

PROPOSAL OF WATER BUREAU TO DISCONNECT MT TABOR RESERVOIRSLU 14-218444 HR EN

SUPPORT PROPOSAL		
NAME (PRINT)	ADDRESS AND ZIP CODE	EMAIL
✓ 1. BRIAN EMERICK	HISTORIC LANDMARKS Comm.	
✓ 2. HARRIS MATARAZZO	"	
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PROPOSAL OF WATER BUREAU TO DISCONNECT MT TABOR RESERVOIRSLU 14-218444 HR EN**OPPOSE PROPOSAL****NAME (PRINT)****ADDRESS AND ZIP CODE****EMAIL**✓ 1. *MargAnn Schwab*✓ 2. *Mark Bartlette*✓ 3. *John Lawren, MTNA*✓ 4. *Steve Gordon*  
*Stephanie Stewart, MTNA*✓ 5. *Steve Wax*✓ 6. *Eileen Brady*✓ 7. *Dan Berger*✓ 8. *Valerie Hunter*✓ 9. *Brian Rohrer*✓ 10. *Mary Kinnick*✓ 11. *Laura Orr*✓ 12. *Kim Lakin*

PROPOSAL OF WATER BUREAU TO DISCONNECT MT TABOR RESERVOIRSLU 14-218444 HR EN

OPPOSE PROPOSAL		
NAME (PRINT)	ADDRESS AND ZIP CODE	EMAIL
✓ 13. Tom Walsh		
✓ 14. Dave Hilts		
✓ 15. Miriam Zerman		
✓ 16. Tom Koehler		
✓ 17. Dawn Smallman		
✓ 18. Martha Mitchell	7306 SE Main St. Pdx	marty_mitchell_99@yahoo.com
✓ 19. Robert Bernstein		
✓ 20. Mark Schlemmer		
✓ 21. MARY ENG		
✓ 22. Katherine Kirkpatrick	1319 SE 53rd Ave	samsa@pacifier.com
23. <del>STEVE GORDON</del>	<del>1209 SE 60th AVE</del>	<del>SGORDON@GMAIL.COM</del>
✓ 24. Charles JOHNSON	540 SE 73	simcha503@gmail.com

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OPPOSE PROPOSAL		
NAME (PRINT)	ADDRESS AND ZIP CODE	EMAIL
✓ 25. Camille Day	6512 SE 83rd Ave 97266	
✓ 26. Brad Yezolino	6451 SE MORRISON CT	
✓ 27. Dee White	3836 SE 49 <sup>th</sup> PDX 97206	
Spoke ✓ 28. Mark Bartlett	DE	
✓ 29. Paul Gierfuegos	5232 SE Madison St	
30. Sandra Ganey	2606 SE 64 <sup>th</sup> 97206	
31. JOSEPH J. MITCHELL	5232 SE MADISON ST	
32. Jodi Lorimer	1711 SE 40 <sup>th</sup> Ave 97214	JLorimer@easystreet.net
33. JOE WALSH	OPPOSITE DESTRUCTION - (Not Present)	
✓ 34. Laurel Crissman	5839 SE. <del>58th</del> Stark	
35. Joe Meyer	1915 SE ALA	
✓ 36. Luke Dolkas	6126 SE MAIN ST PDX	

PROPOSAL OF WATER BUREAU TO DISCONNECT MT TABOR RESERVOIRSLU 14-218444 HR EN

OPPOSE PROPOSAL		
NAME (PRINT)	ADDRESS AND ZIP CODE	EMAIL
37. Laura Smith	424 SE 50 <sup>th</sup> Ave PDX 97215	COZMICPAIR2@msn.com
38. Susan TOMPKINS	1030 SE 69 <sup>th</sup> Ave 97245	ONESSA.PDX@GMAIL.COM
39. Courtney Scott	2106 NE Flanders 97232	
✓ 40. Floy Jones		
✓ 41. Kathryn "Cherie" Holenstein	614 SE Steele St.	NA 503-771-5675
✓ 42. JANET MARCLEY-HAYES	2104 NE FLANDERS ST 97232	
43. Patricia Urbanick	133	
✓ 44. Jessie Sponberg	2415 SE 131 <sup>st</sup>	
over flow → 45. Jane Liningar	1302 SE 57 <sup>th</sup> Ave 9725	jane.liningar@airle7.net
46. Sara Long	623 NE Thompson St. 97212	Saralongpdx@gmail.com
left 47. Melissa Stewart	915 SE 35 <sup>th</sup> 97214	missa21@gmail.com
✓ 48. Michael Conley	6446 NE 22nd Av 97211	Michael Conley

PROPOSAL OF WATER BUREAU TO DISCONNECT MT TABOR RESERVOIRSLU 14-218444 HR EN

OPPOSE PROPOSAL		
NAME (PRINT)	ADDRESS AND ZIP CODE	EMAIL
✓ 49. Carole Scholl	1221 SE 80th Ave	CaroleScholl@gmail.com
50. <del>Valerie Hunter</del>	<del>1400 SE 60th Ave, PDX</del>	<del>v.hunter@comcast.net</del>
✓ 51. Nan Wigore	540 SE 73rd	neparanon@mei.com
✓ 52. Joy Ellis		
✓ 53. Georgia		
54.		
55.		
56.		
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60.		

May 28, 2015

Testimony of Kathryn "Cherie" Holenstein  
to the city council:

I do not need two minutes,  
and this City Council does  
not need to do this.

The EPA is revisiting their  
ruling (LTI<sup>2</sup>) and will  
finish their report next  
year. Why this rush?

But this Council is in a  
hurry to demolish and  
destroy — whether it's  
very livable homes or  
the best water system in  
this country.

Water Is Life

Do not take these reservoirs off line.  
Do not destroy this TREASURE.  
Show the leadership this city needs.

Kathryn "Cherie" Holenstein

6141 SE Hed St. POX 9726

505-771-5675

## MIRIAM BERMAN'S TESTIMONY FOR MT. TABOR RESERVOIRS

My name is Miriam Berman and I live in Mt. Tabor overlooking Reservoir 6. Also, my husband Michael Morrow & I own a local small business, Nutcase Helmets. We employ 16 people in our SE office. Our helmets are sold across the US and in over 32 countries. We have traveled the world proudly representing Portland as part of the Athletic and Outdoor industry, and the creative community that keeps "Portland weird".

Mt. Tabor is the Eastside home for biking, hiking, picnicking, sledding-when we get snow, and my favorite - Dogs!! Now add the beauty of Reservoir 6 filled with water. What a treasure! I show it off to my friends and colleagues that visit from around the world. Unfortunately I can't imagine people visiting Mt. Tabor, seeing an empty or partially filled reservoir (basically a whole lot of cement!) and deciding to return for their outdoor enjoyment. The reservoir makes Mt Tabor the Southeast Portland Showpiece that it is.

What you may not know about me is that in my prior life I was teacher of Deaf and hard of hearing students. Sign language can be very expressive- for example the sign for a full reservoir ...vs what we have now.

And most importantly today is my birthday! For my birthday, I decided to come to support OUR vision of Mt. Tabor Park and its Historic Reservoirs. I have one birthday wish: Return Mt. Tabor to a remarkable park with Reservoir 5 and 6 full and restored to their original grandeur: Era-appropriate lighting, repaired SAFE walkways, electrical boxes that are not in disrepair- basically.....HISTORIC BEAUTY.

You are the only ones who can grant me my birthday wish. But to be honest... It's not just for me; it's **for all of Portland**... and our visitors. Restore Mt. Tabor to its Majestic Beauty for future enjoyment by our Nutty Portlanders and their families and all the tourists who want to experience Portland.

## Mayor and Council

Dave Hilts 5436 SE Hawthorne Blvd. Portland, Or. 97215

I was an Architect for 22 years and during that time I was MTNA Landuse chair for 11 years. I also served on the volunteer Citizens Advisory Council for the Hawthorne Transportation Plan. Currently, I'm a landlord and with my business partner we own, manage, and maintain three buildings ranging in size from 16 to 25 apartments. We don't have to maintain them; we could let them go, and we'd still get the income from Portlanders needing a place to live. We maintain them because it's our civic duty, an obligation we don't take lightly. That is one of the things that has made Portland what it is today.

The first attempt to destroy our reservoirs occurred during my tenure as MTNA Landuse Chair, the so called 'what goes on top' fiasco. Tom Potter was elected Mayor and head of the water bureau resigned. We hoped that the matter had been put to rest.

Obviously, that didn't happen. This culture of not understanding the importance of our nationally recognized historic assets is deeply ingrained in our water bureau. From my perspective, they view the reservoirs as an albatross around their neck, a hassle, a money suck, a problem child.

The Historic Landmark Commission's purpose is to provide their expert recommendations on how best to protect our historic assets as the city grows and develops. They are volunteers and have the luxury of being outside the bureaucracy of city hall. After listening to hours of public testimony, the HLC imposed a limited set of provisions necessary to protect the reservoir's historic assets from further degradation. Who else could be more qualified to impose these conditions?

The HLC heard testimony and deliberated on this issue for almost 2-1/2 months and came back with a fair set of requirements to assure that these historic assets are protected and maintained going forward. Denying the appeal and standing behind the HLC is the right thing to do. I urge you to support the HLC and deny this appeal from the water bureau.

You also have an opportunity coming up. With the current head of the water bureau leaving, there is a chance that with new leadership this culture of neglect can be turned around. Remember this when you hire a replacement!

I turned 60 years old this year and right now my view of Portland as I look back seems much nicer than what I see looking forward. I urge you to be a good landlord, not a slumlord! Please deny this appeal.

Thank you.

May 28, 2015

Portland City Council  
1221 SW 4th Avenue  
Portland, OR 97204

Re: LU 14-218444 HR EN, Final Findings and Decision by the Landmarks Commission  
Rendered on February 9, 2015

Dear Mayor Hales and City Commissioners Fish, Fritz, Novick, and Saltzman:

My name is Laura Orr. I live at 6038 SE Main St. I'm a 2nd generation Mt. Tabor resident. By profession, I'm the Director of the Washington County Law Library and founder of the Oregon Legal Research Website and Blog.

I am here today to ask you to vote in favor of the Historic Landmark Commission's Decision and those suggestions from MTNA that strengthen that Decision, such as the request for a Conditional Use Review.

Affirming the Historic Landmark Commission's King Solomon-like solution to this seemingly intractable political problem makes you look sagacious, fair, and perhaps even prescient. That affirmation may earn you credit later for establishing the groundwork and standard of review that will enable future generations of Mt. Tabor Park visitors to experience the most beautiful Portland park between the Willamette River and Mt. Hood - and not just view photographs of what it used to be or might have been.

Portland's Historic Landmarks Commission members do not serve in name only. This Commission has proven their professional expertise and their diplomatic chops.

Like you, I rely on expert advisory boards and very talented staff. I know the risks of not heeding dedicated, hard-working advisory board members. We have a continuing need for volunteer board members who are smart, engaged, and better gatekeepers of the spirit of Portland than we can ever be on our own. Who will volunteer to serve as our advisors if we dismiss their work out of hand without understanding fully the complex and thoughtful reasons for their decisions?

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Orr', with a stylized, looping flourish at the end.

Laura Orr  
6038 SE Main Street  
Portland, OR 97215  
Email: laura\_thelawlib@yahoo.com

## Testimony—Portland City Council Meeting on May 28, 2015

My name is Mary Kinnick and I live at 5857 SE Yamhill St., Portland. I'm speaking on behalf of the Friends of Mt. Tabor Park Board where I serve as co-chair and Weed Warrior Coordinator. One of our goals is to protect and preserve the ecological health of this Doug fir-Western Hemlock woodland.

Our Board supported the Mt. Tabor Neighborhood Association position presented before the City of Portland Historic Landmarks Commission.

Here are several questions for your consideration:

1. Why was there no public process before the Water Bureau presented its initial reservoir disconnect plan? Why did the Neighborhood Association have to initiate a request for citizen involvement?
2. Why has the Water Bureau failed to provide adequate historic maintenance of the reservoirs? Check out Reservoir 1 and you'll want to weep.
3. Why does the Water Bureau not seem concerned about how much water remains in the reservoirs after disconnection?
4. And, why early on wasn't their proposal subject to a Conditional Use Review? The new pipe goes beyond Water Bureau land and extends into Park's land claiming more land where no trees may be planted.

The answer: Because all along the Water Bureau has viewed this only as an engineering project. Why engage the public for a small-scale technical project involving pipes, nuts, and bolts?

But this site is complex, and this project must be viewed through the lens of stewardship of a resource listed on the National Register, a lens through which preserving native landscape and aesthetic beauty is a requirement.

I urge you to side with the Neighborhood Association's Appeal and protect and preserve this historic park.

## Citizen Comment: Spend Money Promised in 2003 to Preserve Historic Reservoir Features and Water

My name is Valerie Hunter, 1400 SE 60<sup>th</sup> Ave, Portland. I was a member of Commissioner Salzman's 2002-2003 Mt. Tabor Open Reservoir Replacement Project Citizen Advisory Panel.

In 2002, the decision had been made by Council to accelerate by several decades the plan to remove the open reservoirs. The plan was to build buried storage tanks in the footprints of the reservoirs, with new park features on top. Commissioner Salzman appointed Citizens' Advisory Panel (also called the "What Goes on Top?" Panel) to guide the redevelopment process.

The PAC produced a thoughtful design guidance document emphasizing historic preservation and water.

The project culminated in a design competition. The winner was a mind-blowing fantastic concept with water features and hardscape and public interaction with water. The estimated cost of this concept was not publicized.

Which raises the question, How much money was promised by Council to preserve the historic features and build the new Park on top?

In July, 2002, budget for the Reservoir Replacement Project passed by Council included \$2.5 million for what goes on top.

In Oct 2002, Council passed WB's new cost estimate of \$13.4 million for what goes on top.

An October 2003 letter to Mayor Katz from WB and Parks refers to a Council-approved budget of \$14 million for what goes on top.

This was taking place in the usual climate of City budget shortfalls.

How does all this relate to our current situation?

We have unanimous agreement by Historic Landmarks that the reservoir structures should be conserved and the basins maintained with water at historic levels. In 2003, the City, even during a time of fiscal challenge, promised 13.4 to 14 million dollars to conserve these structures and build a fantastasmagoric park feature in their midst.

That money was promised. We ask for significantly less, to be devoted to the less ambitious task of conserving what we already have, and holding this treasure for Portland now and in our future.

Thank you.

Valerie Hunter, MD    v.hunter@comcast.net

May 28, 2015

Testimony on Mt Tabor Reservoirs Disconnection Appeal  
Case File: LU 14-218444

Dearest Mayor and City Council,

Portland Water Bureau claims itself to be stewards of these historic resources. Yet, at the recent Washington Park Historic Landmark Commission hearing, PWB admits they have been “stewards of the structure and utility, not the aesthetic elements,” as they have let that structure fall into decay. So, what happens when the utility goes away?

One need look no further than the off-line Mt Tabor Reservoir 6 which has contained less than 12 inches of water in it for nearly the past year as a prime example of their lack of dedication to the public good. Why is Mt Tabor, a travel destination post-card picture perfect historic gem of our fair city, sitting empty when the water bureau claims they are dedicated to keeping it filled? How does this reflect on the city when folks from afar come to visit the legendary Portland? What a disgrace! It's passive-aggressive against the community at best, a failure of proper management from any perspective.

This only further serves to exemplify that PWB can not be blindly trusted to hold our City's best interests at heart, as they clearly have such contempt and disregard for our history, communities and citizens, endlessly raising rates for exorbitant projects we do not need, feeding it's corporate partners along the way. City Council must uphold the HLC's decision and direct PWB to comply.

In many regards, I'm not sure what needs deliberation here. Commissioner Fritz's own public survey showed nearly 80% of Portlanders wanted the reservoirs to remain full and continue to hold their historic integrity. The City's own appointed Historic Landmarks Commission unanimously voted to approve the project only with these strong conditions. Clearly this is what the public and the experts desire. And, it's the cheapest and easiest of all options. It seems a no-brainer.

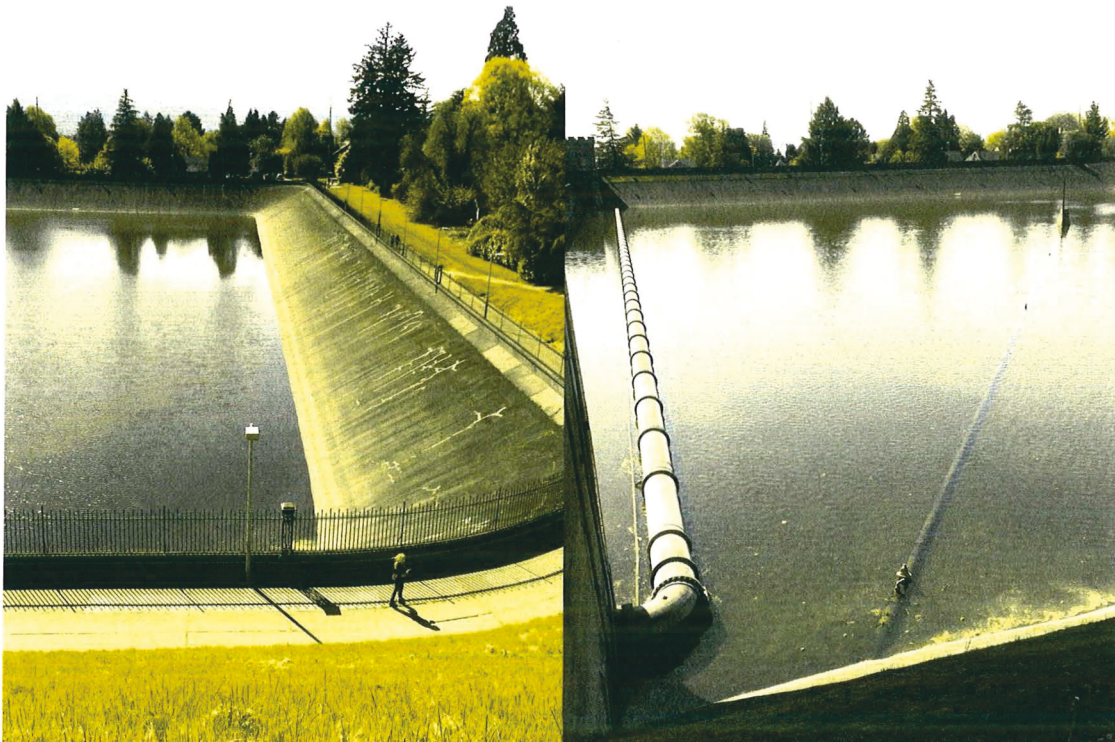
I implore you once again, as fellow citizens, please be the heroes we elected you to be – uphold your pledge towards good governance and justice in representing the will of The People, not our corporate contractors and profiteers.

Mt Tabor Park represents one of the energy centers of Portland, and its reservoirs are a huge part of this. If we destroy all the energy centers of our city,

then all it's special charm and spirit will go away as well. For the love of all things sacred, please do not let that happen!

Thank you for your time and consideration in this very important matter.

  
Daniel R. Berger, MD  
6027 SE Main St



I'm Dr. Steve Gordon and I live at 1209 SE 60<sup>th</sup> Avenue. I'm an internal medicine physician, but most of my career has been in executive healthcare leadership. I serve on and chair a number of public boards and committees. I am no stranger to public process, and councilors I sincerely respect your work here today.

I am also a runner, and every day, rain or shine, I jog through Mt. Tabor Park. I go up and down through the park, circumnavigating each reservoir along the way. After twenty years, I calculate I've done this at least 5,000 times, and for twenty years I've witnessed reservoirs drained, cleaned, and filled.

Councilors, it's been repeatedly asserted that cleaning the reservoirs will cost \$90,000 per year going forward. I can't replicate this figure. It takes two or three guys two or three days to carefully hose down the sides of each reservoir. At eight hours per day, that's a maximum of 72 hours of labor, which yields no more than \$3000-\$4000 labor cost per cleaning. The water is free, and staff has said supplies and chemicals cost a few hundred dollars. Where did the \$90,000 figure come from? The water bureau has never justified this figure, and yet staff repeatedly cited the figure in community meetings and public testimony. In their appeal before you, the water bureau suddenly omits a cost figure all together. Doesn't that strike you as odd, after all this time and effort?

I strongly support preserving and filling. I also support decision made on fact, and we all deserve detailed, defensible cost estimates for this work.

Thank you



Southeast Uplift  
3534 SE Main St  
Portland, OR 97214  
p: 503 232-0010  
[www.seuplift.org](http://www.seuplift.org)

January 21, 2015

Dear Mayor Hales, and Commissioners Fish, Fritz, Novick and Saltzman

Re: Open Reservoirs Resolution

In 2004 Mayor Katz appointed citizen representatives of the community to the Open Reservoirs Independent Review Panel. After six months of review the Panel voted by majority to retain our open reservoirs at Mount Tabor and Washington Park.

The EPA LT2 drinking water regulation is being reviewed into 2016 so there is time to stop the destruction and disconnecting of our open reservoirs. New York City and other utilities in New York, along with New Jersey are now in discussion with EPA.

The City of Portland has received scientific evidence to support an EPA LT2 waiver. The Board of Directors of SE Uplift requests that the City of Portland invite Senators Merkley and Wyden, along with the rest of the Oregon Congressional delegation, to work with New York and New Jersey in requesting an open reservoir EPA waiver – stopping the costly and unnecessary removal of the open reservoirs, saving money and keeping our water safe.

Sincerely,

A handwritten signature in black ink, appearing to read "RM", with a long horizontal flourish extending to the right.

Robert McCullough

President

SE Uplift Board of Directors

***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



**PLEASE stop the  
clock, table this until  
the EPA LT2 reports  
are finished mid-2016**

May 28, 2015

Portland City Council

Disconnection of Historic Mt. Tabor Reservoirs

Presentation by PHLC Commissioner Harris S. Matarazzo

Mr. Mayor and City Commissioners:

Thank you for this opportunity to address the Council. My name is Harris Matarazzo. I am one of the Portland Historic Landmarks Commissioners who unanimously arrived at the decision being appealed today, which supported the preservation and maintenance of the historic Mt. Tabor Reservoirs upon their disconnection from the City's water supply system.

The purpose of my attendance today is to advise you of my personal observations as a Commissioner in arriving at this consensus determination. This is different than appearing before you as an "advocate". I recognize that this is a de novo proceeding, and that you will be receiving and assessing evidence independently. This will include issues of credibility.

The proposed disconnection and fate of the Mt. Tabor Reservoirs has been an extraordinarily contentious one. Three public meetings before the Portland Historic Landmarks Commission in this matter were instructive, and led me to the following conclusions:

- 1) It is without question that the Mt. Tabor Reservoirs are among the City of Portland's most significant historic resources;
- 2) The public is very invested in maintaining and preserving the Reservoir structures as historic water features;
- 3) Long-term animosity exists between Reservoir neighbors and the Water Bureau;
- 4) Based upon its own statements, the Water Bureau chose not to meaningfully include those opposed to its proposed disconnection plans in this case, creating further public animosity and suspicion;
- 5) The PHLC was not consulted by the Water Bureau prior to initiating the proceeding resulting in a formal PHLC

review, reducing public participation, and perpetuating distrust;

- 6) The Water Bureau is tasked with the delivery of clean water to the residents of Portland, not in maintaining historic sites;
- 7) The Reservoirs have experienced significant deterioration over a period of years due to neglect. Without adequate and appropriate maintenance, they will become subject to demolition;
- 8) Unless the Water Bureau is mandated to maintain the Reservoirs, with independent oversight to ensure compliance, this task should be given to another agency;
- 9) A public perception prevails that the Water Bureau believes it is exempt from any oversight in this matter.

As the Landmarks Commission record reflects, due to split among voting members, we were unable to reach a decision on the Bureau's disconnection proposal at our second meeting, held on

January 26, 2015. This was resolved several weeks later, at our final, February 9, hearing. Prior to the closure of the January 26, 2015 proceeding, I asked representatives of the Water Bureau and the various neighborhood groups if they would be willing to meet with each other in a good faith attempt to resolve their differences prior to the February 9, 2015 hearing. It was suggested that this could include mediation, which would empower, and motivate, the parties to arrive at a consensus opinion. All were reminded that the issue of whether the Reservoirs should remain uncovered was beyond the scope of the Commission, and was not a topic for discussion.

Neighborhood representatives, including the State of Oregon's recently retired Federal Defender, agreed to participate. Despite my urging, the Water Bureau representative was reluctant to engage in this process. No meeting occurred. This was unfortunate. As such, the Commission was deprived of a potential consensus opinion by the parties, as well as any other information which might have been deemed as helpful.

In my opinion, the Commission's decision was well thought out, balancing the interests of all stakeholders, including the preservation of the historic reservoirs. On appeal, the Water Bureau objects to the following:

- 1) "Condition B", a requirement that the reservoirs not be partially or fully emptied for more than sixty days total, either consecutive or non-consecutive, within a calendar year, except in emergency circumstances;
- 2) "Condition E", a requirement that the City of Portland formally adopt the May 2009 Mount Tabor Reservoirs Historic Structures Report and fully implement the short- and long-term restorative recommendations and maintenance therein, including removal of non-historic elements, such as light fixtures and conduit, and restoration of the contributing resources of the Mt. Tabor Historic District by December 31, 2019.

The historic function of the Reservoirs is to hold, and

distribute water throughout the City, while also providing an aesthetic destination for our citizens. “Condition B” is premised upon the determination that the prolonged absence of water from this vessel, or the long-term maintenance of an exceedingly low water level, would be unsightly and contrary to its historic, aesthetic, purpose. In my opinion, a failure to arrive at a detailed commitment as to water levels would be problematic given the Water Bureau’s record.

Due to the longstanding neglect of the Reservoirs themselves, as outlined in the May 2009 Mount Tabor Reservoirs Historic Structures Report, and which continues today, I have little reason to doubt that necessary, ongoing, restoration or preservation of this resource will occur. In fact, I believe that it will continue to deteriorate. This may include eventual demotion. The preservation of “Condition E” will ensure that this not occur.

In my testimony before the Council regarding the demotion of the Washington Park Reservoirs, I noted that the City is obligated to apply its preservation laws equally to its citizens and

itself. In my opinion, the Historic Landmarks Commission decision in this matter does just that.

Finally, at some future point, I would encourage the Council to consider the creation of a mandated dispute resolution process which would be available to citizens in historic preservation matters seeking a mutually acceptable solution to disagreements with City agencies responsible for that resource. A failure to meaningfully communicate should not be acceptable.

## Moore-Love, Karla

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**From:** Lawrence Hudetz <hudechrome@gmail.com>  
**Sent:** Thursday, May 28, 2015 1:05 AM  
**To:** Moore-Love, Karla  
**Subject:** RoseMarie Opp/LU 14-218444 Mt. Tabor hearing  
**Attachments:** Save our reservoirs submission letter to the Historic Landmarks Commission.odt; Mt. Tabor open reservoirs testimony to be placed in the record May 27, 2015.doc

Please place the following in the record  
LU 14-218444 HREN  
Mt. Tabor Council Hearing May 28th, 2015

This link and two attachments.

[http://bullrunwaiver.org/wp-content/uploads/2013/03/SaveOurReservoirsHandout\\_050115.pdf](http://bullrunwaiver.org/wp-content/uploads/2013/03/SaveOurReservoirsHandout_050115.pdf)

Thank you,  
RoseMarie Opp

1339 SE 130th Ave.  
Portland, OR 97233

[hudechrome@gmail.com](mailto:hudechrome@gmail.com)

(Lawrence Hudetz name appears as we share emails, his [hudechrome@usa.net](mailto:hudechrome@usa.net))

To: Hillary Adam and Stacey Castleberry  
c/o the Historic Landmarks Commission  
1900 SW Fourth Ave., Suite 5000  
Portland, OR 97201

I along with many other citizens have fought for years to retain our current Bull Run Water System. The Open Reservoirs fully functioning are a vital component of that system to providing our community with healthy drinking water. This water system has been a treasure given to us by past generations and we ask you to do all that you can to assist in saving it.

To have the reservoirs there as merely a visual element or water feature misses the point of their importance to our public health. I do not believe in mitigation when it compromises the public health of our community. Historically the reason for the inception and construction of the Bull Run Water System was to solve a health problem in the early days of Portland resulting from people drinking the Willamette River water. We will again have health problems if the open reservoirs are not fully functioning, one problem being radon.

I live in the East Portland area. I was Chair of the Mill Park Neighborhood Association for 12 years. We had guest speakers such as Floy Jones from the Friends of Reservoirs and Scott Fernandez, M.Sc. Biology/Microbiology who informed many in our area about our Bull Run Water System. I mention it because this matter is not only a Mt. Tabor issue. Those in my area are very concerned about what happens to our open reservoirs regarding our drinking water. I believe that the city needs to have all who drink Bull Run water in the SW, NW, North Portland, East Portland and areas beyond notified, informed, and involved in decisions regarding the critical matter of our drinking water as it pertains to our community health. In my opinion, this then involves more than a land use issue at Mt. Tabor. The vast majority of people simply do not know and I believe if they did know, they would care and join the efforts of we citizens who want to save those open reservoirs fully functioning as they were designed. People should not be left in the dark about how valuable these open reservoirs are to our public health. The information necessary on this and to request a Waiver can be seen on the following website:  
<http://bullrunwaiver.org/>

Troubling to me is that our elected officials have not been good stewards of our water system nor have they stood up to save our open reservoirs with serious intent regarding the EPA LT2 rule. We only need to note New York's efforts and a reprieve that they acquired until 2028, that the EPA LT2 rule is still being reviewed into 2016 and then ask why our city has been on a different path.

A timely article January 7th, 2015 came out on Truthout and I submit it for understanding further the situation and to have the article put in the record via the link below.

RoseMarie Opp  
1339 SE 130th Avenue  
Portland, OR 97233  
[hudechrome@gmail.com](mailto:hudechrome@gmail.com)

<http://truth-out.org/news/item/28390-deep-questions-arise-over-portland-s-corporate-water-takeover>

Mt. Tabor Open Reservoir  
Testimony to be placed in the record.  
For the May 28<sup>th</sup> City Council hearing.

May 27, 2015

These Open Reservoirs have been fully functioning to provide our community with healthy drinking water. The EPA LT2 rule had to do with cryptosporidium which is caused by sewage. Portland's watershed is in a federal protected land and does not have this problem. The EPA LT2 became a one size fits all rule. NY and NJ have fought to retain their open reservoirs, they may need to add some treatment as in NY their watershed meanders through villages and farms. Our Bull Run Water System deserves to be granted a Waiver from this rule as the watershed is in this federal protected area and has no cryptosporidium. Unfortunately our city council and elected officials have not seriously asked for this Waiver from the LT2. The EPA LT2 is being reviewed into 2016, and our city is on a race to disconnect our open reservoirs at Tabor prior to the results of the LT2 review. Further, NY Senator Schumer communicated to EPA that the LT2 would be too great a financial burden for their community. Our Senator Merkley has said that he cannot help as the city hasn't asked him. NY got a reprieve until 2028. Where is the evidence that our city has asked for and along with such a request provided scientific evidence in order to receive this Waiver?

Now we are told we need to cut pipes, disconnect our open reservoirs because of a problem that does not exist here, however in doing the disconnect, we will be adding a real problem that does exist R A D O N in the Columbia S. Shore Well fields that Portland uses water from those well fields. The problem is radon that came into our area years ago with the Missoula floods.

When we use that well water the radon now with the Open Reservoirs can dissipate into the air. If those Open Reservoirs are removed we will lose that protection.

From a Citizens for Portland's Water 2015 handout:

*If the open reservoirs are removed...we will lose all protection from radioactive Radon gas and the radioactive radon decay products shown here that will enter and contaminate air quality in schools, homes and workplaces.*

*Radon gas through your soil can be easily removed. Radon gas from your water generates many permanent radioactive decay products that will contaminate your air, clothes, floors and dust particles...you, your family, children, pets, and garden vegetables ...will bio accumulate more and more radioactive decay materials every day. EPA is clear "there is no safe level of radioactive Radon" or Radon decay exposure. EPA recognizes "Radon is the highest risk cancer causing drinking water contaminant". Thousands of people die from Radon every year in the US.*

*EPA is reviewing the open reservoirs regulation through 2016. New York and New Jersey are working with EPA to keep their open reservoirs. We can too.*

This leads to my grievance. Why is this critical change in our water delivery system being proposed by our city and these details not mentioned or allowed to be on the table for discussion? Our Water bureau and our city council only wants this out in the Mt. Tabor neighborhood and to frame the discussion only as "what would this neighborhood want to see in place of these open reservoirs." In other words, this major change in our water is essentially being done in a land use review...with no discussion about why the Open Reservoirs are needed as this vital component of our sustainable Bull Run Water System. They have used the EPA LT2 as an excuse and rushing to damage these reservoirs prior to the EPA LT2 rule results in 2016. A 2014 spring meeting at Warner Pacific college, many residents wanted to ask questions about the process and matters of substance. The public was told that would be forthcoming

later in the meeting, but when later came, it was announced that then Commissioners Fritz and Fish would be leaving. Again, no real discussion about the water, our public health, and reasons to retain the Open Reservoirs. We were only to select what to do once those Open Reservoirs are taken down. These meetings were held in the Mt. Tabor neighborhood.

I live in East Portland and those Mt. Tabor Open Reservoirs provide the protection from radon, etc. and are important to my health, my home and our East Portland community as well. Why should a land use through Mt. Tabor and that neighborhood only make decisions regarding the water for the entire city? East Portland, North Portland, NW. SW. and West Portland and communities beyond who partake of this Bull Run Water are all stakeholders that have essentially been left out. These stakeholders have not been not informed about the reason these Open Reservoirs remaining fully functioning were critical to the public health of our community. The city needed to have meetings throughout our entire area concerning the radon being allowed to come into our homes and workplaces.

For Open Reservoirs Health Benefits  
and the The Public Health Risk of Radon

For this and more information:

<http://bullrunwaiver.org/>

The following from Friends of Safe Drinking Water ad in Northwest Examiner, May 2011:

**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

**WATER** - What got my attention at the Historic Landmarks Commission hearing about the water is that the PWB said there was no use change. Obviously there is use change. Right now those open reservoirs are fulling functioning sending healthy water into our homes and workplaces. The huge change is that after a disconnect, we will no longer have the benefit of the fully functioning open reservoirs. We were told that any water left in "only aesthetic" reservoirs cannot now reach our homes, but will instead be drained into the sewer. Our pristine Bull Run water cannot even accidentally be allowed to reach our taps. This is insanity. Closed storage tanks have throughout our country caused health problems discussed in EPA documents. It appears any vents in the closed tanks are small and not the same as the size of the open reservoirs function regarding the radon matter. For the water bureau to characterize the project as no use change is insulting to those who know better. The application should be rejected on that usage change alone.

## GOAL 9: CITIZEN INVOLVEMENT

### Findings: Policy 9.1

Citizen Involvement Coordination states: "Encourage citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public."

Goal 9 has not been met. The general public would be city wide since this park belongs to the public and the water delivery system concerns mentioned are of city wide public interest. Meetings in Mt. Tabor and some in the west side for Washington Park are not adequate for these major changes, our drinking water and parks. East Portland, North Portland, SW and all those who drink Bull Run Water are stakeholders and should have been notified and had meetings to discuss alternatives and that their drinking water and public health is at stake.

The Federal Safe Drinking Water Act indicates that residents have a right to know what is in their drinking water, where it comes from, how it is treated and how to help protect it.

