy Chief demonstrates that, while moving forward with a deferral, NYC

is keeping open the option of a variance. Portland can and should do the same.

Additionally, the Water Bureau claims that it cannot submit a request for a delay based on anything other than technical issues. This is wrong. The City can request a modification to its timeline for any reason. Importantly, since the State of Oregon now holds primacy over rule implementation, it is the State that would consider the request for a new timeline. The Water Bureau is attempting to argue that since our original timeline--which Portland itself proposed--is now proving hasty, we are simply prisoners of that timeline. It was and still is our timeline, and we can change it. Portland simply needs to ask.

As the State of Oregon is now the decision-maker on this issue, we feel the state will be more sympathetic to Portland's unique circumstances and likely to grant a modification to the compliance timeline, more akin to the longer-term schedule NYC is on.

#### How is Rochester, NY choosing to comply with LT2 rule?

After initially planning to bury, Rochester responded to community opposition to the plan and has now chosen to comply through "treating at the outlet" at a cost of \$9 million, with the total plan to cost \$25 million. Portland's current plan will cost \$400 million and was never adequately studied or presented by the PWB to the public and the Portland City Council for consideration.

While the PWB has dismissed the potential for similar "treatment at the outlet", stating Rochester's system serves fewer people, this fact doesn't contribute to an informed discussion. Rochester's storage reservoirs are larger and what counts here is the amount of water flowing out of the reservoirs. The flow rate determines the cost/size. (Washington Park reservoirs will never take on the full flow of the Bull Run.)

#### Can we anticipate savings if we "push the pause button"?

Considerable savings may be realized if the Portland City Council exercises oversight of the Water Bureau budget. Future project and contract costs, some of which will be presented to City Council in the very near future, must be questioned, delayed and/or adjusted.

Please note that the cost for the Powell Butte II *50 million gallon* project is extremely high (at \$137 million) when compared to Seattle's comparable Maple Leaf *60 million gallon* project (at \$57 million).<sup>8</sup> Citizens would like to know why there is such a huge discrepancy in cost for similarly sized projects. Click here for the [Seattle Times article](#) referencing ratepayer and total costs.

Additionally, considerable savings can be achieved if the City applies for and secures a variance available through the Safe Drinking Water Act. [See legal opinion of the City of New York](#). The City can't secure a variance if it does not apply for one. And, again,

<sup>8</sup> Project Manual Award Volume 1 2009-020.pdf [Seattle document here](#).(44MB)



the City may propose an extended time frame for compliance while reserving the right to seek a variance at a later date. (See above reference to correspondence between Ed Campbell of Water Bureau and NYC Law Department.)

#### What are other benefits of delaying reservoir burial and construction?

Waiting allows science to catch up with policy. Best available science must inform future EPA policy.

Waiting allows more time for scientific data collection, which can be used to support a successful variance application and/or legislation.

Waiting allows the City Council time to consider and implement recommendations from experts in Infectious Disease such as Dr. Thomas Ward, who in his March 8, 2011 letter to Commissioner Leonard states, in part:

"The best way forward in my opinion would be to ask the EPA for an extended compliance time-frame, so as to gather longer term surveillance data on both water sampling quality, and for ongoing epidemiologic data collection..."<sup>9</sup>

Improved data will lead to further acknowledgement of the legitimacy of our variance request by more public health experts and/or legislators.

Waiting allows the EPA and the state to institute a more accurate system of *cryptosporidium* monitoring: The monitoring technique currently allowed by the EPA fails to distinguish between *cryptosporidium* that is non-infectious and infectious, and dead versus alive. **Expert researchers convened by the Water Research Foundation/American Water Works Association are working to fix this before the next round of national water sampling takes place in 2015.** See expert White Paper<sup>10</sup> [here](#)(which includes regulatory schedule). See White Paper [summary here](#).

Waiting allows the City time to benchmark and control our costs relative to other municipalities. When the Water Bureau plans to spend an order of magnitude more than Seattle on a similar project (see Mapleleaf project above), the City of Portland is likely spending well outside the norm at this time.

#### But doesn't the PWB claim that delay will cost rate-payers more money?

The PWB claims that there will be a cumulative larger rate impact with delay but, to the extent that claim is based on inflation, it is false. If all costs are considered in real present value--meaning adjusted for inflation--the costs do not change and any assertion that they

<sup>9</sup> [Letter from Dr. Thomas Ward to Commissioner Randy Leonard March 8, 2011](#)

<sup>10</sup> "Developing a Strategy to Increase the Value of Regulatory Cryptosporidium Monitoring: Cryptosporidium Detection Method Research Needs"

White Paper Based on an Expert Workshop in Golden, Colorado, August 5-6, 2008

Web Report #4178 Water Research Foundation/American Water Works Association

will is conjecture. This was discussed by the City's Small Business Advisory Committee (SBAC) when Bureau staff presented this argument to them. When the SBAC pointed out the argument falls flat if real present value is considered, staff conceded that costs do not actually rise. The SBAC then voted unanimously to support the community letter to City Council requesting that LT2 projects be delayed and/or halted and variances sought.

Delay provides the opportunity for City Council and the public to evaluate alternative and lower cost compliance strategies. There is no deadline in the LT2 rule for complying with the reservoir "treat or cover" requirement. There is nothing in the law or regulation that precludes renegotiation of the compliance schedule or plan.

How would delay affect longer debt term for the PWB and rate-payers?

We don't know but want to. We all should know what the difference in debt service cost would be. The PWB should provide some hard numbers to City Council and the public.

What about the "waiver" people are talking about?

