

# Portland, Oregon: A Locus of Undue Corporate Influence on Drinking Water Regulations & Public Works Contracts?

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1970s	Early federal drinking regulations apply, open reservoirs are grandfathered. ~750 uncovered reservoirs operating in US, according to 2012 OHA cite of EPA Manual.
<b>1972</b>	Rhodes Trussell begins work at Montgomery, Watson, Harza Global (MWH Global).
<b>1980</b>	Per his promo literature, Joe Glicker begins working at Portland Water Bureau (PWB), first as Director of Water Quality and Environmental Policy (he will later be promoted to Chief Engineer around the time he is sued for defaming Bull Run activists Doug Larson).
~1980	MWH Global builds first underground Powell Butte tank (PB1).
<b>6/10/1980</b>	Study published by Talwani, et al., in Journ. Geophys. Research concludes that daily groundwater <b>radon concentrations vary widely</b> w/ seismic activity, periodic sampling doesn't adequately measure.
<b>1987</b>	Lisa Obermeyer becomes Project Manager at MWH Global.
<b>1988</b>	Rhodes Trussell of MWH joins Water Science and Technology Board of the National Academy of Sciences (NAS).
*1989-93	<b>MWH awarded Bull Run Water Treatment Study contract</b> , later amended 3x w/ 25% increase w/o Council approval; Joe Glicker sits on PWB selection committee.
8/1990	Gail Shibley begins work as spokeswoman for Portland Bureau of Transportation. (She will stay here until 1997 and do her most significant work when the Bureau is led by Commissioner Charlie Hales.)
<b>8/31/1991</b>	Marriage of Water Bureau engineer Joe Glicker and Lisa Obermeyer, project manager of the company (MWH) that benefits most from Water Bureau engineering contracts.
1992	Number of US open reservoirs is down to ~ 300, according to OHA quote of EPA Reservoir Manual.
4/1993	<b>Cryptosporidium outbreak</b> in Milwaukie, Wisconsin: at least 403,000 affected, including 104 deaths, when agricultural sewage is discharged into public drinking water supply; <b><u>no reservoir is involved.</u></b>

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1993	Glicker costs City \$73,000 when <b>sued for defaming</b> limnologist and DEQ consultant Douglas Larsen following Larsen's criticism of watershed management. (City pays fine and promotes Glicker.)	
	<b>MWH Bull Run Water Treatment Study scheduled expiration date.</b>	
~1994	Glicker leaves PWB & joins MWH as Marketing Director at its local affiliate; his wife, Lisa Obermeyer, continues as Project Manager of MWH Global). Once at MWH, Glicker regularly contracts as PWB consultant, in which position he recommends capital improvement projects for which his company is awarded contracts, in a revolving-door process that raises concern with the City Auditor and may violate City Charter.	
~1995	Glicker's replacement at Portland Water Bureau is Rosemary Menard, from Seattle Water Bureau. Working with Glicker as consultant, she awards second MWH contract (Open Reservoir Study, see below). Selection committee consists mostly of PWB employees who had worked under Glicker within previous year. (Domination of selection committees by bureau employees will also draw criticism from City Auditor, see 2001 below.)	
1995-2004	<b>MWH awarded 'Open Reservoir Study' contract #30491</b> , with 2 amendments before expiration (originally expired 2/1/1999 then amended by Bureau Deputy Chief Engineer 2/11/99 to 2/1/01).	
	Provisions include underground reservoir, treatment, and regional blending center; all of which would allow Bull Run water to be mixed with polluted regional river water.	
	<b>Friends of Reservoirs activist reviewing public documents notes that an initialed margin note on the 1996 contract reads 'the Chief Engineer does not have authority to extend work beyond a contract deadline.'</b>	
	Contract eventually runs through 2004, which totals 9 years (though City Charter sets limit for non-property contracts at 5 years).	
7/1/1995-04	<b>MWH awarded Powell Butte Master Plan contract #29987</b> , which updates/revives first (Bull Run Water Treatment Study) contract to develop Powell Butte (Commissioner Eric Sten amends contract 8 times and significantly increases cost w/o formal Council approval.)	
1996	Congress mandates far-reaching, multi-staged amendments to 70 targeted public safety regulations, on a new schedule requiring review AT LEAST every 6 years, with first focus being the Safe Drinking Water Act (SDWA) because of growing evidence that earlier disinfection measures have had adverse consequences.	

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First acts are immediate amendment of SDWA to:

--Balance pathogen treatment goals with risks posed by disinfection byproducts (DIBs)

--Add Cryptosporidium to scope.

Long-term goal also includes:

--Set standards for mitigation of risk from carcinogenic radon in drinking water.

1997-2003

**MWH awarded Unfiltered System Working Group contract**, possibly no-bid; selection committee included Mort Anoushiravami and Menard of PWB, plus her former co-worker from Seattle Water Bureau Dave Hollman.

\*1997-2000

**MWH and CH2M Hill awarded Infrastructure Master Plan contract**, a 10-25 year capital improvement UV plant for interim treatment, followed by membrane filtration plant.

These contracts sends **Glicker to negotiate w/ EPA re LT2** drinking water legislation (which at this point still allows open reservoirs as grandfathered), to push build projects over watershed protection, and to recommend capital improvement projects and 'Infrastructure Master Plan'.

PWB also sends **Menard as Portland's rep to EPA's 'Federal Advising Committee (FACA)'** w/o Council approval or public disclosure.

Soon after Menard is sent to help Glicker & MWH lobby EPA's Science Advisory Board, **Glicker's MWH colleague Rhodes Trussell is appointed to the board** & eventually becomes chair (see 1998-99 below).

**Menard signs, on behalf of PWB, the LT2 'Agreement in Principle'** for Portland and the 'Unfiltered Water Group,' without Council approval or public disclosure, though activists note that PWB managers reportedly lack legal authority to enter into agreements on behalf of the City.

By the time this process is through, the federal LT2 regulation will closely echo the provisions of the Portland contracts held by the engineering companies associated with Glicker and Trussell

1/6/1997

Study published by Fitzgerald, et al., in Env. Sci. Technol. says that current **dosimetry measurements for radon in drinking water** are inadequate due to omission of shower data, **says that actual long-term exposure could be double current reports.**

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1998	Yet another amendment to SDWA, this time called Stage 1 Disinfected Disinfection Byproduct Rule & Interim Enhanced Surface Water Treatment Rule (open reservoirs still grandfathered).
1998	<b>Rhodes Trussell of MWH begins work on EPA Science Advisory Board.</b>
1999	<b>Rhodes Trussell of MWH also serves on Report Review Committee for NAS publication Risk Assessment of Radon in Drinking Water.</b> (Committee testimony lists <b>open aeration</b> is preferred radon risk mitigation and sets maximum contaminant level ( <b>MCL</b> ) <b>goal of 300 pCi/L</b> , but once the concurrent pro-enclosed-tank LT2 cryptosporidium regulation is adopted, the radon committee's recommendations are scrapped and the MCL <b>never enforced</b> despite Congressional mandate.)
2/11/1999	<b>Open Reservoir Study Contract #30491, is extended</b> by Deputy Chief Engineer. Per Friends of Reservoirs activist, initialed margin note on the 1996 contract is said to read: <b>'the Chief Engineer does not have authority to extend work beyond a contract deadline'</b> .
1999--2000	<b>MWH awarded Regional Transmission and Storage Strategy contract.</b> Commissioned on behalf of Regional Water Providers Consortium, on which Erik Sten was our representative. Sten awards contract to MWH; envisions 'demand centers' w/ Powell Butte blending of Bull Run & Columbia. Page 6-2 describes Intergovernmental Agency Cooperative Agreement, w/o public vote, allowing private company to operate the center.
3/99-6/00	Rosemary Menard of PWB serves on EPA Stage 2 Microbial/Disinfection Byproducts Fed Advisory Committee, listed as representing the Water Resource Management Group  Listing does not mention that she is also PWB's Director of Water Resources Management and goes on to sign the 2006 Agreement in Principle on PWB's behalf.
~2000	<b>Infrastructure Master Plan contract scheduled expiration date.</b>  City of Wilsonville awards MWH Global awarded design/build contract for Willamette River Water Treatment Plant. <a href="http://www.water-technology.net/projects/willamette/">http://www.water-technology.net/projects/willamette/</a> .  Commissioner Hales runs for reelection with significant backing by engineering industry (per 2012 Cato/Mclver report; see below).
5/2000	<b>CONFLICT OF INTEREST</b> charges are lobbied against MWH re Contract (6) by Citizens for Safe Water (Tigard, Wilsonville, Tualatin, Sherwood), a group opposing the drinking of Willamette River water, alleging in May 2000 letter <b>'Since the same engineering firm, Montgomery Watson, was awarded the 'design-build' contract for the Wilsonville treatment plant and was also</b>