33.445.010 - The Open Reservoirs as fully functioning are a significant part of the regions heritage. Replacing with a water pond is not the same, the heritage would be gone and with only pictures of the reservoirs left.

33.445.330 - My response is there has not been an opportunity for the community to fully consider alternatives to destruction.

Many of the Codes and Goals where the the applicant states the goal has been met are in my opinion where the applicant of course chooses to make their case and can declare so in words only that they did all this public involvement and outreach. The reality of whether this holds true is another matter such as in the westside I documented that in their meetings from Jan. 2013 to Oct. 2014 only 28 people from the public attended.

I think it is clear that citywide community meetings were not held and the public was not informed nor allowed a platform for the public health discussion needed. It has essentially been repeated and repeated to the public through the press that they have to do this period. Next step demolish and disconnect those reservoirs, no other discussion other than "what to put in place of". Even those few meetings at the Tabor area, after the public insisted at a November 2014 to have questions answered, etc. people by that time, were quite upset by being marginalized about their issues and concerns....then the city decided to cancel the December 2014 meeting. So the city and water bureau can talk all they want about their public involvement, real discussions weren't allowed. If the city really wanted to be diligent about real communication, they could have purchased ads in the paper, etc. and explained what was at stake here...instead they have been focused in their one message which has been that they have to do this and little else. This is abysmal. They can have their illustration boards set up but the substance of our public health is not on the table. Public Involvement has not been encouraged. When issues of substance cannot be discussed and meetings are cancelled, the public has been discouraged. When I have called the water bureau I was told radon wasn't really a problem. Where is the evidence of that? Where is the burden of proof that radon isn't a problem?

The water matter has been put under land use, and our water and public health - nowhere has that subject had any discussion with integrity, only we are to stay on the path of this city's agenda to demolish and disconnect period.

EPA did not say these reservoirs needed to be destroyed.

For many of we citizens who do not live in the Tabor area and for some who do live there a huge concern is that this is about our water and the public health of our community!

The following are excerpts regarding the Safe Drinking Water Act.

In reading this, one can clearly see how our public interest regarding our water and public health has been marginalized. The city and water bureau have failed regarding the SDWA.

[http://www.epa.gov/safewater/sdwa/pdfs/fs\\_30ann\\_sdwa\\_web.pdf](http://www.epa.gov/safewater/sdwa/pdfs/fs_30ann_sdwa_web.pdf)

## Public Information & Consultation SDWA

emphasizes that consumers have a right to know what is in their drinking water, where it comes from, how it is treated, and how to help protect it. US EPA distributes public information materials (through its Safe Drinking Water Hotline, Safewater web site, and Water Resource Center) and holds public meetings, working with states, tribes, water systems, and environmental and civic groups, to encourage public involvement.

Many water suppliers now are also required to prepare annual reports for their customers. The public is responsible for helping local water suppliers to set priorities, make decisions on funding and system improvements, and establish programs to protect drinking water sources. Water systems across the nation rely on citizen advisory committees, rate boards, volunteers, and civic leaders to actively protect this resource in every community in America.

## Public Information:

SDWA recognizes that since everyone drinks water, everyone has the right to know what's in it and where it comes from. All water suppliers must notify consumers quickly when there is a serious problem with water quality.

Water systems serving the same people year-round must provide annual consumer confidence reports on the source and quality of their tap water.

States and US EPA must prepare annual summary reports of water system compliance with drinking water safety standards and make these reports

available to the public. The public must have a chance to be involved in developing source water assessment programs, state plans to use drinking water state revolving loan funds, state capacity development plans, and state operator certification programs.

Interesting that in the last one or two Water Bureau annual reports the topic of radon has been removed. This is certainly no consumer confidence.

There is also no consumer confidence regarding the status of our new tanks. The tanks at Powell Butte had leaks and there does not seem to be transparency about whether those leaks are continuing and whether it is a possible design flaw? That tank had 3000 cracks and over 200,000 gallons of water leaked for some time. Engineers in a KOIN article (those engineers not on the project and did not want to be named) said it could be a design flaw.  
<http://KOIN.com/2014/02/26/powell-butte-reservoir-failing-leak-tests/>

In my view, it would only be prudent to keep our trustworthy Open Reservoirs fully functioning. I have spoken with a legislator in Salem who questioned that now with the west having less rain, why would anyone remove any reservoirs?

There are many reasons to keep our Open Reservoirs, haven't even brought up that they are on the National Register of Historic Places and that they belong as they are in the crown jewels of our parks.

The city has also not been good stewards of our community financial well being. It is unacceptable that the PWB brings up the concern of \$1.5 million for upkeep on Mt. Tabor open reservoirs, but has the money to do all else such as \$40 million at Mt. Tabor and the Washington Park project another \$76 million. This weak response from PWB is an insult. Unfortunately our council has also gone along with the deferred maintenance which is one more abuse of that system and detrimental to our public health.

EX PARTE CONTACT - The applicant is the Portland Water Bureau. They have had no communication with the council? Any ex parte contact must be disclosed including content.

CONFLICT OF INTEREST - The Mayor has a long history working for HDR, they have a large Water Division and in my opinion the Mayor has a conflict of interest and ought to recuse himself from water decisions and/or those that bring HDR into city projects.

We need a Mayor and Commissioners to be good stewards of our valuable asset our Bull Run Water system including the Open Reservoirs as fully functioning which have historically provided our city with safe drinking water for over 100 years.

RoseMarie Opp  
1339 SE 130<sup>th</sup> Avenue  
Portland, OR 97233  
[hudechrome@gmail.com](mailto:hudechrome@gmail.com)

(Lawrence Hudetz name appears as we share emails)

**Moore-Love, Karla**

---

**From:** Suzanne Sherman <suzanne@fatcathatsandsacks.com>  
**Sent:** Thursday, May 28, 2015 1:49 AM  
**To:** Council Clerk – Testimony  
**Subject:** Submitting my testimony for Land Use Case LU 14-218444 HR EN Mt Tabor Disconnection (please send me confirmation that you received this)

Good Day,

I am submitting my comments regarding the Land Use Case LU 14-218444 HR EN for the Mt Tabor Disconnection Project.

First of all I want to state...as a Mt Tabor resident...I am opposed to the disconnection project completely as well as the demolition of the reservoirs at Washington Park. I completely trust the open reservoirs to provide safe drinking water and am extremely concerned about the contamination of our water once the system is closed. I believe the disconnection project is unnecessary and very costly and I question the financial and political motives behind it's creation.

Though I want you to stop this project completely at the very least I ask that you honor your longstanding commitment to protect the aesthetic of the historic Mt. Tabor Park and reservoirs.

Please do not overturn the unanimous decision by the City's Historic Landmarks Commission or allow the Portland Water Bureau to reject the directives and conditions set forth by these preservation experts. Please work with community activists to keep our healthful open reservoirs operational and protecting us from radon by employing one of the many strategies for saving them outlined by the Friends of Reservoirs, Mt. Tabor Neighborhood Association and countless other activists.

Thank you,

Suzanne Sherman  
Mt Tabor Resident

Sent from my iPad

## Moore-Love, Karla

---

**From:** Mark Bartlett <bartlett.m@comcast.net>  
**Sent:** Thursday, May 28, 2015 6:34 AM  
**To:** Moore-Love, Karla; Mark Bartlett  
**Subject:** Re: Mt. Tabor Reservoirs Disconnection Project; SHPO# 14-0107  
**Attachments:** Mark B. Phone call 4mb audio.mp3

Karla,  
Please add these docs to the Mt Tabor LUR file for the record.  
The audio is a phone conversation with BDS's Jill Grenda.  
Thank you,  
Mark

*clerk note -  
See separate  
audio file:  
Testimony  
5-28-15  
Bartlett audio*

Mark Bartlett wrote:

> Thanks Jason. I appreciate your cooperation and willingness to respond.

>

> One thing further, is what type of review would this be should they  
> fail to keep to their promise and you reopen the case?

>

> We felt good about the current type 3 LUR since it has additional  
> appeal provisions with the HLC involvement and to LUBA.

>

> WB has so many pipes throughout the areas of proposed work and in  
> proximity to the reservoirs, I doubt they will ever be able to  
> relinquish responsibility. I'll send you a site map of the built  
> infrastructure if you like, or do you already have one provided by the  
> WB .

> Mark

>

>

> ALLEN Jason \* OPRD wrote:

>> Hello Mark,

>>

>> Our office's position is that the reservoirs must have water in them,  
>> maintained within the normal operating levels in order to avoid an  
>> adverse effect. Our response is based on what PWB submitted in the  
>> most recent submission, which included the agreement to do so until  
>> City Council directs them to do otherwise. City Council may or may  
>> not ever take that action, and it is impossible to predict. It may be  
>> that, once the reservoirs are disconnected from the drinking water  
>> system, that City Council feels it is more appropriate to have  
>> another agency maintain them, such as Parks. With the condition for  
>> approval in there, PWB is relinquishing the decision making on  
>> keeping these filled to City Council, with the explicit agreement  
>> that PWB will maintain water in them.

>> Because the Reservoirs (and Park) are publically-owned, our review  
>> authority extends to these resources regardless of what agency is  
>> tasked with maintaining them, and as such, if the reservoirs are  
>> drained and not refilled, our office would re-open the case, and find  
>> an adverse effect. This has been made clear to Water Bureau.

>>

>> Cheers,  
>> -Jason  
>>  
>> Jason M. Allen, M.A.  
>> Historic Preservation Specialist  
>> Oregon State Historic Preservation Office  
>> 725 Summer St. NE Ste C  
>> Salem, OR 97301  
>> 503.986.0579  
>> Jason.allen@oregon.gov  
>>  
>> \*\*\*\*My email address has changed! Please note the new email address  
>> in your email contacts list\*\*\*\*  
>>  
>>  
>> -----Original Message-----  
>> From: Mark Bartlett [mailto:bartlett.m@comcast.net] Sent: Wednesday,  
>> January 07, 2015 2:36 PM  
>> To: ALLEN Jason \* OPRD; Stephanie Stewart and Mike St Clair; Mark  
>> Bartlett  
>> Subject: Re: Mt. Tabor Reservoirs Disconnection Project; SHPO#  
>> 14-0107  
>>  
>> Jason,  
>> I'm surprised that you have so quickly put this out after our  
>> communications of yesterday.  
>> This has not allowed any time for a public response to new information.  
>>  
>> Just so I'm clear, are you saying with this statement that SHPO  
>> accepts that water does not need to be kept in the reservoirs on a  
>> permanent basis in order that they will not be adversely affected?  
>>  
>> If so please explain this position.  
>>  
>> We all see that WB has agreed to keep it there temporarily, but there  
>> is nothing beyond whatever the political definition of temporary is.  
>>  
>> Clearly what the WB wrote was hedging language that allows an escape  
>> from that commitment going forward. I believe this was pointed out by  
>> numerous contributors, who also provided many instances where their  
>> credibility has been demonstrated to be approaching zero.  
>>  
>> Please elaborate if they have promised something we do not yet know  
>> about since maintaining water in them is critical to the maintenance  
>> and longevity of the structures as well as the historic look of the  
>> park, so says the original landscape architects Olmsted and Mische.  
>>  
>> Thanks,  
>> Mark  
>>  
>>  
>>  
>> ALLEN Jason \* OPRD wrote:

>>  
>>> All,  
>>>  
>>>  
>>>  
>>> After much deliberation, consultation, and careful consideration,  
>>> our office has determined under ORS 358.653, that the proposed Mt.  
>>> Tabor Reservoirs Disconnection Project will not adversely affect the  
>>> Historic Mt. Tabor Park, or the Mt. Tabor Reservoirs Historic  
>>> District. While there will undoubtedly be changes to the historic  
>>> properties that will be apparent to the public, these are, in our  
>>> view, minor alterations that do not rise to the level of an adverse  
>>> effect when considered against the entirety of the historic Park and  
>>> the Reservoirs district as a whole. This determination was made  
>>> narrowly, according to the review authority granted our office under  
>>> the state law, and does not approach questions of local  
>>> jurisdiction, regulation, or decision-making by local review  
>>> authority, including the Portland Historic Landmarks Commission.  
>>> Local decisions relative to this project are made according to local  
>>> regulations, and those processes continue to play out. We thank the  
>>> Water Bureau for their cooperation in compliance with the state  
>>> regulation, and the residents of the Mt. Tabor neighborhood, who  
>>> provided input that helped drive the discussion and outcome of this  
>>> project.  
>>>  
>>>  
>>>  
>>> Cheers,  
>>>  
>>> -Jason  
>>>  
>>>  
>>>  
>>> Jason M. Allen, M.A.  
>>>  
>>> Historic Preservation Specialist  
>>>  
>>> Oregon State Historic Preservation Office  
>>>  
>>> 725 Summer St. NE Ste C  
>>>  
>>> Salem, OR 97301  
>>>  
>>> 503.986.0579  
>>>  
>>> Jason.allen@oregon.gov <mailto:Jason.allen@oregon.gov>  
>>>  
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>>> \*\*\*\*My email address has changed! Please note the new email address  
>>> in your email contacts list\*\*\*\*  
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>

## Moore-Love, Karla

---

**From:** Mark Bartlett <bartlett.m@comcast.net>  
**Sent:** Thursday, May 28, 2015 6:41 AM  
**To:** Moore-Love, Karla; Mark Bartlett  
**Subject:** Re: IVR 3563750 use determination for 6325 S E Division

Karla,

I'm finding that some e mails from BDS / City won't allow me to cut and paste to a larger file so I have to send them one at a time.

Mark

2-20-2015 151 pm

Mark Bartlett wrote:

> Gayla,  
> Paul Scarlet has waived that fee. While we still wait for our refund,  
> and meetings, I anticipate we will not be allowed any and if at all  
> after the Council votes on the proposal. I hope it becomes clear to  
> you as to why.  
>  
> What has happened is that BDS has apparently changed the rules making  
> an exception for this application since they have refused us the  
> meetings any other applicant is entitled to with a paid fee. Earlier  
> requests such as this one in 2003 went to council for a vote to become  
> ordinance which allowed an appeal to LUBA on the outcome.  
>  
> We anticipated, as staff represented when I paid the fee on Jan 7,  
> that we would meet with (a) Historical Landmarks Commission member(s)  
> in the DAR meeting in Jan since the property involves historic  
> components to discuss with them the property concerns and provide them  
> with docs to help them understand just what the PWB was intending.  
> After 20 years of constant battles we have accumulated a lot of  
> information.  
>  
> Jill Grenda called me after I had attempted to make those appointments  
> at 1900 S W 4th in person. I was told by Jill that the City attorney  
> told BDS staff not to talk to us nor would we be getting a meeting  
> with HLC members at least until after they voted on the proposed LUR  
> staff report. Now it appears they are denying us that opportunity  
> altogether.  
>  
> We think that our meeting would have changed the way the members  
> viewed the application, forcing some corrections, and consequently  
> their conditions to the staff report, if not the outcome. So we have  
> been denied that opportunity as well as BDS misleading me on what we  
> could expect when we paid. That they refunded the fee is irrelevant.  
>  
> This also ties in to my request to the Auditor for a review of classes  
> of public lands as these types of political maneuvers happen all too  
> often when it comes to our public properties and land use issues. Most  
> of this if not all is enabled by BDS accepting in this case the

- > incorrect information that PWB / City owns all of the park as one
- > legal parcel rather than the 51 individual parcels that both PPR and
- > PWB and the City agreed to in the 2008 memorandum from PPR.
- > PWB has title to 51 acres and PPR to 145. This was determined by PWB
- > staff and provided us in 2007 so that memorandum. That code would be
- > applied differently to individual parcels owned by PPR rather than one
- > owned by PWB as they wish to represent. The majority of work is to
- > take place on PPR parcels and not PWB owned.
- >
- > I was intimately involved in them recognizing that map during the MTNA
- > mediation with Zari Santner and PPR which was organized and brokered
- > by Mike Mills your predecessor. After much resistance, both bureaus
- > acknowledge the correct parcel map. Assigning management
- > responsibilities was a hollow gesture which resolved nothing as title
- > is a legal question, not a budget concern.
- >
- > As these maps and documents came from PWB, they knowingly
- > misrepresented on the current LUR application the title issues and BDS
- > did not properly verify, as would be required of every other
- > applicant, accepting the application with the incorrect
- > representation. Viewing this entire process I would say BDS was the
- > applicant and not PWB. Rather than an impartial third party we faced
- > an cooperative effort to approve the application, where rules and
- > requirements were overlooked.
- >
- > Certainly appeals can be filed with LUBA, but why should NAs be forced
- > to expend time and resources to undo what has been wrongly done with
- > foreknowledge, by staff and approved by those in a leadership role?
- >
- > If bureau staff and Council can keep ignoring their own rules, that
- > allows a much greater latitude for doing as they wish rather than
- > complying with those rules and laws they expect us to follow. I seem
- > to make this point over and over yet nothing changes because of the
- > commission style of government we have and lack of support from those
- > who might compel accountability and transparency.
- >
- > I again ask for your support.
- > Thank you,
- > Mark
- >
- >
- > Jennings, Gayla wrote:
- >> Good afternoon Mark,
- >>
- >> Margie forwarded me your email so that I may respond with further
- >> information. She and I discussed your request and would suggest
- >> contacting the Auditor's Office's Archives and Records Management
- >> Division for assistance with your research. They have varying open
- >> research hours during the week so you may want to call and discuss if
- >> an appointment is needed or if the documents are available through
- >> E-Files in which they can forward you hyperlinks within E-Files to
- >> those specific records. Archives and Records Management can be
- >> reached at 503-865-4100 or via email at [parc@portlandoregon.gov](mailto:parc@portlandoregon.gov).

>>  
>> Sincerely,  
>>  
>> Gayla Jennings Community Outreach and Information Assistant | Office  
>> of the Ombudsman  
>> Office of the City Auditor City of Portland, Oregon Phone (503) 823-3560  
>>  
>> -----Original Message-----  
>> From: Mark Bartlett [mailto:bartlett.m@comcast.net]  
>> Sent: Thursday, February 05, 2015 12:55 PM  
>> To: Sollinger, Margie; Grenda, Jill; Stephanie Stewart and Mike St  
>> Clair; Mark Bartlett; Hopkins, Melissa  
>> Subject: Re: IVR 3563750 use determination for 6325 S E Division  
>>  
>> Hi Margie,  
>> I've been trying to clarify the apparent BDS rule change given our  
>> request for a use determination of Jan 7 2015.  
>>  
>> It appears that BDS has changed the rules unknown to us, yet took in  
>> our application for a new use determination on Jan 7. At that time we  
>> expected that this would answer our questions and then go to Council  
>> for a vote to become an ordinance in the very same way as that which  
>> the Water bureau requested in 2003. The one from 2003 is attached  
>> with the example letter from the Water Bureau.  
>>  
>> Jill has offered to complete the work but states that it would not go  
>> to Council for a vote, in the same way as in 2003.  
>>  
>> If in fact there were a rule(s) change, no one bothered to tell us  
>> and will not direct us to that language. I have asked for that  
>> without any clarification.  
>>  
>> Could you please assist us in obtaining that language with the  
>> accompanying resolution or method by which that change came into force?  
>>  
>> We'd appreciate the reference to that in e files or through a code  
>> change under title 33.  
>>  
>> I doubt this is a task that Jill would perform or be involved in, so  
>> I have copied Melissa Hopkins who handles BDS records requests.  
>>  
>> And we have asked for a fee waiver as this request letter comes from  
>> neighborhood. Paul Scarlett has been copied. We have no response. I paid  
>> \$850 on Jan 7 for this determination. We were told it would take 5-6  
>> weeks to complete.  
>>  
>> Since this impacts every Portland resident and has been of wide  
>> interest for more than a decade, surely this meets that standard.  
>> There has been thousands of pages written about this issue and  
>> hundreds of testimonials before Council, the Historic Landmarks  
>> Commission, as well as public meeting organized by both Amanda and  
>> Nick on this proposed LUR and a couple of neighborhood groups meeting  
>> on this matter with Council sanction and funding over the course of

>> these past 12 years.  
>>  
>> Could you contact Paul Scarlet for an answer since he alone as  
>> Director, has this discretion without any guidelines or rules  
>> governing his preference to affirm or reject this request, as to  
>> whether this is of a wide public interest deserving of that waiver?  
>>  
>> We all wait for a full measure of transparency.  
>>  
>>  
>> An FYI,  
>> The Historic Landmarks Commission will hold its third hearing on this  
>> matter on Monday. They have repeatedly told us during the testimony  
>> and hearings that they do not have enough information to make a  
>> decision.  
>>  
>> The application has not met with their approval, and now we  
>> understand a 7th "member" will be coming who has not attended any  
>> prior meetings, heard any testimony, and who may or may not have  
>> read the record of those thousands of pages since this has been going  
>> on since February 2014. Her role according to BDS is to break the tie  
>> vote since a tie is an outright rejection of the application.  
>>  
>> I have also made a public records request for additional disclosure  
>> on the behind the scenes discussion of this old use determination  
>> from 2003 which both BDS and the WB have denied took place. Since all  
>> LURs start with that discussion, I find it less than credible that no  
>> discussion took place. Yet the WB asserts in writing, that no  
>> development standards were exceeded so requiring or triggering  
>> conditional use reviews per BDS staff findings. This conclusion is a  
>> few steps removed from that determinant and starting point of  
>> discussion on use. In other words you could not get to that point  
>> without first discussing the use.  
>>  
>> I think this speaks for itself as to just how land use is conducted  
>> here in Portland. The zoning code is the zoning code except when it  
>> is not.  
>>  
>>  
>> Thank you,  
>> Mark Bartlett  
>>  
>>  
>> Grenda, Jill wrote:  
>>  
>>> Mark;  
>>>  
>>> Jason will be addressing the written questions in the letter that  
>>> accompanied the Zoning Confirmation Letter application.  
>>>  
>>> Thanks,  
>>>  
>>> Jill Grenda, Supervising Planner

>>> Planning and Zoning Team  
>>>  
>>> City of Portland Bureau of Development Services  
>>> 1900 SW 4th Avenue, Ste. 5000  
>>> Portland, OR 97201  
>>>  
>>> p: 503-823-3580  
>>> f: 503-823-5630  
>>> e: jill.grenda@portlandoregon.gov  
>>> -----Original Message-----  
>>> From: Mark Bartlett [mailto:bartlett.m@comcast.net]  
>>> Sent: Thursday, February 05, 2015 10:20 AM  
>>> To: Grenda, Jill; Mark Bartlett; Stephanie Stewart and Mike St Clair  
>>> Subject: Re: IVR 3563750 use determination for 6325 S E Division  
>>>  
>>> Jill,  
>>>  
>>> We are still unclear about just what questions Jason will attempt to  
>>> address?  
>>>  
>>> I handed to the tech at intake a list on MTNA letterhead, and then  
>>> sent Jason the link to a letter from Ty with additional questions to  
>>> be addressed. It would be appreciated if he could address all of those.  
>>>  
>>> Then, why if there was a code change as you mention, (please do  
>>> forward that language with any resolution ) citizens do not have  
>>> that same opportunity as an agency to bring a matter to Council for  
>>> confirmation?  
>>>  
>>> I take it the WB had to pay their fee and provide a request letter in  
>>> 2003 just the same as we have done, so I don't see why we are  
>>> treated any differently in this instance.  
>>>  
>>> You mentioned Hillary's supervisor Kim. I have additional procedural  
>>> questions to ask.  
>>> Could you provide an e mail for her please.  
>>>  
>>> I'd also appreciate being directed to those appeal forms for  
>>> appealing any BDS or LUR decision to either Council or LUBA. I saw  
>>> in the code there were special forms on which any appeal must be  
>>> filed per  
>>> 33.730.030 H (1).  
>>>  
>>> If those forms are different for appeals to Council and LUBA, please  
>>> do forward provide direction to both.  
>>>  
>>> Thank you,  
>>> Mark  
>>>  
>>> Grenda, Jill wrote:  
>>>  
>>>> Mark;  
>>>>

>>>> Jason, one of my experienced planners, is working on the Zoning  
>>>> Confirmation letter, including all the questions you asked in it.  
>>>> I guess I will assume that you want to move forward with that  
>>>> request and not withdraw it for a refund, even though it wasn't the  
>>>> process you had expected.  
>>>>  
>>>> Thanks,  
>>>>  
>>>> Jill  
>>>>  
>>>> Jill Grenda, Supervising Planner  
>>>> Planning and Zoning Team  
>>>>  
>>>> City of Portland Bureau of Development Services  
>>>> 1900 SW 4th Avenue, Ste. 5000  
>>>> Portland, OR 97201  
>>>>  
>>>> p: 503-823-3580  
>>>> f: 503-823-5630  
>>>> e: jill.grenda@portlandoregon.gov  
>>>> -----Original Message-----  
>>>> From: Mark Bartlett [mailto:bartlett.m@comcast.net]  
>>>> Sent: Monday, February 02, 2015 12:23 PM  
>>>> To: Grenda, Jill; Stephanie Stewart and Mike St Clair; Mark Bartlett  
>>>> Subject: Re: IVR 3563750 use determination for 6325 S E Division  
>>>>  
>>>> Hi Jill,  
>>>> We were wondering if you'd had a chance to consider this e mail  
>>>> from Wed the 28th.  
>>>>  
>>>> I / we remain unclear if BDS will answer our questions, much in the  
>>>> way of that WB request for use determination of 2003 identified  
>>>> specific areas of interest to which BDS responded. Their request  
>>>> letter identified certain issues to which BDS then put forward  
>>>> their findings.  
>>>>  
>>>> We'd like that same consideration. Please respond so we can move  
>>>> forward.  
>>>>  
>>>> Thank you,  
>>>> Mark  
>>>>  
>>>>  
>>>> Mark Bartlett wrote:  
>>>>  
>>>>> Hi,  
>>>>> I did talk with Stephanie and we were unclear on a couple things.  
>>>>>  
>>>>> When I spoke with you Monday you told me the City Attorney had  
>>>>> instructed you and or BDS staff not to answer our questions until  
>>>>> the HLC decision was final.  
>>>>>  
>>>>> We wondered if that meant those which we included on Jan 7 with

>>>>> the paperwork as well as any we would put forward related to that  
>>>>> use determination or what exactly that meant with regard to our  
>>>>> receiving answers?  
>>>>>  
>>>>> Then what if the HLC votes to reject that staff report again...  
>>>>> where would that put us?  
>>>>>  
>>>>> We are leaning toward going forward but were unsure what you meant  
>>>>> on Monday.  
>>>>>  
>>>>> I will e mail Hillary about the opening of the record.  
>>>>>  
>>>>> Mark  
>>>>>  
>>>>> Grenda, Jill wrote:  
>>>>>  
>>>>>> Mark;  
>>>>>>  
>>>>>> You'll need to ask the case planner (Hillary), or her supervisor  
>>>>>> (Kim) about the land use case record. Do let me know if you want  
>>>>>> to proceed with the use determination.  
>>>>>>  
>>>>>> Thanks,  
>>>>>>  
>>>>>> Jill Grenda, Supervising Planner  
>>>>>> BDS LUS Division  
>>>>>> (503) 823-3580  
>>>>>> Jill.grenda@portlandoregon.gov  
>>>>>>  
>>>>>>  
>>>>>>  
>>>>>>> On Jan 28, 2015, at 8:40 AM, Mark Bartlett <bartlett.m@comcast.net>  
>>>>>>> wrote:  
>>>>>>>  
>>>>>>> Thanks Jill.  
>>>>>>> Rebecca would have know about that since she was listed as a  
>>>>>>> staff participant on that decision.  
>>>>>>>  
>>>>>>> In my view BDS and WB had an in depth discussion about this  
>>>>>>> prior to approving the type 2 application in January. That is  
>>>>>>> why I requested the meeting notes about this subject only to be  
>>>>>>> told at first they did not exist, and later that they were  
>>>>>>> confidential, for staff only.  
>>>>>>>  
>>>>>>> I will discuss with Stephanie.  
>>>>>>>  
>>>>>>> Could you respond to my questions about LUR procedure since the  
>>>>>>> staff report keeps resurfacing with new language yet the record  
>>>>>>> was closed on Monday at 12 noon . The public has not had the  
>>>>>>> opportunity to see much less respond before the HLC hearing  
>>>>>>> starting.  
>>>>>>>  
>>>>>>> And as to just how this LUR application / staff report can

>>>>>> remain open if rejected by HLC, twice now?  
>>>>>>  
>>>>>> Do they have an open ended opportunity to have a vote  
>>>>>> continually into the future at each meeting?  
>>>>>>  
>>>>>> My take was that members wanted additional information and  
>>>>>> direction from decision makers in order to move forward with an  
>>>>>> informed vote.  
>>>>>>  
>>>>>> Thanks,  
>>>>>> Mark  
>>>>>>  
>>>>>> Grenda, Jill wrote:  
>>>>>>  
>>>>>>> Hi Mark;  
>>>>>>>  
>>>>>>> BDS currently processes, "use determinations," as a form of  
>>>>>>> Tier 3 Zoning Confirmation letters. The fee pays for  
>>>>>>> site-specific research and complex analysis of the Code  
>>>>>>> regulations. We process a number of different types of things  
>>>>>>> through the Tier 3 letters, including documentations of  
>>>>>>> nonconforming situations, use determinations, and lists of  
>>>>>>> questions that applicants submit.  
>>>>>>> Your request is a combination of the latter two.  
>>>>>>>  
>>>>>>> I enlisted the assistance of the other BDS LUS Supervisors and  
>>>>>>> the division manager when your request came in and you had  
>>>>>>> described wanting a meeting or hearing. We concluded that it  
>>>>>>> may be that former versions of the Zoning Code had a more  
>>>>>>> formalized, "use  
>>>>>>> determination," process. But today's regulations don't  
>>>>>>> describe a use determination that can be processed through a  
>>>>>>> land use review. That said, I believe that the State of Oregon  
>>>>>>> Land Use Board of Appeal (LUBA) would consider a tier 3 Zoning  
>>>>>>> Confirmation action a limited land use decision, since it  
>>>>>>> represents the City applying our Zoning regulations and giving  
>>>>>>> advice on the use of property.  
>>>>>>> If your intent is to dispute the City's determination of use  
>>>>>>> through a LUBA appeal, your current process likely can serve  
>>>>>>> that purpose.  
>>>>>>>  
>>>>>>> So the tech in the permit center correctly took in your  
>>>>>>> application as we currently understand the process for a use  
>>>>>>> determination. I'm sorry if your expectation was for a  
>>>>>>> different process, but neither she nor I had any idea that a  
>>>>>>> previous different process had existed. If you do not wish us  
>>>>>>> to continue with the current application, I am happy to provide  
>>>>>>> a full refund on it. Please let me know how you would like to  
>>>>>>> proceed.  
>>>>>>>  
>>>>>>> Thanks, and sorry for the confusion.  
>>>>>>>  
>>>>>>> Jill

>>>>>>>>

>>>>>>>> Jill Grenda, Supervising Planner

>>>>>>>> BDS LUS Division

>>>>>>>> (503) 823-3580

>>>>>>>> Jill.grenda@portlandoregon.gov

>>>>>>>>

>>>>>>>>

>>>>>>>>

>>>>>>>>> On Jan 28, 2015, at 7:52 AM, Mark Bartlett

>>>>>>>>> <bartlett.m@comcast.net> wrote:

>>>>>>>>>

>>>>>>>>> Jill,

>>>>>>>>> I wanted some clarification on your phone message of Monday.

>>>>>>>>>

>>>>>>>>> Stephanie and MTNA did not get the benefit of hearing that

>>>>>>>>> since it went to my residence. Could you respond to each

>>>>>>>>> question please.

>>>>>>>>>

>>>>>>>>>

>>>>>>>>>> Are you saying that BDS no longer accepts request letters for

>>>>>>>>>> a use determinations?

>>>>>>>>>>

>>>>>>>>>> That they only offer zoning code confirmations?

>>>>>>>>>>

>>>>>>>>>>> That BDS no longer does use determinations which are

>>>>>>>>>>> significantly different than zoning confirmations, accept when

>>>>>>>>>>> desired by City agencies or at the behest of the City Attorney?

>>>>>>>>>>>

>>>>>>>>>>>> And then they do not with that one exception in 2003 go to

>>>>>>>>>>>> Council for a vote to become and Ordinance?

>>>>>>>>>>>>

>>>>>>>>>>>>> Why did BDS take my money knowing that current policy (if it

>>>>>>>>>>>>> actually does) did not afford me that result?

>>>>>>>>>>>>>

>>>>>>>>>>>>>> I clearly requested a use determination and was given a

>>>>>>>>>>>>>> receipt and IVR # for that purpose, with expectations of a

>>>>>>>>>>>>>> result only to have someone change their minds three weeks

>>>>>>>>>>>>>> later??

>>>>>>>>>>>>>>

>>>>>>>>>>>>>>> I was told to expect that result in 5-6 weeks from that Jan

>>>>>>>>>>>>>>> 7th date. That would be before any Council hearing on the

>>>>>>>>>>>>>>> matter or at the very least prior to the expiration of the

>>>>>>>>>>>>>>> appeal window.

>>>>>>>>>>>>>>>

>>>>>>>>>>>>>>>> If I had wanted a simple zoning confirmation letter we could

>>>>>>>>>>>>>>>> have achieved that with considerably less expense, and knowing

>>>>>>>>>>>>>>>> that would not result in anything constructive in resolving

>>>>>>>>>>>>>>>> the questionable use of the old 2003 findings, and likely

>>>>>>>>>>>>>>>> opted to simply take the BDS decision to LUBA. We know what

>>>>>>>>>>>>>>>> the zoning is but have serious concerns about the use

>>>>>>>>>>>>>>>> determination. That is what we wanted clarity on.

