

LT2 RULE COMPLIANCE SCHEDULE EXTENSION

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

	NAME (print)	ADDRESS AND ZIP CODE	Email
1	✓ Regna Merritt		
2	✓ Floy Jones Theodora Jones	97215	
3	Nancy Matela	97215 Portland 97211	nmatela@pacifiert.com
4	✓ Scott Fernandez Scotty Nelson	3917NE Skidmore St 97211 Portland	cger2@lumen.l.com
5	✓ Olivia Schmidt	12065 SE 10th 97212 12065 SE 10th SE Outfield Rd	olivia@hark-art.org
6	Lonnie Dean Lonnie Dean	R2 D2	
7	Trish Dittrich Trish Dittrich	R2 D2	Cali 97213@yahoo
8	✓ Leah Dawkins Leah Dawkins	3134 SE Lake Rd SE Uplift 3534 SE Main 97214	leah.dawkins@afm.org
	Trish Dittrich	R2 D2	
9	✓ KENT CRAFTED	2015 N. JANTZEN	kentcraft@hotmail.com
	Floy Jones MYRON BARR	7200 NW Front Ave.	myron.barr@siltronic.com

LT2 RULE COMPLIANCE SCHEDULE EXTENSION

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NAME (print)	ADDRESS AND ZIP CODE	Email
10 <input checked="" type="checkbox"/> NO TOM KEENAN	1321 NE Couch St.	tkeenane@portlandbottling.com
11 <input checked="" type="checkbox"/> NO DAN BOURBONAIS	1441 N. Columbia Blvd.	dbourbonais@alasco.com
12 <input checked="" type="checkbox"/> NO TRACY MARKS	921 SW Sixth Ave.	tracy_marks@hilton.com
13 <input checked="" type="checkbox"/> NO MYRON BURR	7200 NW Front Ave.	myron.burr@siltroic.com
14 <input checked="" type="checkbox"/> NO TOM FAHEY	7200 NW Front Ave.	tom.fahey@siltroic.com
15 <input checked="" type="checkbox"/> Kathryn Notson	P.O. Box 86731, Portland, OR 97286-0731	
16 <input checked="" type="checkbox"/> Dr. Theodora Tsongas		
17 <input checked="" type="checkbox"/> Nancy Newell	97211	
SCOTT FERNANDEZ	1021 NW 65th AVE	PDX
18 <input checked="" type="checkbox"/> Cherie Lambert HOLENSTEIN	6141 SE Steel 97206	NA
19 <input checked="" type="checkbox"/> Rose Marie Opp	# 11135 SE Yamhill PDX	

Item # 115

TESTIMONY

36904

LTZ Rule Compliance Schedule ExtensionIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email (optional)

✓ Carol Adler	2961 Champlain DR 97205	lazytim@comcast.net
✓ Michael Morgan	333 NW 9th Avenue #1014	
on page 2 Theodora Tsongas	7324 SE MADISON 97215	

Date 02-01-12Page 3 of 3

February 12
Item 115

36904

Submitted by
Regina Merritt

Community Alternative Resolution

RESOLUTION No.

Request an adjustment to the City compliance schedule for the uncovered finished drinking water reservoir requirements of the federal Long Term2 Enhanced Surface Water Treatment Rule and an update on City policy regarding the rule.

reservoir requirements of the federal Long Term2 Enhanced Surface Water Treatment Rule.
(Resolution)

WHEREAS, the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) requires that uncovered finished drinking water reservoirs be covered or that treatment facilities be installed at the outlets to treat for Giardia, Cryptosporidium and viruses to protect public health; and

WHEREAS, the Environmental Protection Agency (EPA) and the Oregon Health Authority (OHA) have said that there is no variance available for the uncovered reservoir requirements of ~~LT2~~LT2 and that the City of Portland must comply with the rule; and

WHEREAS, the EPA stated in a February 11, 2009 letter to the Portland Water Bureau (PWB) regarding the bureau's reservoir compliance schedule, that "... EPA cannot approve a schedule that provides for any unreasonable delays. EPA can only approve a schedule under which Portland begins taking immediate steps toward compliance with the open reservoir components of LT2. The schedule needs to show that you will work steadily and consistently toward compliance."; and

WHEREAS, the City of Portland received approval of a compliance schedule for the reservoir component of the rule from the EPA on March 27, 2009; and

WHEREAS, through advanced testing of over 7,000 liters of water samples taken from the City's open reservoirs in 2009, not a single Cryptosporidium oocyst was found; and

WHEREAS, there is no scientific evidence that installation of source water treatment or covering or treating the open reservoirs will have a demonstrable public health benefit despite the tremendous cost of such projects; and

WHEREAS, Portland Water Bureau recently completed \$40 million in security and deferred maintenance capital infrastructure work to ensure that Washington Park and Mt Tabor reservoirs are safe through the year 2050; and