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	<p><b>commissioned to do the Regional Transmission and Storage Strategy (RTSS), we feel that bias has tainted the entire project planning.'</b>  <a href="http://www.hevanet.com/safewater/consortiumstatement.htm">http://www.hevanet.com/safewater/consortiumstatement.htm</a></p>
6/7/2000	<p><u>Out Front House</u> case decided by Oregon Court of Appeals. <b>City of Portland argues that it is exempt from its own laws.</b> Court disagrees with City's argument but dismisses case on unrelated technicality. (When Portland City officials later attempt to bury reservoirs in a manner not compliant with City Code, the City Attorney will cite the hard-to-find <u>Out Front House</u> ruling, wrongly claiming that the Court ruled that Portland's government officials were exempt from Portland's zoning laws.)</p>
~2001	<p>Rhodes Trussell of MWH becomes Chair of NAS Water Science and Technology Board.</p>
4/2001	<p>Commissioner Sten convenes Citizens' Panel on Bull Run Treatment.</p>
4/2001	<p><b>MWH awarded Bull Run Treatment Panel contract</b>, purportedly to assist the above in investigating LT2 treatment alternatives.</p>
10/18/2001	<p>MWH Open Reservoir Study contract expires for 3rd time.</p>
12/2001	<p><b>City Auditor Gary Blackmer, Rpt #275 'The City's Consultant Contracting Procedures Need to Be Strengthened,'</b> stating that:</p> <ul style="list-style-type: none"> <li>- City has law outlining requirements for soliciting competitive bid quotes.</li> <li>- City has law (5.68.060) requiring review of PTE contractors' performance, and that the contract and payment are often preceding approval of the work by many years, with performance reviews often simply filled out 'Not Applicable' because <b>contracts are perennially left open.</b></li> <li>- Followed by Complaint of multiple instances of <b>non-compliance with City policies:</b></li> </ul> <p>'As shown in Table 4, <b>six of the 10 contracts we tested were sole source</b>, meaning that only one firm was contacted for the work. In our opinion, none of these sole source contracts met the criteria for waiving the City's requirement for soliciting competitive quotes. We found that three of the ten informal contracts lacked adequate control over consultant fees, and <b>billings and payments to the consultant did not match contract provisions.</b> In addition, in four of ten contracts, amendments raised the dollar value of the contract above the informal limit.</p>

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'In four of the ten contracts, no PTE Contract Worksheet was prepared as required by City Code. In only one contract in our sample was the performance of the consultant evaluated by the City, even though a performance report is required by Code. Because of these problems in informal PTE contracts, we believe the fairness of the City's PTE contracting process could be called into question.'

**'Standard services contracts were amended by sizable amounts due to changes in the scope of work.'**

**'Bureaus used questionable practices to evaluate and rank proposals, and select consultants for contracts. For example, one bureau's selection committee consisted of three bureau employees; no one on the committee was from an organization outside City government, contrary to City Code requirements.'**

2/11/2002

**Expired Open Reservoir Study contract #30491 renewed again**, as 'Phase II,' 4 months after expiration. City asks for 4 year extension, despite City Charter provision limiting non-property contracts to 5 years. Per Friends of Reservoirs advocate reviewing contract, scope of work Phase II violated Code in several ways (e.g., ignoring requirement for public involvement).

2/19/2002

City Hall meeting re reservoir burial. Per FOTR, FBI and State Health Dept. testified in favor of burial w/o offering evidence of considering alternatives; KINK-FM radio reports 'The critics of the plan clearly won that debate...the City has not proved to the public that it has really tried to come up with creative engineering solutions that could add safety and maintain the reservoirs above ground.'

4/2002

MWH Global's Willamette plant at Wilsonville begins operation, wins American Society of Landscape Architects' Award of Merit.

**5/03/2002**

Per FOTR City Council approves 2002-03 budget for replacing Mt. Tabor open reservoirs with enclosed tanks, making aesthetic improvements above tanks, & covering Wash. Park reservoirs w/ floating covers. (Order not accessible via City's eFile system, which lists only a file location with a catalogue list that describes procurement documents; however, this "spring of 2002" decision to bury all five of the City's open reservoirs--in both Mt Tabor and Washington Parks--is confirmed by reference in the City's memo in support of its 9/3/2003 order which ratifies the BDS use determination for the same. *This writer's formal public record request for this document has yet to be honored by City.*

**Date cited by City Commissioner Dan Saltzman in later 2003 IRP letter as the date City Council made decision to bury the reservoirs;** 'I still believe the City Council's May 2002 decision to bury

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was a good one - I hope this process will either reinforce that decision or provide Council with clear direction for why it should pursue another viable approach.' He is probably being truthful, and it will haunt him in the ensuing years of subterfuge as City special interests attempt to assuage a concerned public but pretending to fight against the reservoir burial it's actually pushed for LT2 and burial from the start.

EPA delays issuing draft LT2 rule until 2003.

**'Bull Run Treatment Panel' disbanded** (though MWH's contract/payment as a consultant for the PWB on that panel continues after panel disbanded).

**7/2002** Portland Utilities Review Board (PURB) recommends that Portland secure Waiver from LT2 (per City's own posted chronology).

Commissioner Charlie Hales leaves public office to become Senior Vice President of HDR Engineering.

He leaves midterm, after winning with the financial backing of the engineering industry. Once at HDR he will set out to teach other US cities to seek federal subsidies for costly public works engineering projects by labeling them "economic development," using methods and numbers that will subject him to criticism (see Cato study below).

**7/21/2002** **Open Reservoir Study contract Scope of Work amended** without corresponding contract amendment (added 5 months later when whistle blown by FOTR -- see below).

**7/30/2002** Greater Baton Rouge Business Report alleges MWH no-bid, over-budget sewer project in Baton Rouge <http://business.highbeam.com/436962/article-1G1-90368366/city-sewer-deal-smells>.

**8/2002** Commissioner Saltzman asks EPA whether LT2 will have Waiver provision for Treatment requirement.

**9/2002** EPA tells Commissioner Saltzman that LT2 will have no Treatment Waiver provision, claiming it lacks evidence of alternatives. (This is presumably when City began considering treatment Variance.)

**Citizens' Panel** serving under Bull Run Treatment contract **recommends Membrane Filtration** over UV treatment as safest LT2 treatment compliance method of choice if Treatment Variance falls through.

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9/18/2002	<p>Per 2012 OHA denial letter, on this date <b>PWB purportedly wrote to EPA suggesting that it will bury reservoirs by 7/2006 to protect public from lead.</b> Will be cited by OHA as evidence of longstanding <b>PWB intent to bury reservoirs.</b></p> <p>(NOTE: PWB promotional lit lists Yone Akagi w/ both LT2 variance and lead hazard abatement.)</p>	
12/4/2002	<p><b>Glicker creates &amp; signs amendment #7 to MWH Open Reservoir Study contract, signed 1/6/03 by Bureau Chief Engineer Stan VandeBergh, after Floy Jones of FOTR blew whistle re work being done w/o required contract amendment.</b></p>	
11/2002	<p><b>Portland City Council grants lease agreement with Carollo for national UV validation plant</b> developed on City-owned property on the Columbia Well Field which already enjoys a publicly funded NPDES emissions permit, and which sits immediately adjacent to the underground reservoir containing Portland's back-up drinking water source.</p> <p>Research &amp; development is funded by UV industry giants Calgon Carbon Corp., Trojan Technologies, ITT-WEDECO and Aquionics to create a national testing facility for the huge new UV disinfection technology contracts created as a result of LT2.</p> <p>Per investigative journalism, the Portland deal is hidden from public, and the Carollo lease agreement gives Carollo special deal on its water rate, only 1/5 of commercial &amp; residential rates.</p>	
12/18/2002	<p><b>City Council ordinance 177129 authorizes \$200 million toward reservoir burial.</b></p> <p>SUBJECT OF FRIENDS OF RESERVOIRS LAWSUIT ALLEGING UNDERHANDED USE OF REVENUE BONDS AS BLANK CHECKS.</p>	
2003	<p><b>American Water Works Association calls Conflict of Interest by Calgon Carbon in drafting EPA LT2</b> to mandate UV technology to which Calgon Carbon held patent.</p>	
2003	<p>Rhodes Trussell leaves MWH to form own company.</p>	
2003	<p>Draft LT2 rule published in Federal Register and comment period begins</p> <p>§141.724 Grandfathers open reservoirs providing there is risk mitigation (e.g., increased security).</p>	
2003	<p>Unfiltered System Working Group contract set to expire -- see above, this is probably when the 'Agreement in Principal' was signed by Menard, <b>instigating citizen activists Scott Fernandez and Floy Jones to review 6 boxes of Water Bureau contract documents over 6 months at PWB.</b></p>	

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Per Ms. Jones' memoirs, corroborated by Mr. Fernandez, that review revealed:

- **Menard & Glicker/MWH committed City without legal authority to requirements and contracts that degrade water quality without benefit to public; and**

- **'Before the official FACA process began, Rosemary Menard and Joe Glicker met behind closed doors in DC with the EPA Enhanced Water rule negotiators including Stig Regli**

- **E-mail from Menard to City Attorney appears to ask how to hide this from public; City Attorney instructing her to invoke attorney-client privilege.**

Unfiltered System Working Group contract amended adding clause allowing Comm. Sten to sign subsequent amendments w/o return to Council.