>>>>>>>>>>>>>>>>

>>>>>>>>>>>>>>>>> I'd like this exchange along with your response sent to the

>>>>>>>> HLC members asap.  
>>>>>>>>  
>>>>>>>> That LUR record should be reopened since the applicant  
>>>>>>>> brought new information forward just prior to that hearing and  
>>>>>>>> the public could not respond for the benefit of the commission  
>>>>>>>> members prior to the hearing.  
>>>>>>>>  
>>>>>>>> I anticipate that additional information will be forthcoming  
>>>>>>>> given the rejection of the staff report on Monday..  
>>>>>>>> I don't see how the staff report can continually be brought  
>>>>>>>> back for another vote when it has been rejected. Is this too  
>>>>>>>> an exception to the LUR rules since the applicant is a City  
>>>>>>>> agency?  
>>>>>>>> Please enter this e mail chain and the BDS response into the  
>>>>>>>> record along with the concerns of many who attended on Jan 26  
>>>>>>>> and Jan 12 had about the behavior and tactics of Tim Herron in  
>>>>>>>> his efforts to move the HLC members to approve the staff  
>>>>>>>> report and conditions. So much for the unbiased BDS staff  
>>>>>>>> guidance and level laying field in this matter.  
>>>>>>>>  
>>>>>>>> Thank you,  
>>>>>>>> Mark Bartlett  
>>>>>>>>  
>>>>>>>>  
>>>>>>>> Mark Bartlett wrote:  
>>>>>>>>  
>>>>>>>> Thanks Jason,  
>>>>>>>> I did speak to Jill and found the first tech did not enter  
>>>>>>>> this as a use determination but a confirmation letter which  
>>>>>>>> is of no use. I was very clear, but she was new ( 2 weeks on)  
>>>>>>>> and did not know the difference. Yesterday, the tech told me  
>>>>>>>> it would be easy to change and enter properly into the  
>>>>>>>> computer to correct the error, and the fee was equal. I hope  
>>>>>>>> that is now resolved.  
>>>>>>>>  
>>>>>>>> I spoke with Jill about arranging our obligatory meetings.  
>>>>>>>> She told me that staff had been instructed not to meet with  
>>>>>>>> us until after the HLC decision was handed down. Well that  
>>>>>>>> was concluded at 330 yesterday with (3-3 vote) so a refusal  
>>>>>>>> to accept the staff report.  
>>>>>>>>  
>>>>>>>> Given that we'd like those meetings scheduled. Doing so after  
>>>>>>>> the fact is not useful.  
>>>>>>>>  
>>>>>>>> The letter from Ty illuminates many concerns with using that  
>>>>>>>> old use determination which we'd like addressed as well as  
>>>>>>>> just how BDS came to be able to rationalize using that for  
>>>>>>>> different work and a different purpose.  
>>>>>>>>  
>>>>>>>> I look forward to your response so we can get those meeting  
>>>>>>>> times and dates.  
>>>>>>>>  
>>>>>>>> Speaking for myself, I don't see why BDS could not have met

>>>>>>>>> with us long ago when we brought the questionable  
>>>>>>>>> rationalization of the 2003 findings to Amanda , Paul, and  
>>>>>>>>> BDS staff in Feb 2014 when it was first filed as a type 2.  
>>>>>>>>>  
>>>>>>>>> In 2008 we met with Kathleen Stokes and BDS staff regarding  
>>>>>>>>> the Park / maintenance yard zoning and use, and spoke with  
>>>>>>>>> Dave Skilton among others about the historical aspects and  
>>>>>>>>> expectations.  
>>>>>>>>>  
>>>>>>>>> Right now people are doubting the integrity of the LUR and  
>>>>>>>>> BDS so I think this could be a way forward. The HLC even  
>>>>>>>>> discussed a mandatory mediation, and concluded they as yet do  
>>>>>>>>> not have enough information to make a decision. Also because  
>>>>>>>>> it seems BDS is providing the applicant a great deal more  
>>>>>>>>> guidance and support than I would ever get as a private citizen.  
>>>>>>>>>  
>>>>>>>>> Tim Herron's performance yesterday was beyond reasonable. He  
>>>>>>>>> was clearly trying to bully the commission towards the  
>>>>>>>>> applicant position to get the staff report approved. So much  
>>>>>>>>> for even handed and a level playing field.  
>>>>>>>>> Thank you,  
>>>>>>>>> Mark  
>>>>>>>>>  
>>>>>>>>> Richling, Jason wrote:  
>>>>>>>>>  
>>>>>>>>> Thank you Mark,  
>>>>>>>>> I'm back in the office today. It looks like there has been  
>>>>>>>>> some discussion of the use determination/zoning confirmation  
>>>>>>>>> letter request while I was out. I'll need to follow up with  
>>>>>>>>> Jill as to the status of the discussions and will be better  
>>>>>>>>> able to respond to your emails at that point. I am away from  
>>>>>>>>> my desk for the bulk of the day but do have access to email.  
>>>>>>>>> Best Regards,  
>>>>>>>>>  
>>>>>>>>> Jason  
>>>>>>>>>  
>>>>>>>>> Jason Richling | City Planner  
>>>>>>>>> Land Use Services Division | Bureau of Development Services  
>>>>>>>>> City of Portland | 1900 SW 4th Avenue | Suite 5000  
>>>>>>>>> Portland, OR  
>>>>>>>>> 97201  
>>>>>>>>> p: 503.823.7509 e: jason.richling@portlandoregon.gov ·  
>>>>>>>>> Please consider the environment before printing this e-mail  
>>>>>>>>>  
>>>>>>>>> -----Original Message-----  
>>>>>>>>> From: Mark Bartlett [mailto:bartlett.m@comcast.net] Sent:  
>>>>>>>>> Monday, January 26, 2015 12:39 PM  
>>>>>>>>> To: Richling, Jason; Mark Bartlett; Stephanie Stewart and  
>>>>>>>>> Mike St Clair  
>>>>>>>>> Subject: IVR 3563750  
>>>>>>>>>  
>>>>>>>>> Hi Jason,  
>>>>>>>>> As you have been made aware, MTNA and others are questioning

>>>>>>>>> the use of the 2003 finding for Mt Tabor park as well as the  
>>>>>>>>> definitions relied on to arrive at the BDS position, that  
>>>>>>>>> there are no additional conditional use reviews required, as  
>>>>>>>>> well there were no triggers of the development standards  
>>>>>>>>> under 815.150.  
>>>>>>>>>  
>>>>>>>>> Please review the e mail sent to the Historic Landmarks  
>>>>>>>>> members. We will expect to discuss these issues at our  
>>>>>>>>> meetings so wanted you to be prepared.  
>>>>>>>>> Thank you,  
>>>>>>>>> Mark  
>>>>>>>>>  
>>>>>>>>>  
>>>>>>>>> <https://drive.google.com/file/d/0BwjTV06zgxKYYUdWeFp2dWpoOFE/v>  
>>>>>>>>> i  
>>>>>>>>> e  
>>>>>>>>> w?usp=sharing  
>>>>>>>>>  
>>>>>>>>>  
>>>>>>>>>

## Moore-Love, Karla

---

**From:** Grenda, Jill  
**Sent:** Friday, May 29, 2015 7:03 AM  
**To:** Mark Bartlett  
**Cc:** Commissioner Fish; Commissioner Fritz; Hales, Mayor; Stephanie Stewart and Mike St Clair; Moore-Love, Karla; Esau, Rebecca; Scarlett, Paul; Richling, Jason; Beaumont, Kathryn; Rees, Linly  
**Subject:** Re: Refusal of BDS to provide any response to use determination or public records request

Hi Mark;

Just to clear the air once more;

BDS does intend to process the use determination request. When there is an active land use case that is going before City Council in which the USE has been an integral part of the case discussion, we generally do not want to further muddy the waters by having a separate land use action in process that also evaluates use. In this case, staff worked with the City Attorneys' office to determine the correct order of processing the land use actions. The Council case took precedent over any other action that could evaluate the use.

Your refund for the use determination request was processed some time ago, and my understanding is that you have received the fee back. Please let me know immediately if that is not the case. As a neighborhood association, Mt. Tabor was eligible for a fee waiver, and it has been granted.

Thanks for your patience; once Council has made a decision on the land use matter before them in regards to Mt. Tabor, that decision will inform our use determination letter, and we can issue it to you without too much further delay.

Thanks,

Jill Grenda, Supervising Planner  
BDS LUS Division  
(503) 823-3580  
Jill.grenda@portlandoregon.gov

> On May 28, 2015, at 5:47 PM, Mark Bartlett <bartlett.m@comcast.net> wrote:

>  
> Hi Nick,  
> You seemed interested in my record request, and denial so I will  
> elaborate on that letter from Travis.  
>  
> BDS was refusing to respond at all or in other words a constrictive  
> denial. He encouraged me to enclose that letter to BDS since that  
> might convince them to act in good faith. It has not.  
>  
> BDS has not responded to either my paid for type 3 use finding, not  
> the request for any and all e mails regarding the Mt Tabor LUR for  
> use, conditional use, or change in use.  
>  
> The start point for any land use review is USE. and from there  
> definitions and code application follows. So a change from that which  
> they included as defining from 2003 could or would invalidate the  
> entire staff report.

>

> Clearly the one they say was not discussed and yet was relied on from

> 2003 was not the proper finding for this application.

>

> As you know BDS staff twice in writing acknowledged the change in use

> in both the pre app summary and early staff report, which would be a

> trigger for additional conditional uses.

>

> My thinking ays they are hiding what would then be a clear

> inconsistency in the finding since they now have many additional

> documents that will cause a different outcome in that finding.

>

> Many of these issues were discussed with BDS staff during that

> 2006-7-8 mediation and conclusions were then reached. I've included

> many documents in my submissions to the record as well as providing

> them to BDS staff to consider.

>

> Jason Richling was assigned our file and has yet to respond even

> though I was told it would only take 4 weeks and I would be getting

> those meetings with staff and HLC members prior to their decision making meeting.

>

> Why do you think they have refused to respond prior to Council hearing this?

>

> Why do you believe they have refused my request for records?

>

> Why did the City attorney tell BDS staff not to meet with us or answer

> questions, when as you heard today, there was clearly a lack of

> conversation that may have offered an opportunity to resolve many of

> the appeal issues if they had just done as one would expect.

>

> I do want both the finding and a completed document request, and right

> away so it can be included into the record. I'd like this also entered

> into the record in any case since it is prior to 6 pm on 5-28 and the

> hearing is still under way.

>

> I understood that the Mayor intended to keep that open, so I'd like to

> include whatever response BDS might provide unless it is something

> less then genuine and legitimate..

>

> Thank you for your concern.

> Mark

>

>

> Mark Bartlett wrote:

>> Robin,

>> I've not heard from you. What is the update now that you've talked to

>> the City?

>> Please remember I gave them my check on March 20th for 1/2.

>>

>> Mark

> On 5-21-15 @ 11:17 am

>

>> SKARSTAD Robin wrote:

>>>  
>>> Mr. Bartlett,  
>>>  
>>> I did have the opportunity to speak with Ms. Poole this week. She  
>>> confirmed that the \$850 will be refunded to you and agreed to look  
>>> into why it is taking so long. She indicated that the broad nature  
>>> of your requests was responsible for the high cost estimate – as  
>>> everything needs to be reviewed by the city attorney. When I  
>>> suggested that I wanted to speed the process and/or reduce the cost,  
>>> she referred me to Jennifer Johnston in the City Attorney's Office.  
>>> I left Ms. Johnston a message.  
>>>  
>>> I am out of the office tomorrow, but wanted to provide you with an  
>>> update.  
>>>  
>>> Regards,  
>>>  
>>> Robin Skarstad  
>>>  
>>> Deputy District Attorney  
>>>  
>>> (503) 988-4804  
>>>  
>>> Confidentiality: This e-mail transmission may contain confidential  
>>> and/or privileged information. The information contained herein is  
>>> intended for the addressee only. If you are not the addressee,  
>>> please do not review, disclose, copy or distribute this  
>>> transmission. If you have received this transmission in error,  
>>> please contact the sender immediately.  
> <BDS receipts for use determination and doc request.pdf>

## Parsons, Susan

---

**From:** floy jones <floy21@msn.com>  
**Sent:** Thursday, May 28, 2015 7:13 AM  
**To:** Council Clerk – Testimony; Hales, Mayor  
**Subject:** FW: Case file # LU 14-218444 HR, Mt. Tabor Reservoirs Disconnection Project  
**Attachments:** Nitrificationcovstoragestudy.pdf

Attached is the Nitrification study paper referenced in the e-mail below and in separate Tabor disconnect LU comments, speaking to the cancer-causing public health risk Portland will face if the Portland Water Bureau successfully thwarts community will and demolishes and decommissions 5 of Portland's most significant water system assets, Portland's open reservoirs.

---

From: floy21@msn.com  
To: cctestimony@portlandoregon.gov; mayorcharliehales@portlandoregon.gov;  
amanda.fritz@portlandoregon.gov; patti.howard@portlandoregon.gov; stevenovick96@gmail.com;  
dan.saltzman@portlandoregon.gov; nick@portlandoregon.gov  
Subject: Case file # LU 14-218444 HR, Mt. Tabor Reservoirs Disconnection Project  
Date: Wed, 27 May 2015 22:05:19 -0700

To: Portland City Council

**Re:Case file # LU 14-218444 HR, Mt. Tabor Reservoirs Disconnection Project**

From: Floy Jones on behalf of Friends of the Reservoirs

One of unique public health risks associated with covered storage is cancer-causing Nitrification, a problem the PWB has begun expending public resources to address as was presented to at a wholesale customer meeting where I was present. In response to the submission of the AWWA article addressing Nitrification submitted in the Washington Park demolition LU case, the PWB misleadingly suggested that this only related to L.A. when indeed it is a problem that develops in the absence of sunlight, in covered storage, in systems that chloramine as does Portland.

Los Angeles had to address the public health risk from Nitrification after covering its open reservoirs and as the article suggests in an attempt to address this public health risk, L.A. is experimenting with installation of UV radiation bulbs inside the covered storage tanks, creating yet another public health risk from Mercury contamination of the water supply.

[http://www.ladwpnews.com/posted/1475/Opflow\\_Nitrification.523459.pdf](http://www.ladwpnews.com/posted/1475/Opflow_Nitrification.523459.pdf) (attached under separate cover)

The above American Water Work Association article addresses experimental actions that LA undertook to address the covered storage public health issue of Nitrification.

Disconnection of the Tabor reservoirs and/or demolition of the Washington Park Reservoirs does not support protection of public health as doing so creates new and unique public health risks associated with covered storage.

## Treatment

Brian White is a biologist with the Los Angeles Department of Water and Power ([www.ladwp.com](http://www.ladwp.com)), Los Angeles. Martin Adams is director of the department's Water Operations Division.

The Los Angeles Department of Water and Power is experimenting with near-ultraviolet (UVA) radiation to mitigate nitrification. Water is relatively transparent to UVA radiation, which can inactivate nitrifying bacteria at low intensities. **BY BRIAN WHITE AND MARTIN ADAMS**

# BATTLING NITRIFICATION WITH BLACKLIGHTS


**T**HE LOS ANGELES DEPARTMENT of Water and Power suspended a bank of fluorescent blacklights in the headspace of Mount Washington Tank 2 in July 2009. The idea was to test whether standard overhead light fixtures could supply enough near-ultraviolet (UVA) radiation to prevent nitrification onset in covered storage facilities containing chloraminated water. The utility undertook a full-scale tank retrofit to explore this practical application for combating nitrification.

LADWP is currently expanding its replacement of chlorine with chloramines as the city's secondary disinfectant. Although chloramines form fewer disinfection by-products and eliminate chlorinous odor, they encourage nitrification in covered

storage facilities. The nitrification process begins with routine decomposition of chloramine disinfectant, which consists of chlorine and ammonia. As ammonia and chlorine separate, resulting ammonia becomes a source of energy for ammonia oxidizing bacteria, such as *Nitrosomonas*, which convert ammonia to nitrite. Nitrite-oxidizing bacteria, including *Nitrobacter*, complete the process by converting nitrite to nitrate. Both *Nitrosomonas* and *Nitrobacter* are sensitive to low-intensity UVA radiation.

Nitrification can rapidly deplete tank chloramines, and maintaining tank residuals with unforeseeable spot treatments is labor intensive and contrary to maintaining low disinfection by-products. To prevent nitrification, LADWP is experimenting with the application of UVA radiation.

PHOTOGRAPH: ART MOCHIZUKI, LADWP



LADWP undertook a full-scale tank retrofit to determine whether standard overhead light fixtures could supply enough UVA radiation to help prevent nitrification in covered storage facilities containing chloraminated water. The results have been encouraging.

# Treatment

## PILOT PROJECT

The pilot project was conducted at full-scale at Mount Washington Tank 2 because the optical, chemical, biological, and operational complexities of a fill-and-draw tank couldn't be duplicated in a laboratory. In addition, sufficient information to devise realistic lighting specifications was already available in scientific literature. The literature-derived minimum UVA intensity assumed 24 hr of continuous exposure across the bottom of a full tank. This conservative approach assured overexposure of the overlying water column.

Mount Washington Tank 2 was selected as the test bed for several reasons:

- The tank has distributed chloraminated water to a small pressure zone near downtown Los Angeles since 2003.
- The tank has a history of nitrification and is sampled three times each week for numerous nitrification-related water quality variables.
- A companion tank, Mount Washington

Tank 1, provides a convenient control setting for side-by-side tests.

Four design features—reactor size and exposure intensity, duration, and waveband—distinguish the Mount Washington UV facility from all others. At more than 67,500 ft<sup>3</sup>, Tank 2's UV reactor is the world's largest; daylong exposures to it of twilight intensities had never been attempted. The reactor pairs lowest exposure intensities with longest exposure times and is the first to use longwave UVA radiation instead of shortwave UVC radiation.

Constructed of reinforced concrete in 1954, Mount Washington Tank 2 has a diameter of 62.5 ft, maximum depth of 22 ft, and storage capacity of 524,000 gal. Theoretically, the transparency of water to UVA radiation can accommodate large dimensions and long detention times, which compensate for low-intensity exposures.

## LIGHTING DESIGN

Several laboratory and field studies have established that UVA radiation can inhibit the first step in nitrification, ammonia oxidation, at intensities < 0.1 percent of solar UVA during a 24-hr period. Solar inhibition of nitrifying bacteria has been implicated in the persistence of a prominent nitrite maximum at depths near the 1 percent light level throughout much of the world's oceans. Sunlight also suppresses ammonia oxidation in wastewater treatment plants. Sunlight contains considerable UVA, little UVB, and no UVC radiation.

Three optical criteria—the absorbance spectra of chlorophyll *a*, monochloramine, and water—were used to set wavelength boundaries for an ideal design spectrum. The monochloramine and chlorophyll absorbance spectra were used as bookends to minimize unwanted photolysis of disinfectant residual on the low end and unwanted algal photosynthesis on the high end. The water's absorbance spectrum was used to maximize the applied radiation's penetrating power.

To find the best UVA fit, the output spectra of several fluorescent and light-emitting diode (LED) lamps were measured with a scanning spectroradiometer. In terms of ready availability, spectral emission, spectral transmittance, and service life, an ordinary blacklight proved to be the best available technology.

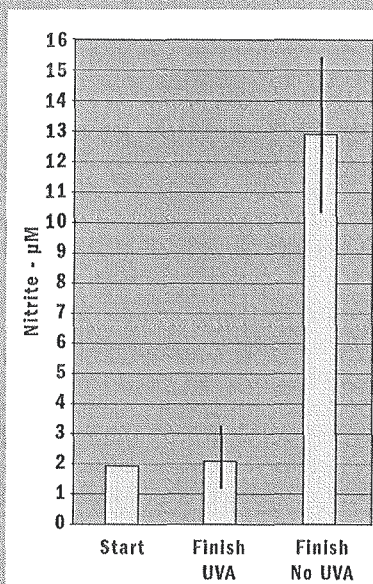
A fluorescent blacklight waveband occupies a spectral optimum between shorter UVA wavelengths that penetrate water relatively poorly and longer violet-to-blue wavelengths that stimulate unwanted algal photosynthesis. The dominant photosynthetic pigment chlorophyll *a* strongly absorbs blue light. Although the violet-to-blue region of the solar spectrum inhibits nitrification at low intensities, it was excluded from the design spectrum to avoid possible growth of a green bathtub ring. In the future, UV LEDs may make it possible to target the spectral optimum more precisely.

Sizing the Mount Washington blacklight system posed a special design problem. For the first time, water transparency had to be factored into an overhead lighting plan. This was accomplished by using five years of underwater UVA attenuation measurements taken with a remote electro-optical sensor (REOS) in nearby Los Angeles Reservoir. The REOS system has been used by LADWP to track and treat nuisance algal blooms in Los Angeles Reservoir for nearly 20 years and was the enabling design technology for the Mount Washington UVA project.

Historical REOS data show that UVA transparency varies over time. However, when the Mount Washington tanks were full, water could be expected to transmit > 15 percent of UVA wavelengths 90 percent of the time. This 90th percentile transparency value was used with a commercial-lighting software tool to specify a surface intensity of 1 percent of solar UVA. This surface intensity was considered necessary to achieve a minimum design intensity of 0.1 percent of solar UVA in the tank's deepest, darkest

## Test Results

Low-intensity UVA radiation can inhibit nitrifying bacteria in a tank as strongly as it does in nature.



LADWP personnel are optimistic that low-intensity UVA radiation will prove to be a practical, safe, and effective safeguard against nitrification onset in water storage facilities.

reaches after accounting for radiant losses from surface reflection, distance from lamps, and absorbance by 22 ft of water.

#### LIGHTING VALIDATION

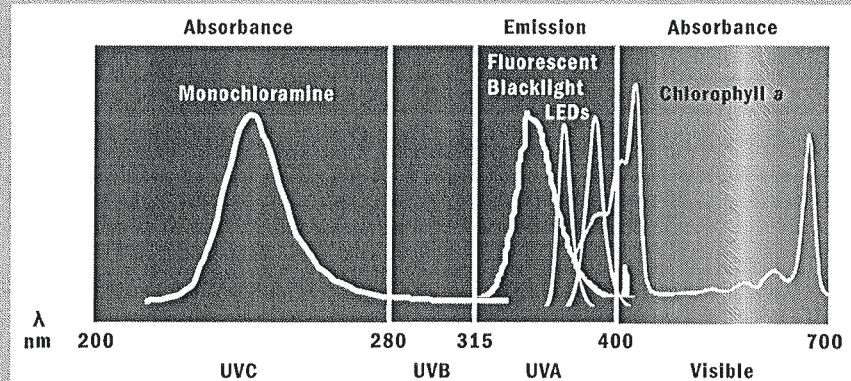
Measurements made by a pair of REOS radiometers suspended at different depths in Mount Washington Tank 2 revealed a complex UV field. As expected, when the tank's water level rose, underwater UVA intensity fell; and when the tank's water level fell, underwater UVA intensity rose. In addition, UVA radiation was about twice as intense near the tank's center as it was along the walls. UVA intensity on the bottom of a full tank near the wall exceeded minimum design specifications of 0.1 percent of solar UVA most of the time, with the surface intensity about nine times higher. Although difficult to quantify, horizontal, vertical, and temporal UVA gradients such as these provide a considerable design cushion because free-swimming bacteria in the water column are continuously exposed to UVA intensities higher than the design minimum.

As expected, absorbance of blacklight radiation by the water column had a spectral bias. The longer blacklight wavelengths penetrated about three times better than shorter ones. This bias is an important design consideration. With all other things being equal, the most penetrating wavelengths are the most efficient. For this reason, narrow-band LEDs are an attractive alternative.

To test the pilot system's photoinhibitory effectiveness, three bottles containing water from the nearby Verdugo tank, which was just beginning to nitrify, were placed near the bottom of Mount Washington Tank 2, and another three bottles were placed in the unlit Mount Washington Tank 1 late one Friday afternoon. The test water had a starting nitrite concentration of 1.9  $\mu\text{M}$ . When the Mount Washington test bottles were retrieved the following Monday morning, nitrite

#### Wavelength Boundaries

Fluorescent blacklight and UV LED wavebands occupy a spectral optimum between shorter UVA wavelengths and longer violet-to-blue wavelengths.



concentrations in the three bottles exposed to UVA radiation in Tank 2 were largely unchanged, but nitrite concentrations in the three bottles retrieved from the dark Tank 1 had more than quintupled. Meanwhile, during the same week-end, nitrite concentration in the Verdugo tank more than tripled.

Taken together, these observations support the underlying assumption that low-intensity UVA radiation can inhibit nitrifying bacteria in a tank as strongly as it does in nature. In addition, the routine nitrification-monitoring program showed that UVA radiation can accomplish this with no unforeseen consequences.

Nitrifying bacteria have attached and free-swimming life stages. Attached bacteria live year-round on bottom sediments and in biofilm that coats internal tank surfaces. Sediments and biofilm may shield attached bacteria from UVA radiation. Active nitrification, however, usually coincides with a bloom of free-swimming bacteria in the water column. Free-swimming bacteria would be fully exposed to and presumably inhibited by low-level UVA radiation. The relative contribution of attached and free-swimming bacteria to tank nitrification remains the largest unknown factor of the Mount Washington project.

#### FUTURE WORK

As encouraging as the pilot results have been so far, much remains to be done. The lighting installation followed the simplest, round-the-clock, proof-of-concept design. Other configurations and photoperiods are conceivable; however, large-scale, long-term flow-through experiments in a series of tanks deep enough to absorb UVA radiation are needed to further assess and optimize the approach.

An experimental tank farm, known as the Subaquatic Inhibiting-Light Observatory, is nearing completion at the Los Angeles Aqueduct Filtration Plant. Four 17,000-gal covered tanks are already in the ground. Fabricated from 20-ft lengths of surplus 144-in. ASTM A36 rusted steel pipe, the tanks are plumbed to receive chlorinated or chloraminated water and are being equipped with dimmers, timers, mixers, and heaters. This facility allows different lamps and fixtures, radiation intensities, and photoperiods to be tested against an array of flow, temperature, and circulation conditions in the presence of natural biofilm. LADWP personnel are optimistic that low-intensity UVA radiation will prove to be a practical, safe, and effective safeguard against nitrification onset in water storage facilities.

**Moore-Love, Karla**

---

**From:** Carole Scholl <carolesnews2@icloud.com>  
**Sent:** Thursday, May 28, 2015 7:21 AM  
**To:** Council Clerk – Testimony  
**Subject:** My tabor reservoirs

I'm writing to ask the City Council to preserve the Mt Tabor reservoirs- keep them filled with water, and preserve our water supply. The reservoirs are a historic landmark, our water is some of the cleanest in the nation. For our children's sake, please do not destroy our park.

I'm a taxpayer and a Portland resident.

Carole Scholl  
1221 SE 80th Ave  
Portland 97215  
5037520972

Sent from my iPad

**Moore-Love, Karla**

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**From:** Carole Scholl <carolesnews2@icloud.com>  
**Sent:** Thursday, May 28, 2015 7:17 AM  
**To:** Council Clerk – Testimony  
**Subject:** Mt tabor reservoirs

I am a Portland resident and a taxpayer. I'm writing to ask the City Council to preserve Mt Tabor Park. The reservoirs are a historical landmark, our water from Bull Run is the cleanest in the nation. For our children's sake, please keep the reservoirs full of water and please preserve the reservoirs.

Carole Scholl  
1221 se 80th Ave  
Portland OR 97215  
5037520972

Sent from my iPad

**Moore-Love, Karla**

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**From:** mark@markcolman.com  
**Sent:** Thursday, May 28, 2015 8:27 AM  
**To:** Council Clerk – Testimony  
**Subject:** RE: LU 14-218444 HREN, Mt. Tabor Reservoirs Decommissioning

Mayor Hales and City Council,

Please seek alternative LT2 compliance strategies and keep our city's proven-safe open reservoirs in use, so they can continue protecting us from the radon contamination in our Columbia backup source.  
Please, this is urgent.

Sincerely,  
Mark Colman

## Moore-Love, Karla

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**From:** Mark Bartlett <bartlett.m@comcast.net>  
**Sent:** Thursday, May 28, 2015 8:42 AM  
**To:** Moore-Love, Karla; Mark Bartlett  
**Subject:** Re: LU 14=21844 HR EN

Another set of e mails for the Mt Tabor disconnect file.

Thanks,  
Mark

2-12-2009 9:51 am

Kovatch, Ty wrote:

- > Mark,
- > My answers in red below.
- > TK
- >
- > -----Original Message-----
- > From: Mark Bartlett [mailto:bartlett.m@comcast.net]
- > Sent: Thursday, February 12, 2009 8:43 AM
- > To: Kovatch, Ty; cascade; shannon; John Laursen; Kennedy-Wong,
- > Elizabeth; Argentina, Eileen; Kuhn, Hannah
- > Subject: land swap details
- >
- >
- > Hi Ty,
- > Can you provide more details on the proposed swap for the 1.8 acres of
- > water property at Mt Tabor for the waterfront land.
- >
- > Would it actually be a title swap of a parcel for another? Yes
- >
- > What is the zoning for the proposed swap property? You can check
- > [www.portlandmaps.com](http://www.portlandmaps.com) <<http://www.portlandmaps.com>> for the zoning of
- > the two parcels.
- >
- > What were the appraised values of both properties? I do not know.
- >
- >
- > Specifically how the ratepayers will fare if that land were leased for
- > \$1 to a money losing organization. Since the ratepayers are not
- > paying Parks for the property, but rather exchanging properties, the
- > ratepayers will not incur a cost for the purchase of the property.
- > The Rose Festival Association will be incurring the costs of
- > improvements to the facility. Further, once the Rose Festival's
- > financial situation becomes more stable, it is understood that a more
- > standard lease arrangement will occur.
- >
- > In that Randy says McCalls has always been a commercial failure, why
- > does he think this is a good deal for rate payers? Because the Water
- > Bureau is not a commercial entity, but a public entity. The McCall's
- > site is a valuable and historic public resource regardless of its

> commercial history.  
 >  
 > Would the City's liability for subsidy to this organization change if  
 > this swap is made? How? I don't understand your question. We don't  
 > have a liability. The City's first participation in supporting the  
 > Rose Festival in many years occurred last year, and it was to situate  
 > bathrooms on the parade route along with seating and parking for  
 > disabled citizens.  
 >  
 > I would appreciate any elaboration on the considerations.  
 > Thank you,  
 > Mark  
 >  
 >  
 >  
 > \_\_\_\_\_ Information from ESET Smart Security, version of virus  
 > signature database 3849 (20090212) \_\_\_\_\_  
 >  
 > The message was checked by ESET Smart Security.  
 >  
 > <http://www.eset.com>

to the Landmarks Commission from Mark Bartlett

Mt Tabor resident for 18 years, living 3 blocks from reservoirs

Years on MTNA and sat in CAC meets with WB

Worked with PPR and citizen group on Mt Tabor Park master plan update of 2008

28 years of work in land development and real estate in Portland

Questions and comments on the LUR and staff report

(A) Applicant represents ownership of all parcels where work is to be done. Work crosses off acknowledged WB parcels onto PPR parcels. It is the responsibility of the applicant to provide legal evidence of title for all parcels on which work will be done.

Has BDS confirmed title research of deeds for restrictions or encumbrances on use as required by donors for those parcels?

1) copy of 1959 parcel map showing park is 51 parcels: Park is owned by WB, PPR, and City. Donors specified parcels to parks and water commission between 1895 and 1915.

There has been No known conveyance of those parcels in question to City for purposes of this application

These documents were supplied to both Commissioners Fritz and Fish by me personally long before this application, and were a product of research by the WB.

2) 9-15-2008 memorandum from PPR on parcels issue explaining the assessor did this without regard for legal concerns about deeds

3) WB employee Dan Coombs narrative, maps, and deed research

(B) Definition and use determination

2) WB relies on the Aug 20, 2003 use determination for this LUR when both the use and definition may have changed.  
BDS staff say no discussion was held about this when the entire LUR relies on the these for application of the code.

a) are these reservoirs still a part of the water delivery system, so still a utility?

b) are these still reservoirs since they are or will be disconnected from the water delivery system?

c) when do these changes for the purposes of the LUR and code change?

3) WB required to show why the treatment of water in the existing reservoirs was not the preferred option... page 2 of the pre app summary of 26 March 2014. Where is that document?

4) Cost of reversal... what is the cost of reversal and who determines how the work is done to minimize that cost?

(5) Lack of any preservation plan per ORS 358... How is it that this will be done after the work and not before providing guidance for both the applicant and the construction workers?

(6) What precisely is the current condition as referred to as a condition by BDS?

a) What is the standard to meet when referring to keeping the Historical Character?

The Rob Dortignaqc report of 2009?

b) Who determines if the work meets that standard?

(7)

(C) Relevant approval criteria

1) assumptions were that:

Reservoirs are still reservoirs in spite of being no longer a

part of the water delivery system.

see pages 5,6,7 of the 2003 use determination document.

a) How are they defined now for the purpose of this LUR and when do they become something other than reservoirs?  
an accessory to the park as a reflecting pool might be?

b) For this application, what was this work defined as? maintenance? new construction, or repair / replacement?

c) How do these terms impact any staff findings of the applicant meeting the code?

2) Does this definition of a utility and the use determination still apply even as the actual use has changed.

3) Per the 2003 use determination page 7... 33.445.140

a) (e and f) Native trees over 10" are not to be cut and those between 6-10" must be replaced at a 3:1 ratio

b) staff considerations for disturbances of more than 5000 sq feet in a resource zone

#### Other questions and concerns

1) on page 10 of the staff report BDS states there was no intake checklist.

a) refusal to respond to public records requests or filter what the public sees

On Nov 17 I went to BDS to review the files from both earlier LURs and the recent one expecting to find this to see just how they determined that the applicant met their requirements for the application to be deemed complete and compliant Shelley Wilson of BDS who provided the documents for me confirmed my expectation there would be such a list but told me it was confidential for staff only, yet this decision can be appealed to Council, then LUBA, so all documents should be a part of the records available to the public yet they elected to keep some secret?

I questioned this since BDS had accepted the January applications as complete using \$110,000 as the value of work making it a type 2, when now it exceeds \$5 million for the very same work.

They also accepted the applicants representation that the WB owned all of the park when I provided to all parties, clear evidence to the contrary. These are among the reasons I requested the BDS intake lists to see just how these were addressed to allow acceptance of the clear misrepresentations known to both bureaus.

I also requested the entire file from the WB and was told there were no notes or conversations between BDS staff and the applicant about the definition and use determination upon which all else follows. I found this incredible as one who has completed all types of LURs myself. I

understood there would be notes and correspondence between the applicant and consultants such as historical and preservation advisers that BDS would not have in their file.

When I wrote Nick Fish's staff member Sonia Schamanski, requesting the complete file. I was told the applicant would provide all substantive records according to what they determined as substantive. That meant the applicant was determining what documents they considered necessary for the public to see.

My inquiry about any early assistance or DAR records for the reservoirs in this or earlier applications was ignored.

Because these among other records have been denied the public I request this hearing record be kept open until that time they are made available for review and a response to this hearing body can be made. This may exceed the 7 day period stated for rendering a decision, but that will be dependent on cooperation from the applicant and the bureau. I would ask that the hearing board demand from the bureaus their cooperation in providing the complete records of these LURs.

b) In that the applicant has as their stated goal to demolish these reservoirs and have for more than a decade been deceiving the public frequently about their intentions and plans, I am uncomfortable with them overseeing any work related to historical conservation or preservation. They simply cannot be trusted to do so without a third party oversight that clearly has no conflict of interest. I would say the same for tree preservation and the PPR staff who we as a neighborhood have dealt with over these past 14 years. An outside arborist should oversee the tree preservation delineation of drip circles and root preservation.

12-5-14

To SHPO and the HLC  
Comments on the proposed Mt Tabor disconnect

Fist I feel I need to address concerns that may make the staff report invalid

BDS relies on a use determination dated 20 August 2003, in which the proposed work was to demolish these reservoirs. The findings and described work differ significantly today from that used in 2003, to then be able to apply the zoning and code sections under which the application would be reviewed.

I have asked BDS since February to reexamine those findings since they appeared to not be correctly used in the first LUR of Jan 27. I wrote to both Commissioners Fritz and Fish, their staff, and the BDS staff, and have no response on this matter. I have those e mails.

Clearly this is a problem that should have been addressed before now, but for political reasons has not been.

I asked the HLC to be aware of this conflict since all else in the code interpretation follows defining and use.

I have made know I was going to request a new use determination if BDS staff did not do so voluntarily and that the HLC staff assist me by requesting a fee (\$850) waiver. I understand the City attorney may be reviewing the language but am concerned about the conflict of interest since they generally support Council's wishes regardless it seems of whether this was legal or appropriate.

I feel only an independent review would be correct, but again since BDS has put forward the incorrect findings and carried it this far knowing they had a problem, I don't know then how the public can best be reassured that they will do so honestly and diligently. I leave those matters to the oversight bodies.

Concerns with that use determination  
page 2

use classification... are these still reservoirs since they have for some time been disconnected from the water delivery system?

Conditional use procedures

1) proposals affecting use...

"a conditional use review is required when changing from one use to another..." BDS staff in their own report on pages 11 and 12 acknowledge the use has changed. They also in the pre app summary point this out yet they continued relying on this old determination... while ignoring my questioning their going forward in February. So their deductions that follow would also be in question...

page 5

B (3) Changes in landscaping There is some disagreement between citizens and staff about this in that the historic look will be impacted by the cutting of trees for example that cannot be mitigated. That change will take 60-70-80 years to recover.