WHEREAS, on August 19, 2011, the EPA issued a letter to Senator Charles Schumer of New York declaring that the EPA would be reviewing the LT2 rule expeditiously and that alternative compliance options for the uncovered reservoir requirements of the rule would be considered; and

WHEREAS, on October, 13, 2011 Senator Merkley, Senator Wyden, Representative Blumenauer, Representative DeFazio, and Representative Schrader sent a letter to EPA Administrator Lisa Jackson in which they 1) expressed enthusiasm that EPA is reviewing its LT2 rule, specifically considering new or innovative alternatives to covering reservoirs and 2) requested that the EPA thoroughly explore whether

there are more cost-effective ways to counter the risks of contaminated water, taking in to full account the unique and extraordinary water supply characteristics of Portland's Bull Run watershed and other attributes of Portland's system and 3) requested that while the agency's review is underway, she consider delaying implementation of the LT2 requirement to cover reservoirs, for water systems whose unique characteristics would warrant alternatives to protecting public health and 4) requested that the EPA create a working dialogue with the City as the review is conducted; and

WHEREAS, a letter dated December 9, 2011 from the OHA indicated, "...there may be specific articulable facts that warrant schedule compliance schedule adjustments...the primary. Many public water systems face multiple challenges as they manage, maintain, and operate their systems. In addition, infrastructure construction projects may also present challenges. Primary agencies can evaluate these system-specific issues when evaluating a request to adjust a compliance schedule. If a schedule adjustment is appropriate, the public water system should have robust interim measures in place to ensure public health protection and those measures should remain in effect until that system comes into compliance with the rule."; and

WHEREAS, the PWB faces "multiple challenges as they manage, maintain, and operate their system," and its "infrastructure construction projects...present challenges," it is entirely appropriate and justifiable to seek a delayed reservoir compliance timeline as the City of New York has requested which EPA has indicated they will consider; and

WHEREAS, the PWB has identified key projects that, when combined with those required under LT2, create potential added risks to the water supply if not completed prior to the reservoir projects. Completing construction of these projects will ensure necessary operational flexibility, and reduce the potential supply risks with having the reservoirs out of service for extended periods of time, and still reflect Portland's commitment to "...work steadily and consistently toward compliance," as required by the EPA and the OHA; and

WHEREAS, and

WHEREAS, circumstances have changed since Portland's current compliance schedule was submitted to the EPA for approval and a schedule adjustment would address the risks identified above by enabling proper sequencing of capital projects, providing greater ongoing reliability of supply and moderating rate increases needed to pay for infrastructure improvements; and

Whereas, Portland ratepayers pay the fifth-highest combined water /sewer rates among the 50 largest municipalities in the country

WHEREAS, Portland has existing robust interim measures in place to ensure public health protection; and

WHEREAS, Portland and other systems should receive the same opportunity as New York City to benefit from the EPA's review of the LT2 rule and any alternative compliance options that become available; and

NOWWHEREAS, on January 11, 2012 the City identified relief from the LT2 rule as its top priority for 2012 federal legislative advocacy, stating, "The City will work diligently with the Congressional delegation and the EPA to pursue relief from raw water treatment and storage requirements of the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) for Portland's Drinking Water System. The City seeks assistance from the delegation in obtaining the same consideration from the federal Environmental Protection Agency as New York City to evaluate alternative compliance options for the

uncovered finished drinking water reservoir requirements of the rule and to improve the methodology of the rule which requires out-of-date methods that do not protect public health."

NOW, THEREFORE, BE IT RESOLVED that the Portland City Council directs the Portland Water Bureau to submit a formal request to the Oregon Health Authority to extend Portland's uncovered reservoir compliance schedule ~~for LT2 that reflects a June 30, 2020 completion date to indicate that design of the first LT2 project will not commence before 2025 and the last LT2 project will be completed in 2034; and~~

~~for Kelly Butte Reservoir (from December 31, 2014), a June 30, 2023 completion date for the Mt. Tabor Project (from December 31, 2015) and a June 30, 2025 completion date for the Washington Park Project (from December 31, 2020).~~

BE IT FURTHER RESOLVED that the Portland City Council hereby affirms the City's official policy on the LT2ESWTR as a policy of avoidance of the mandates to treat or cover our open drinking water reservoirs, and therefore directs the Portland Water Bureau, the Office of Government Relations and the City Attorney's office to work in collaboration with the Council, community stakeholders, the Oregon Congressional delegation, the EPA, the Obama Administration and the Oregon Health Authority to pursue permanent relief from raw water treatment and storage requirements of the LT2ESWTR for Portland's drinking water system. The Council further directs the PWB to develop a robust scientific data document to be submitted to the EPA and the State of Oregon supporting those objectives, and to seek improvement of the sampling methodology of the rule, now under review.