**1/1/2003** **MWH Bull Run Treatment contract ends** (on which it has been billing continuously despite the fact that the Bull Run Treatment Panel was disbanded 5/2002).

**1/7/2003** **MWH Bull Run Treatment contract extended** to accommodate a revised scope of work using up allocated funds, though as mentioned Panel was disbanded 5/2002.

- **Glicker during this time was contracted by PWB on LT2 panel**, apparently ensuring that LT2 law matches PWB/MWH's vision for the project.

- **Glicker & wife Lisa Obermeyer of MWH Global are primary presenters to Bull Run Treatment Panel.**

- **Rhodes Trussell formerly of MWH Global 72-03 is still chair of EPA Science Advisory Board Drinking Water Committee that oversees development of new LT2 version of law AND is presenter to Bull Run Treatment Panel.**

- Rosemary Menard is on City's selection committee for contract.

- Also, committee that decides 'what goes on top' (i.e., what material to use to cap the open reservoirs) is staffed w/ Park Board members w/o disclosure, posing as 'citizens at large' who then voted against 'independent analysis of alternatives, and full and open discussion of those findings.'

**1/2003** Commissioner Saltzman announces, pending LT2, that he will delay treatment decision at least until 2004.

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2/2003	Carollo completes UV-industry-funded research and development study to reshape the UV validation industry in the wake of LT2's new push for UV disinfection, by building the initial 30-inch test train at the Portland Columbia Well Field property.	
<b>2/2003</b>	Gail Shibley joins Or. Health Authority as Senior Envir. Health Advisor & Public Health Administrator.	
<b>3/2003</b>	Carollo officially commissions its new publicly funded, NPDES-permitted, Columbia Well Field test site by commencing testing of a 40-mgd medium-pressure UV system supplied by Cascade Calgon.	
3/6/2003	<b>Council approves amendment #8 to Open Reservoir Study contract</b> , now 8 years old. Per FOTR did not follow scope of work outline, and MWH subcontractor Walker-Macy landscape architect happens to sit as 'ad hoc' citizen member of public PAC committee deciding 'what goes on top.'	
~4/2003	<b>Land use decision 'Order of Council: Use Determination Pursuant to ORS 227.160(2)(b) and 227.175(11)-(12) regarding the use classification of the Mt. Tabor reservoirs and proposed modifications of the reservoirs'</b>	
	This is official decision to push for burial even though it is not a permitted use under zoning	
	(Possibly intended as a fall-back excuse in case feds didn't come through with MWH-friendly LT2 regulation in time; City would misrepresent <u>Out Front House</u> ruling, claiming the court ruled the city is exempt from its own zoning laws. <u>OFH</u> case was not widely reported, and City did not know that a Buckman resident with a copy of the actual <u>OFH</u> ruling would be working with FOTR).	
~4/2003	Fully functional shut-off valves were ordered installed by City Council as simple, effective emergency measure; but then, while pushing burial as 'urgent,' the deadline for simple safety valve installation was moved to Summer, then late Autumn 2003; [per 2015 Landmarks Commission testimony this appears never to have been done].	
4/15/2003	Oregonian article found by FOTR reporting that Homeland Security has determined open reservoirs are not a terrorist risk, and therefore reservoir burial will receive no related funds.	
4/21/2003	PWB public info spokesperson Ross Walker confirms MWH awarded reservoir burial tank design & construction oversight contract, but <b>PTE worksheet not made available to public.</b>	
<b>4/23/2003</b>	<b>City Council ordinance 177406 authorizes another \$500 million 'to finance various projects'</b> -- THIS WILL BECOME THE SUBJECT OF FRIENDS OF RESERVOIRS LAWSUIT ALLEGING UNDERHANDED USE OF REVENUE BONDS AS BLANK CHECKS.	

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7/31/2003	(3) Contract 'Bull Run Master Plan' expires, but is at some point extended until 2004.	
8/2003	EPA draft LT2 w/ 90-day official comment period. For uncovered reservoirs provides 3 alternatives:	
	(1) Covering finished drinking water reservoirs	
	(2) Treating their discharge; or	
	(3) Implementing a 'state-approved risk mitigation plan.'	
8/2003	Per FOTR, 'reservoir burial tank design & construction oversight contract' officially awarded to MWH & PTE worksheet published, contract amount \$6 million, immediately terminated by below.	
<b>8/11/2003</b>	City asks BDS (Collentine to Kerridge) via letter for use determination re replacing open tanks 5 and 6 with underground ones. This will later be rubber-stamped by BDS and adopted as order two weeks later. Notably, it asks whether it's appropriate to term the change "alteration" or "demolition," as this will affect the type of public hearing required. No mention is made in letter of the proposed complete demolition of Reservoir 1.	
<b>8/27/2003</b>	Council deliberation votes (unanimous but for absent Leonard) to ratify land-use determination on, and to resolve to proceed with, reservoir burial, classifying it Type II (little public process). This will be codified as an order a few days later. Per Boly v. City of Portland LUBA affirmation 2003-152, City mails notifications of its determination proceedings to a few neighbors, who do not realize it is a "hearing" that they must attend in order to appeal later.	
	Per FOTR Memo of majority of reservoir panel to Council says <b>'We maintain that the decision to bury the reservoirs was made under a false sense of urgency, without proper public process, and that creative alternatives were not considered.'</b>	
8/2003	<b>MWH awarded Mt. Tabor Reservoir Burial Design and Construction Oversight contract</b>	
	Invoices per FOTR show work continued throughout IRP process (later in 2003-04).	
	No-bid contract--CH2MHill did not submit due bid cost & MWH Global reservoir history Wilsonville/PB1.	

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Mid-2003	Hypalon covers built (circumstances suggest this is because City now thinks it can force cover/bury issue even if federal LT2 backing fails, via its plan to misrepresent the court's <u>QFH</u> ruling per above).	
<b>9/3/2003</b>	<b>City Council Order 1011-2003 ratifies the 8/27 BES rubber-stamp of its reservoir burial use determination and resolves to proceed with same.</b>  <b>Note that the memorandum attached to the Order clearly states that Reservoir 1 will be "removed from operation" and not be replaced.</b>	
~9/12/2003	Attorney/activist Jeff Boly delivers to City Attorney & Auditor Notice of Intent to Appeal the above determination at Land Use Board of Appeals, including language that tips off City that its bogus Court of Appeals Out Front House citation (claiming it is exempt from following its own laws) had been discovered as false.	
10/2003	Per Portland Tribune, completed Hypalon covers are scrapped by Saltzman, citing activist pressure.	
<b>10/2003</b>	Per Houston Business Journal MWH awarded no-bid contract in Houston and accused of subpar materials & equipment <a href="http://www.bizjournals.com/houston/stories/2003/10/13/story4.html?page=1">http://www.bizjournals.com/houston/stories/2003/10/13/story4.html?page=1</a> .	
11/5/2003	Per Friends of the Reservoirs, HEARING BEFORE JUDGE LITZENBERGER MULTNOMAH COUNTY SUING CITY COUNCIL FOR UNDERHANDED USE OF REVENUE BONDS AS BLANK CHECKS.	
<b>11/2003</b>	Per City's published chronology, Comm. Saltzman submits comments to fed EPA docket requesting waiver option be included in final regulation, 'with protected low-risk drinking water sources, such as the Bull Run, to avoid substantial expenditures that may potentially provide very little benefit.'	
<b>12/8/2003</b>	In response to public criticism, Saltzman announces plans to form new "independent" review panel. Panel will be selected by him, approved by City Council, informational only, and is expected to rubber-stamp Saltzman's reservoir plans: "If I thought this whole thing was going to be derailed, I wouldn't be doing this."  <b>Saltzman schedules City Council agenda item that would have "exempted the city's selection of a general contractor for the project from competitive bidding," but soon thereafter pulls the item.</b>	
12/16/2003	FOTR submits letter to Commissioner Saltzman expressing concern over composition of Saltzman's proposed independent review panel.	