In his testimony before the HLC, Tom Carter as applicant said no trees over 14" would be cut and that is not true.

Please examine the attached tree inventory and see the construction sheet with the tree survey. There are trees as large as 50" in diameter that will be cut or are in danger due to work in the root protection zone. I have attached the schedule of trees done during the first application. Some changes have been made, but still significant trees will be cut or within the work zone in both the OS and OSc zones See trees 13563 a 50" fir, 13547 and 8 34 and 36" firs, 12300 a 38" cedar, 12834, a 40" fir and numerous more.

I would add my concerns about the applicants reliance on City staff to oversee all aspects of the tree questions. As an applicant myself, I would have to do the survey, have an independent arborist write a report or plan to be approved before any work could begin. Then during that

work, a continuous on site inspection of the work, during excavation and backfilling / compaction, and finally a report to BDS.

page 6

The proposed work amounts to new construction placing a new line in areas not adjacent to existing work. ? The size will also be larger according to schematic sheets made public during the period this use determination was written. Montgomery Watson sheets of June 2001 and 1999.

There is then a question to be decided by others as to whether this constitutes an upgrade or simply is new construction. These new pipes will be 48" rather than those now listed as 20, 30 and 32".

It then follows on that page that if an upgrade the certain utility standards apply

- b) 'the disturbance area cannot exceed 15' in width ' ... when the applicant requests 35'
- c) lists landscaping requirement
- (e and f) requires that native trees of more than 10" not be cut and those between 6-10" be replaced at a 3:1 ratio.

under 33.430.140

the maximum disturbance area the proposed work will exceed the 5000 sq ft threshold under this standard.

These are all concerns about the BDS interpretation of the use from 2003 which I don't believe would hold as applied to the proposed work in question, yet BDS staff knowing of these concerns proceeded to accept the application as complete and complying with the code and bring it forward to both SHPO and the HLC for review.

Comments on the pre app summary of 3-26-14

Page 1) BDS staff clearly indicates this proposal is for new construction of pipes

page 2) BDS requires a site utility plan which I could not find in my 11-27 review of the LUR files.

page 3) There were questions about stormwater in that inside the OSC zone some work will take place on 3:1 slopes or even greater. BES reported they had no storm water or erosion control concerns.

also page 3 pending tree regulations beginning Jan 2015. If this LUR is deemed invalid due to the reliance on an old and incorrect use determination, then the new LUR would have to comply with any new regulations.

Pages 4 and 5

I expressed concerns about the integrity of the maps since the scales were 500=1 and 100=1. The boundaries of the NHL are drawn at that scale.

I also questioned the data source and its accuracy. Who do we rely on for correct maps at a reasonable scale? Hopefully not the applicant.

Zoning map. I brought to the HLC hearing my copy of the dated and stamped property control map from 1959 showing the park was made up of 51 individual parcels not 2 as shown by the assessors map. This discrepancy was widely know to all BDS staff and Commissioner Fritz as well as the WB since it was the WB who provided me with the title and deed information, yet they on their application misrepresented this. No amount of question of BDS staff on this matter was even acknowledged when this alone could render the application invalid.

The proposed work will in both the OS and OSc zone be off WB parcels and park parcels. The applicant then changed ownership on the application from the WB to the City, which does not resolve anything. Donors in 1894 - 1915 may have encumbered their donations with restrictions on use which would only be clarified with deed research. For this application it is a BDS requirement for the applicant before their application is deemed complete show documents that provide evidence of ownership and clear title which the WB nor the City has done.

There is some controversy about title of public lands that we addressed in the master plan update. The City tries to pose that legally it matters not, that it owns all public land and can do as it wishes, when that is not legally accurate. These parcels were donated to the water and parks board and /or commission at the turn of the century. I have yet to find in my research any conveyance of title to the City. There are three owners: WB, PPR, and the City.

I have attached a 1902 map showing the park. I also have quite a bit of research on this deed and title issue if more information is required.

BDS response to the preapp conference

BDS notes that the first application which they deemed complete valued the work at \$110,000 and now the new application value of work is \$5,000,000 in round numbers. This speaks to the integrity of both the WB as applicant and BDS.

page 1) It appears that BDS is relying on the applicant to correctly place map boundaries on the construction sheets.

page 2)

2. Conditional use status

BDS notes the reliance on the old 2003 use determination, yet does not discuss this most critical aspect of any LUR application. My requests for notes and any conversations about this to both BDS and the WB have been met with a denial that any conversation took place. That is simply not credible since as an applicant that is the very first and most critical aspect of any LUR. It determines the feasibility of any proposal and would be widely discussed, in detail. The applicant must know the use and definitions before proceeding.

### 3. Historic Resources

#### a) Presentation

I requested a photo shop comparison of before and after where significant trees would be removed. This requests was ignored, yet the applicant provided numerous other views of the work areas.

#### b) Integrity

The stated goal of the applicant has for more than ten years now to demolish the reservoirs. The public cannot rely on this Bureau to oversee any work, be it disconnecting from the reservoirs or preservation without an independant third party oversight. They have proven over a long period they cannot be trusted and are intentionally allowing the assets to decay.

In the code there is a section that allows demolition of listed assets, if certain conditions are met. In 2006, PPR was on this path to demolish the listed assets in the maintenance yard. The proposed secret sale to Wannner Pacific was discovered, but not before PPR had moved far along that list to enable them to be declared derelict and bypass the normal demolition procedures.

I cannot say for certain that the WB is on this path, but it is clearly a concern of mine that they may be.

SHPO and the HLC must require a preservation plan, and require independant oversight of the work, and consultants such as a preservationist or arborist. Both bureaus involved have shown their hands and history is the best indicator of future behavior.

#### c) Historic character

This addresses water which all agree must be kept in these reservoirs for both aesthtic reason as well as to prevent further decay.

What is not mentioned is that the work bisect the historic upper nursery which was used until recently for plant production. The master plan and Council resolution #36539 require that PPR continue this activity and PPR has stopped which impact the look to change. I attached excerpts from those documents.

These is some concern that the long block which was used for tree growing will be used for material storage, when it too was required to continue functioning as a tree growing location.

#### d) LT2

LT2 did not require Portland to do anything except submit a plan. The applicant alone has offered to construct tanks and disconnect these reservoirs. As a condition in the preapp summary BDS required that the applicant provide a written analysis showing why nthis disconnect was the preferred option.

I could not find this document on Nov 27 during my review of the LUR files, and requests for this have not been responded to.

page 5

I have requested the EA and any DAR documents with notes and comments from both LURs, to understand how BDS could deem the application complete with all of the conflicts and concerns I have shared with first them and now you.

I also requested the written application from the Wb and the intake check sheets used by BDS to confirm all of their conditions have been met for them to deem the application complete and compliant with the code.

A BDS staff confirmed that this check sheet did exist, yet told me it was confidential, for staff only.. and the Applicant has told me that all relevant documents he determined were necessary for the public to see. The applicant filtering and deciding what the public sees. That represent for me all I need to know about both the integrity of this LUR process and those participants who believe they alone decide what is acceptable and legal.

12-7-14

Comments to SHPO on the Mt Tabor reservoir disconnect application

Jason, Here are my comments in response to the clearance form.

I also enclose my comments to the HLC which I have delivered to BDS. Also please find various maps and documents as noted within the text.

\*Page 1 section 3\*

There will be some debate as to the actual impact of this proposal, but as it stands at this moment, there clearly will be an adverse effect. I don't think that there is debate that without water in them and the funding to go forward, they will become political balls to be "saved" during every budget year.

Further the impact of trees cut has been downplayed by the WB. This will change the historic look for 60-70-80 years. There is also a discrepancy about which trees in spite of a tree survey indicating a number of larger tree to be removed, Tom Carter told the HLC that no trees over 14" would be cut.

See the enclosed sheet which used the applicant survey to list which trees and their location.

That there is no preservation plan should also be of great concern to SHPO. Allowing politics and or this applicant alone to determine their fate will definitely have an adverse effect.

On \*page 2 section 5 \*the applicant agrees to \_/"maintain the structures and the grounds for the foreseeable future." /\_

Yet in his testimony to the HLC applicant Tom Carter was evasive and finally admitted there was no funding provision that he could assure for their future maintenance, nor was there even any assurance of water in them going forward. These would all be subject to the political winds of each budget year. in spite of city code FIN 6.11 which requires bureaus to maintain capital assets in good condition.

Since there was no benchmark even discussed as to what level or

condition that referred to, I assume that it was responsive to the the Historical Resource report by Rob Dortignaqc from 2009. My question would be who determines what is appropriate in evaluating both the condition of and work done if this LUR is ever approved. certainly it cannot be left to either the WB or PPR.

For more than ten years, and long before the rationalization now put forward of LT2, the stated goal of this WB was to demolish these reservoirs. You will clearly see that in documents I sent you earlier this year.

Please include all of my correspondents and documents you have for both applications including that from January / February, since the reasoning remains problematic as I then outlined.

I think we must view this application through the political window that it depends on.

1) There is no preservation plan per ORS 358. In that Dec 1 hearing the HLC also questioned why the WB was rushing to do the work before any planning was done for future funding and preservation. The applicant could only respond that it was above his pay grade.

2) The applicant has stated for years they wish to demolish these reservoirs. LT2 is the latest reason.

A side note for context about integrity: in 2006 Portland Parks, a player in this application teamed with BDS to attempt to conclude a secret sale of the Mt Tabor maintenance yard to Warner Pacific. This included the historic structure listed on that property.

Both PPR and WP representatives came to MTNA meetings in September of 2006, and lied to the board when directly questioned about the yard. A secret document confirming a planned sale was discovered and the sale was subsequently cancelled with Council directing PPR into mediation with a group of citizens. It was this group who updated the master plan approved by Council in 2008-9.

During that process it was discovered that PPR was well on their way to declaring these listed structures in the yard derelict so that they could use the current code to demolish them without a normal public process. It would then be up to BDS director to agree with that assessment allowing demolition. essentially by fiat. By completing a checklist of assessments of condition, they could simply bypassing the normal procedures and public notification, and any hearings.

This possibility concerns me as the WB has intentionally allowed deterioration of these reservoirs as assets. Not coincidentally the OSc zoning overlay shrank significantly in 2006, just at the time Randy Leonard, commissioner then over both BDS and the WB, was planning his demolition of the reservoirs. That map change is available on line in evidence of the change. Please compare it to the current map. You see much of the change involves parcels where WB work would be on sloped terrain.

I was involved directly in every step of this as it unfolded and can provide documentation or respond to questions.

I would ask SHPO and the HLC members to consider the veracity of anything either the WB or PPR says or represents responsive to this application, as history is the best indicator of future behavior.

3) The proposed work will be conducted without a third party oversight by that same WB who intends to destroy these reservoirs, and at this time they will be the arbiter of what is correct and appropriate as far as the integrity of the work and compliance with any wishes of the HLC or SHPO.

There are no provisions for or funding noted for the following: archaeologists,

arborist or tree preservation plans with third party oversight as any other applicant would be required to follow,

nor for any cultural or historical preservation consultant to oversee and guide the work so as to not further damage the assets.

Then who decides if no further damage is done during the work, the applicant? Again where is that base line without any plan and who decides?

\*page 3  
Attachments  
\*

I requested a before and after photos showing the impact of the tree removal. The applicant has so far refused to respond. This will not show those that would likely to die as a result of work within the drip zones so that must be considered. Please request those photos to show the actual impact to the 'look'.

The application does not show the historic upper nursery which will be bisected by the pipe installation. I enclose that photo indicating the proposed path across the plant production area. This upper nursery produced plantings for the entire City and along with the long block was responsible for most of the City and street trees and flowers historically. There is some concerns that the WB will store materials on both the long block and upper nursery. These growing areas were outlined in the updated master plan as required to be continued in their historical use of plant production.

I questioned the source data and materials used to provide the boundaries overlaying the proposed work on the construction sheets in that we see 500:1 and 100:1 scales which were left to the applicant to produce. What assurance do we have they were done accurately using correct information?

I am enclosing a government map of the park dated 1959. This version is the true map accepted by both the WB and PPR as well as Council. See the

PPR memo of Sept 25th 2008 and resolution I also enclose a map from 1902 showing early lot division which complements that from the 1959 map. The applicant based his applicant on the recent assessors map showing 2 parcels knowing it was not accurate since I have provided this 1959 copy to all parties long ago, and got it from the WB staff in 2007. WB work will run over property lines of parcels not owned by water and they alone are the applicant.

Any other applicant would have to provide BDS title reports and deeds for each parcel worked on prior to any application being deemed complete and compliant with the code.

In this case BDS has shown preferential treatment toward this applicant. BDS also accepted the value of work on the January 27 application for \$110,000 when now in their words, that very same scope of work is valued at nearly \$5 million. This could not happen for any private or normal applicant.

I think this speaks to the concerns we have about BDS in an oversight capacity as well as the veracity of representations of PPR and the applicant.

Thank you,  
Mark Bartlett

NE Portland resident

Re: Mt Tabor LTE in April S E Examiner

Are the BDS and the WB colluding to approve the proposed work at Mt Tabor?

To this citizen, it seems there are quite a few questionable activities that require further scrutiny in the proposed applications to disconnect the Mt Tabor Reservoirs from the water supply.

In January 2014, BDS accepted as complete and compliant with code, and application submitted by the Water Bureau to disconnect the Mt Tabor Park reservoirs. This was clearly the wrong type of land use review for this proposed work.

In this application the WB represented that:

- 1) they owned the entire park (they do not and knew this as did BDS) and
- 2) that the value of the proposed work was approximately \$110,000. The value of work threshold between LUR types was \$407,000. By approving this proposal as a type 2 LUR (under 407k) it virtually precluded the public from any opportunity to review and then comment, and removed any possibility of appeals along with a review by the Historic Landmarks Commission. The WB wanted no scrutiny or public interference in pushing this proposal though.

3) BDS also used an old 2003 finding when it determined the use and definition for the applications, which would become the basis for applying the zoning and title 33 code. That finding was for different work (demolition of the reservoirs) that was not similar to this current proposed work. It was said by BDS in the pre application summary that this critical finding was not even discussed. This was simply not credible.

Requests to BDS for the intake sheets showing just how the staff was able to approve the application as complete and compliant with the code was deemed confidential. BDS refused to release this information in response to a public records request in October, at first denying it existed then later acknowledging it did but was for internal staff only.

Responsive to pressure from citizens and the obvious flaws in the compliance with the code, and title concerns, that January application was withdrawn in March and resubmitted in October as the more appropriate Type 3 LUR.

Curiously now in this new application, according the BDS , that same proposed work is now valued at nearly \$ 5,000,000.  
How was it approved in the first application at \$110,000?

In their October staff report, BDS also twice acknowledged that the use finding upon which this LUR application was based, no longer was the same. Yet BDS says it was not even discussed.

This means the entire staff report in its conclusions is questionable since the LUR process starts with the use and definition for any property, then applies the zoning and code to see how the land can be used and what is allowed on that land.

The WB submitted and BDS accepted title and zoning information from Portland Maps. Both agencies knew this information was incorrect but found no problem with submitting, then accepting it as legally correct as required for this LUR process.

In this new type 3 application of October, the WB changed their representation that they alone own the park, to that the City owns the park.

Mt Tabor Park consists of 51 individual parcels, some of which are owned by the WB (51 acres immediately surrounding the reservoirs), and the balance of the 196 acres are owned by PPR, and the City of Portland.

This type of land use review requires that the applicant provide legal documents in evidence of clear and unencumbered title when submitting applications before they are deemed complete by BDS. However in this case that requirement was dismissed.

The proposed work will take place on parcels that are not owned by the WB, so for any other applicant they would have to provide evidence that there are no encumbrances on those parcels before they would have their

application accepted.

How did BDS approve this application without complying with this requirement?

Further there is no preservation plan nor commitment by either PPR or the WB to continue to keep water in these reservoirs or fund in an ongoing fashion their upkeep.

The concern of citizens here is due to Title 33.445.330 Demolition of Historic Resources in a Historic District  
(b) Exempt from Demolition review

In 2006 PPR attempted to secretly sell the Mt Tabor maintenance yard to Warner Pacific.

The paper document in evidence of this deal was discovered and the sale stopped but not before it became clear PPR was trying to circumvent the public process to demolish the listed building at the yard to facilitate the sale.

/In a confidential communication dated April 28, 2006, between Robin Grimwade and Henry Kunowski both from PPR, it describes how this could be accomplished. Henry was a historical preservation specialist who advised PPR on how they could circumvent the NHR listing on this matter ./

After meeting certain requirements, either the director of BDS or commissioner over the bureau could unilaterally declare the facility a health and or safety hazard and approve it for demolition without the normal type 4 LUR public process for demolition.

With no written assurance or preservation plan that is not subject to political whims and year to year budget jockeying, this should be a concern for all citizens.

- A) This application should be withdrawn
- B) then resubmitted after a new and correct use determination is voluntarily completed (providing we can have any confidence in BDS in this matter)
- C) a new LUR proposed by the WB correctly complying with the requirements and code
- D) and a new timelines for a BDS decision and public comments with further hearings by the Historic Landmarks Commission.

In January 2014, BDS accepted as complete and compliant with code, and application submitted by the Water Bureau to disconnect the Mt Tabor Park reservoirs. In this application the WB represented that:

- 1) they owned the entire park (they do not) and
  - 2) that the value of the proposed work was approximately \$110,000.
- Of course neither was correct yet BDS knowing this moved the application

forward as a type 2 land use review. The value of work threshold between LUR types was \$407,000. By approving this proposal as a type 2 LUR (under 407k) it virtually precluded the public from any opportunity to review and then comment, and removed any possibility of appeals and review by the Historic Landmarks Commission. The WB wanted no scrutiny or public interference in pushing this proposal through.

3) BDS also used an old 2003 finding when it determined the use and definition for the applications, which would become the basis for applying the zoning and title 33 code application. That finding was for different work (demolition of the reservoirs) that was not similar to this current proposed work. It was said by BDS that this critical finding was not even discussed.

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Responsive to pressure from citizens and the obvious flaws in the compliance with the code, that application was withdrawn in March and resubmitted in October as the more appropriate Type 3 LUR it should have been.

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How was it approved in the first application at \$110,000?

In their staff report, BDS also twice acknowledged that the use finding upon which this LUR application was based, no longer was the same. Yet BDS says it was not even discussed.

This means the entire report is questionable since the LUR process starts with the use and definition for any property, then applies the zoning and code to see how the land can be used and what is allowed on that land.

They rely on the assessors information on Portland maps which they knew was wrong, yet made this representation in their application.

In this new type 3 application, the WB changed their representation that they alone own the park, to that the City owns the park.

Mt Tabor Park consists of 51 individual parcels, some of which are owned by the WB (51 acres surrounding the reservoirs), and the balance of the 196 acres are owned by PPR, and the City of Portland.

This Land use review requires that the applicant provide legal documents in evidence of title when submitting applications before they are deemed complete by BDS. However in this case that requirement was dismissed.

The proposed work will take place on parcels that are not owned by the

WB, so for any other applicant they would have to show there are no encumbrances on those parcels before they would have their application accepted.

Further there is no preservation plan nor commitment by either PPR or the WB to continue to keep water in these reservoirs and fund in an ongoing fashion their upkeep.

The concern of citizens here is due the Title 33.445.330 Demolition of Historic Resources in a Historic District  
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/In a confidential communication dated April 28, 2006, between Robin Grimwade and Henry Kunowski both from PPR, it describes how this could be accomplished. Henry was a historical preservation specialist who advised PPR on how to circumvent the NHR listing on this matter and so the required items on the checklist to qualify for demolition/.

Then either the director of BDS or commissioner over the bureau could unilaterally declare the facility a health and or safety hazard and approve it for demolition without the normal type 4 LUR public process.

Re: Jan 11 use determination for HLC testimony

Once again we are here debating the correctness of the 2003 use determination, relied on by both BDS and the WB to rationalize their findings and therefore definitions and code sections to apply to the current application to disconnect these reservoirs.

I along with MTNA has requested a new and correct use determination along with a waiver of the \$850. I have since February been asking pointed questions about the appropriateness of this based on that old finding language and BDS has not responded. I request that the HLC require BDS to reexamine then produce a correct use determination and wive the fees paid by citizens for that work.

As on December 1, I take issue with much of this process in addition to the findings. I find it simply not credible that BDS and the applicant did not discuss these since they are the critical first step in determining the feasibility of any proposal.

Lets first look at that language of that use determination. I have cut and pasted sections for your convenience.

\*Page 1\*

/\*Based on the facts and information provided in Water Works' request, the existing reservoirs are classified as a Basic Utility use, and have the status of an automatic Conditional Use. \*/As detailed below, potential land use reviews for replacing the reservoirs with underground water storage tanks would be limited to an Environmental Review, and Historic Design Review (should the site be placed on the National Register of Historic Places). "\*"

Page 2\*

\*/The Mt. Tabor Park reservoirs exist primarily as utility infrastructure that provides water service to Water Works' customers in east Portland.

These characteristics place the reservoirs, including the inlet and outlet piping, in the Basic Utilities use category. Specifically, Basic Utilities are described in PCC 33.920.400.A as "infrastructure services which need to be located in or near the area where the service is provided."

This then identifies these facilities as part of the water delivery system. They no longer are so this interpretation is wrong from this point forward. The disconnection will complete their segregation from active water delivery necessary to be classified as a utility.

I therefore conclude that this invalidates all that comes after in whole. The existing conditional use has changed as acknowledged by BDS in both the preapplication summary and staff report of Dec 1.

This then requires a new conditional use review, since the earlier one was for functional, connected, and active component of the water delivery system. This is not for demolition in any sense of that meaning.

/\*\_Now on to definitions which follow the improper use determination. I see this application as having two parts, one alteration in which pipes will be disconnected and minor changes to the facilities will occur; and the installation of approximately 900 linear feet of a large new 48" d pipe to bypass existing infrastructure.

This new pipes would then be subject to different sections of code since it should be considered new development and not alteration.

/\*Here are the definitions as relied on in that 2003 finding\*/

/\*Alteration\*/. A physical change to a structure or site. Alteration does not include normal maintenance and repair or total demolition.

Alteration does include the following:

- Changes to the facade of a building; minor
- Changes to the interior of a building;
- Increases or decreases in floor area of a building;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and trees and plants that would be re vegetated

- Changes in the topography of the site.

Other associated definitions in PCC 33.910.030 include the following:

\_/ \*Develop. To construct or alter a structure or to make a physical change to the land including excavations and fills. \_ \*/

/\*Development. All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. This appears appropriate since the new pipes would fit here as an improvement unless improvements are limited to above ground.

Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.\*/ See also Exterior Improvements.

Exterior Alteration\*. A physical change to a site that is outside of any buildings. Exterior alteration does not include normal maintenance and repair or total demolition. Exterior alteration does include the following: \_ \*

- \_ - Changes to the facade of a building; \_
- \_ - Increases or decreases in floor area that result in changes to the exterior of a building; \_
- \_ - Changes to other structures on the site or the development of new structures; \_
- \_ - Changes to exterior improvements; \_
- \_ - Changes to landscaping; and \_
- \_ - \*/Changes in the topography of the site. \_ \_ \_ Exterior

Improvements. All improvements except buildings or other roofed \_ \_ structures. Exterior improvements include surface parking and loading areas, \_ \_ paved and graveled areas, /\* and areas devoted to exterior display, storage, or activities. It includes improved open areas such as plazas and walkways, but does not include vegetative landscaping, natural geologic forms, or unimproved land.

See also Development. \_ New Development. Development of a site that was previously unimproved or that has had previously existing buildings demolished.

Both the definitions included in the Zoning Code, and the historical implementation of these provisions, consider the term "alteration" to include all modifications to a site and structures except for "total demolition \_/." The term "total demolition," though not specifically defined in the Zoning Code, has consistently been interpreted and implemented as the removal of all structures and associated development on a site. /\*Therefore, the proposed work intended to be undertaken at Mt. Tabor Park, where some elements would likely be disturbed or removed but many others would remain, would constitute "alteration," and not "total demolition." \*/

\*33.445.140 Alterations to a Historic Landmark \*Alterations to a Historic Landmark require historic design review to ensure the landmark's historic value is considered prior to or during the development process.\*\_

A. When historic design review for a Historic Landmark is required. Unless exempted by Subsection B, below, the following proposals are subject to historic design review. Some modifications to site-related development standards may be reviewed as part of the historic design review process; see Section 33.445.050.

/\*2.\*/ Exterior alteration of an accessory structure, landscape element, or other historic feature that is identified in the Historic Resource Inventory, Historic Landmark nomination, or National Register nomination as an attribute that contributes to the historic value of the Historic Landmark.

Would the reservoirs now be an accessory since they no longer serve as a part of the drinking water distribution system? I have asked this since Feb of both BDS and the Commissioners office.

As noted in PCC 33.445.140, the following relevant exemptions to Historic Design Review of a site on the National Register would also apply:

B. Exempt from historic design review.

3. Changes in landscaping unless the landscaping is identified in the Historic Resource Inventory, Historic Landmark nomination, or National Register nomination as an attribute that contributes to the historic value of a Historic Landmark;

Was any part of the resource landscaping in the NHR?

#### Environmental Review Procedures

The existing reservoirs at Mount Tabor are situated entirely outside of the Environmental Conservation overlay zone. Therefore, all new construction activity which would occur within the existing reservoir footprints would not be subject to the Zoning Code regulations in PCC 33.430 (Environmental Zones). However, based upon information presented in Water Works' Use Determination request, new underground piping may be installed partially within the Environmental Conservation overlay zone to serve the replacement underground water storage tanks.

I questioned just how it came to be that the overlay areas were altered between 1998 and 2006 in the park right in the proposed work areas. See those zoning maps of 1998, 2000, 2006.

/\_/\*Portland City Code 33.430.080.C.1 of the Portland Zoning Code exempts replacement of existing utilities whenever coverage or utility size is not increased.\*/ The bypass will be 48" as compared to the existing 30 and 32" pipes running up to reservoir 1.

/\*Based on information in the Water Works' request, new underground

piping would be installed, while leaving the existing piping in place. The new piping would be situated within a separate alignment than the existing piping. \* In this situation, the exemption in PCC 33.430.080 C.1 would not apply to the new piping within the resource area of the environmental zone.\*\*/

Portland City Code 33.430.080.C.7 exempts development over existing paved surfaces that are over 50 feet from any identified wetland or water body. This exemption also pertains to development beneath existing paved surfaces, provided all disturbance related to the development occurs within the footprint of the existing paved surface. If the new piping construction area is limited to those portions of the resource area (in the environmental zone) which are paved, the exemption in PCC 33.430.080.C.7 may apply.

BDS acknowledges that at least 350' of the new pipe is installed in the resource area. Not all occurs under roadways. Approximately 100' of that runs up the steep slope from the road to reservoir 1. This disturbance area of approximately 100 x 35' wide exceeds the development standard allowed unless this is considered an alteration which it is not. \*It clearly is new development.\*

/\*This would trigger an additional conditional use review along with the following items:

That slope exceeds 30% so mandates additional conditions

native trees over 10" will be cut

pipe of 48" will exceed the existing diameter by more than 50%

the disturbances in the resource area exceed the 1500 sq ft in the OS table (referring to both then upper nursery and that pipe running from the road to the res1

\*/

/\*Specific development standards for utility lines are identified in PCC 33.430.150. These standards may apply if the exemptions discussed above do not apply to the new piping. The utility standards apply to "private connections to existing utility lines and the upgrade of existing public utility lines in resource areas." If the construction of the piping is considered an "upgrade of existing public utility lines," these development standards would apply.

What is the definition of private? PWB is a public utility not a private individual.

if using 33.430.150 then:

b the disturbance cannot exceed 15' in width. this would trigger a cu review

d (3) the slope exceeds 30% from the road up to Res 1

e (1 and 2) native trees such as firs and cedars will be removed that exceed 12" (or 10" if using that from 2003).

f It also list the replacement schedule

G is this already exempt as a disturbance area? does the old use determination identify and determine in any fashion this was part of that existing conditional use, which of course may no longer apply since

it was for demolition and facilities that served a different function.

Here we again address the use as an accessory rather than a reservoir. If it is not a utility in part or in whole then how are these standards applied?\*/

Modification of any of these standards requires approval through Environmental Review described in PCC 33.430.210 to 33.430.280. If the following standards apply and are met, the new piping could be approved through an Environmental Plan Check as described in PCC 33.430.120 and 33.430.130.

#### 33.430.150 Standards for Utility Lines

B. The disturbance area for the upgrade of existing public utility lines is no greater than 15 feet wide;

C. The utility construction does not occur within a stream channel, identified wetland, or water body;

D. Disturbance areas must be planted with native species listed in the Portland Plant List according to the following densities:

1. Three different native shrub species are required at a minimum 1 gallon size or bare root, planted at a density of 3 plants per 10 square feet;

2. The remaining area must be planted with native groundcover using a minimum of four inch pots at a density of 8 plants per ten square feet; and\*

3. Below the top-of-bank on slopes greater than 30 percent or in riprap areas, live stakes, 2 to 12 inches in diameter, may be substituted for the requirements of D.1 and D.2 above. Stakes must be installed at a density of 2 to 4 stakes per square yard. Detailed specifications for installing live stakes are found in Chapter 18 of the United States Department of Agriculture Engineering Field Handbook (entitled Soil Bioengineering for Upland Slope Protection and Erosion Reduction, October 1992).

E. Native trees more than 10 inches in diameter may not be removed; and

F. Each 6 to 10-inch diameter native tree cut must be replaced at a ratio of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter and selected from the Portland Plant List. All trees must be planted on the applicant's site but not within 10 feet of a paved surface.\* /\_ Where a utility line is approximately parallel with the stream channel at least half of the replacement trees must be planted between the utility line and the stream channel.

\*Portland City Code 33.430.140 identifies development standards that would be applied to the new piping within the Environmental Conservation overlay zone, if the piping does not meet the exemptions listed for replacement of existing utilities listed in PCC 33.430.080.C.1 and C.7, or if they are not considered "upgrades" of existing public utility lines as identified in PCC 33.430.150. Modification of any of these standards requires approval through Environmental Review. Based on these

standards and the information presented in the Bureau of Water Works' Use Determination request, construction of new piping within the resource area of the Environmental Conservation overlay zone may require Environmental Review. Environmental Review would be required if the following standard applies and is not met:

\*

/\*\_33.430.140 General Development Standards \_

A. The maximum disturbance area allowed within the resource area on the site is determined by subtracting all portions of the site outside the resource area from the number listed in Table 430-1.

As the entire Mt. Tabor Park site lies within the OS zone, Table 430-1 limits the maximum disturbance area to 5,000 square feet, minus portions of the site outside the resource area of the environmental zone. Since well over 5,000 square feet of the Mt. Tabor Park site is outside the resource area of the environmental zone, \*no disturbance is allowed by standard within the resource area.\* \*Therefore any amount of disturbance within the environmental resource area resulting from the proposed underground piping would require approval through Environmental Review.

Environmental Review for the new piping within the resource area of the Environmental Conservation overlay zone would be processed through a Type II procedure, as specified in PCC 33.430.230. The approval criteria for Environmental Review of utilities are found in PCC 33.430.250.A.

\*/

Once again, the use of Alteration is debatable since a portion is alteration and a portion is new construction as clearly stated by both the applicant and BDS. Different standards apply to each.

Outstanding questions BDS has refused to address:

- 1) How was the use not discussed since all of the application is predicated on that determination and subsequent definitions?
- 2) How did BDS approve the value of work in that first application for \$110,000 when for that very same work it is now valued at \$5,000,000?

- 3) How did BDs accept as complete known and erroneous ownership information in both Feb and October ?

The City may very well have the authority to allow condemnation of those parcels the WB will work on but is not in title to, but that was not the point.

Donors in 1894 might have included use restrictions when deeding land to the water board or parks board or city, yet the applicant says not deeds restrictions can be found. Of course if they refuse to research the title documents they will not find encumbrances. Any other applicant would have to provide documents in evidence of clear title /\*before\*/ BBS accepts any application as complete.

When a public record request for the records of just how BDS accepted the above questionable information of missing documents, they denied any intake list existed. On October 27, I visited BDS to review the LUR files and found none, yet Shelley Wilson of BDS who brought those files to me, told me they did in fact exist, but were confidential, for staff

only. As this decision is appealable to Council and LUBA, why are these internal acts not available for public review?

These actions create a question on both credibility as well as transparency.

Re: Mt. Tabor CAC Update

Mark Bartlett wrote:

- > Tom,
- > Attached is a formal request for information to both BDS and WB for
- > the two LURs for the Mt Tabor disconnect. I'm going to assume that
- > both you and Hillary could direct it to the party who needs to see it.
- > A timely response is necessary since she is working on the file to
- > consider its compliance and completeness.
- >
- > As there is but a very small space for the requested items on the
- > form, I'll take this opportunity to attach this e mail and its more
- > legible enumeration of my request.
- >
- > Having done a number of LUR as applicant myself, I understand that
- > there would be numerous responses from other people, bureaus, and or
- > agencies to the proposed application(s) with notes, recommendations,
- > or direction on how the applicant might meet the code or any concerns
- > of that party to the proposal. I wanted those responses whether in e
- > mail form or whatever means of communication they were provided.
- >
- > I also am requesting any and all communications in any form of
- > discussions about the Sept 3, 2003 use determination, which I noted
- > was mentioned but no record of any discussion was provided. That was
- > inconsistent with my past experiences when all else is derived from
- > the use.
- >
- > I prefer the actual notes or communications since responses are
- > provided as part of the pre app notes, are of course interpreted and
- > summarized so may not be wholly complete or accurately reflective of
- > the responses.
- >
- >
- > My concern is that if the application is once again determined to be
- > complete in error, before the public can review all of the
- > information, we would not be able to communicate our concerns and
- > have changes made before it is accepted by BDS. It seems we have
- > little recourse once accepted correctly or not. I hope not to repeat
- > the first effort.
- >
- > No one has yet to be able to explain the non park use application or
- > process to me, or how it fits in this LUR. I look forward to your help
- > in clarifying that for me as well.
- >
- >
- > Thank you,
- > Mark Bartlett

Re: Mt Tabor Park LURs

Mark Bartlett wrote:

> Hi Paul,

> I've had some concerns about the possibility of any LUR being accepted  
> as complete in error by BDS.

>

> In order to better understand the specific step by step process, and  
> who is the final determiner of that compliance and completeness, then  
> acceptance, I've sent Hillary who happens to be listed on the Tabor  
> disconnect project LURs my questions below.

>

> Our concerns are that having deemed it complete this spring in error  
> with numerous misstatements and or omissions by the applicant also  
> being accepted, in order to be viewed as compliant with the code, who  
> then @ BDS is responsible for the checking the veracity of those  
> representations?  
> AND what recourse do citizens have who show an interest in the  
> application or consequences of that proposal, that might be considered  
> by BDS prior to acceptance since once deemed complete it seems that it  
> cannot be undone?

>

> That proposal was clearly not a type 2 and so was withdrawn, but not  
> before BDS deemed it compliant and complete. This then seemed a  
> political decision to accept the application and not one based on the  
> true facts.

>

> We went through a very similar situation with those zoning code  
> violations, except PPS simply bypassed the application process  
> altogether to avoid the notification requirements and do as they  
> pleased knowing once done it would not be undone. Newly constructed  
> rules providing retroactive relief without consequences are not what  
> we are looking for.

