

Date: November 2, 2005

Subject: Portland Utility Review Board Annual Report

Dear Members of the Portland City Council,

The Portland Utility Review Board's (PURB) annual report represents an overview of the topics discussed and our concerns expressed from July 1, 2004 to June 30, 2005.

The PURB was established to provide an independent citizen review of Portland's water, sewer, stormwater and solid waste financial plans and rates. Our body represents a cross section of the community with members from neighborhoods, public interest advocacy and business.

As our mission statement states:

We evaluate all rate drivers through the lens of practicality, legal mandates, environmental benefit and affordability. It is our intention that our recommendations to City Council complement not duplicate the activities of professional management and Council legislative activities.

We look forward to discussing our future goals with you at the PURB - Council Worksession on November 8, 2005. Please feel free to participate in a PURB meeting the third Thursday of each month from 4:30 to 6:30 pm in the Lovejoy Room of City Hall.

Sincerely,

Portland Utility Review Board

**FY 2004-05 ANNUAL REPORT
PORTLAND UTILITY REVIEW BOARD
November 2, 2005**

Issues Summary

Recommendations Summary

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Attachments

August 24, 2004 – PURB Water Treatment Issue Paper

August 25, 2004 – PURB Letter to Congressman Blumenauer

February 8, 2005 - PURB LT2 Letter to Mayor Potter

March 17, 2005 - PURB CSO Issue Paper

May 18, 2005 - PURB Utility Rate Testimony

June 16, 2005 - PURB LT2 Letter to Mayor Potter

Issues Summary

The Portland Utility Review Board (PURB) reviewed the FY2005-06 Utility rates and found them to be reasonable and justified, as indicated in our Opinion and Testimony Letter dated May 18, 2005.

As you know from our prior communications to the City Council, we are concerned about some key issues that will have a significant impact on future utility rates. These are:

- **Combined Sewer Overflow (CSO) Project**
- **EPA LT2 Rule/Water Treatment**
- **Portland Harbor Superfund Site Cleanup**
- **Wholesale Water Contracts**

These issues tend to be high-cost and under intense public scrutiny, with the first three having important public health and environmental consequences associated with the directions ultimately taken.

Recommendations Summary

Combined Sewer Overflow (CSO) Project

The PURB continues to be concerned about the overall cost of the project, and its impact on customers. While we continue to believe different courses of action would provide greater environmental benefit with greater value to ratepayers, we are supportive of City Council efforts to identify cost savings under the current approach. In particular, we support the work of the Big Pipe Oversight Committee. We encourage the City Council and the Bureau of Environmental Services to continue to seek cost savings whenever and wherever possible, building on proven and successful past experiences such as the downspout disconnect program. The PURB believes that the existing BES Watershed Services Program is very promising. From what we recently learned it provides a tremendous opportunity for cost savings to the City and its citizens through the application of on-site stormwater management and treatment techniques and practices. The applications of these relatively new stormwater management practices can in many cases be more effective than other traditional methods of stormwater management by reducing volumes and delaying conveyance of stormwater to existing infrastructure and facilities. We believe that aggressively pursuing the application of on-site stormwater management practices on a broad scale would result in significant financial savings, assist in achieving our existing CSO obligations, and would demonstrate the City of Portland's willingness to be a regional and national leader in the field of environmental management and stewardship.

EPA LT2 Rule/Water Treatment

We recommend that the City Council continue to work with the EPA and Oregon's congressional delegation to modify the pending LT2 Rule to accommodate our pristine protected drinking water source, and allow Portland to avoid installing expensive and

unnecessary water treatment facilities. Furthermore, the City Council should direct the City Attorney to work with independent private counsel now to prepare for a legal defense of our unfiltered water system, in case the EPA attempts enforcement action against the City upon finalization and implementation of the LT2 Rule.

Portland Harbor Superfund Site Cleanup

The PURB has not developed any recommendations on the Portland Harbor Cleanup. Based on material presented by City staff, we are satisfied that the City is monitoring this process, as it unfolds, and is focused on solving the problem. The PURB intends to become better informed on this topic in the coming year, with the aim to provide advice to the City Council, as the situation warrants.

Wholesale Water Contracts

The PURB is encouraged with the progress that has been achieved in the wholesale contract negotiations. At this time PURB has not developed any recommendations regarding the wholesale water contracts. PURB intends to become better informed in the coming months allowing for the development of the new rate model.

Attendance Summary

In all, the PURB held 14 meetings in FY 2004-05 with average meeting attendance totaling 20.7 people. Absenteeism averaged about one member per meeting, with 15 excused absences and no unexcused absence. Meeting attendance averaged 10.0 staff and 3.5 citizens.

