

RESOLUTION No.

Request an adjustment to the City compliance schedule for the uncovered finished drinking water reservoir requirements of the federal Long Term 2 Enhanced Surface Water Treatment Rule.
(Resolution)

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

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

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

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

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

WHEREAS, a letter dated December 9, 2011 from the OHA indicated, "...there may be specific articulable facts that warrant schedule compliance schedule adjustments...the primacy agencies can evaluate these system-specific issues when evaluating a request to adjust a compliance schedule. If a schedule adjustment is appropriate, the public water system should have robust interim measures in place to ensure public health protection and those measures should remain in effect until that system comes into compliance with the rule."; and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Portland City Council directs the Portland Water Bureau to submit a formal request to the Oregon Health Authority to extend Portland's uncovered reservoir compliance schedule for LT2 that reflects a June 30, 2020 completion date for Kelly Butte Reservoir (from December 31, 2014), a June 30, 2023 completion date for the Mt. Tabor Project (from December 31, 2015) and a June 30, 2025 completion date for the Washington Park Project (from December 31, 2020).

Adopted by the Council:

Commissioner Randy Leonard
Prepared by: Ty Kovatch
Date Prepared: January 23, 2012

LaVonne Griffin-Valade
Auditor of the City of Portland
By

Deputy

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Ty Kovatch		2. Telephone No. (503) 823-3003	3. Bureau/Office/Dept. Water Bureau
4a. To be filed (date): Feb. 1, 2012	4b. Calendar (Check One) Regular Consent 4/5ths <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		4. Date Submitted to Commissioner's office and FPD Budget Analyst: Jan 24, 2012
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

Request an adjustment to the City's compliance schedule for the uncovered finished drinking water reservoir requirements of the federal Long Term 2 Enhanced Surface Water Treatment Rule (Resolution)

2) Purpose of the Proposed Legislation:

Directs the Portland Water Bureau to submit a formal request to the Oregon Health Authority to extend Portland's uncovered reservoir compliance schedule for Long Term 2 Enhanced Surface Water Treatment (LT2) to resolve the logistical and financial challenges caused by Portland's current compliance schedule, and to ensure that the City of Portland is afforded the same benefits and considerations as every other jurisdiction subject to the rule.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|---|------------------------------------|---|--------------------------------|
| <input type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input checked="" type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |
| <input checked="" type="checkbox"/> Internal City Government Services | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source. NA

5) Expense: What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)

Over \$40 million for the terminal reservoir program was provided in the FY 2011-12 budget, \$217 million in the five-year CIP. If the schedule adjustment is granted, the program budget will be adjusted as part of the Spring BuMP. Combined with obtaining a treatment variance from OHA and this schedule adjustment would reduce the bureau's CIP by about \$100 million for the next five years and will be submitted as part of the FY 2012-13 Requested budget.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No

- **Will positions be created or eliminated in future years as a result of this legislation?**

No

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

- YES:** Please proceed to Question #9.
 NO: Please, explain why below; and proceed to Question #10.

This Resolution to Council is directing the Portland Water Bureau to submit a formal request to the Oregon Health Authority to adjust Portland's uncovered reservoir compliance schedule for Long Term 2 Enhanced Surface Water Treatment (LT2) to resolve the logistical and financial challenges caused by Portland's current compliance schedule, and to insure that the City of Portland is afforded the same benefits and considerations as every other jurisdiction subject to the rule and does not necessitate public involvement.

Community outreach was performed during the life of this project. Collaborative outreach efforts were conducted and supported by various City of Portland staff and New York City.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

c) How did public involvement shape the outcome of this Council item?

d) Who designed and implemented the public involvement related to this Council item?

e) Primary contact for more information on this public involvement process (name, title, phone, email):

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

No future public involvement is necessary for this council item as this is the final action for this project.

David G. Shaff, Administrator

BUREAU DIRECTOR (Typed name and signature)