BE IT FURTHER RESOLVED that the City Council directs the Water Bureau to use the rate savings from contract termination and removal of these projects from the budgets to reduce rates.

Adopted by the Council:
 Commissioner Randy Leonard
 Prepared by: Ty Kovatch
 Date Prepared: January 23, 2012
 La Vonne Griffin-Valade
 Auditor of the City of Portland
 By
 Deputy

CITY OF PORTLAND 2012 FEDERAL LEGISLATIVE AGENDA

TOP FEDERAL PRIORITIES FOR 2012

Relief from the Long Term 2 Enhanced Surface Water Treatment Rule (LT2)

The City will work diligently with the Congressional delegation and the EPA to pursue relief from raw water treatment and storage requirements of the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) for Portland's Drinking Water System. The City seeks assistance from the delegation in obtaining the same consideration from the federal Environmental Protection Agency as New York City to evaluate alternative compliance options for the uncovered finished drinking water reservoir requirements of the rule, and to permanently improve the methodology of the rule which requires out-of-date methods that do not protect public health.

Surface Transportation Reauthorization

The City supports the passage of a two-year reauthorization of the surface transportation program which would allow for direct federal spending for local transportation infrastructure priorities.

Preserve Funding for Affordable Housing

The City will continue to advocate in Fiscal Year 2013 for the highest possible levels of funding for CDBG, the HOME Investment Partnership Program, and the McKinney-Vento program. The City will continue to communicate the impact of HUD budget cuts on the City's most vulnerable populations. The City urges Congress to keep the CDBG Administrative Cap at 20% and to reinstate funding for the Sustainable Communities Initiative.

Superfund/Brownfields

The City of Portland supports urban brownfield and Superfund site redevelopment to reduce sprawl, supply land for economic development and facilitate site development clean up. The City supports Congressman Blumenauer's efforts to pass H.R. 1596, the Superfund Reinvestment Act, to reinstate the financing of the Superfund Program through taxation.

The City also seeks to reduce regulatory uncertainty and complexity on brownfield and Superfund sites by clarifying and limiting the liability of new developers or tenants at multi-site Superfund projects, such as Portland Harbor, and to streamline environmental investigation and clean up processes in order for vacant industrial sites to be primed for immediate development.

Portland Regional Export Strategy

The City seeks support in the implementation of its Metro Export Initiative (MEI). Federal support of the MEI would help fulfill the Obama Administration's goal of doubling U.S. exports over the next five years.

The plan highlights the importance of industry competitiveness, innovation, and access to foreign markets in achieving economic growth and job creation, and aims to implement these strategies by identifying specific resources and support needed to sustain and broaden the region's position as a national export leader.

January 30, 2012

Mayor and Commissioners
1221 SW 4th Avenue
Portland, Oregon 97204

RE: LT2 Water Mandates and Schedule

Dear Mayor Adams and Commissioners Leonard, Saltzman, Fritz and Fish,

I am writing in support of the City request of the same consideration from the federal Environmental Protection Agency as New York City to evaluate alternative compliance options for the uncovered finished drinking water requirements of the LT2 rule. Specifically, I encourage the City to have the compliance schedule for the uncovered reservoirs extended to commence in 2020 and to end in 2034.

It is my professional belief that there is both sufficient water quality data and excellent epidemiologic data supporting the lack of risk of waterborne illness due to *Cryptosporidium* and other potential enteric pathogens in our water supply. Through advanced methodology testing of over 7,000 liters of water samples taken from the City's open reservoirs in 2009, the City has shown that not one *Cryptosporidium* oocyst could be demonstrated.

There is no scientific evidence that either installation of source water treatment or covering or treating the open reservoirs is likely to have any demonstrable public health benefit, despite the massive cost of such projects.

I remain very impressed by, and appreciative of, the efforts of the Portland Water Bureau and our local and state Public Health officials in rigorously protecting the safety of citizens served by the Bull Run system and area reservoirs.

Sincerely yours,

Thomas T. Ward, M.D.
Infectious Diseases Fellowship Director
Chair, Microbiology Medical School Curriculum
Oregon Health Sciences University

Item 115 Feb. 1, 12

Streamlines article

Monitoring indicates Crypto threat lower than thought

Editor's note: See link below to comment on this article.

At a stakeholder meeting Dec. 7 on the Long-Term 2 Enhanced Surface Water Treatment Rule (LT2), the US Environmental Protection Agency presented preliminary data suggesting that *Cryptosporidium* is less prevalent in drinking water supplies than anticipated by the current rule.

The data come from the initial round of monitoring under LT2. The meeting was held to review LT2 monitoring requirements prior to the second round of monitoring required by LT2 and to evaluate the LT2 in the next Six-Year Review cycle.