FY 2004-05 PURB Briefings

Date	Subject	Presenter	Presenter's Affiliation
07/15/04	Utility License Fee Changes Water Bureau Issues Update Mt Tabor Reservoir Independent Review Panel	Matt Grumm Mort Anoushiravani Frank Ray	Comm. Saltzman's Office Water Bureau PURB
08/19/04	BES Audits Utility License Fee Cap Status	Dave Gooley Bredan Finn	BES Comm. Saltzman's Office
09/16/04	Federal CSO Dollars River Renaissance Update Wholesale Water Contract Update Utility License Fee Cap Update	Marge Kafoury Barbara Hart Mort Anoushiravani Matt Grumm	Office of Government Relations Bureau of Planning Water Bureau Comm. Saltzman's Office
10/21/04	BES Ratemaking Audit Regional Water Supply Planning Wholesale Water Contract Status	Dave Gooley John Tyler Comm. Dan Saltzman	BES PURB City Council
11/10/04	Water Bureau Issues	Water Bureau	Retreat
11/18/04	Customer Billing System Status & Utility Billing Office Westside CSO Audit Westside CSO Audit BES Ratemaking Audit Stormwater Discount Program	Sue Klobertanz Lee Carlson Mike Schafer John Gallagher Dan Vizzini	OMF Construction Project Controls Pacific Construction Consultants Black & Veatch BES
12/16/04	Smurfit Recycling Issue Update BES Harbor Project - Superfund Site Water's Proposed CIP and Financial Plan	Bruce Walker Rick Applegate Dave Hasson	OSD BES Water Bureau
02/03/05	Proposed LT2 Enhanced Surface Water Treatment Rule BES Ratemaking Audit CSO Audit Report CSO Program CSO Program CSO Program BES Preliminary 5-Year Financial Plan	Scott Fernandez John Gallagher Dave Gooley Dean Marriott Neal Melane Richard Sander Dean Marriott	PURB Black & Veatch BES BES DEQ DEQ BES
02/17/05	PGE Sale Update FY 2005-06 Budget Process	Kathleen Gardipee Casey Short	Comm. Sten's Office OMF
03/03/05	Role of PURB in FY 2005-06 Budget Process Water Requested Budget BES Requested Budget	Tom Miller Dave Hasson Jim Hagerman	Comm. Adams' Office Water Bureau BES
03/17/05	Role of PURB in the New Administration Report on Team B Utility Review Group New Revenue Bureau Report	Comm. Sam Adams Frank Ray Judy Tuttle	City Council PURB OMF
04/14/05	CSO Issues	BES	Retreat
04/21/05	Mayor Potter Introduction Follow-up on April 14th CSO Retreat BES Proposed Budget Water Proposed Budget OSD Solid Waste Ratemaking Report on Team B Utility Review Group Recommendations	Mayor Tom Potter Dean Marriott Dave Gooley Dave Hasson Bruce Walker Frank Ray	City Council BES BES Water Bureau OSD PURB
05/10/05	BES Rates and Budget for FY 2005-06 Solid Waste Rates for FY 2005-06	Jim Hagerman Bruce Walker	BES OSD
06/09/05	Mayor's White Paper on LT2	Nancy Hamilton	Mayor's Office
06/16/05	Stormwater Discount Program ESA Compliance in Bull Run Water Fluoridation Issue Water Fluoridation Issue Review PURB Ordinance	Dan Vizzini Rosemary Menard Dr. Kurt Ferre, DMD Lynne Campbell Comm. Sam Adams	BES Water Bureau Oregon Dental Association Oregon Citizens for Safe Drinking Water City Council

PORTLAND UTILITY REVIEW BOARD (PURB)
ISSUE PAPER RECOMMENDATION
August 24, 2004

Issue

Additional Treatment of Bull Run Drinking Water

Background/Commentary

The proposed EPA Long Term 2 Enhanced Surface Water Treatment Rule (LT2) [FR 47639] regulation is based on the premise that the presence of *Cryptosporidium* is responsible for widespread municipal drinking waterborne illness. The EPA estimates 140+ deaths each year and millions of endemic cases of illness from this organism. However, no deaths from *Cryptosporidium* have been associated with municipal drinking water in over ten years, and endemic disease has never been demonstrated. The outbreaks the EPA has described in relation to *Cryptosporidium* were associated with catastrophic sewage exposures of the respective municipal drinking water systems. The drinking water contained dozens of pathogenic organism species throughout the catastrophic sewage event that in some cases lasted for weeks. Conversely, the Bull Run drinking water system has historically had no sewage exposure and no public health issues.