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12/17/2003	Saltzman meets with FOTR Board (per his later letter).	
12/23/2003	Saltzman announces makeup of 'Independent Review Panel' & issues press release on 'pending' law stating, 'agencies must cover the open reservoirs, install water treatment facilities to inactivate viral contaminants in the water before it flows to City taps or enact a risk mitigation plan sufficient to address physical access to and contamination of the exposed drinking water (see section 4.3 of the rule...)' 'During the review process the Water Bureau will postpone work on the reservoir burial project at Mt. Tabor although some pipe work that is currently scheduled but unrelated ...'	
11-12/2003	Scott Fernandez, MSc, submits 50-page scientific memo opposing burial of reservoirs and unnecessary treatment of Portland's water supply.	
2004	Per Water Technology Net, MWH Global Wilsonville facility re-wins American Society of Landscape Architects' Award of Merit.	
~2004	City Council's 2004-2005 budget per FOTR includes \$2 million for another MWH treatment plant study.	
1/2004	Official comment period for LT2 ends after 150 days of extensions.	
1/1/2004	<b>MWH Powell Butte Master Plan contract #29987 expires</b> , which Comm. Sten amended 8 times and which underwent at least one extension beyond original expiration date of 7/31/2003.	
1/7/2004	<b>Land Use Board of Appeals (LUBA) throws out Attorney Jeff Boly's appeal of City's use determination on a technicality, saying that City's 8/2002 council meeting counted as a "hearing" that appellants would have to have attended to qualify for standing, even though judge and City acknowledge that City did not label the council meeting as a "hearing" in its announcement.</b>	
1/8/2004	Commissioner Saltzman replies in writing to FOTR's 12/2003 letter, <b>clearly assuring them that all MWH work has been stopped except 5 basic outlined items.</b>	
1/14/2004	City Council adopts resolution 36196 authorizing Mt. Tabor IRP (per FOTR), citing community aesthetic and historical concerns, <b>but noticeably omitting their health/quality/necessity concerns</b> ; authorizing that they consider among 5 options pre-ordained by City and its agents.	
1/22/2004	Mt. Tabor memo authorizing contracts for advisors and facilitators naming as consultants:	

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	<ul style="list-style-type: none"> <li>- McGuire &amp; Assoc., Santa Monica, CA, 'independent' technical advisor (also simultaneously serving as FACA consultant paid by MWH to serve on EPA LT2 review panel</li> <li>- EnviroIssues, Seattle, WA, facilitator.</li> </ul>
1/23/2004	Mt. Tabor Independent Review Panel (IRP) forwards consultant selections to City Council.
2/18/2004	<b>PWB hides Portland's Carollo UV testing facility from public at rate board meeting</b> while discussing UV technology under LT2. Board member/water activist Scott Fernandez: "Is there a national facility somewhere?" PWB Environmental Services Manager Dennis Kessler: "I'm not aware of that."
3/16/2004	Public hearing of IRP allows general public presentation & comment time .
4/19/2004	Memo from PWB administrator Anoush. to Comm. Saltzman deferring choice of treatment site and method <b>until 'clock runs out on LT2'</b> --(since LT2 is not final yet, thus no compliance deadlines are looming, this reference seems to suggest the City is eagerly <i>awaiting</i> LT2; i.e., now that the City's attempt at zoning-noncompliant reservoir burial has been thwarted by citizen legal action, they must await federal rescue via LT2 <b>before contracts &amp; warranties could expire</b> , e.g., Hypalon/ebay note below).
5/11/2004	Citizen review board, including McGuire & Assoc., concludes burial costs outweigh benefits, should await LT2 finalization and then push for mitigation measures.
5/2004	Mayor Tom Potter and Portland Business Alliance meet w/ EPA requesting alternatives to treatment.
7/28/2004	<b>Resolution 36237 is adopted, "Mt. Tabor Open Reservoirs Review Panel Final Report" resolving to "develop a risk mitigation plan that addresses the requirements of the forthcoming Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and is compatible with the character and uses of the park to be submitted for approval to appropriate state or federal regulating agency; and that such plan be "promulgated in final form using a process consistent with the City's adopted Principles of Good Public Involvement."</b>
7/30/2004	<b>MWH Mt. Tabor Reservoir Burial Design and Construction Oversight contract terminated.</b> Referred to by City watchdog blogger and Lewis & Clark professor Jack Bogdanski as City 'back[ing] down to Portland Water Users Coalition.' Tribune article states City Council voted to 'ditch its plan to cover the reservoirs' and 'accept panel's advice,' voting instead to increase security out of

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	existing capital funds and \$392,000 security staff from rate increase already approved earlier; but unnamed council members said 'still waiting, LT2....might have to cover after all.'
8/2004	Portland Utilities Review Board (PURB) sends letter to Portland Congressional Delegation requesting support for LT2 alternatives.
9/2004	Congressman Earl Blumenauer asks EPA to publish comments to rule and include Waiver provision.
9/16/2004	Per Tribune, close of ebay bidding on \$398,000 Hypalon covers. City rejects low-ball \$18,100 bid by unnamed group of PWB employees calling themselves '1trueseeker.' !
10/7/2004	<b>Final invoice on MWH Bull Run Treatment Panel contract</b> , after many amendments/extensions beyond original scope. Note from Lisa Obermeyer of MWH Global reads ' <b>This is it! The end of an era (or so it seems!) Good luck moving forward</b> '.
	Her or so it seems remark seems to suggest subterfuge--that she already knows this defunct contract will soon be resurrected by the federal LT2 regulation she & Glicker lobbied for.
11/2004	Commissioner Saltzman meets with City and contract lobbyist to develop support for his 11/03/2004 comments to EPA.
~2004	<b>MWH Open Reservoir Study contract #30491 and (possibly illegal) amendments finally expire.</b>  <b>- Per FOTR summary at this point 8 years, 8 amendments, \$2,138,900.00</b>  <b>- Per FOTR summary 5 of these amendments continued contract after expiration, and by 2002 cost was 75% over original estimate for Phase II.</b>
2005	Rhodes Trussell leaves EPA Science Advisory Board.
2005	Lisa Obermeyer and Joe Glicker leave MWH Global.
1/2005	<b>MWH Bull Run Treatment Panel contract expires</b> , City Council commits to pursuing alternative forms of LT2 compliance.
3/2005	City Council Res. #36297, Mayor Potter's strategy for proposing LT2 treatment alternatives to EPA.

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4/2005	EPA White Paper from Mayor Potter & PWB outlining Portland's alternative compliance options: (1) PWB's choice; (2) Community's choice (i.e., Floy Jones of FOTR, water scientist and activist Scott Fernandez, Regna Merritt of Oregon Physicians for Social Responsibility).
5/2005	More meetings between Mayor Potter, Portland Business Alliance & EPA re treatment alternatives.
6/2005	Mayor Potter's staff present LT2 White Paper to EPA w/ proposed treatment alternatives.
7/1/2005	PWB reassigned to Commissioner Randy Leonard, who begins monthly meetings with citizens, who begin to voice concerns about his handling of reservoir burial.
12/2005	Carollo adds a second 12-inch test train to its Columbia Well Field national UV-validation site.
2006	<b>Glicker starts at CH2M Hill as Vice President</b> (start date per FOTR; his CV does not specify date).
2006	Public process is held and ambitious \$23 million reservoir upgrade projects begun. Community members are told the upgrades will keep the reservoirs safely operating for at least another 50 years.
2006	Study published by Wright, et al., Chartered Institute of Env. Health (UK), reports remarkable and convincing link between home radon exposure and juvenile osteosarcoma.
1/5/2006	<b>Final LT2 rule issued</b> , two parts affecting Portland's unfiltered system:.
	(1) Treatment of Source Water.
	All unfiltered systems must treat (by ozone, UV or chlorine dioxide) to inactivate Crypto.
	Variance clause is available based on nature of source water (and will be pursued; see below).
	(2) Open Reservoirs Containing Finished Water.
	Either cover or treat to 4 log virus/3 log Giardia/2 log Crypto
	Do above now, or submit to feds by 4/1/2009 a schedule outlining State-approved compliance plan.
	Variance options unclear re reservoir cover-or-treat; no mention, pro or anti.

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RULE CONTAINS NO SPECIFIC SCHEDULING REQUIREMENT; theoretically one could submit a plan to cover one's reservoirs by the year 3000 as long as one's State approves it.

Cities like Rochester and NYC submit noncommittal plans for dates far in the future.

**Portland will submit plan including rush self-imposed burial deadline that betrays the insincerity of any public claims it makes to be fighting to preserve open reservoirs.**

EPA manual says US open reservoirs have dwindled to 81; no official tally as to how many protested, though at least 2 other Oregon cities (Bend and Baker City) that appealed citing economic hardship.