>

> It seems there is no way for anyone to correct or object to the  
> accepted representations until the hearings officer reviews the  
> complaints after the decision is sent back to the applicant.

>

> My questions to Hillary were....

>

> 1) What are the specific criteria for acceptance; a step by step  
> checklist, and if anything is subjective who interprets that then  
> determines its accuracy ?

>

> 2) Who determines that the representations are in fact accurate and  
> then the application is compliant in order to be deemed complete?

>

> 3) What recourse would we have if we question the veracity of those  
> representations or provide factual errors to BDS that then change the  
> compliance or completeness of the application?

>

> 4) What then happens to the time line for both the public comment

> period and the 120 decision making deadline?

>

> I've requested from both BDS and WB the preapp notes, check sheets,

> and communications between agencies and the applicant, and any

> information provided by the reviewing agencies regarding those LURs in

> their original form. Summaries are often interpretations and not

> accurate representations of the actual comments. Tom Carter seems

> reluctant to provide them to either me or the CAC working with Tom.

> Hillary will have a copy of that request as will Tom.

>

> I also noted in my request I thought it strange that the Sept 3, 2003

> use determination was acknowledged, but not one word was included in

> those notes about this important determination. I could not see how

> this was not discussed at length since all else follows use. I asked

> for any and all information about that as discussed by BDS, any other

> agency, or WB. I have that determination so don't need a copy.

>

> Please add this correspondence to the LUR file as a comment.

>

> Thank you for your timely response,

> Mark Bartlett

>

>

>

> Mark Bartlett wrote:

>> Thanks Hillary.

>> Could you please enumerate the specific criteria for an application

>> to be deemed complete, and who determines that in order to accept it

>> in an official capacity. A point by point checklist and listing

>> whatever subjective requirements if any please.

>>

>> I'm not clear on the SHPO issue as I was told they could request

>> additional information that could / would take that beyond 30 days,

>> so a probable conflict with Landmarks should that be scheduled within

>> the 51 days. How do you resolve those conflicts should they happen?

>>

>> And if you (meaning BDS) accepted the earlier application determining

>> it was complete, and then it was withdrawn for obvious reason that it

>> was incorrectly filed as a type 2 rather than 3, what recourse do

>> citizens have to object to BDS accepting any application in error

>> beyond an appeal to the hearing office far down the line, which

>> really would then be an after the fact objection or one without much

>> worth since the entire notification and acceptance was predicated on

>> an erroneous determination?

>>

>> Please elaborate on this so we can all understand.

>>

>>

>> Thank you,

>> Mark

>>

>> Adam, Hillary wrote:

>>> Hi Mark,

>>> My responses are below.

>>> 1. The official comment period has not been established yet, as the  
>>> application has not yet been deemed complete and the Notice of  
>>> Proposal has not been issued.

>>> 2. Yes, they did waive their right to a decision within 120 days.

>>> 3. I have not yet scheduled a hearing before the Historic Landmarks  
>>> Commission. Once the application is deemed complete, we are supposed  
>>> to schedule a hearing within 51 days of completeness. You may  
>>> contact the applicant, tom Carter at 503-823-7463 or  
>>> tom.carter@portlandoregon.gov if you would like PWB to address your  
>>> concerns. You will also have the opportunity to present comments and  
>>> have the PWB respond at the historic Landmarks Commission hearing.  
>>> You may also send me any comments, which I will forward to the  
>>> applicant. I anticipate SHPO will have sufficient opportunity to  
>>> comment between the time the application is deemed complete and the  
>>> hearing takes places. I must determine completeness by next week; If  
>>> it is complete, we anticipate that the first Landmarks hearing date  
>>> will be in early December.

>>> 4. The prior application was withdrawn because it was determined  
>>> that a higher level of review was necessary. The current application  
>>> contains significantly more information than the prior application.  
>>> Any deficiencies will be conveyed to the applicant. I anticipate  
>>> they will be adequately addressed before we proceed with next steps.  
>>> You are welcome to come in and view the application materials,  
>>> however they are all uploaded to the PWB website:  
>>> <http://www.portlandoregon.gov/water/65903>

>>>

>>> Have a good weekend.

>>> ~Hillary

>>>

>>> Hillary Adam  
>>> Bureau of Development Services  
>>> p: 503.823.3581

>>>

>>> -----Original Message-----

>>> From: Mark Bartlett [mailto:bartlett.m@comcast.net] Sent: Thursday,  
>>> October 16, 2014 2:45 PM

>>> To: Adam, Hillary; Stephanie Stewart and Mike St Clair; Mark  
>>> Bartlett; Kim Lakin; Dawn Smallman

>>> Subject: Mt Tabor Park LURs

>>>

>>> Hi Hillary,

>>> I have some preliminary questions if you could respond...

>>>

>>> 1) what are the dates of the open comment period,... from when  
>>> to when exactly.

>>>

>>> 2) Did water request to waive the 120 day decision period as  
>>> they indicated in our meeting they were intending to in order to  
>>> allow additional time for the public as well as room for any work to  
>>> be adjusted responsive to concerns?

>>>

>>> 3) I understand you are attempting to schedule the Landmarks  
>>> meeting.during the open comment period. How then would they address  
>>> any concerns that might come after that meeting yet be within the 51  
>>> days?

>>>  
>>> Are you anticipating they will be able to address all concerns  
>>> without any public interaction? And further would they necessarily  
>>> hold another public meeting if there are concerns they did not  
>>> consider but must?

>>>  
>>> And since SHPO has 30 days to comment, how would Landmarks then  
>>> consider their work, especially if they request any extension for  
>>> additional information?

>>>  
>>> 4) In that last LUR there were errors in my view that rendered it  
>>> not complete yet you and BDS staff considered it complete.

>>>  
>>> As it turns out those of us who had concerns were likely correct and  
>>> that is why it was withdrawn. How then in this new app, will BDS  
>>> respond if there are issues or questions that would indicate it is  
>>> not, or at least question the validity of it being deemed complete?

>>>  
>>> And what if those questions are not answered or satisfied within the  
>>> 51 day period, when would that begin?

>>>  
>>> Thank you,  
>>> Mark

Re: non park use permit

Mark Bartlett wrote:

> Thanks Maija,  
> That is helpful.

>  
> Follow up question... is this work allowed under the deeds to the  
> parcels they plan to work on?

>  
> It appears WB will work on numerous parcels they are not in title to.  
> One sticking point is for any application to be accepted and deemed  
> complete at BDS, the applicant must show clear title. I've always  
> provided my deed and a title report in order to satisfy their  
> requirements.

>  
> As you recall our numerous discussions about the 51 parcels making up  
> the park, each may have different donor restrictions if any.

>  
> Also you may recall I was asking for research to clearly enumerate any  
> of those parcels with restriction, and what they might be.

>  
> It seems no one ever did request that work.

>  
> A title company should be able to provide information on those deeds.  
> They'd have to go back to late 1800s through 1911 or so.

>  
> Shannon and I did some searches for parcels along the long block and

> the 12 at the maint yard, but not up toward the reservoirs and upper  
> nursery where they plan to do the work.  
>  
> Is issuance of this permit required for a completed application at BDS?  
>  
> Copying Stephanie who was on that CAC meeting with Tom Carter and the  
> WB... about the proposals.  
> Mark  
>  
> Spencer, Maija wrote:  
>> Mark,  
>> Please refer to this page for the Non-Park Use Permit policy,  
>> application, and process: [www.portlandoregon.gov/parks/npup](http://www.portlandoregon.gov/parks/npup)  
>>  
>> This permit is required for any entity needing to do  
>> construction-related work on Parks property. The Water Bureau will  
>> be required to apply for this for the portions of their work  
>> occurring on PPR property. They have not yet submitted an  
>> application. I believe they plan to after the Land Use review.  
>> This permit is issued by Parks. It is reviewed by the City Attorney  
>> and usually signed by our Bureau Director or Property Manager  
>> (depending on length of permit).  
>> Maija Spencer  
>> Property, Contracts & Acquisitions | Portland Parks & Recreation  
>> Property Management Specialist  
>> 1120 SW Fifth Ave., Suite 1302  
>> Portland, OR 97204  
>> 503-823-7720 (direct line)  
>> 503-823-5105 (SDC line)  
>> 503-827-5912 (fax)  
>> [Maija.Spencer@PortlandOregon.gov](mailto:Maija.Spencer@PortlandOregon.gov)  
>> [www.PortlandParks.org](http://www.PortlandParks.org)  
>>  
>> -----Original Message-----  
>> From: Kennedy-Wong, Elizabeth Sent: Thursday, October 23, 2014 1:07 PM  
>> To: Mark Bartlett; Stephanie Stewart and Mike St Clair  
>> Cc: Spencer, Maija; Horner, Brett; Roth, Emily  
>> Subject: RE: non park use permit  
>>  
>> Hi Mark -  
>> I don't understand what you are asking. Here is what I think you are  
>> getting at?  
>>  
>> "How does Land Use Review relate to the non-park use permit  
>> process?"  
>>  
>> I suspect that the answer depends on the non-park use permit request  
>> and is difficult to answer in the abstract.  
>> Is there something specific you are inquiring about?  
>> Maija Spencer manages the non-park use permit process. Emily Roth  
>> the planning manager while Brett Horner is on leave.  
>> I cannot answer your question - I do not have the technical  
>> knowledge. One of them should be able to help you if you provide

>> additional specifics.  
>> Elizabeth Kennedy-Wong  
>> Portland Parks & Recreation Community Engagement Manager| Community  
>> Relations  
>> 1120 SW Fifth Ave., Suite 1302  
>> Portland, OR 97204  
>> 503-823-5113(office)  
>> elizabeth.kennedy-wong@portlandoregon.gov  
>> www.PortlandParks.org

>>  
>>  
>> " I have learned that people will forget what you said, people will  
>> forget what you did, but people will never forget how you made them  
>> feel." Maya Angelou

>>  
>>  
>>  
>>  
>>  
>>  
>>  
>>

>> -----Original Message-----  
>> From: Mark Bartlett [mailto:bartlett.m@comcast.net] Sent: Thursday,  
>> October 23, 2014 11:53 AM  
>> To: Kennedy-Wong, Elizabeth; Stephanie Stewart and Mike St Clair;  
>> Mark Bartlett  
>> Subject: non park use permit

>>  
>> Hi,  
>> Been asking around about this for the Tabor LURs and no one is sharing.

>>  
>> The CAC members seem not to understand this in context of what is  
>> required for the Tabor LURs.

>>  
>> Can you provide specific info on this and how it relates to Tabor?

>>  
>> Is it necessary for the application?  
>> to be deemed complete?

>>  
>> Who issues etc...

>>  
>> Thanks,  
>> Mark

>>  
Re: Mt. Tabor Reservoirs Disconnection Project; SHPO# 14-0107

Re: Mt Tabor disconnect LUR Jan 2 2015  
Mark Bartlett wrote:

> Commissioner Fritz,  
> Please find attached my response to those comments forwarded us from  
> the WB, to questions and concerns from the Dec 1 Historic Landmarks  
> hearing. I sent this attachment to Jason Allen @ SHPO on 24 December  
> @ 330 pm, so it would become part of the record, asking that he

- > forward my letter and documents to the HLC members. Please make sure
- > the HLC gets a copy of this.
- >
- > At that HLC hearing, I pointed out that the use determination from
- > 2003 which BDS relied on but did not discuss, was in error in numerous
- > ways. It would then seem that all else that followed is also suspect
- > since this determination was the basis for the staff report.
- >
- > BDS admitted that the use had changed numerous times in the pre app
- > summary as well as the staff report, yet did not properly construct a
- > new one. They admitted definitions changed yet did not determine
- > correct ones. They say it was not even discussed which is just not
- > credible. (March 26 pre app summary)
- >
- > It is clear to all who read this that much of this body of work was no
- > longer applicable.
- >
- > Members of the HLC also questioned the content and finding's accuracy.
- > I asked during that hearing that they make a request of BDS to have
- > the fee waived for those citizens who also found fault with using this
- > old finding, should they find it necessary to request one and pay the
- > \$850 fee.
- >
- > I then requested a voluntary new use determination from BDS (mail to
- > Hillary on 12-1-14 @ 10:54 am) and copied your office. Please include
- > this e mailed correspondence in the public record.
- >
- > I have not yet heard anything from BDS or your office in response, and
- > the Jan 12 date for another HLC approaches. I will presume that
- > nothing will be done unless we request and then pay to have it done,
- > regardless of the acknowledged and glaring errors making the entire
- > staff report defective.
- >
- > I've outlined just a few of the defects with that determination by
- > simply identifying some of them on a page by page basis following the
- > outline of the old determination itself. The very foundation of this
- > finding is wrong, so much that follows is also wrong. These errors
- > cannot be massaged over to make them fit this new use so a new
- > determination must be completed and the LUR application begun from the
- > start.
- >
- > Please see concerns I've outlined below and forward these to HLC so
- > they might benefit from these questions and concerns in a timely
- > fashion, and that they become part of the public record for this LUR.
- >
- > Beginning with the cover letter of Aug 11, 2003 from M A Collentine to
- > BDS
- >
- > cover letter
- >
- > WB says in their August 11 2003 request letter to BDS for
- > clarifications on burying the reservoirs, "an issue has been raised...
- > about the proper zoning use classification."

> What was that issue specifically in 2003, and how was it addressed?

> BDS did not specifically identify that issue.

>

> If we need to make a public records request please let us know in a

> timely fashion so that the HLC might benefit from any information

> forthcoming. I see Rebecca Esau was a part of that conversation so she

> might have any information on that question and BDS response.

>

> \*Page 2

> Use classification\*

> The reservoirs no longer \_/exist primarily as utility

> infrastructure/\_. They have been taken off line and are not connected

> to the water delivery system, so it would follow that the pipes nearby

> are also going to be classified differently, as they \_/no longer serve

> those facilities/\_ as this section of code requires. The use has

> changed as BDS has acknowledged.

>

> \*Conditional use review \*

>

> Will the new work meet the existing approved conditional use?

> The\_ proposed work would alter the conditional use\_ grandfathered in

> because the reservoirs were constructed prior to the zoning code.

>

> Also in that application from the WB, there were triggers in the

> development standards that would require further c u reviews and

> requests for adjustments by the applicant which seem to be missing.

>

> These triggers are listed on page 6 but are not limited to these

> listed items:

>

> \*standards for utility lines (items b and d and e and f)

>

> \*all of these would seem to require additional reviews and requests

> for adjustments from the applicant, then how they meet the code.

>

> Where is that detailed written analysis and report BDS requested

> showing why the keeping the existing reservoirs were not the preferred

> option?

> (March 26 pre app summary, page 2 under LT2)

>

> This analysis request appeared to be a condition from BDS to WB as

> applicant, yet cannot be found.

>

>

> \*Page 3

>

> item (d) on page 3 elaborates on "the increased improvement area"

> \* One could easily see how the disturbance involved in excavating

> approximately 1000 linear feet by 10-12' as wide and disturbing a

> width of 25-35 feet would exceed the 1500 sq feet listed in this

> section of the code. It clearly says roadways and gravel paths or

> roadways are to be considered non exempt.

> The applicant requests what is essentially an \*/easement in  
> perpetuity/\_\* since they will in future have access to conduct work at  
> any time as they see fit without any further required LUR or public  
> notice. Certainly this too would be a change of use from public park  
> land to a revenue bureau infrastructure easement, not to mention a  
> permanent change in the "look" of land in the historic resource area.  
>  
> This amounts to a taking of the public's land since some of the parcels  
> they propose to work on are not owned by the applicant. (see my  
> comments in the attached on the fundamental misunderstanding the  
> applicant has about property ownership and title concerns)  
>  
> If this will be a condemnation, then a procedure must be followed. PPR  
> will essentially lose any control of those parcels.  
>  
> \*Page 4\*
>  
> Is the new proposed work considered an alteration or new constructions  
> and then which sections of the development standards apply?  
>  
> Clearly this is no longer an alteration. It appears that \*develop or  
> new development rather than alteration\* is the proper interpretation,  
> not alteration as was applied in 2003. That means the balance of any  
> code interpretation which was applied after this definition was  
> established is not necessarily correct. There may be certain sections  
> that could work but for the most part they are in error.  
>  
> \*Page 5  
>  
> \*Alterations to a Historical Landmark  
> nothing about the proposed work is exempt from a historical review  
>  
> ALSO see my concerns with the code section  
> 33.445.330 Demolition of Historic Resources in a Historic District  
> (b) exemptions from demolition review  
> and the unilateral right of the director or commissioner to circumvent  
> the public notice and process to demolish listed facilities.  
>  
> This section does not differentiate between politically aided or  
> intentional decay and natural decay as far as bypassing the LUR review  
> with the exemption section. This is why a written preservation plan  
> with funding is required before any BDS approval of the application.  
>  
> \*Page 6\*
> The changes to the c and e zoning overlays within the park  
>  
> Please explain how it came to be that the C overlay was altered in the  
> recent past in the areas just over the WB infrastructure where work  
> was proposed.  
> See zoning maps of 1998, 2000, and 2006. Place these over the  
> Montgomery Watson as built site plans of 1998 and 2001 to compare.  
>

> Then why there was no request for additional reviews considering the  
> triggers listed on page 6 that clearly would compel the applicant to  
> request an adjustment and then demonstrate how the proposed work meets  
> the code?  
>  
> \*\_/It is incumbent on the applicant to show how the proposal meets the  
> code, but first he must address the correct code interpretations which  
> we do not yet have.  
> /\_  
> Page 7 \*  
> General development standards  
> The proposed work exceeds 5000 square feet some of which would be in  
> the overlay zones. It appears that disturbance in the resource area  
> would exceed 5000 sq ft.  
>  
> These are just a few issues, yet they would render the entire staff  
> report invalid. I'm certain there are additional concerns yet to be  
> identified, once the proper use and identifications have been  
> established and the application revisited responsive to those correct  
> findings.  
>  
> Thank you,  
> Mark Bartlett  
> NE PDX resident and CAC member  
>  
> please include this correspondence and the attached comments to BDS  
> responsive to the WB reply of 23 Dec 2014 in the record and forward to  
> the HLC so that they might benefit from these concerns before they are  
> scheduled to meet Jan 12.  
>

## Parsons, Susan

---

**From:** Jane Hansen <Jane@langohansen.com>  
**Sent:** Thursday, May 28, 2015 8:52 AM  
**To:** Council Clerk – Testimony  
**Subject:** Case #LU 14-218444 Mt. Tabor Reservoirs  
**Attachments:** Mt. Tabor Reservoirs.pdf

Please find my letter of testimony attached.

Thank you,  
Jane

### Jane Hansen

lango hansen landscape architects  
1100 nw glisan #3B  
portland OR 97209  
p 503.295.2437 f 503.295.2439  
[www.langohansen.com](http://www.langohansen.com)

May 26, 2015

Portland City Council  
1221 SW 4<sup>th</sup> Ave. Room 340  
Portland, OR 97204

RE: LU 14-218444 Mt. Tabor Reservoirs

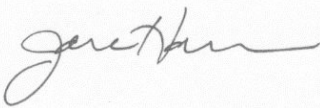
Dear Mayor Hales and City Council Commissioners:

As Principal of Lango Hansen Landscape Architects, as a former Portland Design Commissioner, as a member of the winning Mt. Tabor Reservoir Competition design team, and finally as a longtime resident of both southeast Sunnyside and Kerns neighborhoods, I urge to you to not let the Mt. Tabor reservoirs fall into disrepair.

The tranquility of the reservoirs and the beauty of their architecture is a community treasure that deserves to be cherished as part of Portland's rich history. For those of us who live on the east side Mt. Tabor is a primary park destination, and a place where people come to experience nature on a daily basis. It is a very contemplative place, and the reservoirs are a major contributor to that feeling of peacefulness. I can tell you as one of the many who walk around the reservoirs throughout the year, the fragrance of the water from the reservoirs mixed with the scent of the trees blowing in the wind in the early evening is intoxicating and restorative.

While it is understood that the reservoirs will no longer function as the city's water source they can still be repurposed and appreciated for the serenity they offer as urban ponds, and for the clarity of their historic architecture and engineering. They are such valuable assets, and they are something that will never be recreated again in Portland. Considering what new parks cost, this is a bargain for the City, and it is really just a matter of restoring and maintaining what is already well-loved and well-used by Portlanders and visitors alike.

Sincerely,  
Lango Hansen Landscape Architects



Jane Hansen  
Principal

## Moore-Love, Karla

---

**From:** Lela Prewitt <prewitt.lela@gmail.com>  
**Sent:** Thursday, May 28, 2015 9:10 AM  
**To:** Council Clerk – Testimony  
**Subject:** Mt. Tabor Reservoirs Decommissioning - LU 14-218444 HREN

Dear Portland City Council,

I'm a resident homeowner in the Portland Montavilla neighborhood and a daily visitor to Mt. Tabor Park. The Mt. Tabor reservoirs, filled with water, are very important to me. They make the park what it is, a place of beauty, refuge and respite with deep roots in the history of our community. I originally opposed any disconnection of the reservoirs. However, I support the Historic Landmarks Commission's ruling on the Mt. Tabor Disconnection Project as a reasonable balance between the interests of the City, the historic value of the reservoirs, and the character of the park. Please listen to the people of Portland and act to repair, maintain and preserve the Mt. Tabor reservoirs, filled with water, for current enjoyment and for future generations.

Sincerely,

Lela M. Prewitt  
1221 Se 80th Avenue  
Portland, OR 97215

## Parsons, Susan

---

**From:** Dee White <deewhite1@mindspring.com>  
**Sent:** Thursday, May 28, 2015 9:16 AM  
**To:** Council Clerk – Testimony  
**Subject:** Agenda 547 testimony - Appeal vs Historic landmark Commission re: Mt Tabor reservoirs  
**Attachments:** Novick letter to OHA Drinking Water Program.pdf; Majority opinion from Dave Mazza The Portland Alliance\_Independent Review Panel votes not to bury reservoir.pdf; ReservoirResponse2.pdf.pdf

Everyone in this room today knows that Rochester NY got a 10 year deferral for meeting compliance with EPA's LT2 rule. We all know that Rochester has not spent a dime on any infrastructure or treatment alternative. And, we know that even if Rochester is in the future required to treat or cover their reservoirs, Rochester's public officials have stated that they will pursue a low cost treatment alternative such as UV because costs for treatment have drastically declined since 2004 and will continue to decline while improving in effectiveness because that is simply the nature of technology. This is all public knowledge, all well documented. Rochester's officials are acting on behalf of its citizens, for its citizens, supported by its citizens.

Unfortunately, we also all know that this is not the case with Portland officials. The Portland City Council and the Water Bureau continue to publicly disavow and publicly ignore all of these documented facts.

In early March of 2015, Mayor Charlie Hales was interviewed on KBOO radio by Joe Meyer.

Meyer: "you understand that Rochester is not doing any construction related to LT2."

Hales: "I don't know the details about what Rochester is not doing."

Meyer: "Rochester has not spent a dime towards complying with LT2."

Hales: "Check with Rochester, I don't think that's... that's not the factual situation that I am told."

When asked if he was going to write Governor Kate Brown and ask for a deferral, since she is the head of OHA, Hales responds:

"No. She can't give us relief from the Federal mandates."

Link: <https://soundcloud.com/joe-meyer-10>

[Commissioner Novick's 5 page letter to the OHA](#) in Feb 2013 strongly states the case for a deferral and he refers to Rochester's deferral multiple times. What the public does not know and what was revealed by document searches was that in tandem with the delivery of this request, a Water Bureau surrogate sent an email to the OHA letting them know that the Water Bureau wanted to proceed with their build projects. Dave Leland, the OHA decision maker, stated in an email to the Water Bureau "...now we know what the Water Bureau wants." This same messenger was publicly chastised by Mayer Katz after admitting at the 2004 Reservoir Panel Council meeting that she had anonymously contacted the Urban League member of the panel at the end of three months of work by the panel, in an attempt to derail the panel's conclusions.

Link to OHA response to C. Novick's letter:

<http://public.health.oregon.gov/HealthyEnvironments/DrinkingWater/Rules/LT2/Documents/pwb/ReservoirResponse2.pdf>

Ratepayers have witnessed willful ignorance, utterly false communication, withheld information and reports, wanton disregard for community concerns and reckless spending of ratepayer's funds in this leadup to granting this heartbreaking demolition permit for our historic reservoirs in the heart of the city. An enormous amount of harm is going to result from City Council's deceit. The lack of discourse in Portland's governing process enables the City Council to always have the last word, even if it is not the truth. This is not democracy. This is not government by the people. The

dissenting member of the HLC repeated this many times at the HLC meetings these past 5 months. "Government is supposed to be by the people."

Links to two meetings where this was stated:

<https://vimeo.com/125300646>

<https://vimeo.com/117979561>

<https://vimeo.com/119428556>

Before any more decisions or actions are taken with regard to the reservoirs at Mt Tabor, I implore the City Council to form an Independent Review panel like you did, Commissioner Saltzman, in 2004. Include all of the stakeholders, including the majority which are opposed to proceeding on a fast track with dismantling and decommissioning our historic perfectly functioning assets. Attached is the Majority opinion from the 2004 Independent Review Panel by Dave Mazza.

Thank you,

Dee White

3836 SE 49<sup>th</sup> Ave.

Portland OR 97206

503-775-2909



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF PUBLIC SAFETY

COMMISSIONER STEVE NOVICK  
1221 SW 4th Ave. Suite 210  
Portland, Oregon 97204  
Phone: 503-823-4682  
Fax: (503)-823-4019  
novick@portlandoregon.gov

February 4, 2013

Mr. David Leland, Program Manager  
Oregon Health Authority Drinking Water Program  
P.O. Box 14450  
Portland, OR 97293-0450

Subject: Request for Schedule Adjustment of LT2 Requirements for Uncovered Finished  
Drinking Water Reservoirs

Dear Mr. Leland:

As you well know, the Portland Water Bureau (PWB) currently stores finished drinking water in uncovered reservoirs at Mt. Tabor and Washington Park. On March 27, 2009, PWB submitted a schedule that was approved by the U.S. Environmental Protection Agency (EPA) to comply with the uncovered finished drinking water reservoir requirements in the Long Term 2 Enhanced Surface Water Treatment Rule (LT2). Portland's approved 2009 compliance schedule requires that it disconnect the reservoirs at Mt. Tabor from the distribution system by December 31, 2015, and cover Reservoir 3 and disconnect Reservoir 4 in Washington Park by December 31, 2020.

In a letter dated February 10, 2012, the City of Portland requested an extension of its LT2 reservoir compliance plan. That request was denied by OHA in a letter dated May 17, 2012. Since that request, new information has come to light that I feel merits additional reconsideration of our request for a deferral.

Having become aware that the City of Rochester, New York has been granted a request to amend its LT2 reservoir compliance schedule, the City of Portland again respectfully requests approval for a schedule adjustment for projects related to our compliance plan to replace its uncovered reservoirs with covered storage.

Specifically, on behalf of the Portland City Council, I request approval for a deferral of completion of the Mt. Tabor and Washington Park LT2 reservoir compliance projects to December 31, 2024, which is consistent with the City of Rochester's extension.

Portland is making this request for a new timeline because material economic and regulatory circumstances have changed since our compliance plan was submitted in early 2009. These circumstances include:

- Increasing water rates.
- Water demand that is declining steadily, resulting in even higher rates.

- Increasing debt-to-revenue ratio.
- Water Research Foundation Study 3021 which found no *Cryptosporidium* following extensive sampling in Portland's open reservoirs.
- Decision by the EPA to review and reassess the LT2 rule in response to President Obama's Executive Order and appeals from municipalities with uncovered reservoirs similar to Portland's.

In response to a request from New York's Senator Schumer and to President Obama's Executive Order 13563 requiring agencies *"...To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned."*, the EPA announced in 2011 its plan to review and possibly revise the LT2 regulation.

In an August 2011 letter EPA Administrator Lisa Jackson advised Senator Schumer that *"...different reservoirs around the country have different specific conditions and protections that may have a bearing on the public health benefits of the LT2 coverage requirements."* EPA has said that they will, *"...reassess and analyze new data and information regarding occurrence, treatment, analytical methods, health effects, and risk from viruses, Giardia, and Cryptosporidium to evaluate whether there are new or additional ways to manage risk while assuring equivalent or improved public health protection."*

The Portland Water Bureau, community stakeholders, other utilities, industry organizations such as the American Water Works Association (AWWA) and the Water Research Foundation (WRF), industry consultants, and university researchers are participating in the LT2 review and revision process scheduled to be complete by 2016. As part of this process, the Portland Water Bureau has submitted to the EPA relevant reservoir data associated with WRF study 3021 *"Detection of Infectious Cryptosporidium in Conventionally Treated Drinking Water"* and relevant disease surveillance data.

Since submitting our LT2 compliance plan in 2009, the WRF 3021 researchers have published their study. Among its conclusions, *"...According to the USEPA's SWTR, the goal of conventional water treatment plants should be a maximum annual risk of Cryptosporidium infection of 1 in 10,000. The results from these 14 plants indicated that the occurrence of infectious Cryptosporidium in conventionally treated drinking water in some areas of the U.S., produced by correctly operating treatment plants, was low and drinking water meets this risk goal."* In our previous communications with you, the Portland Water Bureau informed OHA of Portland's 7000 liter open reservoir sampling, but not of the conclusions of the published report.

In addition, as part of EPA's LT2 rule revision process, New York City has supplied EPA with extensive new uncovered reservoir data demonstrating that their Hillview reservoir is not a source of *Cryptosporidium*. Finally, last year, Rochester, New York, which secured an amendment to their LT2 reservoir compliance schedule to 2024, is currently collecting 50 liter *Cryptosporidium* samples twice per month, having previously not collected any samples prior to securing an extension of its LT2 reservoir compliance projects.

While it is uncertain what changes the EPA might ultimately make to the LT2 rule, the City of Portland has an interest in benefiting from any alternative compliance options that may develop through the revision process. What I hope to avoid, and what I believe you can agree would be unacceptable, would be to proceed with the construction of these reservoir projects only to find out in 2016 they are no longer mandated.

Such an outcome would leave Portland ratepayers in debt for hundreds of millions of dollars with no regulatory mandate for a project that is not a public health priority.

With regard to the legitimacy of economic arguments as a basis for project deferral, I point to the City of Rochester which has a physical infrastructure very similar to Portland's open reservoir infrastructure. Rochester had three (3) uncovered reservoirs including two historic reservoirs which, like ours, are highly engineered reservoirs not subject to run-off of surface water and are over 100 years old and set in city parks. In 2012 Rochester completed covering one reservoir and successfully secured a 10-year extension until 2024 from the EPA LT2 "treat or cover" requirement for their remaining two historic open reservoirs arguing financial hardship, limited resources, and questioning the requirement of onerous expenditures without any measurable public health benefit.

Rochester sought to amend, on economic grounds, their previous compliance agreement of the LT2 rule as it applies to their open drinking water reservoirs. The request was granted in March 2012 by the State of New York, in consultation with the Environmental Protection Agency. Portland deserves the same consideration and reprieve, based on analogous circumstances, stronger justification, and an equitable and consistent application of federal law.

In its December 20, 2011 letter requesting an amendment to their LT2 project schedule, Rochester cited a variety of economic challenges, including a drop in water demand and rising water rates, *"While the population decreased by 10% since 2000, the water rates increased 44%. We have sought alternative funding sources such as congressional earmarks, EPA appropriations, and NYSDWSRF funding, but we have been unable to secure funding to lessen the financial hardship for the Cobbs Hill and Highland UV improvement. Due to the capital investment needs of the water system, we are carrying a very high debt load with a total principal and debt load payment of approximately \$5.5 million due in 2014. This debt load includes the \$15 million we have already spent on LT2ESWTR compliance projects."*

The City's letter goes on to say, *"US EPA Administrator Lisa Jackson recently announced a review of the LT2 rule. Ms. Jackson was prompted to review the LT2 rule because of requests from New York City, US Senator Charles Schumer, and others to reevaluate the effectiveness of the regulation in light of new data that brings into question the assumptions upon which the LT2 rule was promulgated."*

The Portland Water Bureau has a much stronger argument for deferral of LT2 projects on economic grounds than Rochester. During the same period of time cited by Rochester (FY 2000-01 to FY 2011-12), retail water rates in Portland increased by 89% compared to Rochester's 44%. In the same period retail water demand has declined in Portland 12%. Since then, Portland's rates increased by 7.6% this year and are expected to rise by a similar amount in July.

Rising water rates place a burden on residential ratepayers, both homeowners who receive the bill directly, and renters for whom water costs are built into base rent increases. Water consumption is, of course, a basic human necessity, unlike other elective utilities such as cable TV, cell phones and internet. While Portland offers a generous low-income discount program for both water and sewer rates, the program does not shield enrolled ratepayers from water rate increases. In fact, those enrolled in the low income discount program see the same annual rate of increase in their bills as conventional retail ratepayers.

Rising water rates also have an impact on our commercial customers. Last year, Siltronic Corp.—the City's largest water customer and a major employer—shuttered half of its Portland manufacturing capacity, laying off 350 workers. While rising water rates were not cited as the primary reason for the closure, the company made the point at the time that rising rates threaten the competitiveness of its remaining silicon wafer manufacturing plant.

Siltronic is representative of many major water customers in the City of Portland, in that it operates in a commodity market with little ability to pass rising production costs on to its customers through higher prices. Therefore, as water rates have risen in Portland by double digits each of the last few years, large water users in commodity markets like dairy products, textiles, food processing, and chemicals are finding Portland a less and less competitive place to do business.

In 2000, the PWB held \$134.8 million in outstanding debt, with annual debt service of \$12.8 million. As of July 1, 2012, the PWB is carrying \$440.1 million in outstanding debt, with annual debt service of \$36.1 million, representing about 26% of annual revenues. Much of this debt has been taken on to pay for expensive LT2 compliance projects.

The City of Portland has made significant investments in open reservoir upgrades, completing upgrade work and closing out a \$23 million contract in 2011. One of the tasks assigned to a consulting firm studying the open reservoirs over a 9-year period was to outline projects necessary to keep the open reservoirs safely operating. Many of these projects have been completed over the last 10 years under four contracts totaling \$40 million. These contracts were financed by 25-year revenue bonds. Approval of the new timeline supports Portland's interest in good governance and in protecting this significant investment.

The PWB has robust risk mitigation measures in place to protect public health during the extension period. As stated in earlier correspondence, the PWB believes that the current observable risk to public health is low. Additionally, allowing the schedule adjustment will provide opportunity for the PWB to address deferred maintenance projects that will provide greater public health protections. For example a strategic objective of the PWB is to improve distribution system water quality by increasing unidirectional system flushing. Given the resources assigned to LT2, the PWB's ability to increase the number of miles of piping that are flushed each year has been limited.

Finally, since the original compliance schedule was adopted in 2009, it is again worth noting and repeating that in 2012 OHA granted a first of its kind in the nation variance to the LT2 source

water treatment rule to Portland recognizing the outstanding nature of the Bull Run raw water source and the protections developed and put into place over the past several decades by the city to protect its source water. I suspect that our Cryptosporidium testing and monitoring is among the most extensive in the country.

Approval of a schedule adjustment will enable PWB to pay down some water bond debt, and reduce the financial impact on ratepayers during the current recession, when households are facing financial pressures on many fronts.

For the reasons described above, the City of Portland hereby requests revisions to our compliance schedule that defer completion of the Mt. Tabor and Washington Park LT2 reservoir compliance projects to December 31, 2024.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Novick', written in a cursive style.