A waiver could be secured through administrative or legislative action. The congressional delegation representing Cordova, Alaska introduced legislation, which did not pass, in 2010. While passage of legislation specific to Portland is challenging, we will never achieve it if the city of Portland does not request it of our congressional delegation. It took years of effort to pass federal legislation specific to Bull Run forest protections but we finally reached our goal.

What is the value of extensive sampling for cryptosporidium recently conducted at Portland's open reservoirs? How does it relate to the requirements of the LT2 rule or a variance for open reservoirs?

In 2008 and 2009 the Portland Water Bureau participated in the American Water Works Association Research Foundation (AwwaRF) Project 3021 "Detection of Infectious *Cryptosporidium* in Water."

The Portland Water Bureau sampled 7000 liters at the outlet of Portland's open reservoirs with **zero** detects of cryptosporidium while utilizing a sampling method superior to that recommended by the EPA.

The EPA's 1623 HV sampling method has been widely criticized by municipalities and national professional associations because the agency's approved sampling method fails to distinguish between harmless and harmful *Cryptosporidium*, dead or alive *Cryptosporidium* and between infectious and noninfectious varieties.

In a 2008 conference presentation AwwaRF 3021 researchers made this statement regarding the current EPA sampling method, "The detection of non-infectious oocysts or oocysts belonging to a species that is not infectious to humans could cause unwarranted

concern for a contaminant that may not be significant public health risk.”

Portland was one of 19 utilities participating in the study and, according to the study researchers, all utilities including Portland already meet the goal of the LT2 rule based on the statistically significant sampling. The goal of the LT2 rule is to reduce the level of disease in the community.

Both the Safe Drinking Water Act and Oregon state law provide for a reservoir “treatment technique” variance. It has long been recommended by community stakeholders that the Portland Water Bureau follow NYC’s lead with regard to pursuing a reservoir variance: collect and submit the AwwaRF 3021 cryptosporidium data (zero detects) along with Giardia and other necessary data to the State as part of a reservoir variance application.

Public health officials agree that there will be no measurable public health benefit from additionally “treating or covering” Portland’s open reservoirs. The State Drinking Water Program now has primacy over the rule but can only consider a reservoir variance application if one is submitted. The City Council should act to ensure that the PWB applies for such a variance.

**What did the City of Portland's citizen reservoir panel recommend regarding Portland's open reservoirs?**

Though the LT2 draft rule released in 2003 included a mitigation option for open reservoirs, the PWB supported reservoir burial.<sup>11</sup> In 2004, a city-selected 13-member reservoir panel, led by EPA’s LT2 Federal Advisory Committee consultant Mike McGuire, examined water quality, age and condition, security, and the historical significance of Portland’s open reservoirs.

The committee found Portland’s water quality to be good. The majority found no water quality, age or condition, security or other reason to justify costs associated with additionally treating or covering Portland’s open reservoirs. The majority also supported several mitigation measures.

As a result, through Council Resolution 36237, the City Council committed to retention of Portland’s open reservoirs, supported a mitigation option and authorized addressing work to begin on deferred maintenance and improved security, projects then estimated to cost \$4,433,000. This work began at Mt. Tabor in 2007, one year after the LT2 rule was finalized. \$45 million in deferred maintenance and improved security projects were just completed in March, 2011.

The Mt. Tabor reservoir burial contract was terminated.

The panel ordinance called for further stakeholder involvement if the City was unable to meet the EPA’s open reservoir mitigation requirements. The ordinance further states

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<sup>11</sup> MWH Global 2003 Mt.Tabor Burial Design and Construction Oversight contract



that there should be a “meaningful public process ... in future actions related to the open reservoirs.” The PWB current reservoir burial plan defies the intent of the Portland City Council.

#### What did the Portland Utility Review Board (PURB) recommend to City Council about the reservoirs?

The composition of the PURB changes over time, as has its interest in advising the City Council on the open reservoir issue. The PURB that invested the most time, and conducted an independent study (and its Chair served on the City’s 2004 IRP [Reservoir Panel]), supported retention of Portland’s historic open reservoirs. Some members of last year’s PURB supported the Water Bureau plan. The current PURB has never taken up the issue. However, the Water Committee of the current PURB submitted strong recommendations to City Council (click to read) in March, 2011: the Water Bureau should improve transparency and accountability on all Capital Improvement Projects (CIP).<sup>12</sup> New reservoir construction is included in the CIP.

#### What does Multnomah County Health Department (MCHD) recommend about open reservoirs?

Multnomah County supported taking open reservoirs off line years ago. Dr. Gary Oxman, public health officer for MCHD, in March 2010 spoke publicly about the lack of science to inform the issue. In an interview aired May 10, 2011, Dr. Oxman predicts that there will be no decrease in disease due to reservoir covering because there is no disease attributable to our current reservoir system now. (Click for audio) He supports an “open and honest” public debate.

#### What does a top specialist in Infectious Disease say about our open reservoirs?

According to Dr. Thomas Ward, an Infectious Disease expert at Oregon Health Science University, we currently have a safe water delivery system.<sup>13</sup> He states in a March 8, 2011 to Commissioner Leonard:

“Specifically, it is my hope that the Portland Water Bureau, in cooperation with the Oregon State Public Health Division, requests an extended compliance time-frame from the EPA, along with a consideration for eventual long-term variance...

...Science, guided by carefully collected surveillance information, should determine whether the Bull Run water source and in-town reservoirs in the future require additional treatment measures.”