**Final LT2 rule also emphasizes Cryptosporidium inactivation using the ultraviolet (UV) inactivation technology standards** which per Carollo promotional literature were **developed at the Portland Columbia Well Field facility during 2003 and 2004.**

*1/2006* City Council contracts w/ Boston law firm Foley Hoag (selected by activists Floy Jones, Kent Craford, and Scott Fernandez) to challenge final LT2 rule.

*2/2006* Portland vs EPA filed, challenging LT2 in DC Circuit, 2007, Docket 06-1068B, with NYC joining as intervenor and Walla Walla and Oregon Wild filing amicus briefs in support.

*11/2006* **Carollo Engineers (Mackey and Wright) help author EPA's guide for UV treatment under LT2.**

*2007-2010* Per FOTR, **UV Treatment Plant** under LT2 pre-design work '**hidden under 'water main' Flexible Service contract** providing unfair insider advantage for larger UV design contract...'

*2007* **CH2M Hill awarded Water Main Flexible Service Contract** (per FOTR, includes UV treatment plan).

*6/22/2007* **Oregon legislature adopts primacy legislation in the form of a small modification to ORS 448.135, allowing it to enforce LT2 for EPA.**

Legislative records show, activists recall, and Gail Shibley's 6/16/2011 letter to Rep. Ben Cannon reiterates, that legislative intent was to ensure that Oregon regulations "**reached as far as, and no farther than,** State law or **federal law and regulations.**"

However, the Oregon Health Authority seemed to overstep both federal and state intent, in a way that seemed designed to help ensure decommissioning of Portland's open reservoirs.

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The Oregon Legislature's primacy law was very simple. It merely added a short clause to Oregon's existing water treatment variance clause, ORS 448.135, clarifying that any variances granted by the Oregon Health Authority must accord with the Safe Drinking Water Act (42 USC 300g-4). And the Safe Drinking Water Act in Subsection (a)(3) clearly states that variances are allowed:

*"The Administrator may grant a variance from **any treatment technique requirement of a national primary drinking water regulation** upon a showing by **any person** that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed."*

However, the administrative rules adopted by the Oregon Health Authority in response to the Legislature's direction went much further. OAR 33-061-0032(12) adopted LT2's cover-or-treat provision pertaining to open reservoirs, but in OAR 33-061-0045(12) the Oregon Health Authority expressly forbids itself from granting variances from subsection 0032(12). There does not appear to be any reason for this in the legislative record. Rather, FOTR activists indicate that internal communications between the OHA and the Portland Water Bureau suggest this was done at the Water Bureau's request.

This is borne out by PWB online promotional literature, which claims that the only regulation adopted by the OHA in response to the Legislature's primacy action was **OAR 333-061-0045(13)**, which is the portion dealing with source water Treatment Variance (which Portland received); but they curiously omit the **0045(12)** and its incorporation by reference of **333-061-0032(12)**, which is curious given that those were the sections cited by the OHA in denying Portland's various requests on behalf of the open reservoirs.

Mayor Hales will later decry OHA's ruling, claiming to have fought LT2 "from its inception," yet will simultaneously appoint Shibley (who crafted the hostile OHA ruling) as his Chief of Staff.

9/2007 Oral arguments in Portland v. EPA, a lawsuit unsuccessfully challenging the validity of LT2.

11/2007 Lisa Obermeyer joins CH2M Hill as Business Development Manager.

11/6/2007 Ruling in Portland v. EPA; DC dismisses Portland's challenge & upholds LT2.

12/4/2007 Emergency meeting of City, Oregon Congressional delegation, & citizens' groups. Congressional staffs recommend PWB pursue treatment Variance before pursuing legislative solutions to 'exhaust administrative options.'

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12/6/2007	Citizen groups meet with Commissioner Leonard. Some still pursue variance & federal legislative options, but amidst growing outrage some suggest that Leonard defy rule and turn tables--forcing EPA to sue to prove LT2 is scientifically warranted.
12/2007	Commissioner Leonard takes what some activists consider to be the weak course, & instructs PWB to pursue treatment Variance while simultaneously planning and designing for treatment compliance.
~2008	<b>Scott Fernandez is removed from Public Utilities Review Board by Comm. Leonard after refusing to share privileged documents with City Attorney that were intended for independent counsel.</b>
<b>2008</b>	Stakeholders in Carollo's Columbia Well Field national UV validation facility vote to increase maximum flow capacity from 40 mgd to 50+ mgd by expanding pipes and electrical supply.
1/23/2008	EPA Region 10 writes PWB re 11/2007 US Court of Appeals decision & PWB's request for Variance.
2/2008	PWB staff meet w/ EPA, health officials and activists to present their proposed data collection strategy (active disease surveillance) to support Portland's request for a source water Treatment Variance; EPA director Marie Jennings rejects this approach and insists the City follow Method 1623.  Per activist Scott Fernandez, this meeting convinces him that treatment Variance is too weak a solution, and he begins requesting that the City pursue a full Waiver from all LT2 requirements.
2/2008	PWB meeting w/ EPA, health officials and activists outlining Variance data collection strategy to EPA, which EPA rejects while reiterating that it will not consider Variance application.
<b>5/31/2008</b>	Study published by Vinson, et al., in Applied Geo. decries underestimation of radon cancer risk from drinking water due to omission of data measuring exposure from showering, clothes/dish washing.
11/2008	Commissioner Leonard meets with activists re common strategy to notify new Presidential administration of Portland's LT2 dilemma. Writes letter re same.
<b>2009</b>	Per Carollo promo literature, construction of it expanded flow pipes and electrical supply completed.
2009	<b>CH2M Hill awarded Powell Butte II Buried Tank Design contract</b> (per FOTR note, Glicker had managed land use on this in 2003 and knew that permit required any tank to be started by 2013).

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2009	<b>CH2M Hill also awarded Variance Track Contract</b> , end date unknown (alleged conflict of interest, since simultaneously holding contract for work that will occur if Variance is not granted).	
1/15/2009	PWB & EPA staff meet in Seattle to discuss 11-year LT2 compliance schedule for open reservoirs.	
2/11/2009	EPA calls Variance draft reasonable but cannot authorize delays, only a schedule with concrete dates.	
3/2009	Comm. Leonard asks Congressional Delegation for fed legislation allowing Bull Run Water use as-is.	
3/25/2009	<b>City Council accepts and submits voluntary PWB compliance schedule to EPA with 3 covered tanks (Powell Butte, Kelly Butte, &amp; Washington Park), planning disconnection of Mt. Tabor open reservoirs by 12/31/2015 and Washington Park open reservoirs by 12/31/2020</b>  <b><u>Council deliberately imposes rush schedule on itself. This was not required by LT2.</u></b>  <b>This self-imposed rush schedule will later be cited by OHA in its 2011 refusal to grant Portland a schedule extension (as Portland will ask OHA to revise the schedule without revoking its own Resolution adopting that schedule).</b>  <b>By comparison, other open-reservoir cities submit plans with distant deadlines, and receive generous extensions from their primacy agencies following EPA's announcement of its intention to review LT2's open reservoir restrictions.</b>	
3/27/2009	EPA approves Portland's self-imposed rush compliance schedule. [Query: Is 2 days unusually fast for bureaucratic review?]	
4/10/2009	PWB supports second data collection approach to EPA for LT2 treatment variance, which is rejected.	
4/11/2009	Meeting at Glencoe School auditorium with Comm. Leonard, PWB, Congressional delegates, and activists (who are now split on what to pursue through Congress: many support LT2 Variance or Deferral as alternatives; whereas Scott Fernandez's group seeks full Waiver for Portland).	
5/2009	Water Bureau consultant Rob Dortignacq writes Mt. Tabor Reservoirs Historic Structures Report concurring that projected open-reservoir capital improvements have a predicted life of 50 or more years if maintained. City rules under FIN – 6.11 Capital Assets require of the City that they must maintain Capital Assets in good working condition.	