Commissioner Steve Novick  
City of Portland, Oregon

c. Mel Kohn, M.D., M.P.H.

Enclosures



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## Panel votes not to bury reservoir

*In an 8-5 decision, the Mt. Tabor Reservoirs Independent Review Panel chose to enhance security and water quality monitoring rather than adopt a reservoir burial plan that may cost the city as much as \$200 million.*

By Dave Mazza

Community members opposed to the proposed burial of three historic reservoirs scored another victory at the May 11 meeting of the Mt. Tabor Reservoirs Independent Review Panel. The 13-member panel split 8-5 in favor of increasing security and water quality monitoring at the century-old facility rather than move forward with plans to bury the reservoirs and build a "water feature" on top. The Water Bureau and its consultants pressed hard for the burial option during the 3-month process; however, it was a perceived lack of compelling problems, and concerns over cost that moved the panel to reject the Bureau's preference. Now it remains to be seen whether City Council will accept the findings of its own panel when the latter presents majority and minority reports at a June 8 work session.

The Portland City Council, at the request of Commissioner Dan Saltzman, created the Mt. Tabor Independent Review Panel last February for the purpose of reviewing options for meeting pending EPA water quality rules and keeping the reservoirs and infrastructure secure. Saltzman created the panel in response to growing criticism of the lack of public participation in the decision to bury the reservoirs. Grassroots groups like Friends of the Reservoirs were raising the visibility of the issue, putting direct pressure on Saltzman as well indirect pressure from more influential city figures who were concerned about the Friends' claims.

The options given to the 13-member panel (see sidebar) included reservoir burial, a water treatment facility, relocating stored water to Mt. Scott, and mitigating risk through enhanced monitoring and security. Eventually, another option calling for low tech approaches to water quality and security put forward by Friends of the Reservoirs was added to the list of options under consideration. The panel had 90 days to make a recommendation to the council. Recommending no action was not an

### The Majority Report

At the May 11 meeting of the Mt. Tabor Reservoirs Independent Review Panel, panel members determined that there would be no consensus around any single option. Instead, majority and minority reports were developed for presentation to the City Council in June.

### The majority of panel members found:

- Water quality in Portland is very good and meets all current federal regulations;
- There is a very low risk that a terrorist act would harm the City's water supplies;
- Vandals can access the water supplies, but are not likely to introduce an agent that would undermine the health of system users;
- Water rates are expected to rise steadily over the next decade, well ahead of the rate of inflation;
- Water usage in Portland is declining;
- There is no current federal

option.

Facilitators from EnviroIssues and technical consultants from McQuire Environmental Consultants assisted the panel. The panel's executive committee, with the full panel's approval, retained both firms.

Starting in early March, the panel met weekly for presentations from the consultants, public testimony and deliberation. Power Point presentations on the city's water system, public health risks to the water supply and security filled most of the two-hour — later expanded to three-hour — sessions. From the first session, tension existed between panel and staff over the choice of information and how it was being presented. The consultants showed a graph measuring the growth of certain bacteria in the reservoirs, but it took

repeated questioning before the consultant admitted this organism caused the water to be discolored but posed no risk to human health. In another instance, panelists were presented with data on how a small amount of a hazardous compound could render an entire reservoir contaminated. What was not mentioned, again until after repeated questioning, was that the figures assumed the substance was fully mixed throughout the reservoir, something that would take days to occur.

The most disturbing aspect of how information was presented over the three-month process was the growing sense that some information was deliberately held back until its disclosure would have a maximum effect on the panel. Cost, identified early as information the panel felt important and needed, was rarely presented in a form that was easily understood. When the panel appeared ready to abandon the burial option, the Bureau introduced new cost data that showed the difference in long-term cost between burial and risk mitigation was a matter of a few dollars — an analysis many of the panel didn't believe. The panel was sandbagged a second time with the late release of information stating the reservoirs are not earthquake proof and that the cost of seismic upgrades would be very costly. Information provided by the Friends contradicted the level of risk from earthquake — Mt. Tabor is a low-risk island surrounded by much more vulnerable lowlands. Again, the majority of the panel rejected the attempt to impose seismic upgrade costs on some of the options.

An unexpected result of these methods was the polarization of the panel into the majority and minority viewpoints that eventually was represented the majority and minority reports presented to the City Council. There was some movement from the majority pro-risk mitigation faction to the minority burial faction following the introduction of the seismic

upgrade information, however, by the last meeting, it took little time for the entire group to agree there would be no consensus and that majority and minority reports should be written and submitted to the council (see sidebar).

or state regulation requiring that reservoirs be buried;

- New federal regulations are in development, but are not yet complete. They could impact many aspects of the Portland water system, not just Mt. Tabor, but are not expected to ban open reservoir systems; and
- The reservoirs are a critical part of the history and character of Mt. Tabor Park.

#### **The majority recommended:**

- The City Council should adopt a risk mitigation strategy to ensure the safety and quality of drinking water supplies at Mt. Tabor Park;
- Since a specific mitigation plan was not provided in the Council resolution, a risk mitigation plan will need to be determined and considered by the public prior to City approval;
- A risk mitigation strategy should preserve the historic character of Mt. Tabor Park and adhere to the Mt. Tabor Masterplan;
- The City Council should revisit this issue in the future, potentially when new federal rules are finalized, or state rules enacted;
- Deferred maintenance at the reservoirs and elsewhere in the water system should be reviewed, and work completed where it is necessary to maintain the integrity of the reservoirs and the water delivery system;
- Potential changes to Mt. Tabor should not be considered in isolation. Rather, the City should

The split decision was a clear victory for Friends of the Reservoirs. They had out-organized the Water Bureau, always prepared with more compelling data to inform the panel and rebut consultant presentations. Despite efforts to limit their involvement in the process, the group soon became the reliable source of information for some panelists. Even though their option was eventually dropped, many of the features of the Friends’ proposal were included for consideration in a final mitigation plan.

With a favorable council vote not absolutely certain, the Friends of the Reservoirs are not slowing down after this victory. They will be mobilizing for the upcoming council hearings. They are also re-filing an initiative to require a public vote on major water projects they had not been able to circulate during the review.

While there’s no question this is a major setback for Saltzman and the Water Bureau, there’s no reason to count them out yet. The Bureau has shown itself determined to get its way on this issue. Firms like Montgomery Watson Harzon — the employer of former Portland Water Bureau chief engineer Joe Glicker — that developed the burial proposal the City Council approved in the spring of 2002 are also unlikely to walk away from lucrative contracts.

Even should the council vote end the burial issue for now, the real fight isn’t over. Viewed as one of the moneymakers in the city, the Water Bureau has enjoyed hands-off treatment for years. The result is an insularity and resistance to intrusions by “outsiders” that runs contrary to the democratic process or to effective government. Short of changing our current form of city government — a step progressives seem unready to embrace at this time — democratizing the bureaucracy seems the logical next step. The creation of a public water board to oversee the Water Bureau could certainly be such a step, and started with a demand for a full public audit of the Water Bureau.

But for now, it looks likely the historic Mt. Tabor reservoirs will be serving Portlanders’ physical and spiritual needs through another century.

*Dave Mazza is editor of The Portland Alliance. He was one of the members of the Mt. Tabor Reservoirs Independent Review Panel.*

**The Mt. Tabor Reservoirs Independent Review Panel**

Portland Water Bureau Commissioner Dan Saltzman selected the following people to serve on the panel the City Council created to review options for the Mt. Tabor Reservoirs. How the member voted is indicated by “ <b>majority</b> ” or “ <b>minority</b> .”	Bill Glaze Oregon State Univerity; <b>minority</b>  Dave Mazza The Portland Alliance; <b>majority</b>  Sandi McDonough National Energy & Gas Transmission; <b>majority</b>	Gary Oxman Multnomah County Health Department Health Officer; <b>minority</b>  Frank Ray Public Utility Review Board; <b>majority</b>  Jim Spitzer Multnomah County Department Emergency Preparedness Manager; <b>minority</b>
Ogden Beeman (Panel Chair) Independent maritime	Steve March State representative Dist. 46; <b>majority</b>	

consider all upgrades necessary as a result of any new regulation in a holistic manner, calling upon experts and community representatives to assist the city in devising a plan that meets regulatory requirements, maintains safe and reliable water supplies and assures long-term affordability of the City’s water services; and

- Rate impacts should be minimized.

For more information about the full report, see [www.portlandonline.com](http://www.portlandonline.com) or [www.friendsofreservoirs.org](http://www.friendsofreservoirs.org)

consultant; **minority**

Eilen Brady  
EcoTrust; **majority**

Vanessa Gaston  
Urban League; **majority**

Stefenni Mendoza Gray  
Oregon Council for Hispanic  
Advancement; **majority**

Tiffany Sweitzer  
Real Estate; **majority**

Tom Walsh  
Tom Walsh Construction;  
**minority**

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***The Portland Alliance*** 2807 SE Stark Portland,OR 97214

Questions, comments, suggestions for this site contact the webperson at [website@ThePortlandAlliance.org](mailto:website@ThePortlandAlliance.org)

**Last Updated:** July 22, 2004

April 29, 2013

Commissioner Steve Novick  
City of Portland  
1221 SW 4<sup>th</sup> Ave. Suite 210  
Portland OR 97204

Dear Commissioner Novick:

This letter responds to your February 4, 2013, request for a deferral of completion of the Mt. Tabor and Washington Park Long Term 2 Enhanced Surface Water Treatment Rule (LT2) reservoir compliance projects to December 31, 2024. The compliance schedule currently in effect, proposed by the City of Portland and approved by the U.S. Environmental Protection Agency (EPA) in 2009, requires that the three Mt. Tabor open reservoirs be disconnected by December 31, 2015, and the two Washington Park open reservoirs be disconnected by December 31, 2020.

You cited new information in your request for a deferral, including material economic and regulatory circumstances that have changed since 2009:

1. An open reservoir extension granted to the City of Rochester, New York by the New York state regulatory agency,
2. Increasing water rates,
3. Water demand that is declining steadily,
4. Increasing debt-to-revenue ratio,
5. Water Research Foundation Study 3021 showing no *Cryptosporidium* following extensive sampling in Portland's open reservoirs, and
6. Decision by EPA to review and reassess the LT2 rule in response to President Obama's Executive Order and appeals for municipalities with uncovered reservoirs similar to Portland's.

We have carefully and thoughtfully reviewed and considered each of these issues and the material you submitted, and our findings are presented below, with information source citations.

#### City of Rochester NY Compliance Schedule Extension

The New York State Department of Health has Primacy from EPA for safe drinking water and further delegates implementation of the drinking water program to county health departments with state oversight. The state and Monroe County agreed to amend Rochester's open finished water reservoir compliance schedule based on the following rationale (communication with NY State Dept. of Health):

1. Rochester's water source is filtered and disinfected. *Cryptosporidium* sampling of both the untreated source water and the fully treated water from the filtration treatment plant has shown no detections to date. (Note-Portland's water is not filtered.)
2. Rochester covered one open finished water reservoir as per the original compliance schedule. (Note-Portland has not completed decommissioning of any open reservoirs.)
3. The two remaining reservoirs are not subject to surface water runoff, are equipped with bird deterrence, are inspected daily, have 24/7 video surveillance, and the reservoir effluent water is retreated to inactivate bacteria and viruses prior to reaching the first customer. (Note-Portland does not retreat the water exiting its open reservoirs, and the reservoirs are not equipped to deter birds.)
4. Rochester has critical distribution piping infrastructure leakage problems, resulting in a high rate of water loss and presenting a public health risk from leakage into the piping system during low pressure events. (Portland has not identified water loss as a critical issue, or any other critical improvements that would take public health priority over the open reservoir projects.)
5. Rochester's debt load for construction of the filtration treatment plant extends until 2024.
6. Rochester's extension request included a *Giardia* and *Cryptosporidium* action plan that includes sampling the open reservoir outlets twice per month. No detections have been found to date.

The Portland and Rochester water systems are not similar water systems. Most importantly, Portland does not provide any re-treatment of water that exits the open reservoirs. Any bacteria or viruses, in addition to *giardia* or *cryptosporidium*, introduced into the open reservoirs are a threat to public health and could be passed on to consumers. *E. coli* bacteria were confirmed in the vicinity of the Washington Park reservoirs in November 2009 and July 2012, leading to boil water notices that impacted 135,000 households.

#### Increasing Water Rates

Portland's water bill for a typical single family residential customer for 2012-13 is \$26.65 per month (Portland Water Bureau website). Rochester's is \$28.41 per month (communication with city). Water rates and median household income (MHI) are often used by state and federal agencies to assess affordability of infrastructure projects for financing purposes (communication with the Oregon Infrastructure Finance Authority). The U.S. Department of Housing and Urban Development rate affordability standard for water rates is 1.25% of community MHI. Portland's current water rate is 0.63% of its community MHI (\$50,177/year); Rochester's is 1.1% of its community MHI (\$30,367/year) (U.S. Census Quick Facts).

#### Declining Water Demand

You also cited the impact on water rates of declining water use. From 2000-2010, Portland's water demand has declined by 12%, and rates have increased 89%. During this time period, we note that Portland's population increased by 12.23%. While we recognize that rates do

impact water usage, we also recognize and appreciate the very successful and continuing water conservation and sustainability efforts by the City and regional water providers.

In contrast, Rochester's population declined by 4% from 2000-2010. In the last year of data available (from 2010-2011), Rochester's growth was 0.14%, compared to 1.72% for Portland. In addition, persons living below the poverty level is 30.10% in Rochester versus 16.8% in Portland (U.S. Census Quick Facts).

#### Increasing Debt to Revenue Ratio

You stated that the Water Bureau is currently carrying \$440.1M in outstanding debt, with annual repayments representing 26% of annual revenues. In consultation with the Oregon Infrastructure Finance Authority, we were unable to determine from the submitted materials the amount of this debt load attributable for LT2 regulatory projects, whether there are increases beyond those anticipated in 2009, or the projected impacts to complete the open reservoir projects on schedule in the current favorable interest rate environment.

#### Water Research Foundation Study (WRF 3021)

We sincerely appreciate Portland's continuing participation in national studies which serve to advance the science around safe drinking water. The primary research aim of WRF 3021 was to assess the ability of conventional water treatment plants utilizing filtration and disinfection to reduce *Cryptosporidium* present in the source water to levels in treated water that meet the maximum public health risk level basis of the EPA LT2 enhanced surface water treatment requirements. Although the City does not practice conventional filtration treatment of its source water, we understand that the City did participate in the study by collecting finished water samples from outlets of the open reservoirs. While we appreciate the City's participation, the likely episodic nature of any contamination that could impact open finished water reservoirs, as well as limitations of currently available analytical methods, tend to limit the application of the overall project results to the specific issue of open finished water reservoirs.

#### EPA LT2 Regulatory Review

OHA contacted EPA for the current the current status of the LT2 regulatory review. EPA is conducting this review as required by the 1996 Amendments to the Safe Drinking Water Act. Under this Act, EPA is required to review all national primary drinking water regulations at least every six years. The next six-year review will be completed by 2016 and includes 70 regulations, including review of LT2.

In addition, Executive Order 13563 directed federal agencies to periodically review significant regulations. EPA identified a list of 35 priority regulatory reviews and included LT2 as one of those. EPA's plan for those reviews (see EPA website) divides those into 16 requiring early action, and 19 on a longer action schedule. The LT2 retrospective review is included as one of the longer term actions.

The experience of past six-year reviews of drinking water rules is that resultant rule revisions have been few in number and have been limited in scope. We are following the LT2 public discussions closely. Modifications and improvements to laboratory analytical methods are likely, given recent advancements in this area. However, based on the results of prior EPA regulatory reviews and lack of change in the evidence and science around the public health risks of open reservoirs, wholesale changes in the core aspects of the LT2 are less likely.

#### Conclusion and Decision

Our mission is to protect public health by reducing people's risks and exposures to drinking water contaminants. We are concerned about the detections of E. coli bacteria that occurred in recent years, including both the risk to public health and the impacts of resultant boil water notices on the community.

We understand your interest in the Rochester, NY open reservoir compliance schedule extension. Portland and Rochester are, however, very different communities in terms of water systems, economic conditions and population growth.

We do not approve the extension request for Portland's open reservoir compliance schedule. Portland's schedule approved by EPA and OHA remains in effect. As always, we are available to discuss with you any additional measures to assure drinking water safety that you may be considering.

We appreciate the technical and economic challenges that communities face in providing safe drinking water to their consumers and protecting the public's health. As mentioned in the May 17, 2012 response to Portland's first schedule extension request, there are numerous public health benefits to covered reservoirs. We look forward to continuing to work with you in that effort.

Regards,



David E. Leland, P.E.  
Interim Administrator, Center for Health Protection  
Public Health Division - Oregon Health Authority

## Moore-Love, Karla

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**From:** LAWRENCE HUDETZ <hudechrome@usa.net>  
**Sent:** Thursday, May 28, 2015 10:09 AM  
**To:** Moore-Love, Karla  
**Subject:** LU 14-218444 Testimony for Mt Tabor Hearing  
**Attachments:** Radon.doc

Please place the attached in the record for the 05-28-2015 City Council Hearing

Thank you,

Lawrence Hudetz  
1339 SE 130th Ave  
Portland Or 97233

Testimony to be Placed in the Record:

I want to address the Radon issue. For that purpose, I am providing links to appropriate references, along with quotes from the text.

<http://en.wikipedia.org/wiki/Radon>

*“Unlike all the other intermediate elements in the aforementioned decay chains, radon is gaseous and easily inhaled. Thus, even in this age of nuclear reactors, naturally-occurring radon is responsible for the majority of the public exposure to ionizing radiation. It is often the single largest contributor to an individual's background radiation dose, and is the most variable from location to location. Despite its short lifetime, some radon gas from natural sources can accumulate to far higher than normal concentrations in buildings, especially in low areas such as basements and crawl spaces due to its heavy nature. It can also be found in some spring waters and hot springs.[5]*

*Epidemiological studies have shown a clear link between breathing high concentrations of radon and incidence of lung cancer. Thus, radon is considered a significant contaminant that affects indoor air quality worldwide. According to the United States Environmental Protection Agency, radon is the second most frequent cause of lung cancer, after cigarette smoking, causing 21,000 lung cancer deaths per year in the United States. About 2,900 of these deaths occur among people who have never smoked. While radon is the second most frequent cause of lung cancer, it is the number one cause among non-smokers, according to EPA estimates.[6]”*

(Snip)

“Progenies

Main article: Decay chain § Radium series (also known as uranium series)

*<sup>222</sup>Rn belongs to the radium and uranium-238 decay chain, and has a half-life of 3.8235 days. Its four first products (excluding marginal decay schemes) are very short-lived, meaning that the corresponding disintegrations are indicative of the initial radon distribution. Its decay goes through the following sequence:[25]*

- *<sup>222</sup>Rn, 3.8 days, alpha decaying to...*
- *<sup>218</sup>Po, 3.10 minutes, alpha decaying to...*
- *<sup>214</sup>Pb, 26.8 minutes, beta decaying to...*
- *<sup>214</sup>Bi, 19.9 minutes, beta decaying to...*
- *<sup>214</sup>Po, 0.1643 ms, alpha decaying to...*
- *<sup>210</sup>Pb, which has a much longer half-life of 22.3 years, beta decaying to...*
- *<sup>210</sup>Bi, 5.013 days, beta decaying to...*
- *<sup>210</sup>Po, 138.376 days, alpha decaying to...*
- *<sup>206</sup>Pb, stable. “*

Notice the alpha decay in the first two on the list. It is this decay which is of great concern to me, in that radon when found in open reservoirs, will dissipate before it is passed on into the water entering our homes. This Radon alpha decay property is shared with Plutonium, and as we know, Plutonium is one of the most poisonous elements we know. The alpha particle decay is the principle concern of both.

With respect to Radon's presence in the home, it is not only a drinking water concern but rather, an overall environmental concern, emitting these particles from showering, clothes washing, dish washing, in short, any way water vapor is part of the building environment.

The well fields from where we draw water in times of shortage at Bull Run are known to have a Radon component. How is it, then, if Radon is a serious issue, City council and the Water Bureau takes such a cavalier attitude to it's proper handling? How can the Council do this? How can Council member, Amanda Fritz, herself a nurse, sit still for such egregious behavior?

<http://hyperphysics.phy-astr.gsu.edu/hbase/nuclear/radon.html>

*"One would think that radon was the least of our radiation problems since it is an inert gas. That would be so except that when we breathe, we are constantly passing air into our lungs and out of them. In this process, the radon gas simply goes in and out, doing little damage, but the radon daughters, being basically solid materials, and sometimes being electrically charged, can stick to the surfaces of our bronchial tubes. This puts them right where they can do the most harm, for the cells lining our bronchial tubes are among the cells of our body most sensitive to radiation-induced cancer. The alpha particles emitted in the decay of radon daughters, in spite of their poor penetrating power, can reach these very sensitive cells because they are deposited so close to them. To make matters very much worse, alpha particles are much more efficient than other types of radiation for inducing cancer. The very fact that they are not penetrating means that they dump a lot of their energy into each of the biological cells they pass through, and this large release of energy into a single cell is just what is needed to initiate a cancer. As a result an alpha particle is a hundred times more likely to cause cancer than other types of radiation, if it can reach the target cells. Our breathing processes allows the alpha particles from radon daughters to reach these cells.*

*Radon is believed to be an important cause of lung cancer, killing about 10,000 Americans each year. Only cigarette smoking causes more lung cancer deaths per year. And in perhaps one out of a thousand American homes, radon levels are so high they pose a greater lung cancer risk than smoking a pack of cigarettes per day."*

And this article as well as many others, are considering Radon as emitting from the ground. How much more so is any Radon which enters as a result of contamination in the drinking water supply?

This whole process is rife with errors, starting with LT-2 which doesn't apply but the solution to it is nevertheless being sited as necessary, to Radon, which is a serious concern, being sidelined in this process.

I call for a moratorium on the entire process until we sufficiently resolve this and all the other issues raised in connection with the redo of the reservoirs in Portland

Submitted by:

Lawrence Hudetz

1339 SE 130<sup>th</sup> Ave

Portland OR 97233

hudechrome@usa.net

## Moore-Love, Karla

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**From:** Dee White <deewhite1@mindspring.com>  
**Sent:** Thursday, May 28, 2015 10:24 AM  
**To:** Council Clerk – Testimony  
**Subject:** Agenda 547 Appeal vs Historic Landmark Commission re: Mt Tabor reservoir

In 2010, thanks to sincere efforts by Mayor Michael Bloomberg and Senator Chuck Schumer, the entire EPA LT2 rule including the open reservoir requirement is now under revision. All utilities can benefit from the revision. Portland could also benefit from this revision, expected in 2016, but sadly our City Council has refused to consider much less acknowledge this option. So, even though Rochester and NYC are under the same federal mandate, they have received a reservoir “treat-or-cover” deferral until 2028. They will not spend one thin dime on treating or covering their reservoirs until 2022 and by then the rule may be revised to include a “risk mitigation” option that was included in the draft of the LT2 rule but INEXPLICABLY removed from the final rule.

Rochester changed their reservoir plans in 2010 after community opposition. Rochester's three open reservoirs were built in the late 1800's and are set in city parks. Rochester's reservoirs are earthen, unlike our concrete reservoirs, which were built using the patented Ransome method and notably, were built to last, as they have for over 100 years and as they are today.

Here I will read part of an email from the head of the Water Department in Rochester that was sent to Friends of the Reservoirs in 2010:

“The City is in the process of implementing improvements to our three finished drinking water reservoirs. The City owns three finished drinking water reservoirs, Cobbs Hill Reservoir has a capacity of 166 MG, Rush Reservoir has a storage capacity of 66 MG, and Highland Reservoir has a capacity of 27 MG. Both Highland and Cobbs Hill are located in public access parks. Both are located within the densely populated neighborhoods of the City. Highland Reservoir is located in Highland Park a park that is listed in National Register of Historic Places. The park was designed by Frederick Law Olmsted in 1892. The public is very sensitive to any changes in the Highland reservoir and the Cobbs Hill Reservoir because they are considered aesthetic resources. I have attached a PDF of a powerpoint presentation that will give you a glimpse of our water system, the process we went through to develop a plan to comply with the LT2ESWTR regulation.”

New York City and Rochester, New York achieved relief because they did not fast-track their compliance plan in the first place, unlike the Portland Water Bureau. Mayor Charlie Hales had an opportunity to seek the same kind of schedule delay from the State of Oregon when he took office in 2013. He could have simply asked Governor Kitzhaber for a delay in the construction schedule to allow time for the rule revision to make its way through the EPA. Sadly, Mayor Hales never even made the request.

This is a failure of leadership. I implore you, Mayor Hales, to strongly and sincerely request a construction delay from Governor Brown and stop this fast-tracked process of dismantling our open reservoirs at Mt Tabor. IT IS NOT TOO LATE TO DO THIS, MAYOR HALES.

Dee White  
3836 SE 49<sup>th</sup> Ave.  
Portland OR 97206

## Moore-Love, Karla

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**From:** Kate & Chris <samsa@pacifier.com>  
**Sent:** Thursday, May 28, 2015 10:56 AM  
**To:** Council Clerk – Testimony  
**Subject:** LU 14-218444-HR-EN Katherin Kirkpatrick 1-12-2015 HLC testimony submitted for the record  
**Attachments:** LU 14-218444-HR-EN Testimony of Katherin Kirkpatrick 2015-05-28 -- Copy of 1-12-2015 HLC Testimony Referred to in Brief.docx

Dear Karla:

Please enter the above into the record for today's Council hearing on the Mt. Tabor appeal; it is my testimony from the 1/12/2015 hearing before the Historic Landmarks Commission in the above case, which I refer to in the brief I submitted earlier.

Also, I'd greatly appreciate a digital receipt for this when you get the chance.  
Thank you very much,

Katherin Kirkpatrick  
1319 SE 53rd Avenue  
Portland, OR 97215  
503-232-8663  
[samsa@pacifier.com](mailto:samsa@pacifier.com)

(City of Portland's Proposal to Disconnect Mt. Tabor Reservoirs 1, 5 and 6)

TO: BDS Staff and Historic Landmarks Commission

FROM: Katherin Kirkpatrick, 1319 SE 53rd Avenue

DATE: 1/12/2015

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Dear Historic Landmarks Commission:

Thank you for your shared concern about Portland's historic open reservoirs.

In support of the assertions and requests of Ty K. Wyman dated 1/7/2015 and Stephanie Stewart and John Laursen of the Mt. Tabor Neighborhood Association dated 1/8/2015, I am asking that you please deny the City's proposal and/or place strict conditions upon it, as detailed on page 4 and 5 of this letter.



I ask this because I truly believe, as I think do many of the citizens present here, that if unchecked by stringent oversight, the machinery of this City will grind inexorably toward a foregone conclusion that puts the interests of public works engineers before those of historic preservation and public health. I know these are strong words, so I offer my own story as evidence of how the City of Portland rewards those who trust its intentions.

The photograph at left shows my infant daughter enjoying one of her first strolls around Mt. Tabor's Reservoir No. 5. It was 2003, and I was on break from fighting the City's original land use determination in this case. The City wanted to demolish all of our open reservoirs and replace them with underground tanks, and if that use wasn't allowed under the Code, then the City wanted to be exempt from its own laws. Back then it wasn't afraid to say so, because the public didn't yet know to be angry.

My daughter is now 12 years old. She has never known freedom from worry about losing the beautiful open reservoirs around which she and her friends play; and from which she receives safe, aerated, radon-free drinking water. She has also never been able to walk through my office without tripping on the 2-foot-high stack of research I've collected on

(City of Portland's Proposal to Disconnect Mt. Tabor Reservoirs 1, 5 and 6)

TO: BDS Staff and Historic Landmarks Commission

FROM: Katherin Kirkpatrick, 1319 SE 53rd Avenue

DATE: 1/12/2015

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Portland's open reservoir proceedings. It was while I was reviewing that stack of papers for today's hearing that I sadly ran across the following comments in the 2003 land use notes:

*"The problem is that the [City] does not specify whether "the time of building permit application" is before ... or after the demolition has already occurred. The petitioners have good reason to believe that the reservoirs will be destroyed before they have any further opportunity to object in a land use proceeding.*

*"There is already precedent for what the city will do. It resorted to an identical Use Determination on March 6, 2003 to rule that the reservoirs in Washington Park could be covered without a land use review. It then gave notice of the right to appeal ... [yet] no such notice was given and no conditional use process was initiated before the Water Bureau made immediate application for the actual "Site Development Permit."*

It's humbling to look at yourself as a young person, just starting a family, and realize that even then you were already a war-weary land use veteran, already citing the City's established history of circumventing public process to put contractors' pecuniary interests before public health. When that photo was taken, I was young enough to still harbor the hope that vigilance would earn us a "meaningful collaborative effort to reach consensus with the community" (Commission comments 12/1/2014).

But, looking back on the last decade of my life, I'm faced with hard questions about what that "collaborative effort" has consisted of. Because time and again it looks like I was told one thing by the City, only to discover that public documents suggested the opposite.

If I was told of a "federally imposed" 12/31/2015 deadline, then shortly thereafter a Region 10 EPA letter would turn up saying "there is no specific deadline for installing reservoir covers" in LT2 (Eric Winiacki to MTNA, 03/19/2009). If I was told that deferral wasn't an option, within hours a Google search would turn up the written exchange between EPA and Rochester, NY (9/12/11, 11/30/2011 and 1/9/2012), detailing the precise method for securing a deferral pending EPA's planned reconsideration of reservoir regulations (Lisa Jackson letter, 8/11/2011). If the City said replacement was the lowest-cost option, I could verify that Rochester had implemented an incredibly low-cost, low-impact treat-at-the-outlet option that Portland had inexplicably dismissed without discussion. If I was told by my representative on City Council that their hands were tied by the feds, I'd spend the next several hours in conversation with Senator Merkley's staff, who would patiently explain that City Council had unilaterally codified the 12/31/2015 reservoir decommissioning date as City law, such that the City was

(City of Portland's Proposal to Disconnect Mt. Tabor Reservoirs 1, 5 and 6)

TO: BDS Staff and Historic Landmarks Commission

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DATE: 1/12/2015

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paradoxically appealing its own sovereign decision, leaving everyone scratching their heads. If I publicly implored my Council representatives (6/11/2013 and 11/9/2013, the latter viewable at <https://www.youtube.com/watch?v=S2WDjVGAdIM>) to *please* revoke their self-imposed rush deadline and submit a new proposal to state and federal regulators, the public would greet me with uproarious cheers of support, yet the Commissioners would stare blankly without responding. Now, when I read MTNA's testimony, I learn that the City isn't returning their calls either.

What is so inconceivable about the plight of these historic landmarks is that the collective expertise of the citizens present in this room likely represents in excess of 100 years' experience directly relevant to protecting these resources, much of it in specialized and postgraduate work. Had the City ever truly intended a "meaningful and collaborative effort to reach consensus" with us, the application before you would be moot. We would all be enjoying worry-free water and a spectacular view of well-maintained open reservoirs, with a full decade ahead of us in which to contemplate a low-cost, low-impact mitigation plan for water safety, just like the rest of the country's open-reservoir cities.

If this group of committed and passionate citizen volunteers lived in those cities, their officials would not insult them by quibbling over the definition of "full"--as though grown adults would actually ask for their reservoirs to be filled to overflowing. Officials in those cities would not promise to save those reservoirs by unspecified means, via an unspecified future process that in all probability will consist of "unilaterally declar[ing the landmarks] a health and or safety hazard and approv[ing them] for demolition without the normal type 4 LUR public process" (Attorney Mark Bartlett, Southeast Examiner, 1/1/2015).

Words can't describe the grief rippling through this crowd when, after years of pleading for a "meaningful collaborative effort" we are told that the City wants to excuse itself from your scrutiny too, because the destruction of Portland's most iconic landmarks is too insignificant to mention, and anyway they don't have time to discuss the rashness of their actions, because they're too busy acting rashly.

We are truly grateful that at last this case is under the purview of volunteers like ourselves, who understand the sacrifices behind personal stories like the one I just related to you. We trust that you will understand that we are not idly complaining, but sounding a warning. Experience points toward one conclusion: that powerful influences in this City wish to be rid of these turbulent reservoirs, and will not engage in meaningful collaboration with the community on this issue unless forced to.

Please exercise your authority to bring peace to this troubled land. Do not let the City talk out of both sides of its mouth; settle for nothing less than brute honesty backed by solid proof. Please set the City with the burden of proving to your satisfaction, gauged against the barometer of rigorous community scrutiny, that it either truly wants to save these open reservoirs, or it doesn't. And whatever option the

(City of Portland's Proposal to Disconnect Mt. Tabor Reservoirs 1, 5 and 6)

TO: BDS Staff and Historic Landmarks Commission

FROM: Katherin Kirkpatrick, 1319 SE 53rd Avenue

DATE: 1/12/2015

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City chooses, please send it back to the drawing board and compel it to take the time to truly exhaust all the alternatives, or carry out the appropriate conditional use hearing merited by such drastic proposed changes to the landmarks' use and development. Specifically:

1. If the City insists that it was telling the truth when it claimed to have "fought LT2 since its inception" and "exhausted all options" for saving the open reservoirs (City Council press release, 6/3/2013 and personal communication of Dan Haynes, Communications Director of the Mayor's Office), then please deny the City's application until it proves that it has actually followed through with the many options remaining for saving the open reservoirs, backed by meaningful community input, such as:

a. Funding and completing the deferred preservation-maintenance called for in the 2009 Mt. Tabor Historic Structures Report.

b. Codifying its expressed intent to fight LT2 and exhaust all options into an actual municipal resolution to that effect, that vacates all resolutions contradicting that professed intent, not the least being the resolution setting the 12/31/2015 rush compliance deadline.

c. Submitting to the appropriate regulatory body a revised compliance agreement for 2024, like other open-reservoir cities, based on good-faith mitigation measures that don't harm the landmarks, such as the low cost treatment-at-the-outlet option implemented by Rochester, NY.

d. Faithfully pursuing state and federal regulatory relief, using the talents of Portland's dedicated force of citizen volunteers, including but not limited to the waiver option promised by the EPA in its Agreement in Principle (2001), and the assistance of the state and federal legislative delegations that secured regulatory relief for East Coast open-reservoir cities based partly on Portland's data.

e. Faithfully pursuing any and all legal remedies against the OHA for violating the Oregon Legislature's intent, should it refuse to cooperate on behalf of Portland's open reservoirs.

2. Alternatively, if the City does not intend to deliver on its professed intention to fight LT2 and exhaust all options for saving the open reservoirs, then please deny the City's application until it quashes the public's false hope, and honestly discloses its true intention to the public, by:

a. Formally resolving to decommission the Mt. Tabor landmarks, and to cease working for their preservation regardless of the outcome of the EPA's 2016 rule revision process;

(City of Portland's Proposal to Disconnect Mt. Tabor Reservoirs 1, 5 and 6)

TO: BDS Staff and Historic Landmarks Commission

FROM: Katherin Kirkpatrick, 1319 SE 53rd Avenue

DATE: 1/12/2015

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- b. Fully divulging its true development or demolition intentions for the site; and
- c. Completing the due process applicable to said development or demolition.

3. If the City proceeds with its plan to erect a written record at the landmarks educating the public about disconnection, please condition this action upon the requirement that the display accurately reflect the enormity of the controversy surrounding this issue; the changing and often conflicting positions taken by City leadership; the perceived conflicts of interests by City officials who helped craft LT2; and the thousands of hours of diligent work by citizen watchdogs to mitigate a project that, if left unchecked, would long ago have relegated these priceless national landmarks to the history books.