USEPA requested input from stakeholders on one specific issue: requiring analytical method improvements that would increase average oocyst recovery by 20 percent—from 40 percent to 60 percent. Based on source water conditions, some samples would be much more significantly affected than others.

“Pursuing changes to LT2ESWTR construct is akin to pulling a thread on a sweater in that changing one aspect of the rule rapidly impacts other elements of the rule construct in a cascade of interwoven dependencies,” said Alan Roberson, AWWA director of regulatory relations. “For example, the change in the analytical method offered by EPA could result in an increased likelihood a water system would be required to install treatment based on the second round of monitoring and thus raise the question of whether bin boundaries [i.e., thresholds for additional treatment] should be shifted.”

USEPA presented preliminary, summary statistics from the LT2 first-round monitoring, most significantly:

- More water treatment plants had all non-detects than anticipated, with 51 percent of water treatment plants (WTPs) reporting no detection.
- The average concentration of oocysts was 0.016 rather than 0.053 oocysts/L as anticipated.

Additional data show

- There were more non-detects and conversely fewer detects than anticipated (93 percent of samples were non-detects).
- Fewer source waters than anticipated had mean concentrations greater than 0.075 oocysts/L — meaning that no additional treatment is required.
- As system size decreased, smaller systems were more likely to observe oocyst levels greater than 0.075 oocysts/L.

One agency conclusion is that the lower level of observed occurrence appears to be real and not due to a systematic change in recovery. The agency has not decided how it will determine whether any changes are needed in the rule.

During the stakeholder meeting, USEPA pointed out several aspects of LT2ESWTR requirements:

- The current LT2ESWTR second round monitoring requirements do not provide for submittal of grandfathered data

6

- The current LT2ESWTR treatment requirements do not specifically address what a system will have to do if Round 2 monitoring finds a lower level of *Cryptosporidium* oocysts in a water treatment plant's source water that would place a water treatment plant in a lower treatment regimen.

AWWA and other stakeholders brought up important concerns to be addressed:

- Consider either dropping Round 2 monitoring or modifying the monitoring in a way that provides more value to water systems and informs health risk reduction.
- Identify opportunities to reduce costs where possible.
- Genotype positive samples, which would be informative.
- Consider improved accuracy of the analytical method and the implications for treatment requirements, if USEPA is going to pursue improved oocyst recovery.

USEPA intends to release a redacted dataset from the Round 1 monitoring, but officials did not say when it will be released and what data will be withheld.

"AWWA will need to elicit additional discussion of LT2 Round 1 data analysis," said Roberson.

The agency anticipates a **meeting in the spring of 2012 to discuss uncovered finished water storage and other LT2ESWTR topics.**

Posted: 12/13/2011



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

36904

NOV 30 2011

Item 115
Feb 1, 2012

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

OFFICE OF WATER

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

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,



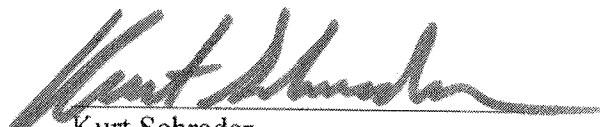
Jeffrey A. Merkley
United States Senate



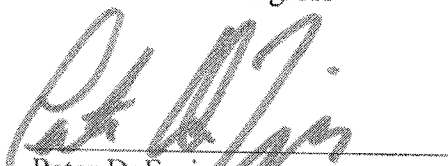
Ron Wyden
United States Senate



Earl Blumenauer
United States Congress



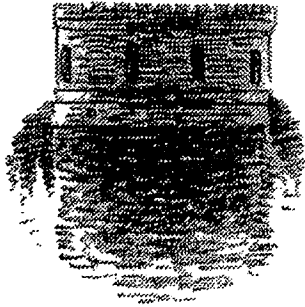
Kurt Schrader
United States Congress



Peter DeFazio
United States Congress

FLOY JONES

36904



FRIENDS *of the* RESERVOIRS

Citizens joining to protect Portland's historic reservoirs and water system

3534 S.E. Main Street, Portland, OR 97214

www.friendsofreservoirs.org

www.lists.pdx.edu/mttabor

February 1, 2012
Council Agenda Item 115

The Friends of the Reservoirs support a resolution revising Portland's reservoir compliance schedule in line with New York City's, with a deadline of 2034. We additionally support a new LT2 policy, a resolution that reflects the City's commitment to project avoidance, a policy that supports the City actively working with the EPA, the Federal delegation, the Obama Administration and community stakeholders in support of less onerous reservoir compliance options such as the reinstatement of the site-specific risk mitigation option, an option included the 2003 draft LT2 rule and supported by the City's 2004 reservoir panel ordinance.