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5/7/2009	EPA writes PWB outlining data collection methods required in support of its request for source water treatment Variance; per later Shaff communications, these requirements are a significant and onerous last-minute departure from previous communications from EPA that City should use Method 1623.
5/14/2009	PWB David Shaff writes to Cynthia Dougherty of EPA Region 10 expressing anger at EPA's arbitrary late-game change in testing requirements to qualify for treatment Variance, and requesting deadline extension.
6/4/2009	Study published by Cicerone, et al., in Tectonophysics reports that radon outgassing spikes from seismic events can increase levels by 1200% over background, lasting from days to months, and are not magnitude dependent (large spikes can occur with common, minor seismic events).
6/11/2009	Michael Bussell of EPA Region 10 responds to Shaff's Variance testing deadline extension request:  --Portland's request is first in the nation & will set national precedent, so must be handled carefully.  --Memorializes previous meetings, their content, and EPAs reasons for changing its mind.  --Notes that original treatment deadline was 4/1/2012, and <b>Portland is now granted 2-year treatment Deferral</b> in compliance with 40 CFR 141.713(c).
6/17/2009	<b>Seattle Times article exposes MWH covered reservoir failure in Seattle.</b>
6/18/2009	Senator Merkley writes Commissioner Leonard that 'it is very clear from conversations w/ my colleagues in the Senate that a legislative approach has very little chance for success,' but commits to support alternative compliance options to LT2.
7/2009	<b>Primacy for LT2 enforcement begins transfer from EPA to Oregon Health Authority (OHA).</b>
7/29/2009	City Council Resolution #36720 directing PWB to seek administrative & conventional solutions to LT2 compliance while also building UV treatment facility in case treatment variance not granted.
10/21/2009	<b>New Times (Los Osos, California) article exposes MWH no-bid contracts there.</b>
10/27/2009	Meeting between EPA Deputy Administrator Peter Silva, Randy Leonard, and PWB staff, per later letter from Silva. (Per FOTR was at Sen. Merkley's request and involved tours of Bull Run and Mt. Tabor.)

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11/2009	PWB submits 3rd sampling plan to EPA in support of treatment variance.	
11/4/2009	Leonard writes follow-up letter to Silva of EPA memorializing meeting and asking written clarification of LT2 Variance availability re source water treatment versus maintaining open reservoirs.	
12/2009	PWB begins sampling to establish basis for treatment variance.	
12/16/2009	Silva of EPA responds to Leonard that Variance available only from source water treatment requirement of LT2, not to open reservoir cover-or-treat requirement of LT2.	
3/10-10/13	MWH builds buried storage tank at Kelly Butte as Mt. Tabor replacement. Per Friends of Reservoirs,	
2010	Completion of \$23 million upgrade of Mt. Tabor, designed for another 50 years of safe operation.	
2010	<b>CH2M Hill Water Main Flexible Service (and UV treatment) contract expires.</b>	
2010	<b>CH2M Hill awarded new Flexible Service contract, project list undisclosed</b> , includes PR funds.	
3/2010	<b>MWH awarded Kelly Butte contract</b> to build Mt. Tabor replacement underground tank.  Per Friends of Reservoirs, Multnomah County Health Department supports reservoir coverage/burial based on Water Bureau's claim that treatment at outlet would be prohibitive, though [MWH study] had disproven that claim. (On 5/10/2011 he will admit there is no public health benefit to this.)	
3/3/2010	Portland Utility Review Board (PURB) hears public testimony re LT2 requirements at City Council's request.	
3/18/2010	PURB votes 6-2 (1 absent) recommending that Council adopt a formal resolution directing PWB to replace the existing reservoirs w/ enclosed ones on an EPA-compliant schedule, though community representatives asked for Waiver.  The resolution is evidently adopted, as it will provide one of the bases for OHA's later refusal to delay scheduling pending LT2 compliance -- see 12/9/2011.	
3/24/2010	OHA receives EPA confirmation that it has agency Primacy on LT2 retroactive to 3/18/2010	

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	(Why did EPA specifically retro-date it back to Council resolution? Suspect Council requested.)	
<b>5/2010</b>	<b>CH2M Hill awarded Bull Run Watershed UV Radiation Treatment Plant Design contract.</b>	
<b>~6/2010</b>	OHA David Leland publishes notice of primacy transfer in DHS Pipeline newsletter alongside notice of general fund shortfall noting that his agency's drinking water program relies on feds for 74% of budget. (Cf. governor's 11/2012 report below showing that federal primacy funds were a decisive factor in balancing that budget; i.e., OHA fund-seeking as a motive for securing reservoir primacy).	
6/8/2010	PWB asks OHA for compliance schedule Deferral re Powell Butte Reservoir 2.	
6/15/2010	OHA grants above.	
<b>7/26/2010</b>	HDR wins Joint Water Commission's Aquifer Storage and Recovery Phase I contract with Carollo and Groundwater Solutions as team partners, per press release in Water Efficiency Net.	
11/2010	Expose in Slo Coast Journal accusing MWH of conflicts of interest in two California cities:  --Former MWH employee Dylan Wade, now Morro Bay's Capital Projects manager, steers committee that awards city's wastewater treatment contract to MWH despite its bid being highest.  --Former MWH employee Pavo Ogren, now Los Osos' County Public Services Director, subject of Community Services District allegations of wrongdoing over multiple no-bid MWH contract awards, including millions of retroactive amendments, and Rock of the Coast allegations of violation of California Public Contract Code 20133 against hiring same firm to build project as recommended it.	
12/2010	PWB concludes treatment sampling, supporting strong case for variance as no Cryptosporidium is detected in 449 samples (10,250 L) tested <u>at drinking water intake</u> .  Comm. Leonard & Sen. Merkeley meet re above sampling results, Merkeley assures that EPA will be fair and transparent in its evaluation of PWB's request for treatment variance.	
2011	Per Variance Executive Summary, some of OHA's primacy regulations related to 2007 primacy legislation may not have been adopted until 2011; see above 2007 note. Needs further research.	
1/10/2011	Governor John Kitzhaber sworn into office, replacing Governor Ted Kulongoski	

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1/18/2011	Executive Order 13563 signed by President Obama directing general periodic review of significant regulations including LT2 (per 4/29/2013 OHA letter, divided regulations into urgent and nonurgent, w/ LT2 nonurgent).
2/2011	PWB, Congressional delegation, & EPA staff meet again re treatment variance efforts.
4/2011	<b>City's own UV contractors let slip in peer-reviewed journal article that none of the City's proposed UV lamp suppliers has passed validation; and that the City's treatment-track design lacks a clear well, such that UV lamp breakage may discharge mercury into the distribution system.</b>
3/8/2011	Dr. Thomas Ward of OHSU Infectious Diseases writes Commissioner Leonard that Portland's open reservoir system is safe, and that "it is my hope that the Portland Water Bureau along with the Oregon State Public Health Division requests an extended compliance time-frame from the EPA, along with consideration for long-term variance...Science, guided by carefully collected surveillance information, should determine whether the Bull Run water source and in-town reservoirs in the future require additional treatment measures."
5/31/2011	Rep. Ben Cannon writes to Gail Shibley. Though his letter is no longer available online, per Shibley's response (below) he appears to have asked for open reservoirs to be granted full Variance from cover-or-treat.
6/2011	PWB Shaff's public report of contaminants in Portland's drinking water shows <b>radon levels over the 300 pCi/L EPA goal MCL</b> , at 310 for all Columbia Well Field samples taken.
6/10/2011	Dr. Gary Waxman of Multnomah County Health Department acknowledges there is no health risk history from current open reservoirs and thus no anticipated benefit to covering them, and calls for an "open and honest" public debate. Audio here: <a href="http://foresttofaucetpdx.blogspot.com/p/audio-from-physicians.html">http://foresttofaucetpdx.blogspot.com/p/audio-from-physicians.html</a>
6/6/2011	Commissioner Leonard's blog announces City has requested (source water) Treatment Variance.
6/16/2011	Shibley responds to Leonard that the EPA has stated 'in its regulation and in direct communications with the City: There is no variance available under EPA's regulation' attaching Oregon Department of Justice Memorandum.
6/16/2011	<b>Shibley</b> responds to Rep. Cannon's request, similarly to Leonard's, except for one notable exception: She <b>admits that legislative intent of primacy statute was to ensure state regulation only "reached as far as, and no farther than, State law or federal law and regulations."</b>

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[See note re 2009 legislation above; either she is admitting a huge betrayal of legislative intent, or the legislature itself hid a later/earlier pro-burial intent, because OHA's rules went out of their way to ensure that open reservoir Variance was prohibited, whereas federal LT2 was silent on issue.]

**7/20/2011** Senator Chuck Schumer (NY) writes 'EPA: Don't be inflexible; collaborate...develop cheaper, effective solution.' Issues press release re same.

**7/21/2011** Senator Kirsten Gillibrand (NY) issues anti-LT2 press release: '\$1.6 billion mandate... economic burden... little impact on public health.'

**8/3/2011** Representative Crowley (Queens, Bronx) issues press release: 'Spearheads Call for EPA to Waive Hillview Reservoir Mandate.'

**8/19/2011** **EPA (via Administrator Lisa Jackson) grants request of NYC (Senator Schumer) to consider revising the LT2 rule to accommodate uncovered reservoirs.**

**8/19/2011** Study published by Seitz, et al., in Applied & Env. Microb. reports that **viruses in drinking water can remain infectious indefinitely** when held in **dark, enclosed storage**.