4. Please condition each and every allowance of a City proposal upon the City's demonstrating, under rigorous scrutiny, that its plans for each proposal are backed by the will, means, formal codification via resolution, detailed engineering plans, and dedicated budget to actually achieve them.

My family and I thank you for your hard work on the public's behalf. The fate of our unique historic reservoir system, and perhaps even of the water we drink, is in your hands.

Sincerely,

Katherin Kirkpatrick  
1319 SE 53rd Avenue  
Portland, OR 97215  
samsa@pacifier.com  
503-232-8663

**Parsons, Susan**

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**From:** floy jones <floy21@msn.com>  
**Sent:** Thursday, May 28, 2015 11:49 AM  
**To:** Council Clerk – Testimony  
**Subject:** 1149a Case file # LU 14-218444 HR, Mt. Tabor Reservoirs Disconnection Project  
**Attachments:** TaborReservoirs LU appeal.pdf; BDS analysis of Mt Tabor reservoirs.pdf; MTNA Reservoir Presentation 2015-01-12.pdf

To: Portland City Council

From: Floy Jones on behalf of the Friends of the Reservoirs

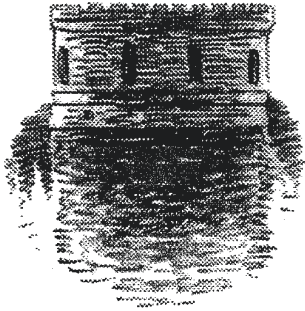
**Re:Case file # LU 14-218444 HR, Mt. Tabor Reservoirs Disconnection Project**

**Note: Numerous supporting documents submitted for the record under separate cover.**

Attached and submitted for the record:

- 1)Friends of the Reservoirs Tabor Disconnect LU comments -numerous supplementary supporting documents submitted separately
- 2) 2007 BDS analysis of the Tabor Reservoirs associated with Slayden corporations \$23 million open reservoir upgrade contract work- referenced in attached FOR comments
- 3)MTNA analysis of Water Bureau's false claim that they have adopted the 2009 Mt. Tabor Historic Structures Report and have made progress in completing projects -referenced in attached FOR comments

May 28, 2015



## 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](http://www.friendsofreservoirs.org)

[www.lists.pdx.edu/mttabor](http://www.lists.pdx.edu/mttabor)

To: Portland City Council

From: Floy Jones on behalf of Friends of the Reservoirs

Re: **Case file # LU 14-218444 HR, Mt. Tabor Reservoirs Disconnection Project**

**Multiple supporting documents are submitted via separate e-mails communications**

### DISCONNECTION NOT SUPPORTED

**First, and foremost the Friends of the Reservoirs strongly opposes disconnection of the Mt. Tabor reservoirs from Portland's distribution system just as we oppose the related \$76 million project to demolish water system assets Washington Park Reservoirs 3 and 4.** Contrary to misleading and false statements by the Portland Water Bureau (PWB) and politicians, there is no mandate to eliminate the use of open reservoirs<sup>1</sup>. Many alternatives to disconnection exist with several being utilized by other utilities such as Rochester, NY where they are retaining their older historic open reservoirs set in city parks as functional parts of their distribution system.

Disconnecting (and demolishing) Portland's open reservoirs will indisputably create new and unique public health risks from cancer-causing Nitrification as well as from Radon found in Portland's secondary lower-quality source water, the Columbia South Shore Wellfield (CSSWF) water. Radon in the CSSWF water would no longer adequately vent as has been the case through the open reservoirs (Powell Butte venting would provide but a fraction of the Radon venting provided at the open reservoirs) before reaching schools, homes, hospitals and businesses. And as the PWB reported to wholesale customers at a Water Manager meeting (a meeting I attended), the Portland Water Bureau has been spending money and strategizing on how to address the covered storage public health risk from Nitrification.

Additionally, Portland's water system will be less resilient with the disconnection and demolition particularly in light of the 3200 cracks and massive leaking discovered at the newly constructed, uneeded Powell Butte II underground tank. The cost of the PBII tank is grossly excessive at \$121 million with the CH2MHill (Joe Glicker, CEO) design contract doubling in cost at last public records check, and the construction contract increased over budget. The Water Bureau's initial higher total project cost estimate was flawed. The Water Bureau admitted at the March 30, 2015 Historic Landmark Commission Washington Park Reservoir Demolition Land Use meeting that if demolition proceeds and a \$76 million single small tank constructed in same footprint, the historic landslide zone (currently essentially stable), that new tank would likely not survive an earthquake. The PWB admitted that digging would destabilize the land requiring ongoing landslide mitigation once the new underground tank was built.

<sup>1</sup>The Water Bureau includes their false suggestion that open reservoirs are prohibited on pg.5 of their MTNA rebuttal/response when they say, "... if drinking water regulations are altered in the future to allow again the use of open reservoirs." Drinking water regulations currently allow the use of open reservoirs.

Disconnection of the Tabor reservoirs, as with demolition of the Washington Park reservoirs is bad governance on many fronts specifically in that subsequent to the promulgation of the LongTerm2 Enhanced Surface Water regulation, the PWB invested \$23 million ratepayer dollars in open reservoir upgrades designed, according to a nine-year reservoir study contract (MWH Global), to keep the open reservoirs safely operating for another 50 years. If disconnection (and Washington Park demolition) proceeds the PWB will have wasted the 23 million ratepayer dollars paid to Slayden corporation causing harm to ratepayers and citizens on multiple fronts. The Water Bureau presented the Slayden contract close-out report to Council in late 2011. Contrary to statements by David Shaff, Slayden corporation will not be refunding any of the \$23 million dollars.

Thanks to the extensive year-long effort of several members of Friends of the Reservoirs all of Portland's open reservoirs were placed on the National Register of Historic Places in 2004. In 2004 the Friends of the Reservoirs won the support of the costly *Independent Reservoir Panel* having invested thousands of hours in research and preparation of a book presented to the panel and subsequently to many in the community including City Council members. See panel member Dave Mazza's independent assessment of the Water Bureau's behavior versus the information presented by the Friends of the Reservoirs (submitted under separate cover). Friends of the Reservoirs have always focused foremost on protecting our grand open reservoir Bull Run water system. Portland's open reservoirs are significant distribution system assets as well as significant historical resources.

Title33, Section 445.010: *Historic preservation beautifies the city, promotes the city's economic health and helps to preserve and enhance the value of historic properties.*

The Water Bureau's failure to make significant progress on the maintenance and preservation projects outlined in the **Dortinagnacq 2009 Mount Tabor Reservoirs Historic Structures Report** necessitates that City Council support the Historic Landmark Commission and the Mt. Tabor Neighborhood Association's recommendations in directing the Water Bureau to complete the maintenance and preservation projects outlined in the Historic Structures report by 2017.

## **LAND USE PERMIT REQUIREMENTS- OWNERSHIP**

Portland Water Bureau funds are segregated funds. The Portland Water Bureau is required to identify and maintain its assets including real property, including the land it owns. The Portland Water Bureau and Parks Bureau recently demonstrated that they "own" different land assets at Mt. Tabor Park and elsewhere when a land exchange was executed between the Parks Bureau and Water Bureau related to the Water Bureau's illegal use of ratepayer dollars for remodel of the Rose Festival building. Subsequent to the filing of the Anderson, et.al v. City of Portland lawsuit addressing the misuse of ratepayer funds as defined by City Charter, the City of Portland reversed the exchange of land and returned the associated \$1.6 million to the Water Bureau budget, though unfortunately it was not returned to ratepayers in the form of a 1% rate reduction when rates were raised 1% to finance this illegal project.

Numerous CoP legal opinions including those specific to the Water Bureau and Park Bureau owned land at Mt. Tabor and Washington Park contradict the Water Bureau's current opinion that they do not own property at Mt. Tabor or Washington Park. Dan Coombs in his 2002 "Water Bureau Ownership" memo (submitted for the record separately) to the Water Bureau's engineer Dennis Kessler, MWH Global's Kathryn Mallon and others at the city attorneys office make clear that there are legal ownership boundaries between Water and Parks properties on Mt. Tabor (and Washington Park). Coombs advises " *To help define the legal parcel boundaries owned independently by the two Bureaus, I am forwarding to you 2 copies of maps and other documents which clearly outline*

## *Water's ownership on Mt. Tabor. "*

The Water Bureau and the CoP conveniently argue both sides of the ownership issue when it serves their purpose of thwarting community/ratepayer interests and when wanting to extract more money from ratepayers. When David Shaff informed the Water Bureau's budget committee a couple of years ago that Water ratepayers would be expected to pay to remodel or rebuild the Portland Building. Shaff's stated reasoning was that the Water Bureau "owns" several floors of the Portland Building thereby the burden will fall to Water ratepayers (with the greatest burden on middle class ratepayers). Where is the Water Bureau's evidence of a Multnomah County Portland Building land ownership filing? Where are the property deeds & maps that support the Water Bureau's claim of ownership of floors of the Portland Building?

In the Mt. Tabor and Washington Park reservoirs decommissioning and demolition cases the Water Bureau claims that they do not own any property, making that claim that contradicts CoP legal opinions, as doing so supports their interest in fast-tracking highly controversial demolition/decommissioning projects.

"33.430.250A. The applicant **owns** the mitigation site; possesses a **legal instrument** that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain."

## **HISTORIC WATER LEVELS AT MT. TABOR RESERVOIRS**

Removal of the reservoirs from the water system not only creates new and unique public health problems, is bad governance, makes bad economic sense, and creates a less resilient water system, it creates a **significant detrimental impact (criteria 33.430.250A) on the Historic District and these resources** which were designed to be both utilitarian and beautiful, thus mitigation at minimum requires that they remain **filled** with water, and that maintenance and preservation projects outlined in the 2009 Mt. Tabor Historic Structures Report be immediately pursued.

The Portland Water Bureau seeks to limit the amount of water historically held in the Mt. Tabor open reservoirs and wants City Council to support leaving the reservoirs empty for a significant period of time, something Water Bureau staff including Tim Hall have long threatened as retribution for community failure to support demolition the open reservoirs and burial (or disconnection) of reservoirs on site, failure to support the degradation of Portland's grand open reservoir system, which are assets paid for by ratepayers and beloved by the community.

The Portland Water Bureau has supplied no year by year data in support of their claim that historically the reservoirs have ever on average been kept at 65% full or lower.

Having observed reservoir cleanings for over 30 years, once emptied on average it takes two days to clean the reservoir and begin refilling. The Water Bureau can easily meet the more than generous limitations supported by the MTNA and the Historic Landmark Commission. Take a look at any pride filled beautiful photo of the Mt. Tabor reservoirs including those on the walls of Water Bureau offices and conference rooms in the Portland Building, and they will reveal the large expanse of deep water and full-appearing water level, even if the actual operating level was less than full capacity at 75-85% of capacity.

The Historic District Nomination states, *Altogether, the reservoirs offer close to 20 acres of deep*

*open water views. Additionally the Nomination states, Reservoir 6 provides views from from all directions of a large expanse of deep water with the reflected Gatehouses.... All of the lighted basins, with reflection in the deep water of the reservoirs, provides inspirational evening views for park users. Any reduction in these deep open water views negatively impacts the integrity of the Historic District. As stated by the past chair of the Historic Land marks Commission John Czarnecki in his April 23 2015 letter requesting that the City Council deny the demolition permit for the Washington park reservoirs, the reflection of... the sky and the depth of water is more than a reminder of the past, but a continuity of critical public experience. The Mt. Tabor Reservoirs are the most significant features of the Mt. Tabor Park an integral part of the experience of the park.*

In 2007 when the Water Bureau began work on spending well over \$23 million dollars in open reservoir upgrades (Slayden Corp's contract), BDS made the following analysis of the Mt. Tabor reservoirs which includes the statement: *The deep open water provides a bold contrast to the landscape and is an integral part of the experience of the park.* BDS Case file: LU 07-139442 HDZ Mt. Tabor Interim Security and Deferred Maintenance: "

The three open reservoirs represent some of the finest examples of intact, still-in-use City Beautiful public works remaining in the nation. In January of 2004 the reservoirs were listed on the National Register of Historic Places as the Mt. Tabor Reservoirs Historic District due to their high integrity and historic significance to the city's water supply and the development of Portland, and because they are outstanding examples of intact historic architecture and engineering. In September of 2004, the entire park was designated as Mt. Tabor Park Landmark. A majority of the reservoirs' features have been kept intact, and contribute greatly to the integrity of Mount Tabor Park. The deep, open water provides a bold contrast to the landscape and is an integral part of the experience of the park. The lighted walkways around the perimeter of each parapet wall and wrought iron fence, the cleared, grassy areas associated with the reservoir basins and the views provide important park amenities.

"

The Water Bureau has a long well-documented history of presenting overstated fear-based arguments in hopes of gaining support for unsupportable burial and treatment plant projects and in this case disconnection leaving the reservoirs without water for extended periods, and further delaying maintenance and preservation projects. The Water Bureau's history of overstating fear-based arguments started with projects 1st recommended by CH2MHill and MWH Global , projects that would and have benefitted CH2MHill and MWH Global (see consultant contracting chart submitted under separate cover). The fear-based tactics employed by the Water Bureau are outlined in former Water Bureau manager Joe Glicker's (currently a CEO with CH2MHill, previous with MWH Global) paper on managing and manipulating the public, *Convincing the Public that Drinking Water is Safe* . Use of these tactics were evident during the 2004 *Independent Reservoir Panel* wherein \$500,000 was spent on consultants (Glicker associate McGuire was the IRPanel technical advisor) who focused on presenting so-called problems that did not exist at Portland's open reservoirs such as the Gideon, Mo tank contamination but failing to identify this public health incident as occurring in a covered reservoir not an open reservoir where public health problems have never occurred. The Water Bureau was unable to convince the hand-picked costly *Independent Reservoir Panel* that there was any reason to "treat or cover" or eliminate use of the open reservoirs as part of the distribution system. Water quality from Portland's open reservoirs was considered to be very good. The Water Bureau and their consultants threw every imaginable yet non-existent problem out for panel consideration yet the panel majority remained unconvinced. Joe Glicker's MWH Global Mt. Tabor reservoir demolition and burial contract was terminated though multiple other related contracts were subsequently awarded Glicker's associated corporations. Glicker moved to CH2MHill in 2006 with significant infrastructure contracts following him including the

design of the \$121 million Powell Butte II 50 million gallon tank that as reported by KOIN 6 news has 3200 cracks and was leaking 280,000 gallons a day.

## MAINTENANCE/PRESERVATION /MITIGATION

When the Water Bureau and/or their Commissioner wants to pursue a project on a fast-track schedule including when the project is not included in their budget, they make no claim that the project will be more expensive. For example, when in 2006 after the onerous EPA LT2 rule was promulgated, Commissioner Leonard wanted to pursue infrastructure and aesthetic upgrades at Washington Park including the installation of \$100,000 of new wrought iron fencing (where previously there was cyclone fencing), and for a costly grand stair case upgrade, there was no Bureau suggestion that the immediate pursuit of those restoration projects would be more costly or impossible to accomplish. But now that the Water Bureau wants to punish the community for its continuous support for retaining the functionality of the water system assets, Portland's open reservoirs, the Water Bureau claims that requiring them to now pursue the projects they should have already undertaken, as outlined in the 2009 Mount Tabor Historic Structures Report by a specific date, will be problematic. The Water Bureau falsely claimed at one of the Tabor Historic Landmark Commission meetings that they have "unofficially" adopted the 2009 Mt. Tabor Historic Structures Report and have been ongoingly working toward accomplishing the recommended projects which represent a less than the Bureau misspent on remodeling the Rose Festival building, a project completely unrelated to Water Bureau assets. A simple analysis by MTNA board members demonstrated to the HLC that the Water Bureau was misleading. The Water Bureau has only invested \$153,000 toward 1.57 million worth of 5 and 10-year recommended projects (analysis submitted under separate cover).

While as stated above, the Friends of the Reservoirs supports alternatives to disconnection as outlined in our April 19, 2015 letter to City Council, we do support the Historic Landmark Commission and the Mt. Tabor Neighborhood Association's requests for conditions and mitigation i though we support denial of a permit. Additionally, City Council should prohibit the Water Bureau from the cutting, plugging and replacement of pipes as the Water Bureau has demonstrated since 2010 that cutting and plugging was not necessary to remove Reservoir 6 from the distribution system service. The Oregon Health Authority has allowed 5 years of "temporary" disconnection of Reservoirs 6.

Specifically the Friends of the Reservoirs requests that the Portland City Council minimally require as mitigation that the Portland Water Bureau undertake **completion of the recommendations as delineated in the Dortinagnacq 2009 Mount Tabor Reservoirs Historic Structures Report Tabular Summary setting as a priority work projects from the Tabular Summary that are recommended to be completed before others** (See the memo titled "High Priority Project List" which is included in the Appendix). We support the projects being completed by 2017 in that the Water Bureau has failed to demonstrate in the nearly 6 years since the report was published that they were making significant progress on maintenance and preservation work. As the report states: "These more immediate work projects were identified either due to urgency, or because the task is both needed and is a readily achievable work item."

As the Mt. Tabor Neighborhood asserts "this project is insufficiently funded to mitigate Approval Criteria failures." The Water Bureau selected a compliance plan that replaces the Mt. Tabor open reservoirs with underground tanks at Powell Butte and Kelly Butte. The same PWB consultant who was at the table crafting the Federal LT2 rule was awarded the Powell Butte tank design contract (Joe Glicker is a CEO at CH2M Hill) and his former engineering firm (MWH Global) was awarded the Kelly Butte tank design contract. This same consultant, then with MWH Global, lead (under what became a 9-year PWB/MWH Global contract), the Powell Butte Land Use process. Thus over

a half million dollars has been spent on "mandated" mitigation construction of a \$500,000 Powell Butte park caretaker house now occupied by a Water Bureau employee. Significant dollar amounts were spent on other Powell Butte park amenities. While water demand has declined for 27 years there was no need to construct a 50 million gallon Powell Butte tank except for the Portland Water Bureau's having chosen a LT2 compliance plan that replaced the fully functional and recently upgraded Mt. Tabor reservoirs with tanks on Powell Butte and Kelly Butte. Similar if not greater mitigation funding must be required for the nationally recognized Mt. Tabor historic site, given that the impact is more significant. The cost of the Powell Butte LT2 tank project has been excessive with CH2MHill's contract doubling at last review and the construction contract increasing. The resulting project is problematic on many fronts. Upon completion, the tank was found to be of such poor design that 3200 cracks were causing massive leakage on a daily basis. The cost of this project was estimated in December 2013 to be over \$120 million but has likely escalated given the need to address the significant cracking. This cost is much higher than the cost of larger tanks built elsewhere such as Seattle's 60 million gallon Maple Leaf tank that was built for around \$55 million.

We agree that "damage to the Mt. Tabor historic sites is far greater than the cost of pipe capping, and the funding should not be so arbitrarily scarce. The resources protected at Mt. Tabor are not being appropriately cared for. Preservation work/mitigation funding can and should be commensurate with the site impact", not just with the budget of this one little slice of the PWB's chosen compliance plan.

Friends of the Reservoirs is an all volunteer grassroots organization composed of citizens from all walks of life and all parts of the city who joined together in 2002 to protect Portland's historic open reservoirs, Portland's water system and ratepayer pocketbooks. Responsive to the Historic Landmark Commission's 2002 recommendation, members of the Friends of the Reservoirs took on the task of researching and writing the application for listing the historic reservoirs and Mt. Tabor Park on the National Register of Historic places. These National Register listings took place respectively in January and September 2004 thanks to the Friends of the Reservoirs members Cascade Anderson Geller, Kim Lakin, Barbara Grimala and many others.

## **EPA'S LONG-TERM2 ENHANCED SURFACE WATER REGULATION (LT2)**

The Water Bureau intentionally defied the 2004 *Independent Reservoir Panel* City Council Resolution 36237 that required bringing stakeholders together to determine what action to take if a EPA LongTerm2 Enhanced Surface Water regulation "risk mitigation" reservoir option was not available. The Resolution or City Council promise required the Water Bureau to use the city's adopted Principles of Public Involvement. The Water Bureau ignored these mandates and proceeded to work backroom failing to engage stakeholders while pursuing the most onerous and unsupportable options possible.

The *onerous* and currently under review and revision (thanks to Senator Chuck Schumer) Long-term2 Enhanced Surface Water regulation (LT2), the pretext for the disconnection, is primarily a surface water regulation in which an open reservoir provision was inserted requiring that systems with open reservoirs either "treat or cover" the reservoirs to address *Cryptosporidium* and other non-existent contaminants. The Environmental Protection Agency (EPA) has indicated that completion of their LT2 review and revision will take place by the end of 2016. There is no deadline in the LT2 regulation for compliance with the reservoir requirements, mandates without a scientific basis, included without the EPA having conducted any scientific research or collected any national scientific reservoir data to support the requirements. The LT2 regulation was promulgated responsive to a 1993 incident in Milwaukee, WI wherein human and cow sewage present in Milwaukee's unprotected watershed backflowed into their drinking water system through a costly state-of-the-art filtration plant. The LT2 rule has been widely and substantively criticized as

it was based on a sampling methodology that fails to distinguish between the majority harmless *Cryptosporidium* species and the few that are infectious to humans. The reservoir requirement was inserted into the rule without the Safe Drinking Water Act prerequisite use of the best science available.

The Portland Water Bureau was the single utility seated at the table in Washington DC crafting this poorly crafted EPA LT2 regulation. The PWB brought with them (under contract) a cozy now 20-year (CEO CH2MHill, the designer of the cracked Powell Butte II tank) revolving-door consultant, Joe Glicker, whose associated global engineering firms would profit from a regulation that focused on build projects as opposed to more effective watershed protection or mitigation efforts. The plan to disconnect the Mt. Tabor reservoirs from Portland's water system by December 2015 was proposed in isolation by the Portland Water Bureau. The Portland Water Bureau (PWB) in defiance of the 2004 Reservoir Panel Council ordinance # 36267 crafted this fast-track and excessively costly reservoir burial and disconnect plan without any stakeholder involvement.

See April 19 letter to Council addressing alternatives to disconnection and demolition that must be pursued.

Copied at the bottom is a communication from NYC's legal team supporting the availability of a reservoir variance through the Safe Drinking Water Act. NYC's successful pursuit of an open reservoir compliance deferral has been extended from 2028 to 2034, and it could be extended again, or as NYC asserts they could pursue their right to a variance to avoid wasteful spending on reservoir projects that provide no measurable public health benefit and create massive unnecessary debt.

## **DISCONNECTION CUT AND PLUG APPROACH UNNECESSARY**

It is unclear why a reservoir disconnection compliance plan (which we do not support) could not be accomplished without all of the cutting and plugging of pipes as proposed by the Water Bureau given that the Health Authority approved in 2010 (more than 5 years ago) taking Reservoir 6 offline without cutting and plugging pipes, and without the removal and replacement of pipes. We support alternative compliance options, such a deferral or variance that is allowed by the Safe Drinking Water Act. Contrary to statements by the Bureau of Development Services, Portland Water Bureau documents secured through public records requests confirm that the Portland Water Bureau did not conduct an analysis of the "treatment at the outlet" alternative. The Bureau has admitted that they did no more than a "back of a napkin" examination of this option.

Installation of two 24" ultraviolet light bulbs is the alternative compliance option that will be utilized at Rochester's historic open reservoirs in 2022 (the end of their 10-year deferral if not extended as NYC has done), if the EPA fails to reinstate the "risk mitigation" alternative as part of their review and revision of the LT2 rule. Rochester has two large historic older (1876) open reservoirs similarly set in city parks. In light of New York's Senator Schumer's 2011 success in getting the EPA to agree to review the LT2 regulation and in light of community support for retaining their historic open reservoirs as a part of their drinking water system, in 2011 Rochester sought and subsequently secured a ten-year deferral of all LT2 reservoir compliance work including project pre design.

Responsive to continual community pressure from a broad-based group of stakeholders including environmental, public health, business and neighborhood organizations, Portland made two perfunctory requests of the Oregon Health Authority to approve a deferral of the PWB's reservoir compliance plan. The City failed to back up their requests with the appropriate level of documentation nor did they engage in necessary next step lobbying to assure the success of the requests. The Water Bureau used a surrogate to send a message to OHA's Dave Leland that they

wished to pursue the build projects, not a deferral.

In 2012 Portland community stakeholders advocated that the City Council change its open reservoir compliance option to installation of hypalon-like or floating reservoir covers (Hypalon-like cover grills had been installed prior to any mandate, and remain in place at the Washington Park historic reservoirs). While the community would likely not accept reservoir covers as a long-term solution, hypalon-like covers would meet the current LT2 requirements, and provide opportunity for Oregon's Congressional delegation to advocate alongside the New York delegation for reinstatement of the "risk mitigation" option inexplicably removed from the draft EPA LT2 rule. At least one member of Oregon's Congressional delegation has said that he is willing to work in support of reinstatement of the "risk mitigation" compliance option, but is unwilling to lobby for such without the support of Portland City Council.

See April 19, 2015 letter to City Council for strategy supported by stakeholders and community at large submitted under separate cover.

### **NITRIFICATION-ABSENCE OF SUNLIGHT PUBLIC HEALTH RISK**

Nitrification is a well-documented public health problem that occurs in covered storage facilities in chloraminated systems. The PWB reported to wholesale customer managers at a meeting where I was present that the Water Bureau has been expending money to address this anticipated Nitrification public health problem that occurs in covered storage tanks, in the absence of sunlight. Nitrification occurs when nitrogen compounds (primarily ammonia) are sequentially oxidized to nitrite and nitrate. EPA acknowledged in its Total Coliform Rule revision preview documents that they failed to address Nitrification in promulgating LT2.

The Water Bureau was mislead City Council when addressing this issue on the Washington Park Demolition case by focusing only on a Los Angeles study article. The L.A. article demonstrates that chloraminated systems like Los Angeles and Portland that with open reservoirs avoided Nitrification (and all unique public health risks) benefitting from natural sunlight now have to address not only cancer-causing Nitrification, but the public health risk of mercury contamination if they resort to installing UV Radiation bulbs in the tanks.

[http://www.ladwpnews.com/posted/1475/Opflow\\_Nitrification.523459.pdf](http://www.ladwpnews.com/posted/1475/Opflow_Nitrification.523459.pdf) (attached under separate cover)

The above American Water Work Association article addresses experimental actions that LA undertook to address the covered storage public health issue of Nitrification. Disconnection of the Tabor reservoirs along with demolition of the Washington Park Reservoirs does not support protection of public health as doing so creates new and unique public health risks.

### **RADON IN COLUMBIA SOUTHSORE WELLFIELD MORE DANGEROUS ABSENT OPEN RESERVOIRS**

Radon is a cancer causing contaminant found in the Columbia Southshore Wellfield Water. As of 2012 in response to increasing public concern that the Radon will no longer have adequate venting through the open reservoirs the PWB has stopped reporting Radon levels in their annual Water Quality report. In 2013 the PWB continued to report on all other non-regulated contaminants such as Nickel. By 2014 they limited their report on unregulated contaminants to Sodium. Venting at the Powell Butte underground tanks is infinitely less than the venting of Radon at the much larger surface area of the open reservoirs.

This failure to report Radon levels in the CSSWellfield water contradicts any claim by the PWB that they are concerned about public safety, as there is no safe level of Radon. The fact that the Water Bureau now is hiding the level of Radon from customers when previously that they routinely included this public health risk in their annual Water Quality reports further supports that Water Bureau is more committed to tactics and strategies to thwart community interest in retaining the open reservoirs as a part of the distribution system than in public safety . While Radon entering from the ground can easily be vented, Radon entering every time water is used cannot.

For example in 2010 the PWB reports Radon detections they report 310 picocuries as the minimum and maximum detected in the Wellfield aquifers,

[http://www.waterdrs.com/water\\_reports/Portland,%20OR%20water%20report.pdf](http://www.waterdrs.com/water_reports/Portland,%20OR%20water%20report.pdf)'s

Hard copy is submitted for the record separately.

## **VARIANCE ALLOWED FOR RESERVOIRS BY SAFE DRINKING WATER ACT**

The e-mail communication copied below between NYC's legal team and the PWB documents the availability of a reservoir "variance". The Safe Drinking Water Act provides for variances for "treatment techniques" which the requirement to "treat or cover" is a Cryptosporidium treatment technique. It was revealed in a meeting with Mayor Adams that Terry Thatcher, the Water Bureau's attorney worked backroom with the Oregon Health Authority to enact a OHA provision that negated the Safe Drinking Water Act "variance" provision and the Oregon State Legislature's intent when they earlier in 2007 unanimously enacted legislation that brought Oregon's variance laws in line with the Safe Drinking Water Act allowing variances for both treatment plant and open reservoir "treatment techniques." This legislation was sought by the Portland Water Bureau, Friends of the Reservoirs, Physicians for Social Responsibility, and the Portland Water Users Coalition. The Portland Water Bureau's Eddie Campbell and I specifically conversed with Legislator Ben Cannon about the "variance" benefit to the open reservoirs. The City Attorney Terry Thatcher however, worked with OHA in 2010 behind the back of stakeholders to promulgate a state regulation that contradicts the state and federal law.

On May 19, 2011, in a stakeholder meeting with Mayor Adams Water Bureau administrator David Shaff claimed that the Water Bureau was not made aware of the 2010 regulation. This April 2010 regulation was promulgated unbeknownst to anyone in the public watching this issue.

This OHA regulation should be repealed and a reservoir "treatment technique" variance pursued along with a deferral request.

----- Original Message -----

**From:**Amron, Susan

**To:**Campbell, Edward

**Sent:**Friday, September 11, 2009 2:25 PM

**Subject:**[User Approved] [Zip File Attached]New York City LT2 request

Ed:

As I mentioned, we decided to seek a deferral rather than a variance at this point, although we kept open the option of a variance in a footnote in our deferral request.We submitted it in August.

I'm not sure when we last spoke, and what we were up to at that time. As you know, EPA has repeatedly raised the issue of whether they had legal authority to grant a variance. We gave EPA a short legal memo about why we thought they had the authority; they responded with a short memo from their lawyers more or less about why they thought they did not.**We think their memo was completely wrong, but decided that it would be better to push a deferral now, and leave open the option of a variance for later --** the deferral was, in any event, always going to be included in our request for a variance as a fall back position.

Here is a copy of our request. I would be happy to talk to you about it, or to put you in touch with DEP.

Susan E. Amron, Deputy Chief  
Environmental Law Division  
New York City Law Department  
100 Church Street  
New York, New York 10007  
Tel: [\(212\) 788-1578](tel:(212)788-1578)  
Fax: [\(212\) 788-1619](tel:(212)788-1619)  
[samron@law.nyc.gov](mailto:samron@law.nyc.gov)

(Note: Highlights ours)



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
Telephone: 503-823-7300  
TDD: 503-823-6868  
FAX: 503-823-5630  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**STAFF REPORT AND RECOMMENDATION TO THE  
LANDMARKS COMMISSION**

CASE FILE: LU 07-139442 HDZ  
[PC # 06-173412]  
**Mount Tabor Interim Security and Deferred  
Maintenance**  
REVIEW BY: Landmarks Commission  
WHEN: September 24, 2007 at 1:30 PM  
WHERE: 1900 SW Fourth Ave., Room 2500A  
Portland, OR 97201

It is important to submit all evidence to the Landmarks Commission. City Council will not accept additional evidence if there is an appeal of this proposal.

**Bureau of Development Services Staff:** Kara Fioravanti, 503-823-5892

**GENERAL INFORMATION**

**Applicant:** City Of Portland  
attn: Teresa Elliot [503.823.7622]  
1120 SW 5<sup>th</sup> Avenue #600/ Portland, OR 97204

**Representative:** ESA Adolfson  
attn: Tom Mc Guire [503.226.8018]  
333 SW 5<sup>th</sup> Avenue, Suite 600/ Portland, OR 97204

**Site Address:** 6325 SE DIVISION STREET  
**Legal Description:** TL 100 190.28 ACRES, SECTION 05 1 S 2 E  
**Tax Account No.:** R992050130  
**State ID No.:** 1S2E05 00100  
**Quarter Section:** 3137, 3237

**Neighborhood:** Mt. Tabor, contact Dave Hilts at 503-780-0826.  
**Business District:** Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010.

**Other Designations:** Mt. Tabor Park Reservoirs Historic District and Mt. Tabor Park designated Historic Landmark

**Zoning:** Osc, Open Space with environmental overlay zoning  
**Case Type:** HDZ, Historic Design Review

**Procedure:** Type III, with a public hearing before the Landmarks Commission. The decision of the Landmarks Commission can be appealed to City Council.

## ANALYSIS

**Site and Vicinity:** The project site is located at 6325 SE Division Street within Mt. Tabor Park. The site is roughly bound by SE Division Street on the south, SE 64<sup>th</sup> Avenue and SE 60<sup>th</sup> Avenue on the east, SE Yamhill on the north, and SE 71<sup>st</sup> Avenue on the west.

Mt. Tabor Park is a 196-acre public park located in a residential area of southeast Portland. The park encompasses most of a volcanic butte, with four peaks. The tallest summit rises to an elevation of 643 feet, making it a prime landmark visible from points all around the city. The park became a distribution site for Portland's gravity-fed, mountain-source drinking water in 1894 with the construction of two open reservoirs. Two additional reservoirs were constructed in 1911 (one open, and one small concrete water tank) on the western slope of the park. These reservoirs are still an essential part of Portland's water system serving areas east of the Willamette River in the city.

The three open reservoirs represent some of the finest examples of intact, still-in-use City Beautiful public works remaining in the nation. In January of 2004 the reservoirs were listed on the National Register of Historic Places as the Mt. Tabor Reservoirs Historic District due to their high integrity and historic significance to the city's water supply and the development of Portland, and because they are outstanding examples of intact historic architecture and engineering. In September of 2004, the entire park was designated as Mt. Tabor Park Landmark. A majority of the reservoirs' features have been kept intact, and contribute greatly to the integrity of Mount Tabor Park. The deep, open water provides a bold contrast to the landscape and is an integral part of the experience of the park. The lighted walkways around the perimeter of each parapet wall and wrought iron fence, the cleared, grassy areas associated with the reservoir basins and the views provide important park amenities.

**Zoning:** The Open Space (OS) zone is intended to preserve public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and the capacity and water quality of the stormwater drainage system, and to protect sensitive or fragile environmental areas.

The conservation (c) overlay zone is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review.

**Land Use History:** City records indicate that prior land use reviews include the following: 89-006401, 89-006407, HLDZ 75-89, 90-024202, 61-001380, 64-002651, 65-002285, 67-003406, 74-000650, 74-002392, 77-002064, 89-021552.

Prior land use reviews since 1998 include:

▪ **LUR 99-00809 EN**

Approval of a Zone Map Correction. Approval of an Environmental Review for trail, road, parking and erosion control improvements. Approvals subject to the following conditions: A. A building or development permit is required for all work approved by this review. As part of the building permit application submittal, conditions B and C shall be noted on each of the 4 required site plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE- Case File #LUR 99-00809 EN." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED." B. There will be no more than an 8-foot wide disturbance area around the repair, new construction or



**Mount Tabor Neighborhood Association  
Presentation to the Historic Landmarks Commission on the Mount Tabor Park Historic Reservoirs  
January 12, 2015**

**Portland Water Bureau**  
**Letter to the Historic Landmarks Commission**  
**December 23, 2014**

**Page 5 — Responses to comments and recommendations entered into the record by opponents:**

1. *PWB does not take care of these resources and therefore must be compelled to do so.*  
The current proposal—not the allegation of insufficient care—is the subject of the land use review. PWB is entering information into the record showing that the 2009 Mount Tabor Historic Structures Report is the maintenance and restoration plan that has guided its work in caring for the historic resources that it owns. The City has unofficially adopted this report and has been following its recommendations. During the hearing, staff mistakenly indicated that the work on Gatehouse 1 was the only work that has been done. That statement was in error and Attachment A is the tabular summary from the 2009 report which has been revised with additional columns showing what work has been done.