The Unfiltered Systems Working Group public comment document submitted to the EPA (01-09-04) included the cities of New York, Boston, San Francisco, Tacoma, and Seattle. The Unfiltered Systems Working Group came to the same conclusions publicly presented to the Portland Utility Review Board over two years ago;

- watershed protection and improvement are important to water quality;
- public health impact has been overestimated; and
- capital improvement cost has been underestimated.

The Unfiltered Systems Working Group advocated a lower threshold of treatment, but also promoted flexibility in alternative compliance strategies, such as credits for enhanced watershed protection. Based on the numerous drinking water system benefits they outline, the net sum for required additional treatment could be zero for Portland.

Recommendations

We are seeking assistance in obtaining a complete LT2 waiver of additional treatment for the Bull Run drinking water system. We would appreciate your help in presenting the following points to the EPA:

- historical watershed protection provides a superior water source,
- organisms and turbidity can be reduced through appropriate funding for Bull Run road decommissioning and watershed enhancement,
- stricter water quality surveillance throughout the system is available; drinking water monitoring using the HACCP program is now promoted by the EPA, the American Water Works Association, etc.,
- historical public health benefits of the current system,
- treatment costs have been underestimated,

- public health benefits have been overestimated,
- enhanced disinfection provides no measurable improvement in water quality, and
- no sewage exposure at Bull Run.

Vote

Unanimous, with all eight members voting for the recommendation. One position on the nine-member PURB is currently vacant.

August 25, 2004

Congressman Earl Blumenauer
729 N.E. Oregon, Suite 115
Portland, Oregon 97232

Congressman Blumenauer,

The Portland Utility Review Board is a group of citizens appointed by the Portland City Council to review water, sewer, and solid waste rates. We provide opinions to the Portland City Council on issues that drive rate increases. Two important issues are discussed below.

First, the Portland Utility Review Board has voted to ask for your help in advocating on behalf of the citizens of Portland, a full and complete waiver of the Bull Run water system from the EPA Long Term 2 Enhanced Surface Water Treatment Rule. Our vote is based on the economic impact, historical pristine nature, and public health record of the Bull Run drinking water system as described in the attached Issue Paper Recommendation. The EPA is still accepting "late" comment.

Secondly, we request that you pursue new funding sources for Portland's Combined Sewage Overflow (CSO) project which is now estimated at \$1.4 billion and described in the second attached Issue Paper Recommendation.

On behalf of the citizens of Portland we thank you for your attention to these important issues. To follow up, please contact Marty Wilson, PURB Chair, at 503-417-1700 or Brendan Finn, Commissioner Saltzman's Office, at 503-823-3110.

Sincerely,

Portland Utility Review Board

Cc: Congressional Representatives

Attachments: PURB Water Treatment Issue Recommendation
PURB CSO Issue Recommendation

February 8, 2005

Mayor Tom Potter
City of Portland
1221 S.W. 4 th Avenue
Portland, Oregon 97204

Mayor Potter,

It is our pleasure to congratulate you on your new position as Mayor of the City of Portland. We look forward to working with you in assuring responsible oversight of Portland's utilities and in controlling costs.

In our annual report issue paper written last August, the Portland Utility Review Board voted unanimously to ask our Congressional delegation and City of Portland elected officials for their assistance in obtaining a complete waiver from EPA Long Term 2 Enhanced Surface Water Treatment Rule (LT2). The request for this waiver is in response to a proposed EPA regulation to treat our drinking water for Cryptosporidium, a microorganism that is rare in our watershed. Under the current schedule the regulation is to be implemented this summer (August 2005). We would like to take this opportunity to urge you to immediately submit a request to EPA officials for a complete waiver from this proposed regulation. These regulations not only force unnecessary additional disinfection of our drinking water, but would also further encumber the already burdened rate payers of the City of Portland. We support your recent efforts to convene a stakeholders meeting and advance a comprehensive Portland City Council resolution on this issue.

We applaud the first draft resolution for a waiver of LT2 and want to take this opportunity to reaffirm our reasons for the request we made last summer;

- Portland has no public health problem from its drinking water.
- EPA projected millions of cases of endemic disease. There is no evidence the organism is endemic (measurable low level disease).
- EPA projected +140 deaths per year from drinking water. No deaths in over 10 years.
- Portland water has no sewage exposure.
- Sewage exposure is the common denominator in outbreaks.
- Bull Run watershed is protected from human / cattle.
- Additional cost to customers is unnecessary and burdensome.
- Putting expensive treated water into a distribution system that is in disrepair with +25,000 work-hours backlog makes no sense.
- Bull Run Treatment Panel recognized that there would be no measurable improvement in water quality and public health.