**8/22/2011** Comm. **Leonard notifies Senator Merkeley of Jackson-Schumer development** saving NYC open reservoirs, asks help determining how to obtain same for Portland given its **rush compliance schedule**.

Also posts on his public blog that New York's LT2 relief "should be good news for Portland."

**8/23/2011** **Shaff of PWB cites Jackson letter to low-level bureaucrat Leland of OHA and asks for indefinite suspension** in compliance schedule pending EPA's upcoming review/revision of LT2 open reservoir requirements (importantly, this is bureaucrat-to bureaucrat and **lacks a corresponding Council Resolution** vacating its previous resolution setting the schedule--which will provide OHA excuse below, that state doesn't have authority to overturn City's self-imposed municipal resolution).

**9/2011** **Dan Carol is appointed by Governor John Kitzhaber to the cabinet position of Director of Multi-State and Strategic Initiatives. (Previously employed by DC globalization think tank NDN.)**

**9/11/2011** **City Council writes Merkley attaching Jackson ltr & asking to suspend enforcement of schedule**

[Strange choice, given that Merkley has no jurisdiction, and proper venue is to ask state for Deferral].

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<b>9/12/2011</b>	Entire City Council writes asking Senator Merkeley for relief from LT2 in light of 8/19 EPA announcement pending review of same and implied Deferral available to cities in NY.
	City of Rochester (Mayor Richards) writes EPA requesting Deferral citing 135 years w/o incident and Jackson's letter to Schumer promising to reconsider open-reservoir benefits.
	[Why are these cities writing to EPA and not to primacy agencies, or simply unilaterally amending their compliance schedules? Research specifics of their primacy relationships.]
<b>10/11/2011</b>	OHA acknowledges PWB request, says it will defer to guidance from EPA Region 10.
<b>10/13/2011</b>	Oregon Congressional delegation writes Admin. Jackson of EPA requesting that EPA consider Portland Deferral <b>as part of LT2 review</b> .
11/29/2011	OHA files Notice of Intent to Grant (source water treatment) Variance.
<b>11/30/2011</b>	Stoner of EPA responds to Richards, Mayor of Rochester, clarifying that LT2 will be reviewed in light of new data, and science will drive our ultimate decision." Like in Oregon, she says the federal rule review process is not the venue for Deferral; rather he should ask his primacy agent.
	Notes that at this time 43 open reservoirs still in use and under schedule for burial.
<b>12/6/2011</b>	Anderson v. City of Portland case filed, asking for declaratory judgment re water/sewer funds used for non water/sewer purposes.
<b>12/9/2011</b>	<p><b>OHA claims (inaccurately) that Region 10 has denied PWB's 8/2011 Deferral request.</b></p> <p><b>But no legal citation offered, only copies of internal correspondence between Gail Shibley of OHA and Cynthia Dougherty of EPA Region 10, which shows Deferral IS possible:</b></p> <p><b>--Shibley carefully worded her request. Did NOT ask Region 10 whether Portland could have Deferral; asked if DC LT2 rule review was the proper basis for amending state-approved schedule.</b></p> <p><b>--Puzzled, Dougherty replies that the federal rule review process itself is obviously not where to do it; rather, the primacy agency itself can grant the Deferral so long as interim precautions are taken.</b></p>
12/14/2011	OHA hearing before Officer Jana Fussell.

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# Portland, Oregon: A Locus of Undue Corporate Influence on Drinking Water Regulations & Public Works Contracts?

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<b>12/29/2011</b>	Scott Fernandez letter to OHA asking for <b>full Waiver</b> , in response to City's Variance request, citing no deaths from municipal surface water and criticizing Variance methodology as unscientific.	
12/30/2011	Portland happens to detect Crypto in raw water intake (per Scott Fernandez this is for the first time in 10 years), with no effort undertaken to determine if test is false positive.	
2012	<b>CH2M Hill Powell Butte II Buried Tank Design contract expires.</b>	
2012	Per OHA cite of EPA Reservoir Manual, by now only 38 uncovered reservoirs in US w/ 5 in Portland.	
1/2012	Charlie Hales returns to public office as Portland Mayor, and (according to his LinkedIn resume) continues serving as Senior Vice President of HDR Engineering for his first four months of office.	
<b>1/9/2012</b>	Morrison of Rochester NY Water Bureau writes his county health dept. requesting Deferral [NOTE: county health is not NY's primacy enforcer; why can he simply ask health dept. but Portland can't?].	
<b>1/27/2012</b>	Stoner of EPA replies to Jeff Merkley exactly as Dougherty of Region 10 did to Shibley of EPA: LT2 review process is <b>not appropriate venue for schedule Deferral</b> ; that lies with <b>state Primacy agent</b> .	
<b>2/10/2012</b>	Shaff of PWB submits <b>yet another Deferral request</b> to low-level bureaucrat Leland of OHA, detailing robust interim measures and long record of safe operations already in place.	
	INTERESTINGLY: His chief argument is that <b>the 12/9/2011 letter said Deferral was possible</b> .	
	Since the letter clearly did not, that means <b>he read AND understood the significance</b> of the semantic subterfuge in the attached Shibley-Dougherty e-mails.	
	He asserts that PWB's original compliance schedule was made because <b>EPA failed to inform that Deferral was available</b> and subjected City to choosing risks (possibly referencing Carollo study) over noncompliance. This is probably the most effective and genuine-sounding argument advanced by City representative	
	ALSO NOTE: That as he's mentioning December Region 10 Deferral language he carefully skirts the August Lisa Jackson letter re LT2 being up for reconsideration. [Which will be basis for Leland's assertion that he's backed his Deferral request with no new changes in circumstances--did he leave out the Lisa Jackson letter on purpose to sabotage his own appeal?].	

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<b>3/14/2012</b>	Shibley of OHA grants Portland's (source water) Treatment Variance request. It is only valid for 10 years, expiring 3/14/2022, is conditioned on monitoring, and can be revoked by OHA at any time it feels testing shows a Crypto risk.
	Note that water activists and journalists have called City to task for its insistence on gloveless testing methods that do not meet EPA guidelines, and on contracting the monitoring tests to a City contractor who may have an interest in the treatment contracts that would ensue if a false positive were found. <a href="https://www.youtube.com/watch?v=XVC1Cb0ebSU">https://www.youtube.com/watch?v=XVC1Cb0ebSU</a> .
<b>3/16/2012</b>	Morrison of Rochester NY Water Bureau writes 2nd request to county health for Deferral  [Rochester's deferral was eventually granted, but did its Deferral arise directly from this letter, and was this letter ever answered or just referred to state primacy enforcement agency? Research this, as it may present alternative for Portland, as our county health is sympathetic to open reservoirs.].
~ <b>Spring 2012</b>	CH2M Hill begins research on behalf of "Western States" to form the West Coast Infrastructure Exchange (WCX); see detailed info in July and November entries below
4/1/2012	Original deadline to comply with LT2 source water treatment provision. Per 6/11/2009 letter from Bussell (see above), <b>Portland was granted a 2 year deferral of treatment deadline to 4/1/2014.</b>
5/2012	Charlie Hales' CV lists him leaving his vice-presidency of HDR effective this date.
<b>5/17/2012</b>	<b>OHA denies PWB Shaff's second Deferral request</b> , again with poorly reasoned, appealable response:  --Says based on Portland's previous clear intent to bury reservoirs; which is specious considering that multiple recent communications clearly express that intent, and circumstances, have changed  --Outlines additional state barriers beyond LT2 that fly against the legislative intent expressed to activists when OHA legislated for primacy  --Cites unchanged circumstances, clearly ignoring recent Jackson-Schumer exchange  NOTE: later clarifies that <b>Shaff failed to identify new circumstances; so he knows of them but is focusing on fact that Shaff chose not to mention them; did Shaff sabotage his own request?</b>

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--Cites EPA's position that open reservoirs degrade water quality, again ignoring EPA head's recent statement that EPA now considers open reservoirs to have benefits

--Cites security risks of intentional contamination, despite feds' declaration that's not an issue.

**5/31/2012**

Streetcar study by Milwaukee, WI, consultant O'Toole of Cato/Mclver Institutes lambastes HDR streetcar proposal and calls Charlie Hales "King of the Streetcar Scammers." Report criticizes Hales' role in pioneering the promotion of subsidized transportation engineering projects as "economic development" though they "wouldn't pencil out without subsidies." "In order to subsidize streetcars and transit-oriented developments, Portland is letting its most valuable asset—its 5,000-mile street network—crumble. A recent inventory found that more than a quarter of the city's major roads and nearly half of neighborhood streets are in "poor" or "very poor" shape, and at least 60 miles of streets have never been paved at all. Yet the city has deferred plans to repave any rutted streets until at least 2017. While Portland's light-rail lines are built by the region's transit agency, the city builds the streetcar lines, and it has made a conscious decision to put streetcars and bike paths ahead of street maintenance. [Beth Slovic, "Why Can't Portland Re-Pave Its Rutted Roads?" The Oregonian 2/26/12.]