<sup>12</sup> PURB Water Committee - PWB FY’12 Budget Recommendations

<sup>13</sup> Letter from Dr. Thomas Ward to Commissioner Randy Leonard March 8, 2011 (click to read)

Mayor Adams and Commissioners Saltzman, Fritz and Fish  
1221 SW 4<sup>th</sup> Avenue  
Portland, Oregon 97204

March 10, 2011 [revised signatories list as of May 16, 2011]

Dear Commissioners,

We acknowledge and thank you for your efforts to pursue a regulatory variance from Long-Term 2 Enhanced Surface Water Treatment Rule (LT2) water treatment mandates. We all know that this is a ridiculous one-size-fits-all mandate that fails to take into account the protected, pristine nature of the Bull Run watershed and the purity of our source water, as supported by newly available scientific evidence which conclusively proves that *Cryptosporidium* does not exist in Bull Run water. We strongly support aggressive efforts to pursue the LT2 Bull Run treatment waiver. We stand ready to assist you in any way we can.

During recent years, extensive and expensive tests performed in Bull Run and at our in-town reservoirs demonstrated scientifically what we have all suspected for years, the lack of *Cryptosporidium* in our water. We also now know that costs for meeting current Environmental Protection Agency (EPA) compliance timelines for construction of new water storage and treatment are extremely high and come at a time when Portland ratepayers are particularly economically vulnerable. As stated multiple times by multiple public health officials, there will be no measurable public health benefit derived from expensive new treatment and storage currently required by the EPA. We can now prove it, and given that proof, we are asking for you to change the City's policy on the LT2 projects.

### **New Developments**

In recent months, we've learned of significant new developments in the approach of EPA leadership to Portland's compliance with the LT2 rule.<sup>1</sup> On February 2, Lisa Jackson made a public statement before a congressional committee that indicates the EPA will not oppose an Oregon state decision should the state decide to grant Portland a "clean water" variance. While there are no guarantees of permanent regulatory relief, we welcome this as a big step forward and are grateful for it.

As you may recall, several of the undersigned organizations participated with the City of Portland in a successful coalition effort to establish a "clean water" variance at the state level, one which anticipated problems associated with a one-size-fits-all rule and could benefit Portland and other Oregon municipalities with protected watersheds, including Baker City. We understood then and understand now that this route can be used to secure compliance with both elements of the LT2 rule (source water treatment and treatment/coverage of finished water reservoirs).

Given the new thinking at the EPA plus the recent publication of the 2010 American Water

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<sup>1</sup> See: [youtube.com/watch?v=HREZBgrZjsE](http://youtube.com/watch?v=HREZBgrZjsE)

Works Association Research Foundation study (Project 3021) which demonstrated that there is no *Cryptosporidium* present in our finished drinking water reservoirs, we believe that now is the best time to pursue the same compliance strategy for both elements of the LT2 rule. We strongly encourage you to revisit the City's strategy as soon as possible.

### **Construction Schedule**

Concurrently, we ask that you reconsider the Water Bureau's construction schedule for the development of covered water storage. Put forward in 2009, the schedule for reservoir burial appeared to be hurriedly developed, submitted to the City Council without time for significant review/ comment and then immediately submitted to the EPA to meet an EPA deadline to simply have a timeline in place. The schedule failed to adequately consider how Portland's economy might be performing in 2011 or how residents are coping with stagnant incomes but rising utility costs. Indeed, since then, many small businesses have closed and significant economic challenges to residents and businesses remain.

While the City took 20 years to build the Big Pipe, the Water Bureau plans to complete the majority of \$400 million in storage projects in the next five years. This timeline front-loads water infrastructure debt and exacerbates rate increases. The Water Bureau's debt will balloon from \$399 million in FY 2011 to \$849 million in FY '16, and service on that debt will grow from \$28.3 million to \$70.4 million annually, over that same time period.<sup>2</sup>

Given the significant rate increases forecast for the next five years, on top of a nearly 150% increase in rates over the last ten years, there is ample justification on economic grounds alone for a revision to this construction schedule which would extend these projects over a 15 to 20 year horizon. According to the Oregonian (March 6, 2011), "New York City, facing a \$1.6 billion bill to cover a huge reservoir, won a reprieve until 2028 and is trying to delay it to 2034. It's 'contemplating' applying for a variance from the EPA rule forcing the cover, a spokesman says."

While the physical infrastructure of New York's water supply system differs from that of Portland, and the reason for the delay differs, the most important fact is that Portland has a very reasonable justification for delay. City and regional ratepayers are experiencing a long and terrible recession. On top of that, we've assumed obligations (through implementation of the Bull Run Habitat Conservation Plan) to pay \$33 million to modify our intake system in the coming fiscal year and are incurring additional costs of \$137 million to build new storage at Powell Butte. Easing the burden on Portland's struggling residents and businesses is a reasonable justification for seeking an extension of the timeline the City offered the EPA in 2009. This is within the City's power to do, and we see no regulatory, legal or political reasons why this should not be done.

### **Questions about treatment techniques and treatment at the outlets**

There is strong evidence that Portland's \$500 million program for treatment and new storage may be much more involved and costly than is necessary to achieve full LT2 compliance.

<sup>2</sup> Figures from the Portland Utility Review Board Water Bureau Committee - Proposed Portland Water Bureau FY'12 Budget Recommendations



We are familiar with the path Rochester, New York is pursuing to comply with the LT2 “treat or cover” mandates. Rochester has elected to treat their drinking water at the outlets of their open reservoirs at a fraction of the cost of Portland’s LT2 compliance program. We believe there may be insufficient analysis of this “treatment at the outlet” compliance option or alternative treatment techniques versus the current alternative being pursued—treatment at Bull Run and development of new storage tanks at Powell Butte, Kelly Butte and Washington Park.