We do not support language in this resolution that supports compliance via reservoir burial nor do we support further expenditures on consultant design contracts some of which run until 2013, ie MWH global's Kelly Butte contract. In 2004 when the Mt. Tabor burial plan was terminated, the MWH global contract was also terminated. That resolution directed the Water Bureau to use the savings to reduce water rates. That same action should be taken today, terminate contracts and return those dollars to ratepayers.

EPA Rule Revision Completion ?

EPA has advised municipalities including Portland and Rochester New York (see highlighted section of communication with Rochester Mayor Richard) that the LT2 rule revision will not conclude until 2016. EPA often does not complete its work on time. EPA promulgated LT2 4-5 years after their initial deadline thus the LT2 revision process could take years longer than is planned.

- There is no deadline in the rule for reservoir compliance just for submitting initial plan

- Justification for delay until 2034 can include economic factors. EPA speaks to system "management, maintenance and operational challenges" as being relevant in a delay request.

While the Oregon Health Authority advised Portland that the source water variance approval could not include consideration of economic factors citing the EPA's flawed source water cost-benefit analysis, OHA cannot exclude consideration of economic factors for open reservoir compliance delay requests as EPA did not conduct a cost-benefit analysis for reservoir requirements. EPA did not determine that there would be any public health benefit from "treat or cover" requirement. EPA inaccurately

projected reservoir compliance costs but did not do a cost-benefit analysis.

- The City can justify its request for a 2034 (or 2050) compliance deadline relying on a number of arguments. The delay request should not be framed solely around construction projects. New York's delay request was heavily reliant on its 160-page scientific data document prepared in 2008. They also made economic arguments.

Good Governance- 2050 time line

- A consulting firm, Montgomery Watson Harza Global, under a 9-year study contract (1995-2004 and rated the reservoirs as being 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 with expenditures totaling \$40 million. A \$23 million open reservoir upgrade contract, awarded in 2007 one year after the LT2 rule was finalized, ended in March 2011.

Economic

- Keeping water affordable is a operational challenge . Water rates have risen 55% since June 2008 and over 150% in a recent 10 year period (through 2010)
- Combined water/sewer rates are now the 5th highest in the nation.

Science

- Public health experts and disease surveillance support that there is no evidence of any disease attributable to Bull Run system.
- Recent, advanced testing of in-town reservoirs of 7,000 liters showed no Crypto oocysts.
- No scientific evidence exists that additionally treating/covering in-town reservoirs will have a measurable public health benefit.

Construction projects and System maintenance needs

Citizens' Alternative Resolution

RESOLUTION No.

Request an adjustment to the City compliance schedule for the uncovered finished drinking water reservoir requirements of the federal Long Term2 Enhanced Surface Water Treatment Rule and an update on City policy regarding the rule.

(Resolution)

WHEREAS, the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) requires that uncovered finished drinking water reservoirs be covered or that treatment facilities be installed at the outlets to treat for Giardia, Cryptosporidium and viruses to protect public health; and

WHEREAS, the Environmental Protection Agency (EPA) and the Oregon Health Authority (OHA) have said that there is no variance available for the uncovered reservoir requirements of LT2 and that the City of Portland must comply with the rule; and

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WHEREAS, the PWB faces "multiple challenges as they manage, maintain, and operate their system," and its "infrastructure construction projects...present challenges," it is entirely appropriate and justifiable to seek a delayed reservoir compliance timeline as the City of New York has requested which EPA has indicated they will consider; and

WHEREAS, the PWB has identified key projects that, when combined with those required under LT2, create potential added risks to the water supply if not completed prior to the reservoir projects. Completing construction of these projects will ensure necessary operational flexibility, and reduce the potential supply risks with having the reservoirs out of service for extended periods of time; and

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WHEREAS, circumstances have changed since Portland's current compliance schedule was submitted to the EPA for approval and a schedule adjustment would address the risks identified above by enabling proper sequencing of capital projects, providing greater ongoing reliability of supply and moderating rate increases needed to pay for infrastructure improvements; and

WHEREAS, Portland ratepayers pay the fifth-highest combined water and sewer rates among the 50 largest municipalities in the country; and

WHEREAS, Portland has existing robust interim measures in place to ensure public health protection; and

WHEREAS, Portland and other systems should receive the same opportunity as New York City to benefit from the EPA's review of the LT2 rule and any alternative compliance options that become available; and

WHEREAS, on January 11, 2012 the City identified relief from the LT2 rule as its top priority for 2012 federal legislative advocacy, stating, "The City will work diligently with the Congressional delegation and the EPA to pursue relief from raw water treatment and storage requirements of the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) for Portland's Drinking Water System. The City seeks assistance from the delegation in obtaining the same consideration from the federal Environmental Protection Agency as New York City to evaluate alternative compliance options for the uncovered finished drinking water reservoir requirements of the rule and to

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improve the methodology of the rule which requires out-of-date methods that do not protect public health."