**6/2012**

PWB Shaff's public report of contaminants in Portland's drinking water shows **radon levels over the**

**300 pCi/L EPA goal MCL**, at 369-370 for all Columbia Well Field samples taken (a 20% increase over previous year's samples).

**7/16-17/12**

**Reservoir master contractor CH2M Hill conducts multi-day strategic plan workshop creating the West Coast Infrastructure Exchange (WCX), a purportedly non-governmental agency (NGO) tasked with finding innovative leverage and financing for expensive public works engineering contracts. Highlights of minutes and presentation slides show that:**

**--WCX will act as an 'acceleration vehicle' to insure to investors a "predictable deal flow" of public works contracts not hampered by "bureaucratic delays and environmental review requirements"**

**--To this end, WCX will function as a "straw man" to seek influence at the state government level, under an acronym chosen "because it is ambiguous" to avoid conflict-of-interest accusations.**

**--WCX will ensure the flow of public works contracts despite growing municipal concerns over debt load, federal deficit precautions, and investor concern over risk.**

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--WCX will emphasize the EPA's "dire need" for funding of drinking water projects and ASCE's recommendation that trillions of dollars be awarded in public engineering contracts under the banner of job creation and climate preparedness. (Note, at least one unidentified workshop attendee questioned the validity of the ASCE report, and received only a vague answer)

--WCX will package public works contracts in a way most attractive to the investors who possess the trillions that the cited ASCE report recommends be spent

--WCX will accordingly seek investment from "pension funds, insurance funds and other institutions" which are more likely to "accept infrastructure project risk"

--Primary target will be public employee pension funds (meaning public employees' retirement funds will depend on ensuring a continuous flow of infrastructure projects to CH2M Hill and its fellow public works contractors)

--Another primary target will be public water and sewer funds, creating additional water fee structures (identifies Oregon regions most willing to accept increased costs)

--WCX envisions that by 2016 public works contracts will transition from the traditional Design Build (DB) to Design Build Finance Operate (DBFO)

--WCX recommends pressuring investors to lower their return expectations to 1/3 of what they traditionally expected

~11/2012

Governor Kitzhaber's balanced budget lists federal reservoir primacy funds as major source in balanced budget (see notes above re David Leland's 6/10 announcement of primacy transfer during budget shortfall).

11/14/2012

CH2M Hill publishes its official report on the creation of the WCX, "West Coast Infrastructure Exchange, Final Report." See details in July 16-17 entry above.  
About this time, Dan Carol is hired as the WCX's President, whilst simultaneously continuing to serve as Governor Kitzhaber's Director of Strategic Initiatives. He will be listed as President on WCX promotional material, but at no time will his public LinkedIn resume list his WCX work.

11/17/2012

A Wikipedia entry announcing the birth of the WCX is created by Oregon State Treasury employee James Sinks.

12/2012

Gail Shibley is appointed by Mayor Hales as his chief of staff, leaving the Oregon Health Authority. Activists remark that this represents a strange disconnect between public and behind-the-scenes motives, as Ms. Shibley had just orchestrated the OHA decision which the

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	<b>Mayor publicly claimed forced him to proceed with the reservoir decommissioning which he publicly claimed to have been “fighting since its inception.”</b>
<b>2012-13</b>	<b>Goward Whistleblower Incident -- City of Portland CFO fired over exposing City's plan to divert \$200,000 in water and sewer reserves to City's general fund.</b>
2013	<b>CH2M Hill's second Flexible Service contract expires.</b>
<b>2/4/2013</b>	New-to-office Commissioner <b>Novick writes low-level OHA bureaucrat asking for Deferral until 12/31/2024</b> , citing EPA/Lisa Jackson's new stance and recent NYC and Rochester Deferrals.
<b>2/5/2013</b>	<b>Congressman Blumenauer writes Leland of OHA in support of Novick's request</b>
	--Requesting Portland be granted compliance Deferral on basis of new info re NY and LT2 review
	--If not granted, demanding explanation in light of NY State developments
	(Latter will unfortunately be used by Leland as excuse to benchmark Portland to Rochester, crafting denial not on Portland's merits but as though Rochester minutiae are established legal standards.)
<b>4/23/2013</b>	\$253,635,000 Second Lien Water System Revenue and Refunding Bonds issued.
<b>4/29/2013</b>	David Leland of OHA writes poorly-reasoned letter response to Comm. Novick, denying request for deferral. Appealable errors include:.
	Failure to note that LT2 contains no requirement that a City ask for permission to revise its compliance schedule. [But what about ORS and OAR]
	Failure to note that Oregon's primacy legislation contains no language restricting open reservoirs or imposing burial schedules; and simply requires the OHA generally enforce federal legislation, which is silent on the subject of compliance scheduling.
	Second failure of OHA to note previous communication from Region 10 that Deferrals are allowed.
	Specious claim that there is no indication that LT2 review in 2016 will result in any change to the rule-- ignoring the glaring fact that the EPA head and NY's entire congressional delegation have recommended reconsideration of LT2's cover-or-treat requirement.

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**Though letter is non-binding and full of appealable errors, City never takes issue over Leland's head.**

**6/2013** PWB Shaff's public report of contaminants in Portland's drinking water **omits radon data** (which had **exceeded EPA's goal MCL** for the previous two consecutive years).

**6/3/2013** City of Portland Mayor Hales announces in letter signed by 4 of 5 Council members (Fritz dissenting) that City will end efforts to seek LT2 waiver, will close open reservoirs and proceed with reservoir burial. **Letter falsely states 'The city has been fighting LT2 since its inception.'**

Meanwhile, EPA still reviewing LT2 and other regulations for revision by 2016, per 1996 amendment to Drinking Water Act; and per its 8/19/2011 statement to Sen. Schumer is likely to allow open reservoirs and other 'innovative approaches.'

**Early 2014** Announcement is made of an upcoming CH2M-Hill-sponsored symposium on climate change and infrastructure financing, scheduled for September in Washington, DC, to be moderated by Cylvia Hayes (Governor Kitzhaber's domestic partner) as "First Lady of Oregon," and presented in part by Dan Carol of WCX.

CH2M Hill and WCX also co-sponsor a study of infrastructure investment strategies, hiring Evergreen State College, the alma mater of Cylvia Hayes, Governor Kitzhaber's domestic partner. See detailed November entry below.

**11/2014** **Evergreen State College publishes the infrastructure investment study co-sponsored by CH2M Hill and WCX, entitled "Infrastructure Crisis, Sustainable Solutions: Rethinking Our Infrastructure Investment Strategies."**

**The report promotes Cylvia Hayes, domestic partner of Governor John Kitzhaber, and her company, 3E Solutions. Ms. Hayes is quoted recommending that infrastructure projects be promoted as "stimulus and job creation."**

**Early 2015** **The FBI launches an investigation into Governor John Kitzhaber and First Lady Cylvia Hayes for possible influence-peddling in climate and economy-related public works initiatives; Governor resigns; Governor orders state employees to destroy thousands of related e-mails, state employees refuse.**

**Mid 2015** **Portland Historic Landmarks Commission (HLC) votes to deny City Council's application to begin decommissioning of the open reservoir on Mt. Tabor due to strong public opposition to the project and procedural irregularities with the City's application.**

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Public testimony on the case is noted as the largest turnout ever seen at the Commission. Public testimony unanimously opposes the City's application.

One single "public testimony" is offered in favor of the City's application, but it is discovered that the witness is not a private citizen but rather a City contractor from PSU's Capstone Program.

After closure of public testimony and a decision by the HLC to deny the City's application, the City is allowed to hold several behind-doors meetings with the HLC, after which the HLC reverses its position and approves the City's application. Dissenting from this action is Commissioner Harris Matarazzo, the HLC's legal representative.

City Council also votes to demolish the Washington Park open reservoir, despite unanimous public testimony that the demolition of a historic landmark is illegal under Portland's zoning code.

To date appeals are still pending on both the Washington Park and the Mt. Tabor cases.

*Late 2015*

Federal Judge Michael Simon orders City Council to cease efforts to permanently exclude a reservoir advocate and other protesters from its chambers, on the grounds that such exclusions violate the U.S. and Oregon constitutions. City Council votes to appeal Judge Simon's order.

*Early 2016*

Multnomah County District Attorney Rod Underhill orders City of Portland to comply with an appellant's request for documentation regarding the title and ownership of the reservoir properties. Mayor Hales convenes an emergency session of City Council at which the decision is made not to comply with this order, but to appeal D.A. Underhill's order.

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