Because this is time sensitive, we welcome the opportunity to meet with you and discuss this issue in greater detail at your earliest convenience.

Sincerely,

Portland Utility Review Board

cc Portland City Council
Interested citizens

**PORTLAND UTILITY REVIEW BOARD (PURB)
ISSUE PAPER RECOMMENDATION
March 17, 2005**

Issue

Combined Sewer Overflow (CSO) Project Affordability

Background

On May 14, 2004 the PURB offered rate testimony that included provisional comments about the CSO project. On August 25, 2004 the PURB transmitted to the Mayor and City Council a first issue paper concerning CSO Project Affordability. In that paper we reviewed CSO background information and offered several conclusions. These included:

- Escalation of project cost estimates (most recently from \$1.0 Billion to \$1.45Billion).
- Projected steeply escalating storm water rates to cover those costs.
- Our conclusion that what may have been a sensible solution to a significant environmental and legal problem a decade ago (the “big pipe” CSO project) is now much harder to defend, given costs that are considerably higher than the original decision-makers could have imagined.
- Recent decisions by the EPA to review the City’s CSO plans may increase uncertainties and drive costs even higher.
- The PURB is very concerned about the environmental and human impacts of sewer overflows, and we fully support eliminating them as soon as possible. However the current CSO solution no longer seems tenable.
- We urge the Mayor and Council to review actions being taken by other cities with CSO problems, to review current legal options, to pursue new funding sources, and to explore the possibility of extending the project schedule.

Commentary

In the months since transmitting those conclusions and recommendations, the PURB has met with Bureau of Environmental Services staff, City legislative staff, and representatives of the State Dept. of Environmental Quality. We are now more familiar with the legal, funding, regulatory, and technical issues involved. Although it is clear that the City has been “boxed in” by a series of regulatory decisions, we continue to be quite concerned about the CSO.

Those briefings and discussions have led us to further conclude that:

- The BES “Clean Rivers Plan,” which proposed to DEQ a more phased project that would concentrate resources in surface solutions and minimize the size of an Eastside “big pipe,” was the kind of thoughtful plan that Portlanders have come to expect from their city government. It was rejected by the DEQ, which we believe was a short-sighted decision.

- The growing share of utility costs represented by the CSO is negatively affecting other capital improvement and operations and maintenance needs across all of the utilities, including sanitary sewer and water services.
- The growing share of the City’s budget represented by CSO debt retirement will undoubtedly crowd out a host of other public service needs that are highly valued by Portland citizens.
- Rising utility bills will almost certainly result in increased problems in bill payment, low-income equity impacts, and increased collection and debt forgiveness costs.
- The considerable time that has passed since the original CSO agreements means that current and future ratepayers and decision-makers have little shared understanding of why those choices were made. In other words, there is a low current level of “ownership” of the CSO solution that they have inherited.
- As a result, there is a danger that rapidly escalating CSO costs will lead to lower levels of satisfaction and contribute to declining regard for City government. There is a risk to the City’s ability to undertake needed projects in the future with the full support and confidence of Portland’s citizens and businesses.

Recommendations

The PURB recommends that the following actions be taken (some of which are repeated from our August 2004 issue paper):

- Increase communications with citizens and stakeholders regarding the CSO problem and CSO planning (including the abandoned “Clean River Plan”).
- Review and document for the Mayor, Council, PURB, citizens, and stakeholders just what other cities and jurisdictions are doing in regard to combined sewer overflows.
- Pursue new funding sources, through
 - Formal congressional lobbying
 - State-level lobbying for access to transportation funds for roadway storm water impacts
- Review once again possible current legal alternatives, both with City counsel and the State of Oregon.
- Modify consumers’ utility bills to distinguish and clearly label CSO costs so that they cannot be easily confused with otherwise reasonable water and sewer charges.
- Appoint a broadly representative review panel, with adequate staff and consulting resources, charged with revisiting the CSO issue and re-examining the reasonableness of the “big pipe” solution in light of *current* costs and conditions.

Vote

Unanimous, with seven members present and two absent.

To: Mayor Tom Potter
Commissioner Sam Adams
Commissioner Randy Leonard
Commissioner Dan Saltzman
Commissioner Erik Sten
Auditor Gary Blackmer

From: Portland Utility Review Board

Date: May 18, 2005

Subject: Opinion and Testimony on FY 2005-06 Utility Rates and Financial/Capital Plans

Thank you for the opportunity to comment on the proposed budget for the 2005-06 fiscal period, and the proposed rate increases for water, sewer, stormwater and solid waste services. We appreciate your support and the support of the Bureaus in helping us in our evaluation of the bureau financial and capital improvement plans.