NOW, THEREFORE, BE IT RESOLVED, that the Portland City Council directs the Portland Water Bureau to submit a formal request to the Oregon Health Authority to extend Portland's uncovered reservoir compliance schedule to indicate that design of the first LT2 project will not commence before 2020 and the last LT2 project will be completed in 2034; and

BE IT FURTHER RESOLVED that the Portland City Council hereby affirms the City's official policy on the LT2ESWTR as a policy of avoidance of the mandates to treat or cover our open drinking water reservoirs, and therefore directs the Portland Water Bureau, the Office of Government Relations and the City Attorney's office to work in collaboration with the Council, community stakeholders, the Oregon Congressional delegation, the EPA, the Obama Administration and the Oregon Health Authority to pursue permanent relief from raw water treatment and storage requirements of the LT2ESWTR for Portland's drinking water system. The Council further directs the PWB to develop a robust scientific data document to be submitted to the EPA and the State of Oregon supporting those objectives, and to seek improvement of the sampling methodology of the rule, now under review.

Adopted by the Council:
Commissioner Randy Leonard
Prepared by: Ty Kovatch
Date Prepared: January 23, 2012
LaVonne Griffin-Valade
Auditor of the City of Portland
By
Deputy

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contaminated water, taking in to full account the unique and extraordinary water supply characteristics of Portland's Bull Run watershed and other attributes of Portland's system and 3) requested that while the agency's review is underway, she consider delaying implementation of the LT2 requirement to cover reservoirs, for water systems whose unique characteristics would warrant alternatives to protecting public health and 4) requested that the EPA create a working dialogue with the City as the review is conducted; and

WHEREAS, a letter dated December 9, 2011 from the OHA indicated, "...there may be specific articulable facts that warrant schedule compliance schedule adjustments. Many public water systems face multiple challenges as they manage, maintain, and operate their systems. In addition, infrastructure construction projects may also present challenges. Primacy agencies can evaluate these system-specific issues when evaluating a request to adjust a compliance schedule. If a schedule adjustment is appropriate, the public water system should have robust interim measures in place to ensure public health protection and those measures should remain in effect until that system comes into compliance with the rule."; and

WHEREAS, the PWB faces "multiple challenges as they manage, maintain, and operate their system," and its "infrastructure construction projects...present challenges," it is entirely appropriate and justifiable to seek a delayed reservoir compliance timeline as the City of New York has requested which EPA has indicated they will consider; and

WHEREAS, the PWB has identified key projects that, when combined with those required under LT2, create potential added risks to the water supply if not completed prior to the reservoir projects. Completing construction of these projects will ensure necessary operational flexibility and reduce the potential supply risks with having the reservoirs out of service for extended periods of time; and

WHEREAS, circumstances have changed since Portland's current compliance schedule was submitted to the EPA for approval and a schedule adjustment would address the risks identified above by enabling proper sequencing of capital projects, providing greater ongoing reliability of supply and moderating rate increases needed to pay for infrastructure improvements; and

Whereas, Portland ratepayers pay the fifth-highest combined water and sewer rates among the 50 largest municipalities in the country; and

WHEREAS, Portland has existing robust interim measures in place to ensure public health protection; and

WHEREAS, Portland and other systems should receive the same opportunity as New York City to benefit from the EPA's review of the LT2 rule and any alternative compliance options that become available; and

WHEREAS, on January 11, 2012 the City identified relief from the LT2 rule as its top priority for 2012 federal legislative advocacy, stating, "The City will work diligently with the Congressional delegation and the EPA to pursue relief from raw water treatment and storage requirements of the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) for Portland's Drinking Water System. The City seeks assistance from the delegation in obtaining the same consideration from the federal Environmental Protection Agency as New York City to evaluate alternative compliance options for the uncovered finished drinking water reservoir requirements of the rule and to improve the methodology of the rule which requires out-of-date methods that do not protect public

Citizens' Alternative Resolution

RESOLUTION No.

Request an adjustment to the City compliance schedule for the uncovered finished drinking water reservoir requirements of the federal Long Term2 Enhanced Surface Water Treatment Rule and an update on City policy regarding the rule.