The Water Bureau asserts that they have studied treatment at the reservoirs and at the other points (other than Mt. Tabor) where water enters the distribution system, and that analysis determined this alternative to be “not feasible,” according to David Shaff in the February 17th meeting of the Portland Utility Review Board. According to Shaff, “Our assessment was it wasn’t feasible for our system.” Shaff went on to say, “The treatment plant you’d need to build just at Tabor would be bigger than what we’re building at Bull Run.”

This assertion raises many questions. First, what is the assertion based on? Has the Water Bureau conducted a study of treatment at the outlets? Second, if a study was performed, when was it completed or published? Third, what were the estimated costs for Mt. Tabor and the other points where water enters the distribution system? Fourth, have the results of this analysis been compared to the current plan for treatment within the Bull Run watershed and buried storage for in-town finished water? Finally, was this analysis of treatment at the outlets shared with the City Council and did you all have an opportunity to discuss the tradeoffs between this and the current compliance strategy, which may be separated by hundreds of millions of dollars in cost? Fundamentally, the question is, are we disregarding a less costly LT2 compliance program, and if so, why?

Now, with new EPA information in hand, we submit the following recommendations for your timely consideration. Without strong and immediate action on your part, steep water rate increases will likely force families to leave their homes and force businesses to leave Portland, increasing the financial burden on remaining ratepayers while degrading our quality of life.

We ask you to please:

- 1) Direct the Water Bureau to work with the federal congressional delegation to secure from the EPA immediate postponement or deferral of both LT2 compliance timelines.
- 2) Revise and expand the timeline for new water storage construction and direct the Water Bureau to cease all ground-breaking construction activities related to LT2 at least during the next fiscal year.
- 3) Modify the Water Bureau budget, decreasing the investment in LT2-related capital improvement projects next year and significantly decreasing the proposed 2011-2012 water rate increase, now projected to be 13.9%.
- 4) Support submittal of a variance application for in-town reservoirs, based on the water quality findings of the 2010 American Water Works Association Research Foundation study (Project 3021). Request that the Drinking Water Program of the Oregon Health Authority, having assumed primacy for implementation of the LT2 rule, grant a “clean water variance” for Bull Run treatment and treatment of finished water in protected in-town reservoirs. Based on the

City of New York's legal opinion and other research, a variance for open reservoirs from LT2 covering mandates is authorized under the Safe Drinking Water Act. It can be granted by the State as it has elected primacy over the same. It is within Portland's right to pursue such a variance. Should such an application be refused, the EPA and/or the State would have to provide a basis for that decision, and that justification would be subject to legal challenge which Portland would prevail on.

5) Engage our federal congressional delegation in long-term work to secure permanent regulatory compliance through a legislative remedy. Such a remedy is now more likely given the new 112<sup>th</sup> Congress and continuing economic challenges faced by the nation as a whole.

Today we have a historic opportunity to restore rationality to public health decisions, and responsibility to our budgetary process. Thank you for your efforts thus far and thank you in advance for your further work.

Sincerely,

Regna Merritt and Theodora Tsongas, PhD, MS  
for Oregon Physicians for Social Responsibility

Kent Craford for Portland Water Users Coalition  
Members:

ALSCO, American Linen Division  
American Property Management  
Ashland Hercules Water Technologies  
The Benson Hotel  
Building Owners & Managers Assn.  
Darigold  
Harsch Investment  
The Hilton Portland and Executive Tower  
New System Laundry  
Portland Bottling  
SAPA Inc.  
Siltronic Corp.  
Sunshine Dairy Foods  
Vigor Industrial  
Widmer Brothers Brewing

John Watt for Teamsters Local #305

Jon Isaacs for Oregon League of Conservation  
Voters (OLCV)

Sandra McDonough, Portland Business Alliance

Meryl Redisch for Audubon Society of Portland

Scott Shlaes for Oregon Wild

Andrew Frazier for Portland Small Business  
Advisory Council

Jason Williams for Taxpayer Assn. of Oregon

TJ Reilly for Oregon Small Business Association

Floy Jones for Friends of the Reservoirs

Christine Lewis for Oregon Chapter Sierra Club -  
Columbia Group

Julia DeGraw for Food & Water Watch

Franklin Gearhart for Citizens Interested in Bull  
Run, Inc.

Scott Fernandez for Citizens for Portland's Water

David Delk for Alliance for Democracy

Alex P. Brown for BARK

Rod Daggett and Maxine Wilkins for Eastside  
Democratic Club

Nancy Newell on behalf of Oregon Green Energy  
Coalition

Mark Wheeler for Roots Realty

Ron Carley on behalf of Coalition for a Liveable  
Future.

Alexander Mace on behalf of the Old Town  
Chinatown Neighborhood Association

Brian Hoop on behalf of Linnton Neighborhood  
Association

Eric Rimkeit on behalf of Marshall Park Estates  
Homeowners Association

Stephanie Stewart for Mt. Tabor Neighborhood  
Association - Land Use Committee

Jonah Paisner for South Tabor Neighborhood Association

Bruce Treat for Mount Tabor Neighborhood Association

Anne Dufay for SE Uplift Neighborhood Coalition for:

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

Jeffrey Boly for Arlington Neighborhood

Association

Peter Stark for Hillside Neighborhood

Association

cc: Commissioner Leonard

The Oregonian



**Comments for the record**  
**Agenda Item 466 -- May 18, 2011**

On March 25<sup>th</sup> of 2009, the Portland Water Bureau presented this Council with a policy statement regarding the LT2 quagmire. It was affirmed with a vote that Water Bureau was to simultaneously pursue three legal compliance tracks, one seeking legislative relief, one seeking regulatory relief, and one which would have us unnecessarily spend and build our way into compliance. At that hearing, the community and all of the Commissioners clearly supported the first two tracks pursuing legislative and regulatory options.