***“The current proposal —  
not the allegation of insufficient care —  
is the subject of the land use review.”***









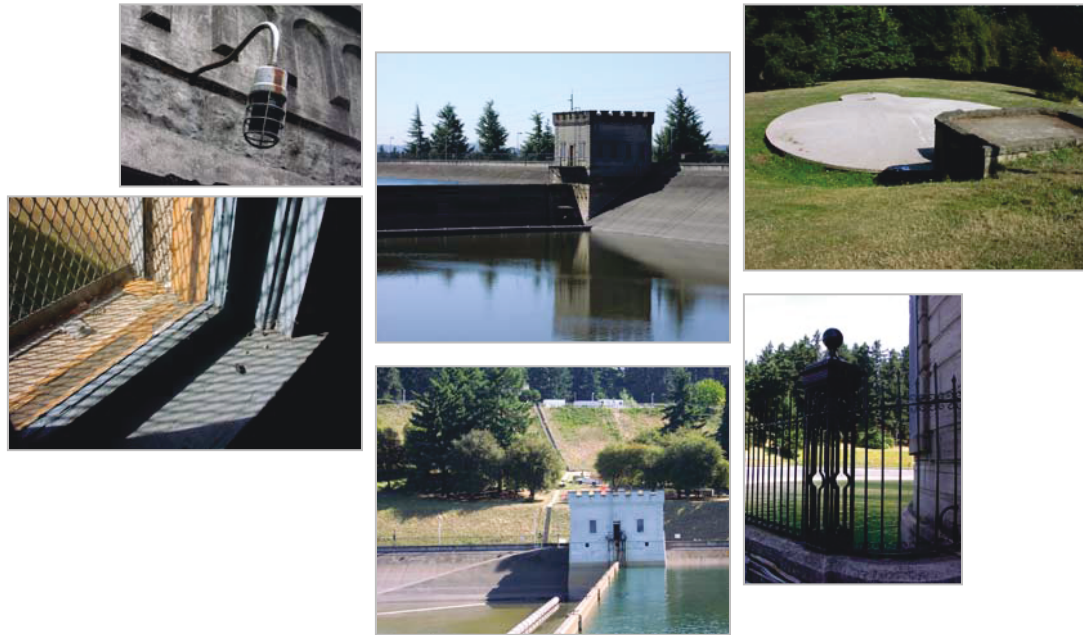




# **MOUNT TABOR RESERVOIRS HISTORIC STRUCTURES REPORT**

**Reservoir Nos. 1, 5, 6 and 7**

**City of Portland Water Bureau**



**May 2009**

***“PWB is entering into the record information showing that the 2009 Mount Tabor Historic Structures Report is the maintenance and restoration plan that has guided its work in caring for the historic resources that it owns.”***

***“The City has unofficially adopted this report and has been following its recommendations.”***

**Mount Tabor Reservoir Historic Structures Report 2009 (Table revised Dec. 2014)**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost (Est. 2009 Const only)	Contractor Skill Level <sup>(2)</sup>	Est. Actual Const. Cost	Status	Notes/ Dates
				S	L	M					
GH1	INT	Damage to concrete floor deck; metal stair rusting	Option A.1a: Maintain wood restroom structure, stairway, equipment			X	--	B			
			Option A.1b: Maintain stairway, equipment			X		B		ongoing	Note there is a cost, it's not free
			Option A.2: Limited interpretive tours; signage, graphics		X		\$4,000	-			
			Option A.3: Additional documentation, inventory and photographs of existing historic equipment		X		\$4,000	--			
			Option A4 - structural evaluation & repair of interior metal stairs	X			--	C	<del>\$22,000</del>	done	1) 1989-1992: Interior stairwell to lower level treads overlaid with expanded metal for safety/traction, 2) 1990: Surface mounted interior floodlights added along stairwell to lower level, 3) Dec 2007: several deteriorated anchorage points were replaced on the curved interior stairway to lower level
GH1	STEP	Substantial spalling; coating breaking up	Clean concrete surfaces, remove loose and deteriorated material; patch tests; patch spalled areas	X			\$12,000	B			
			<b>Subtotal</b>				<b>\$142,000</b>		<b>\$251,023</b>		
<b>RESERVOIR 1</b>											
<b>WEIR BUILDING</b>											
WB1	CONC	Moisture entering at parapet capstone	Option A.1a: Concrete repair & seal	X			\$28,000	A			
			Option A.1b: Roofing replacement	X			\$19,000	C	\$19,000	done	Cost estimated based on 2009 report
			Option A.2: Metal cap parapet	X			\$52,000	B			
			Option A.3: Downspout repair		X		\$5,500	B			
WB1	DOOR	Need repainting; slightly rusty light fixture	Option A.1a: Maintain existing doors; (painted door)			X	--	C		done	Cost estimated based on 2009 report
			Option A.1b: preserve historic light fixture			X					
			Option A.2: Restore wood doors and frames		X		\$5,500	B			
WB1	WIND	Fair condition; new grating on interior planned	Maintain as is			X	--	C		done	done with the Deferred Maint. Project (3366) Cost based on 2009 Report
WB1	INT	No issues	Maintain as is			X	--	C			
<b>RESERVOIR 1</b>											
<b>FOUNTAIN STRUCTURE</b>											

(1)

S: Short-term (less than 5 yrs)

L: Long-term (5-10 yrs)

M: Maintenance (Varies/ongoing)

(2)

A: Requires Historic Preservation Consultant

B: Contractor w/ preservation background

C: Qualified contractor or PWB Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
RESERVOIR 1								
GATEHOUSE 1								
GH1	CONC	Wall surface spalling, deterioration and exposed reinforcing	Clean exterior, test for absorption, apply sealer	X			\$12,000	✓ A
GH1	CONC	Wall openings and projections deteriorated	Clean exterior, test for absorption, rebuild severely deteriorated projections, apply sealer	X			\$56,000	✓ A
GH1	CONC	Roofing in fair condition, ponding at drain, inadequate roof drip	Replace roofing, provide overflow drain	X			\$25,000	B
GH1	BALC	Iron work is rusted, ladder connections rusted	Further investigation needed, clean and repair rusted connections, repaint.		X		\$8,000	✓ B
GH1	DOOR	Non-original main entry doors	Option A.1: Repaint doors, preserve cast-iron sills			X	--	C
			Option A.2: Repair and replace with units matching original design and materials				\$6,000	✓ B
GH1	WIND	South and west side wood members weathered, paint missing/oxidized; glass units need reputting	Option A.1: Rehabilitate windows and deteriorated frame parts; select certain openings to be operable		X		\$3,500	✓ B
			Option A.2: Rehabilitate all windows and deteriorated frame parts; all openings to be operable		X		\$11,500	✓ B
GH1	INT	Damage to concrete floor deck; metal stair rusting	Option A.1: Maintain wood restroom structure, stairway, equipment			X	--	B
			Option A.2: Limited interpretive tours; signage, graphics		X		\$4,000	-
			Option A.3: Additional documentation, inventory and photographs of existing historic equipment		X		\$4,000	--
GH1	STEP	Substantial spalling; coating breaking up	Clean concrete surfaces, remove loose and deteriorated material; patch tests; patch spalled areas	X			\$12,000	B

(1)

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**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
RESERVOIR 1								
WEIR BUILDING								
WB1	CONC	Moisture entering at parapet capstone	Option A.1: Concrete repair & seal	X			\$28,000	A
			Option A.1: Roofing replacement	X			\$19,000	C
			Option A.2: Metal cap parapet	X			\$52,000	B
			Option A.3: Downspout repair		X		\$5,500	B
WB1	DOOR	Need repainting; slightly rusty light fixture	Option A.1: Maintain existing doors; preserve historic light fixture			X	--	C
			Option A.2: Restore wood doors and frames		X		\$5,500	B
WB1	WIND	Fair condition; new grating on interior planned	Maintain as is			X	--	C
WB1	INT	No issues	Maintain as is			X	--	C
RESERVOIR 1								
FOUNTAIN STRUCTURE								
FS1	FS	Front level top has hole and corners spalled and broken; side walls have spalling; cup and chain missing; securing bolt deteriorated	Option A.1: Clean and patch damaged areas; brush out adjacent planting		X		\$3,500	A
			Option A.2: Clean and patch damaged areas; brushing; investigate-reconnect water source, replace cup and chain; provide signage		X		\$7,000	A
RESERVOIR 1								
SITE								
S1	RES	Breaks and spalls in concrete; weeds; unsound valve platform	Option A.1: Routine maintenance; salvage historic materials from valve platform			X	--	C

(1)

S: Short-term (less than 5 yrs)

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M: Maintenance (Varies/Ongoing)

(2)

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B: Contractor w/ preservation background

C: Qualified contractor or PWB Maintenance Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
			Option A.2: Remove bituminous patching, replacement liner		X			
S1	WALL	Substantial wear and deterioration; exposed reinforcement	Option A.1: Repair deteriorated surfaces and detail; preserve intact portions; clean, patch and repair damaged areas; test	X			\$50,000	A
			Option A.2: In addition to A.1, replace existing pole lighting, remove surface mounted conduit, provide entry lights at fence corner posts		X		\$155,000	B
S1	WALK	Broken slabs, corners, spalls, rough surface, settlement	Patch-replace damaged portions; control vegetation; preserve/maintain stair and railing, cast iron grates and lids		X		\$16,000	C
S1	METR	Vandalism, damaged entry door frame, damaged concrete edges of opening	Monitor and remove graffiti; replace door			X	--	C
<b>RESERVOIR 5</b>								
<b>GATEHOUSE 5</b>								
GH5	CONC	Wall spalling, weathered concrete capstones, interior concrete topping slab spider cracking; worn roofing membrane	Option A.1: Roof and flashing	X			\$19,000	B
			Option A.1: Clean concrete exterior; test for water absorption, renew sealer to parapet; preserve-repair historic light fixtures	X			\$16,000	A
			Option A.2: Replace downspouts, remove surface conduit		X		\$6,000	B
GH5	BALC	Balcony not needed for operations	Alter; install protective guardrail, remove/salvage exterior light fixture; cap conduit		X		\$1,600	C

(1)

S: Short-term (less than 5 yrs)

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**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
GH5	DOOR	Bottoms rusted out, moderate damage to side door	Option A.1: Maintain non-original doors, retain cast iron sills			X	--	C
			Option A.2: Restore wood doors and frames		X		\$8,000	B
GH5	WIND	South and west sides: weathered, paint missing, sills deteriorated	Preserve			X	--	C
GH5	INT	Metal stair rusting, exposed gearing and valve stems	Option A.1: Maintain restroom structure, metal stairway, historic equipment			X	--	C
			Option A.2: Provide add'l documentation, inventory and photographs of historic equipment		X		\$4,000	--
GH5	STEP	Spalling	Clean, test, patch	X			\$4,000	B
<b>RESERVOIR 5</b>								
<b>HYPOCHLORITE BUILDING (WEIR HOUSE)</b>								
WH5	CONC	Soiling, some loose termination points, roof drains susceptible to clogging, visible roof equipment	Roof repair & flashing	X			\$13,500	C
			Clean concrete; test for water absorption; breathable sealer to flat capstone; minor roof repairs	X			\$5,000	B
WH5	DOOR	Need repainting	Remove hoist crane, replace doors similar to original, repaint		X		\$4,500	B
WH5	WIND	Need repainting	Option A.1: Repaint and caulk			X	--	C
			Option A.2: Replace windows		X		\$18,000	B
WH5	INT	No significant issues	No scheduled work					

(1)

S: Short-term (less than 5 yrs)

L: Long-term (5-10 yrs)

M: Maintenance (Varies/Ongoing)

(2)

A: Requires Historic Preservation Consultant

B: Contractor w/ preservation background

C: Qualified contractor or PWB Maintenance Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
<b>RESERVOIR 5 SITE</b>								
S5	RES	New liner has abated deterioration	Preserve and maintain			X	--	C
S5	WALL	Defects at cap end joints, no fence lighting in place	Option A.1: Clean, minor patching		X		\$11,500	B
			Option A.2: Maintain			X	--	C
			Option A.3: Replace existing non-historic pole lighting around perimeter walkway		X		\$250,000	B
			Option A.3: Fence lighting; restore iron fence post tops; install LED lighting		X		TBD	B
S5	WALK	Broken slabs, corners, spalls, rough surfaces, settlement	Minor patching or replacement, preserve cast iron grates and lids		X		\$11,500	C
S5	STAIR	Portions of stairway replaced/patched, finish not match original pattern	Option A.1: Minor patching/replacement, preserve historic railing		X		\$5,000	C
			Option A.2: In addition to A.1, repair/replace newer concrete with matching finish		X		\$10,000	B
T1	Tunnel	(Not Accessed)	Preserve - ongoing maintenance			X	--	C
T6	Tunnel	Paint	Preserve - ongoing maintenance			X	--	C
<b>RESERVOIR 5 OTHER FEATURES</b>								
OT5	ROAD	Roadway repaved, curb on westside added	Option A.1: Preserve; ongoing maintenance			X		
			Option A.2: Possible historic paving restoration		X			
OT5	HOUS	Cobblestone remains of old house foundation	Option A.1: Protect existing historic walls			X	--	C

(1)

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C: Qualified contractor or PWB Maintenance Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
			Option A.2: Provide historic interpretive information on the house		X		\$2,000	
<b>RESERVOIR 6</b>								
<b>INLET GATEHOUSE 6</b>								
IGH6	CONC	Spalling, soiling, weathered capstones, spider cracking, door slab breakup, worn roofing membrane, roof ponding	Option A.1: Replace roofing, drains	X			\$19,000	C
			Option A.1: Minor exterior cleaning, renew parapet as needed	X			\$16,000	B
			Option A.2: Remove surface conduit		X		\$5,000	C
			Option A.3: New breathable sealer		X		\$26,000	B
IGH6	BALC	Iron work rusted, upper portion of ladder deformed	Inspect metal connections, clean and repair connection and damaged parts, repaint		X		\$8,000	B
IGH6	DOOR	Rusting, need repainting, weathered exterior facing	Option A.1: Repaint doors, frames; maintain wood door, frame, sills,; patch side door landing			X	--	C
			Option A.2: Replace metal doors and frame; repair existing wood door, frame and hardware		X		\$5,000	B
IGH6	WIND	Weathered wood members, paint missing/oxidized, need reputting	Option A.1: Rehabilitate windows and deteriorated frame parts, repaint, repair select openings, evaluate interior security grill		X		\$4,000 ✓	B
			Option A.2: Rehabilitate all windows and deteriorated frame parts, repair all openings		X		\$16,000	B
IGH6	INT	No issues	Option A.1: Ongoing maintenance			X	--	C
			Option A.2: Additional documentation, inventory and photographs		X		\$4,000	--

(1)  
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(2)  
A: Requires Historic Preservation Consultant  
B: Contractor w/ preservation background  
C: Qualified contractor or PWB Maintenance Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
IGH6	STEP	Spalling	Clean concrete surfaces, remove loose and deteriorated material; patch tests; patch spalled areas	X			\$8,000	B
<b>RESERVOIR 6</b>								
<b>OUTLET GATEHOUSE 6</b>								
OG6	CONC	Areas of spalling; exposed, corroding reinforcing bars; soiling; weathered capstones; cracking; worn roof membrane	Option A.1: roofing, roof drains	X			\$19,000	C
			Option A.1: Clean soiled exterior; test for water absorption	X			\$22,000	B
			Option A.2: Repair; remove surface conduit as other project allow		X		\$5,000	C
OG6	BALC	Iron work rusted, original wheel valves rusted and inoperable	Further inspection, clean and repair connections and damaged parts, repaint		X		\$8,000	B
OG6	DOOR	Some rusting, weathered exterior facing, need repainting	Option A.1: Repaint doors and frames, maintain cost iron sills			X	--	C
			Option A.2: Replace metal doors and frame, repair existing wood door, frame and hardware		X		\$5,000	B
OG6	WIND	Weathered, missing/oxidized paint, need reputtying	Option A.1: Rehabilitate windows and deteriorated frame parts, repaint, repair select openings, evaluate interior security grill		X		\$4,000 ✓	B

(1)

S: Short-term (less than 5 yrs)

L: Long-term (5-10 yrs)

M: Maintenance (Varies/Ongoing)

(2)

A: Requires Historic Preservation Consultant

B: Contractor w/ preservation background

C: Qualified contractor or PWB Maintenance Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
			Option A.2: Rehabilitate windows and deteriorated frame parts; repair all openings		X		\$14,000	B
OG6	INT	Corroded wheeled gate operator on exterior balcony corroded, stem cover needs repair/replace	Option A.1: Preserve existing office, historic light fixture, wood doors and trims; preserve metal stairway and equipment; add new equipment as needed			X	--	C
			Option A.2: Addition documentation, inventory and photographs of equipment		X		\$4,000	--
<b>RESERVOIR 6 SITE</b>								
S6	RES	Reservoir structure in good condition	Option A.1: Preserve the existing structure and liner			X	--	C
			Option A.2: Remove bituminous patching, new replacement liner		X			C
S6	WALL	Normal wear and tear, fencing in good condition, lighting discontinued	Option A.1: Clean and provide minor conc patching		X		\$16,000	B
			Option A.1: Metal framing repairs		X		\$110,000	B
			Option A.2: Replace existing non historic pole lighting with historically compatible design		X		\$370,000	B
			Option A.3: Fence lighting; repair-restore fence post tops; install new LED lighting		X			B
S6	WALK	Many damaged areas, little base remaining for concrete slabs	Provide minor patching or replacement at damaged areas; preserve assorted cast iron grates and lids		X		\$12,000 ✓	C

(1)  
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M: Maintenance (Varies/Ongoing)

(2)  
A: Requires Historic Preservation Consultant  
B: Contractor w/ preservation background  
C: Qualified contractor or PWB Maintenance Personnel

**Mount Tabor Reservoirs Historic Structures Report**  
**Condition Analysis and Recommendations**  
**TABULAR SUMMARY**

Structure	Component	Observation	Recommendation	Priority <sup>(1)</sup>			Cost	Contractor Skill Level <sup>(2)</sup>
				S	L	M		
<b>RESERVOIR 7 BUILDING</b>								
B7	BUILD	Drainage problems, water damage, some deterioration, nonhistoric door hardware and security, frame molding partially missing, badly deteriorated wood louver vents	Option A.1: Roof and upper wall	X			\$6,000	B
			Option A.1: Repair wood door and frame, repair louver vents where venting required	X			\$6,000	B
			Option A.2: In addition to A.1, restore louver vents on sidewalls		X		\$2,500	B
<b>RESERVOIR 7 UNDERGROUND TANK STRUCTURE</b>								
TS7	TANK	New top; good condition	Ongoing maintenance as required			X	--	C
	(1)	S: Short term (1 to 5 years)						
		L: Long term (5 to 10 years)						
		M: Maintenance (Varies and ongoing)						
	(2)	A: Requires Historic Preservation Specialist/Specialty Contractor						
		B: Contractor with preservation background (i.e. 5 similar projects)						
		C: Qualified contractor or Water Bureau Maintenance Personnel						

(1)  
S: Short-term (less than 5 yrs)  
L: Long-term (5-10 yrs)  
M: Maintenance (Varies/Ongoing)

(2)  
A: Requires Historic Preservation Consultant  
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C: Qualified contractor or PWB Maintenance Personnel

***“PWB is entering into the record information showing that the 2009 Mount Tabor Historic Structures Report is the maintenance and restoration plan that has guided its work in caring for the historic resources that it owns.”***

***“The City has unofficially adopted this report and has been following its recommendations.”***

**Total estimated cost  
of the 2009 HSR recommendations  
for combined five- and ten-year time frame  
(June 2009 – May 2019):**

**\$1,573,100**

**Total reported cost  
of the 2009 HSR recommended  
5-year and 10-year time frame repairs  
accomplished so far  
(June 2009 – December 2014):**

**\$153,000**

**Total number of years it will take at this rate:**

**57**

**Estimated year of completion:**

**2066**



**Parsons, Susan**

---

**From:** Dr Dan <drdan42@gmail.com>  
**Sent:** Thursday, May 28, 2015 11:50 AM  
**To:** Council Clerk – Testimony  
**Cc:** Hales, Mayor; Shibley, Gail; Commissioner Fish; Schmanski, Sonia; Saltzman, Dan; Grumm, Matt; Finn, Brendan; Fritz, Amanda; Howard, Patti; Bizeau, Tom; stevenovick96@gmail.com; Warner, Chris  
**Subject:** Mt Tabor Disconnection Testimony  
**Attachments:** Mt Tabor Disconnection Appeal.pdf; ATT00001.htm

Please find attached testimony for the record of today's City Council's Mt Tabor Disconnection Appeals Hearing. Printed copy will be provided as well.

I do hope you can each take time to read these words I have written.

Respectfully,  
Daniel Berger, MD

6027 SE Main St.  
Portland, OR 97215

May 28, 2015

Testimony on Mt Tabor Reservoirs Disconnection Appeal  
Case File: LU 14-218444

Dearest Mayor and City Council,

Portland Water Bureau claims itself to be stewards of these historic resources. Yet, at the recent Washington Park Historic Landmark Commission hearing, PWB admits they have been “stewards of the structure and utility, not the aesthetic elements,” as they have let that structure fall into decay. So, what happens when the utility goes away?

One need look no further than the off-line Mt Tabor Reservoir 6 which has contained less than 12 inches of water in it for nearly the past year as a prime example of their lack of dedication to the public good. Why is Mt Tabor, a travel destination post-card picture perfect historic gem of our fair city, sitting empty when the water bureau claims they are dedicated to keeping it filled? How does this reflect on the city when folks from afar come to visit the legendary Portland? What a disgrace! It's passive-aggressive against the community at best, a failure of proper management from any perspective.

This only further serves to exemplify that PWB can not be blindly trusted to hold our City's best interests at heart, as they clearly have such contempt and disregard for our history, communities and citizens, endlessly raising rates for exorbitant projects we do not need, feeding it's corporate partners along the way. City Council must uphold the HLC's decision and direct PWB to comply.

In many regards, I'm not sure what needs deliberation here. Commissioner Fritz's own public survey showed nearly 80% of Portlanders wanted the reservoirs to remain full and continue to hold their historic integrity. The City's own appointed Historic Landmarks Commission unanimously voted to approve the project only with these strong conditions. Clearly this is what the public and the experts desire. And, it's the cheapest and easiest of all options. It seems a no-brainer.

I implore you once again, as fellow citizens, please be the heroes we elected you to be – uphold your pledge towards good governance and justice in representing the will of The People, not our corporate contractors and profiteers.

Mt Tabor Park represents one of the energy centers of Portland, and its reservoirs are a huge part of this. If we destroy all the energy centers of our city,

then all it's special charm and spirit will go away as well. For the love of all things sacred, please do not let that happen!

Thank you for your time and consideration in this very important matter.

Daniel R Berger, MD  
6027 SE Main St



**Moore-Love, Karla**

---

**From:** Paul Floding <pfloding@gmail.com>  
**Sent:** Thursday, May 28, 2015 11:53 PM  
**To:** Council Clerk – Testimony  
**Subject:** LU 14-218444 HR EN, Mt. Tabor Reservoirs Disconnect

Mayor Hales and Commissioners,

As our public servants, I implore you to please work with community activists to keep our healthful open reservoirs operational and protecting us from radon, by employing one of the many strategies for saving them outlined by Friends of Reservoirs, Mt. Tabor Neighborhood Association, and countless others. This is an issue of livability, fairness and historical preservation. Please do what you were elected to do and listen to the voices of the citizens.

Thank you.

Please send an electronic receipt acknowledging this testimony. Thank you.

## Moore-Love, Karla

---

**From:** Adam, Hillary  
**Sent:** Thursday, May 28, 2015 12:04 PM  
**To:** Council Clerk – Testimony  
**Subject:** FW: Mt. Tabor Reservoirs

Please forward to City Council.

Hillary Adam  
Bureau of Development Services  
p: 503.823.3581

---

**From:** Mark W. Schlemmer [mailto:schlemmerdesign@yahoo.com]  
**Sent:** Thursday, May 28, 2015 11:26 AM  
**To:** Adam, Hillary  
**Subject:** Mt. Tabor Reservoirs

STOP MESSING WITH OUR WATER! We do not want to drink and shower in Radon. Our system works just fine and has for many years. We will work to unseat any commissioner who approves wasting tax money for this foolish project. And, Ms. Fritz, won't people love your idea to sell water to California. Not.

Mark Schlemmer

**Moore-Love, Karla**

---

**From:** Scott Fernandez <scottfernandez.pdx@gmail.com>  
**Sent:** Thursday, May 28, 2015 12:11 PM  
**To:** Moore-Love, Karla; Scott Fernandez  
**Subject:** Scott Fernandez - Testimony Mount Tabor open reservoirs  
**Attachments:** 5=28=15 28 Mount Tabor Testimony- Disconnection and demolition of the open reservoirs will critically degrade our drinking water quality with 2 of many cancer causing chemicals.pdf

Hi Karla,  
Attached is my public comment for Mount Tabor open reservoirs.

## **TESTIMONY IN OPPOSITION TO THE APPLICANT'S PROPOSAL, APPLICATION AND APPEAL**

**CASE FILE: LU 14-218444 HR EN, Mt. Tabor Reservoirs Disconnection**

Thanks,

Scott

May 28, 2015

**TESTIMONY IN OPPOSITION TO THE APPLICANT'S PROPOSAL, APPLICATION  
AND APPEAL**

CASE FILE: LU 14-218444 HR EN, Mt. Tabor Reservoirs Disconnection

Scott Fernandez – 1821 NE 65<sup>th</sup>, Portland 97213

Disconnection and demolition of the open reservoirs will critically degrade our drinking water quality. Open reservoirs efficiently manage and remove cancer causing chemicals that a covered reservoir system cannot. Two of many cancer causing chemicals.

**Radionuclides**

- Precipitation reduction from climate change (NOAA) will force increased Columbia South Shore Well Field Radon and other radioactive contaminants ending up in schools, homes, businesses.
- Continuous increases in CSSW Radon levels 293- 371pCi
- EPA –“radionuclide is highest risk cancer causing drinking water contaminant” and there is NO safe level of exposure.

**Nitrification-**

- Auditor reports confirm PWB does not meet industry maintenance standards - risking nitrification cancer.
- Hyper-chlorination worsens water quality and ↑cancer.

- **EPA-Nitrification episodes in distribution systems occur in the dark (in covered reservoirs, pipelines, taps, etc.)**
- **EPA -Sunlight inhibits nitrification....PWB wrongly says no**
- **Principle nitrification prevention points are open reservoirs**

**Summary-**Children are far more vulnerable to environmental toxins and radiation than adults....and will have the worst cancer health impact because of their metabolic differences. Reckless endangerment and gross negligence will be the public health legacy, as Council knowingly and willfully degrades the drinking water system by removing open reservoirs; when there are clear public health reasons and legal, EPA participation alternatives, such as the waiver New York and others are pursuing. Stop demolition and disconnection; start EPA LT2 waiver process now.

## Moore-Love, Karla

---

**From:** Mark Bartlett <bartlett.m@comcast.net>  
**Sent:** Thursday, May 28, 2015 5:47 PM  
**To:** Commissioner Fish; Commissioner Fritz; Hales, Mayor; Grenda, Jill; Stephanie Stewart and Mike St Clair; Moore-Love, Karla; Mark Bartlett  
**Subject:** Refusal of BDS to provide any response to use determination or public records request  
**Attachments:** BDS receipts for use determination and doc request.pdf

Hi Nick,

You seemed interested in my record request, and denial so I will elaborate on that letter from Travis.

BDS was refusing to respond at all or in other words a constrictive denial. He encouraged me to enclose that letter to BDS since that might convince them to act in good faith. It has not.

BDS has not responded to either my paid for type 3 use finding, not the request for any and all e mails regarding the Mt Tabor LUR for use, conditional use, or change in use.

The start point for any land use review is USE. and from there definitions and code application follows. So a change from that which they included as defining from 2003 could or would invalidate the entire staff report.

Clearly the one they say was not discussed and yet was relied on from 2003 was not the proper finding for this application.

As you know BDS staff twice in writing acknowledged the change in use in both the pre app summary and early staff report, which would be a trigger for additional conditional uses.

My thinking ays they are hiding what would then be a clear inconsistency in the finding since they now have many additional documents that will cause a different outcome in that finding.

Many of these issues were discussed with BDS staff during that 2006-7-8 mediation and conclusions were then reached. I've included many documents in my submissions to the record as well as providing them to BDS staff to consider.

Jason Richling was assigned our file and has yet to respond even though I was told it would only take 4 weeks and I would be getting those meetings with staff and HLC members prior to their decision making meeting.

Why do you think they have refused to respond prior to Council hearing this?

Why do you believe they have refused my request for records?

Why did the City attorney tell BDS staff not to meet with us or answer questions, when as you heard today, there was clearly a lack of conversation that may have offered an opportunity to resolve many of the appeal issues if they had just done as one would expect.

I do want both the finding and a completed document request, and right away so it can be included into the record. I'd like this also entered into the record in any case since it is prior to 6 pm on 5-28 and the hearing is still under way.

I understood that the Mayor intended to keep that open, so I'd like to include whatever response BDS might provide unless it is something less then genuine and legitimate..

Thank you for your concern.  
Mark

Mark Bartlett wrote:

> Robin,  
> I've not heard from you. What is the update now that you've talked to  
> the City?  
> Please remember I gave them my check on March 20th for 1/2.  
>  
> Mark  
>

On 5-21-15 @ 11:17 am

> SKARSTAD Robin wrote:

>>  
>> Mr. Bartlett,  
>>  
>> I did have the opportunity to speak with Ms. Poole this week. She  
>> confirmed that the \$850 will be refunded to you and agreed to look  
>> into why it is taking so long. She indicated that the broad nature of  
>> your requests was responsible for the high cost estimate – as  
>> everything needs to be reviewed by the city attorney. When I  
>> suggested that I wanted to speed the process and/or reduce the cost,  
>> she referred me to Jennifer Johnston in the City Attorney's Office. I  
>> left Ms. Johnston a message.

>>  
>> I am out of the office tomorrow, but wanted to provide you with an  
>> update.

>>  
>> Regards,  
>>  
>> Robin Skarstad  
>>  
>> Deputy District Attorney  
>>  
>> (503) 988-4804

>>  
>> Confidentiality: This e-mail transmission may contain confidential  
>> and/or privileged information. The information contained herein is  
>> intended for the addressee only. If you are not the addressee, please  
>> do not review, disclose, copy or distribute this transmission. If you  
>> have received this transmission in error, please contact the sender  
>> immediately.

>>  
>



**CITY OF PORTLAND**  
OFFICE OF MANAGEMENT AND FINANCE

Charlie Hales, Mayor  
Fred Miller, Chief Administrative Officer

Bureau of Technology Services  
Ben Berry  
Chief Technology Officer  
1120 SW Fifth Ave., Suite 450  
Portland, Oregon 97204-1912  
(503) 823-5198  
FAX (503) 823-5194  
TTY (503) 823-6868

3/10/2015

**BTS Public Records Search - Budgetary Planning Estimate**

NOTE: This estimate is for budgetary planning purposes only. Billing will be based on actual work performed.

BTS Case Reference No: 15-23PR

Search Title: BDS Bartlett / Mt Tabor Reservoirs

Basic Services (Labor)	Qty (Hrs)	Unit Cost	Total	Description	Search Criteria
Project Management	0.50	\$ 81.25	\$ 40.62		Search email boxes of Tom Carter, Rebecca Esau, Douglas Hardy, Kimberley Tallant, Hillary Adams and Sheila Frugoli using search terms "existing use", "use determination", "conditional use", "LU 13-236792", "EA 14-118276", "IQ 03-153994", "PR 03-186237 ZC", between 6/1/2014 and 2/6/2015.
Email search via City's email server	1.55	69.69	108.03	Scan 6 email account(s) on the City's email server using 8 search term(s) or phrase(s).	
Email search via individual archives	0.00	69.69	-	eMail archive files will not be searched.	
Email recovery from backup (up to 14 days available)				Recovery from email backup not requested.	
Recovery environment setup	0.00	69.69	-		
Data recovery & search	0.00	69.69	-		
File search (excluding email)	0.00	69.69	-	Workstation file search not requested.	
Travel time to / from workstation	0.00	69.69	-		
Other Costs	0.00	81.25	-		
Totals			\$ 148.65		

See Corrections  
to Request Below

- (1) DATE to be 6-1-2013 NOT 2014
- (2) LISTED LWR files ARE MADE AVAILABLE by BDS for NO charge - so NO COST to Review These

MARK K. BARTLETT  
2747 NE 22ND AVE  
PORTLAND, OR 97212

PAID TO THE  
CITY OF PORTLAND  
CHASE  
1019

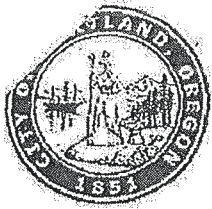
DATE 3-20-15

\$ 75.00

15-23 PR

148,301.15

1019



CITY OF  
**PORTLAND, OREGON**  
BUREAU OF DEVELOPMENT SERVICES  
1900 SW 4th Ave., Suite 5000  
Portland, OR 97201



RECEIPT #: 1776141

1/7/2015

Site Address: 6325 SE DIVISION ST

IVR Number: 3563750

Permit Number: 15-102031-000-00-PR

Public Registry

**APPLICANT** MARK K BARTLETT & MT. TABOR NEIGHBORHOOD ASSOCIATION

Phone: (503) 719-5930

Fee Code	Fee Description	Fee Amount	Paid to Date	Balance	This Transaction	New Balance
2553	Zoning Confirmation Tier 3	\$850.00				
Bill #3712884	Sub Total	\$850.00	\$0.00	\$850.00	\$850.00	\$0.00
TOTAL		\$850.00	\$0.00	\$850.00	\$850.00	\$0.00

Shaded items indicate fees not yet calculated.

\* Fees marked with an asterisk are due at application.

**PAYOR** MARK K BARTLETT

Phone: (503) 719-5930

Payment #: 1776141

Method of Payment: 012010 visa bartlett

Receipt By: Ray Galinat

**CITY CONTACT**

Phone:

E-Mail:

Fax: (503) 823-4172

**Notice:** This document is not a permit. This document may not represent all fees owing for this permit. All fees are subject to change based on new or corrected information. For more information, consult your City of Portland Contact listed above.

Name: **MARK B**

☐ CO ☐ RS ☐ Info only

**LWR TECH**  
Booth #: 99

Address/Permit/Case **IVR # 3563750**

1st Screen Comments

Box:

A ☐ 2nd Screen

B ☒ Planning and Zoning  
☐ Urban Forestry

C ☐ BES Development Review  
☐ BES Pollution Prevention

D ☐ Transportation

E ☐ Water  
☐ Water Quality

F ☐ Commercial Plumbing  
☐ Mechanical ☐ Fire Marshal

G ☐ Bldg Plans Examiner

Route Order	In	Out	Staff	Comments
	1:1	1:20		EA + PAR

ROUTING ONLY  
955 route 12/15/14