(Resolution)

WHEREAS, the federal Long Term 2 Enhanced Surface Water Treatment Rule (LT2) requires that uncovered finished drinking water reservoirs be covered or that treatment facilities be installed at the outlets to treat for Giardia, Cryptosporidium and viruses to protect public health; and

WHEREAS, the Environmental Protection Agency (EPA) and the Oregon Health Authority (OHA) have said that there is no variance available for the uncovered reservoir requirements of LT2 and that the City of Portland must comply with the rule; and

WHEREAS, the EPA stated in a February 11, 2009 letter to the Portland Water Bureau (PWB) regarding the bureau's reservoir compliance schedule, that "... EPA cannot approve a schedule that provides for any unreasonable delays. EPA can only approve a schedule under which Portland begins taking immediate steps toward compliance with the open reservoir components of LT2. The schedule needs to show that you will work steadily and consistently toward compliance."; and

WHEREAS, the City of Portland received approval of a compliance schedule for the reservoir component of the rule from the EPA on March 27, 2009; and

WHEREAS, through advanced testing of over 7,000 liters of water samples taken from the City's open reservoirs in 2009, not a single Cryptosporidium oocyst was found; and

WHEREAS, there is no scientific evidence that installation of source water treatment or covering or treating the open reservoirs will have a demonstrable public health benefit despite the tremendous cost of such projects; and

WHEREAS, Portland Water Bureau recently completed \$40 million in security and deferred maintenance capital infrastructure work to ensure that Washington Park and Mt Tabor reservoirs are safe through the year 2050; and

WHEREAS, on August 19, 2011, the EPA issued a letter to Senator Charles Schumer of New York declaring that the EPA would be reviewing the LT2 rule expeditiously and that alternative compliance options for the uncovered reservoir requirements of the rule would be considered; and

WHEREAS, on October, 13, 2011 Senator Merkley, Senator Wyden, Representative Blumenauer, Representative DeFazio, and Representative Schrader sent a letter to EPA Administrator Lisa Jackson in which they 1) expressed enthusiasm that EPA is reviewing its LT2 rule, specifically considering new or innovative alternatives to covering reservoirs and 2) requested that the EPA thoroughly explore whether there are more cost-effective ways to counter the risks of

health."

NOW, THEREFORE, BE IT RESOLVED, that the Portland City Council directs the Portland Water Bureau to submit a formal request to the Oregon Health Authority to extend Portland's uncovered reservoir compliance schedule to indicate that design of the first LT2 project will not commence before 2020 and the last LT2 project will be completed in 2034; and

BE IT FURTHER RESOLVED that the Portland City Council hereby affirms the City's official policy on the LT2ESWTR as a policy of avoidance of the mandates to treat or cover our open drinking water reservoirs, and therefore directs the Portland Water Bureau, the Office of Government Relations and the City Attorney's office to work in collaboration with the Council, community stakeholders, the Oregon Congressional delegation, the EPA, the Obama Administration and the Oregon Health Authority to pursue permanent relief from raw water treatment and storage requirements of the LT2ESWTR for Portland's drinking water system. The Council further directs the PWB to develop a robust scientific data document to be submitted to the EPA and the State of Oregon supporting those objectives, and to seek improvement of the sampling methodology of the rule, now under review.

Adopted by the Council:

Commissioner Randy Leonard

Prepared by: Ty Kovatch

Date Prepared: January 23, 2012

LaVonne Griffin-Valade

Auditor of the City of Portland

By

Deputy



Southeast Uplift
3534 SE Main St
Portland, OR 97214

p: 503 232-0010
f: 503 232-5265

www.southeastuplift.org

February 1, 2012

36904

Hello. My name is Leah Dawkins and I am the Land Use Program Manager at SE Uplift Neighborhood Coalition. I am testifying today on behalf of the SE Uplift Board of Directors. SE Uplift simply echoes the concerns of others testifying today. We support the work of the Friends of the Reservoirs and urges Council to work with this group and other interest groups to create a new resolution of LT2 project avoidance. Given the recent success of New York City in avoiding costly construction required in order to comply with LT2 regulations, we simply ask Council to follow the same path as New York City in order to avoid projects which are unnecessary for the health and safety of Portland residents, projects which will substantially raise costs for Portland rate payers in these exceptionally difficult economic times and waste public money continuing to work to comply with rules that will be substantially revised by the Environmental Protection Agency in the coming years. We urge you to focus on project avoidance as related to compliance with LT2 regulations and encourage you to focus on on-going reservoir maintenance, and please, consider the needs of the rate paying community by not pursuing projects which will continue to drive up the costs of water bills. We firmly believe that by working with other interest groups on this issue, Council can come up with a solution that works best for everyone in the city, allows the community appropriate public input and does not cost another half a billion dollars of taxpayer money. Thank you for your time.

Uplifting community advocacy since 1968.