Commissioners and Water Bureau staff openly recognized that these two tracks would need **time** to produce results.

Yet when water bureau staff left this vote here that day, they filed with the EPA a workplan that required them to launch expensive construction projects within days. In direct contradiction to the stated policy, water bureau had developed a construction timeline for our reservoirs that would dig us in deep long before any other form of legal compliance had a chance to materialize.

Since 2009, Water Bureau has invested very little, if anything at all, in the first two tracks supported by council. But they've spent on construction. Just last month at the invitation of the EPA, PWB had the chance to comment on specific regulatory flaws found in LT2, and they submitted just a few disjointed paragraphs in which only 3 sentences were dedicated to LT2. Compare that with NYC's response to this invitation – they submitted a 23 page argument with 33 pages in supporting data about their Hillview Reservoir. That's a commitment to three tracks.

Today we are asking you to:

1. Pause water bureau spending on all LT2 related projects (including Powell Butte 2, Kelly Butte, and the Tabor Disconnect). Because we know that unless you stop their efforts on the construction track, they won't dedicate themselves to any other efforts.
2. Ask for a delay in the timeline to build reservoir projects ... in a radio interview last week Dave Leland with the state Drinking Water Program confirmed that his organization has authority over LT2 issues and that that authority includes the ability to grant a deadline extension if asked.
3. Investigate legal alternatives for compliance.

Stephanie Stewart  
Mt. Tabor Neighborhood Association Land Use Co-Chair  
[stewartstclair@gmail.com](mailto:stewartstclair@gmail.com)



## Portland City Council

May 18, 2011

My name is Dan Bourbonais and I am the General Manager of AlSCO – American Linen Division. We have been operating an Industrial Laundry in the City for over sixty years and employ over 200 people and service over 4,000 customers in this marketplace. I am here to speak to you today about the decision making process of LT2. As a business that our main resource is the use of water and thus the cost of that utilization, I find it inconceivable that we authorize the spending of nearly one half a billion dollars of ratepayers money when we now know through factual scientific evidence that the

Cryptosporidium organism does not exist in our protected and prideful Bull Run water supply and delivery system. In fact when I first came to this City nearly 30 years ago there was a movement to bottle and sell our pure water nationally. How the times have changed. We currently hold the elite status of being the second highest cost city in the nation for water and sewer rates and of the 60 branches my company operates in the U.S. we here in Portland have the highest costs in water and sewer even though we recycle our water. Over my thirty years of running this business our costs have dramatically increased year after year, mostly due to the “Big Pipe” and now the projected 86% increase in five

years as a result of implementing what you are considering today. I believe the action of beginning this construction would have a damping effect on 4,000 customers we service in this City to the point that it will be unaffordable and employment will be affected. We now have a legal opinion that you can delay the unnecessary reservoir project, you can obtain a variance from the treat or cover mandate, and that the decision maker on either of these is the State of Oregon. I ask that you consider the citizens and the businesses of this City whom are all ratepayers and do the right thing.

Thank you for allowing me this time to speak to you.



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**Portland City Council:  
Vote NO on water rate increases;**

184626

**Call for a time-out on new LT2 construction projects;**

**Submit a new plan/schedule for reservoirs to the  
State; and**

**\* Apply to the State of Oregon for variances for Bull Run  
and reservoirs.**

*Garet Anderson  
1723 SE 52nd Ave.  
Portland*

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**Portland City Council:  
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*MARCUS ANDERSON  
1723 SW 52nd Ave  
PORTLAND, OR 97215*



184626

**Siltronic Corporation**  
7200 NW Front Avenue  
Portland OR 97210-3676, USA  
Tel. 503-243-2020  
Fax 503-219-7539

Portland City Council – Public Hearing  
May 18, 2011  
Water Rate Increases Issue

Good morning Mayor Adams and City Councilors. My name is Tom Fahey, Director of Human Resources at Siltronic Corporation.

As you know Siltronic has been in operation in NW Portland for the past 31 years. We currently employ 850 at our Portland plant and make silicon wafers for the top 25 global manufacturers of semiconductors.

As the largest high tech company within the City, we are of course one of the primary traded sector employers which the City has focused its economic development efforts on through the PDC.

All traded sector companies have the challenge of competing in markets beyond Portland. Commodity products like ours are always extremely sensitive to price fluctuations, so we continually strive to reduce our fixed costs to compete. That is why we have reduced our water usage by 24% since 1999. Yet despite this significant conservation effort our net water costs have gone up 123% during that same period due to rapidly escalating water rates, which increased 195%. We now pay \$2M/yr. for incoming water, and another \$2M/yr. for sewer costs.

Now the City wants us to pay \$3.4M/yr for incoming water by 2016. To this we have one basic question: How is this helping us to compete and create jobs? The water increases proposed for 2011 alone are equal to 5 family wage production jobs, and 34 jobs by 2016. We are talking here about long term positions for Portlanders, not short term construction jobs that often go to out-of-state based workers.

We request that the City fulfill its role in helping traded sector companies compete. Keep your costs to us predictable and affordable. There is a way to keep costs stable and flat, not constantly increasing. The variance for covering the reservoirs is possible. Please make the request to the State who now can decide the issue. Please reject unnecessary capital costs that expand the burden of utility services on ratepayers.

T. Fahey  
5-18-11

Testimony before the Portland City Council—May 18, 2011

Theodora Tsongas, PhD, MS

Oregon Physicians for Social Responsibility

Thank you for the opportunity to provide comments today. I am an environmental health scientist and epidemiologist with 35 years experience in environmental public health. As a Health Scientist/Epidemiologist at the Office of Drinking Water, US Environmental Protection Agency, I reviewed data on health effects to develop drinking water standards under the Safe Drinking Water Act. My earliest work at EPA was reviewing and evaluating the data on the health effects of trihalomethanes, arsenic, and various chlorinated hydrocarbons in drinking water. I have conducted epidemiologic research studies of health risks resulting from exposure to contaminants in community drinking water supplies, as well as those in ambient water, air, and soils. At the Colorado Department of Health I conducted health risk assessments for environmental contaminants emanating from hazardous waste sites and developed the scientific basis for groundwater quality standards for the State of Colorado. At the Oregon Public Health Division, I conducted surveillance of hazardous materials releases in the state to identify ways to prevent releases and resultant injuries and deaths. I have taught courses in environmental health at three universities, most recently in the Master of Public Health Program at Portland State University's School of Community Health. I am a member of the Environmental Health Committee of Oregon Physicians for Social Responsibility (PSR) and represent PSR today.

My testimony today concerns the actions proposed by the Portland Water Bureau and the costs associated with those actions. The actions are proposed for compliance with the Long Term Enhanced Water Treatment 2 (LT2) regulation under the Safe Drinking Water Act. The actions being proposed by the Portland Water Bureau will do little to prevent illness, that is, no public health benefit will result from these actions. However, the costs incurred are considerable, with no benefit, and so could result in a negative health impact on current and future water users, the ratepayers, who would pay for these costs.

When a city that has a policy for actions, purchases and expenditures that embodies the Precautionary Principle, as does Portland (*Toxics Reduction Strategy. A plan for minimizing use of toxic substances of concern by using the Precautionary Principle*, April 25, 2006), one would like to assume that this forward thinking philosophy of government would be extended to more than toxics reduction. Under the precautionary principle, before taking action to prevent irreversible effects, it is necessary to also consider the adverse effects of those actions and to consider viable alternatives. The precautionary principle has been implemented in Oregon for many years, since the Bull Run Watershed was set aside as a protected water source. Thus, we have already taken the best action to sustainably **prevent** contamination of Portland's drinking water supply. It would be foolhardy to take actions that might threaten that protected status.

As a public health professional, I have long considered health and environmental regulations to be necessary to protect public health. In my work at the EPA, I learned that

regulations had to be carefully crafted to take into consideration vast differences in water systems across the US. The **variance** has been built into the regulatory system for compliance with the Safe Drinking Water Act for the very reason that **One Size Does Not Fit All**. The LT2 regulation appears to be trying to do just that, fit all water systems, without considering individual watershed or water system health.

As stated multiple times by scientists and public health officials, there will be no measurable public health benefit derived from the expensive treatment and storage currently required by EPA under the LT2 regulation. Extensive and expensive tests performed in Bull Run and at our in-town reservoirs have demonstrated scientifically the lack of cryptosporidium in our water. The costs for meeting current Environmental Protection Agency compliance timelines for construction of new water storage and treatment are extremely high and come at a time when Portland ratepayers are particularly vulnerable.

Therefore, we are asking that you revisit the city's compliance strategy and change the policy on the LT2 projects.

We ask that you reconsider the Water Bureau's construction schedule for development of covered water storage. The schedule for reservoir burial put forward in 2009 appears to have been submitted to the City Council without time for significant review or comment, and hurriedly submitted to EPA. The timeline submitted to the EPA frontloads water infrastructure debt and exacerbates rate increases that are already burdensome.

Other cities have won reprieves and delays. Easing the burden on Portland's struggling residents and businesses is a reasonable justification for seeking extension of the timeline the City offered in 2009. This is within the City's power to do and we see no reason why this should not be done.

There is evidence that Portland's \$500 million program for treatment and new storage may be much more involved and costly than is necessary to achieve full LT2 compliance. We believe that there has been insufficient analysis of the option to treat at the outlet of the reservoirs, as has been done in Rochester, New York, where that city has elected to treat at the outlets of the open reservoirs at a fraction of the cost of Portland's LT2 compliance program. The Water Bureau's assertion that this is not feasible was not supported by a description of the evidence or reasoning behind this conclusion. Are we disregarding a less costly LT2 compliance program? If so, why? Ratepayers have a right to know why they are being asked to absorb these extraordinary costs.

It is apparent that less costly alternatives have not been considered. Moreover, we seem to be forgetting that we are already in compliance because we have an unbelievably valuable resource: really clean water! It is also apparent that the true costs of the Water Bureau's proposed compliance plan have not been considered. Those are the costs to the people of Portland, of trying to live in an unsustainable system, with loss of jobs, homes, businesses, equity, community diversity, loss of trust in government, and loss of the human right to safe drinking water.



On a personal note, as a retired public servant, and one of the 80,000 Portland residents who are on fixed income, I understand the true costs. The slightest increase in living costs affects our ability to pay bills and to live here.

We therefore ask that you

- 1) Vote NO on water rate increases;
- 2) Call for a time-out on new LT2 construction projects;
- 3) Submit a new plan/schedule; and
- 4) Apply to the State of Oregon for variances for Bull Run and reservoirs.