Ardenwald-Johnson Creek • Brentwood-Darlington • Brooklyn • Buckman • Creston-Kenilworth • Eastmoreland • Foster-Powell
Hosford-Abernethy • Kerns • Laurelhurst • Montavilla • Mt. Scott-Arleta • Mt. Tabor • North Tabor • Reed • Richmond
Sellwood-Moreland • South Tabor • Sunnyside • Woodstock

**Unnecessary Reservoir Projects:
Adverse Impacts on Ratepayers
Siltronic Corporation Key Points for Portland City Council Meeting
2/1/12**

Siltronic is a Portland business with nearly 800 employees. We have been a proud member of this community for over 30 years. As such, we care deeply about the future of Portland. However, the future seems a bit cloudy at the moment.

You may also know that we are the city's largest water customer. We have worked hard to address this use through water conservation efforts. Since 1999, we have successfully reduced our water use by 25%.

Unfortunately, these conservation efforts have not reduced our water costs. In fact, since 1999, our water costs have increased more than 140%. This increase is directly attributable to an almost 200% increase in water rates. In short, these rate increases are far outstripping our ability to control costs.

In addition, this rapid escalation in water rates is expected to continue, at about 64% over the next four years, due in part to the subject reservoir projects. A graph of this rate projection looks like the proverbial hockey stick, one that is going to hurt Portland ratepayers pretty hard.

That's a lot percentages. But what does this mean in dollars and cents? In Portland, where water is plentiful and renewable, the cost per 100 cubic feet is projected to go from under a \$1 in 1999 to more than \$5 in 2016. More than 5 times higher. As a point of reference, the price of a non-renewable resource, gasoline, which continues to shock us, has only increased about 2.5 times since 1999.

These rate increases are a major concern for us, for other employers, for employees, and for residents alike.

What's really important is that these reservoir projects are unnecessary costs and they will hurt, not help, Portland. These projects will continue to add to the long-term fixed cost structure of the Water Bureau. This is an unsustainable financial condition which prevents consumers from reducing their costs even if they conserve. We must ask: What are the City's plans to reduce these fixed costs so citizens can benefit from conservation? One answer is to stop the reservoir projects.

As a long-term, large employer, we want Portland to succeed. Therefore, we strongly encourage passage of this Resolution to delay these reservoir projects for at least five years.

It is the right thing to do for the people of Portland.

Thank you.

#115

36904

P. O. Box 86731
Portland, OR 97286-0731
February 1, 2012

Sam Adams, Mayor
City of Portland
City Hall
1221 S.W. 4th Ave., Ste. 340
Portland, OR 97204-1900

AUDITOR 01/31/12 AM11:14

RE: OHA/DWP LT2ESWTR Reservoir Compliance Schedule Extension Request
Resolution

Dear Mayor Adams:

I oppose the adoption of an OHA/DWP LT2ESWTR Reservoir Compliance Schedule Extension Request Resolution. I oppose requesting a reservoir compliance schedule extension from 2015 (Mt. Tabor Park Reservoirs 1, 5, and 6) and 2020 (Washington Park Reservoirs 3 and 4) to 2023 and 2025, respectively.

On November 28, 1969, the Portland City Council was told to cover their open distribution reservoirs due to bird fecal contamination by Dr. Edward Press of the Oregon State Board of Health. The City Council adopted Resolution 31165 on December 27, 1972 to cover the open distribution reservoirs, one every biennium, over a period of 12 years, to be completed by 1984-1985. The City Council rescinded this resolution with Resolution 31807 on December 29, 1976. *Cryptosporidium* became known as a human pathogen the first half of 1976.

The City Council and the Water Bureau are too presumptuous assuming they will receive an OHA/DWP LT2ESWTR 10 year treatment variance for the Bull Run watershed surface source water in spite of the fact *Cryptosporidium* was detected at the intake pipe on December 30, 2011. I was told the ultraviolet light treatment plant was "put on the shelf" and that the 25 million gallon Kelly Butte replacement reservoir will not be constructed beginning July 1, 2012, but will be delayed until 2017. There is no legitimate construction project sequencing requirements that must be done before the Kelly Butter Reservoir is constructed or before the open distribution reservoirs are disconnected and decommissioned. You are adopting this resolution only because a small group of citizens are demanding you do so at their behest. You have catered to their demands since May 29, 2002 to the detriment of the entire citizenry of Portland.

OHP/DWP, USEPA, and its predecessors have been telling the Portland Water Bureau and the City Council for 42 years to cover the open distribution reservoirs. This is documented in the Portland Archives and Records Center, the OHP/DWP, and USEPA public records. There should not be any more delays with completely complying with LT2ESWTR by April 1, 2014.

"Those who don't remember the past are condemned to repeat it." Don't make the same mistake by delaying the Water Bureau's complete compliance with LT2ESWTR.

Sincerely,



Kathryn M. Notson
(503) 777-6422

cc: City Commissioner Nick Fish
City Commissioner Amanda Fritz
City Commissioner Randy Leonard
City Commissioner Dan Saltzman
City Council Clerk – Karla Moore-Love ✓
City Attorney