Thank you for this opportunity to provide input into these decisions.

**Subject: Testimony to the Portland City Council on city controlled utility rates, May 18, 2011**

If clean water is a basic right, then it should be "FREE" to all households. If providing sewer services is a basic health issue, it too should be provided "FREE" to all households. There was a time when the latter – sewer services – were free. The first enactment of a charge in Portland was fifty cents a month - and it was supposed to be only temporary. So much for integrity!

I agree with those people and groups who say enough is enough. The City Council has been playing a shell game with water and sewer rates for years - skimming off dollars for their own special interest agendas. When measure five was voted in, along came the costly water runoff fees – in essence a rain tax that is now being exploited for invasive species removal and land acquisition. The expensive big pipe project was billed as the "fix all" to control the overflow into the Willamette River. But it didn't end there. Now ratepayer dollars are being looted and commingled with other raided taxpayer dollars to fund bioswales that aid bicycle infrastructure for the freeloading pedal pushers who should be paying their own way. Water users are being fleeced with their ratepayer dollars being used for water houses, neon roses, a Rose Festival building renovation, a sign patrol and likely a lot more less than transparent pet projects. As required by city code, all these ratepayer dollars should only be used for the delivery of water and sewer services, not a slush fund for somebody's latest fixation.

Additionally, last fall the City Council approved spending millions of dollars for new dump trucks and non-essential vehicle purchases, and then sucker hosed voters into passing a bond measure to pay for replacement fire equipment. Some of those so-called worn out but useful older trucks are now being used by private contractors to build the taxpayer subsidized and less than self sustainable Eastside Streetcar. Add to that the proposed Portland Parks Bond measure along with paying more in property taxes for schools, all of which increases the cost of housing making any talk from City Council about affordable housing for the working class just another shaggy dog story.

In that much of what the City Council does today is all about dictating to the people and the implementation of social engineering policies and fees; my suggestion to ratepayers is to do the same in reverse. First, don't rinse out any recyclables. Any responsible recycling business plan should be financially self-sustainable and not cost patrons anything. Second, use disposable dishes. The excessive city controlled garbage rates are the same whether your garbage can is full, half full or nearly empty. So the only way to get your money's worth is to have a full can.

In closing, it is past due time for the public to hold the City Council accountable for "cooking the books" and the misappropriation of ratepayer dollars. The City needs to roll back rates and rebate ratepayers for improper spending practices such as the wily branded "gray to green" money laundering schemes; then do everything possible to challenge the Federal Government about any mandates to build a filtration system and replace the exquisite and historical open reservoirs at Mt. Tabor and in Washington Park.

Respectfully,

Terry Parker



**WRITTEN TESTIMONY TO THE PORTLAND CITY COUNCIL REGARDING THE  
WATER BUREAU'S BUDGET FOR 2011-12 AND BEYOND**

By: **Darvel Lloyd**, 54 SE 74<sup>th</sup> Ave., Portland, OR 97215; 503-251-2784; darvlloyd@gmail.com  
Date submitted: Wednesday, May 18, 2011, 10:15 – 10:45 a.m.  
Place: Portland City Council Chambers

Honorable Mayor Adams and City Commissioners Fish, Fritz, Leonard, and Saltzman:

Thank you for accepting my written remarks about the Water Bureau's budget. I represent a number of Portland area friends, including low-income seniors and people with disabilities in southeast Portland who are concerned about the projected 85% increase in water and sewer bills over the next 5 years.

I can barely afford my water/sewer bills (now averaging \$685/year), but the excellent drinking water, adequate garden irrigation water, and a vastly improved city sewer system is well worth my cost. However, with my meager, fixed income, I may not be able to afford an increase to over \$1260/year by the year 2016. The bureau's low-income discounts/vouchers program could be overwhelmed by then.

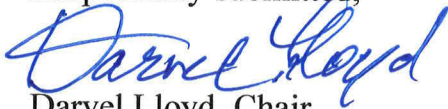
We applaud your good work on many water and sewer improvements over the years, such as the hugely ambitious “big pipe” project and continual maintenance projects at the Mt. Tabor and Washington park reservoirs. We approve and appreciate your efforts to avoid having to build a totally unnecessary UV filtration plant at the Bull Run reservoir. Many of us are thankful for the deferral of rate increases between 2006 and 2008.

I have learned from the Friends of the Reservoirs and other advocacy groups made up of intelligent, informed individuals that: 1) the Oregon State D.E.Q.'s Drinking Water Program has jurisdiction over the U.S. Environmental Protection Agency's “LT2” rule and therefore has the authority to grant a variance (or at least a deadline extension); 2) the E.P.A. itself did not set any deadline for our open reservoirs to be covered; 3) the decommissioning and disconnecting of our existing, open reservoirs is unnecessary for a variety of scientifically-sound reasons; and 4) these actions will result in a colossal waste of public money, financial hardships, and possibly even more environmental hazards for the people of the Portland metropolitan area.

You must join forces with us seniors, the Portland Water Users Coalition, the Friends of Safe Drinking Water, Oregon Physicians for Social Responsibility, the Friends of the Reservoirs, the Friends of Mt. Tabor Park, The Mt. Tabor Neighborhood Assoc., the Sierra Club, Oregon Wild, etc.! And don't forget the 2004 recommendations of The Mt. Tabor Reservoirs Independent Review Panel! **YOU STILL HAVE TIME TO “HIT THE PAUSE BUTTON”:**

- 1) Stop approving LT2-related construction spending;**
- 2) Direct the Water Bureau to request a deadline extension for reservoir projects;**
- 3) Investigate legal compliance alternatives.**

Respectfully submitted,



Darvel Lloyd, Chair

SE District Senior Advisory Council, Impact Northwest, Inc.  
4610 S.E. Belmont St., Portland, OR 97215 503-988-3660

## WAIVER- PERMANENT SOLUTION

1. Community calls for a Congressional/EPA Waiver exempting Portland from unnecessary EPA drinking water regulation
2. Community calls for STOP all Portland Water Bureau actions related to EPA LT2 regulation:
  - STOP 85% rate increases over next 5 years
  - Keep open reservoirs in use to provide public health benefits that will be lost with covered storage tanks
  - No added treatment to our Bull Run drinking water

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**Our Community must insist that our Portland City Council work with our Congressional Delegation for a Waiver from the EPA LT2 rule. Commissioner Leonard and Council need to STOP the spending and creating this Billion dollar debt for a public health problem that does not exist.**

**City Hall: 1221 SW 4<sup>th</sup> Avenue, Portland, OR 97204**

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# Open reservoirs provide safer, healthier water

**What the Portland Water Bureau won't tell you.** EPA has written a scientifically flawed drinking water regulation and wants removal of our open reservoirs to add covered storage tanks in our drinking water system. Water rate hikes +85% over the next 5 years can be expected. **All for a public health problem that does not exist.** Please write and call Senator Merkley, Senator Wyden, and Congressman Blumenauer asking for a Congressional / EPA Administrative Waiver exempting Portland from the EPA LT2 drinking water regulation. A Waiver is an agreement between Portland and Congress / EPA exempting us because the factors for the regulation do not pose a public health threat in our drinking water system. With Congressional help the Waiver can be a simple, enduring, and cost effective solution. With a strong community voice, we can have a Waiver. Open reservoirs have provided healthy and safe drinking water for over 100 years. Let's keep it that way.

## Open reservoir public health benefits

- ✓ Carcinogenic gases such as Radon and chloroform vent safely into atmosphere
- ✓ No deaths from microorganisms or chemicals
- ✓ Oxygenation provides natural disinfection process and cleaner, fresher tasting drinking water
- ✓ Sunlight inhibits nitrification and toxins
- ✓ Future costs - minimal for maintenance

## Public health problems with covered storage tanks

- ✓ Carcinogenic gases unable to vent end up in homes, schools, and workplaces
- ✓ Deaths from Salmonella, unvented toxic gases
- ✓ Rubberized asphalt coatings contain carcinogens from petrochemicals that may leach into water
- ✓ Covering encourages nitrification and toxins
- ✓ Future costs - \$800 million with debt

**City Council hearing on approving \$500 million for underground reservoirs Wednesday, May 18, 9 a.m.**

Friends of Safe Drinking Water © 2011

May 18, 2011

184626

Portland City Council  
City Hall  
Portland, OR 97204

Re: Increasing water rates to take our open reservoirs offline

Dear City Commissioners and Mayor Adams:

I moved to Portland in 2001. In 2002 I and my family truly became part of Portland by buying a home. In the nine years since we committed to becoming Portland citizens, I have observed the following:

- The price of a gallon of gas has increased from about \$1.60 to \$3.90, a 144% increase.
- The price of a cup of coffee has gone from \$1.00 to anywhere from \$2.00 to \$3.00, a 100-200% increase.
- A loaf of bread in 2002 could be had for \$2.00. Now it costs \$4.89, an increase of 145%.
- Our water bill went from an average of \$115 per quarter to an average of \$243 per quarter, an increase of 111%.
- My salary went from \$25/hr to \$30.70/hr in the same time period, an increase of 22%.  
Of course, now that I have been cut back to ¾ time, my income is actually only 92% of what it was in 2002.

If you raise my water rates so that I am then paying \$450/quarter instead of \$243/quarter, that is \$1800/year that I am paying for basic water service (we do not even water our lawn) and \$828/year less that I am able to use toward supporting local businesses.

I do not support the water rate increases, because I believe that the Water Bureau has willfully proceeded down an accelerated path of compliance with LT2 and refuses to consider options that would help out Portland's citizens in this time of economic distress, namely negotiating a delay in the date for compliance as did New York City or asking for a variance, which seems entirely possible, according to Lisa Jackson, head of the EPA. I believe that burying our water underground in a vault is unnecessary and will cause more health problems than it will prevent. Humans are meant to drink living water. This leads me to believe that the Water Bureau is receiving some sort of incentive for pushing a \$500 million contract through without earnestly attempting other options.

Please do not approve this water rate increase, which will contribute to the tailspin our local economy is in. Direct the Water Bureau to stop these construction contracts and pursue a variance or a delayed compliance date which will give the city time to examine other options.

Sincerely,



Christine Yun

Cc: Senator Jeff Merkeley

184626

**Moore-Love, Karla**

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**From:** bonela@earthlink.net  
**Sent:** Wednesday, March 30, 2011 6:22 PM  
**To:** Moore-Love, Karla  
**Subject:** Water rates  
To the City Council

Please keep water rates from going up. If there are hidden charges, I agree we need to see all itemized charges on our bill. We are tired of paying for these bicycle lanes that are mostly vacant. No more bike lanes.

Lastly, the board who raises these rates need to visit reality. People are out of jobs and those that have them are either having their wages frozen or get no more than 3% increase.

We can't afford these rate increases, whether they be water, electricity or other utility charges.

Please listen to your voters.

Thank you for listening.  
Elaine

4/12/2011