The PURB supports the Mayor's Proposed Budget for the Water Bureau and the Bureau of Environmental Services. The proposed rate increases for the City's utilities are:

Water - 0.6%
Combined Sewer and Stormwater – 5.9%
Solid Waste - 5.9%

The PURB finds these proposed rate increases reasonable and justified.

The PURB commends the City Council for the steps taken within the past year to minimize utility rate increases, specifically:

- The PURB commends the Council for imposing a cap on the utility license fee. We recognize that this cap further constrains general fund resources, and therefore we appreciate the Council's willingness to curtail general fund spending in order to ease the burden on utility customers.
- The PURB commends the Council for seeking relief from the EPA on the pending LT2 regulation, in order to avoid installing costly additional water treatment facilities.
- The PURB commends the Council for the new budget process that today concludes an intensive review of the City's utilities. We believe that this process left no stone unturned in an effort to identify cost savings intended to minimize rate increases driven in large part by the mandatory combined sewer overflow project. In particular, the PURB appreciates the enlistment of volunteer utility financial experts and ordinary citizens to assist in evaluating the Water and Environmental Services budget proposals. The PURB supports the recommendations that this Utility Review Group made in its' report.
- The PURB commends the Mayor's Office for the Bureau Innovation Project, and we

support its' recommendation for the creation of an East-Side Big Pipe Oversight Committee to ensure that this project is well managed, that it maximizes cost efficiencies, and that it encourages contracting opportunities for local and minority-owned businesses.

The PURB has some concerns that it would like to raise with the Council and continue to work on for the foreseeable future, these include:

1. Wholesale water contracts – The continued participation of wholesale water customers in our system is a key factor in keeping rates stable. The PURB shares the desire of the Water Bureau in having the wholesale contracts finalized in a timely manner, and to the satisfaction of all parties.
2. Portland Harbor Superfund Site – The scope of the toxic contamination within Portland Harbor is still being determined. The costs for cleanup, and the size of the City's share of those costs is yet unknown. We are concerned about the financial impact of future cleanup costs, and whether utility customers will be able to absorb those costs in the form of rates.
3. Water Fluoridation – A bill was introduced in the Oregon Legislature this session that would require municipal water systems to add fluoride to their drinking water as a measure to improve dental health. The PURB would like to understand the potential costs, benefits and risks that fluoridation may pose for our water system.
4. Combined Sewer Overflow Project – The PURB is concerned about the high costs of this project and the resulting financial impact to customers. We are concerned about the impact of high utility rates on the City's ability to attract and retain businesses. We are hopeful that the proposed East-Side Big Pipe Oversight Committee will be successful in seeing that the total cost for this project does not rise above \$1.455 Billion. We question whether further cost increases will be affordable for Portland customers.

In recognition of the fact that affordability is somewhat of a subjective attribute of utility rates, the PURB intends to work on defining affordability. Dean Marriott of BES has graciously offered to assist us in that effort.

The PURB intends to continue its efforts at becoming a better-informed advisor to the City Council, and we intend to continue working to better define how we can provide meaningful and necessary community input into the rate making and utility review process.

Date: June 16, 2005
To: Mayor Tom Potter
From: Portland Utility Review Board

Mayor Potter,

The Portland Utility Review Board thanks you for the Portland City Council Resolution addressing the USEPA Long Term 2 Enhanced Surface Water Treatment Rule (LT2). We appreciate participating in the process.

During the last three years the Portland Utility Review Board has officially acted on three occasions, in text and in spirit, to ask for direct relief from LT2 because the Bull Run has no public health problems. This is a position that is also supported by community representatives listed below:

- Environmental organizations – Oregon Natural Resources Council
- Business – Portland Water Users Coalition
- Grassroots organizations – Friends of the Reservoir
- Neighborhood associations – Mount Tabor Neighborhood Assoc.
- Activist – Citizens Interested in Bull Run Inc.

The opinions outlined in the proposed White Paper take the city in two different directions.

- Option 1 – (Bin/Toolbox) is consistent with the support of the community stakeholders. It provides direct and cost effective relief to the community in a format compatible with the EPA's own formula. An added benefit is a continuous water quality monitoring system that we need anyway. (HACCP)
- Option 2 – proposes a multi-year surveillance of disease and surveillance of the watershed. A similar study was performed by New York City concluding there was no direct relationship between the watershed organisms and public health from drinking water. Problems with the proposed methodology and inconclusive data are a concern of the community.

The Portland Utility Review Board supports the option that will give us direct relief, is cost effective, compatible with the EPA's own format, and will be of benefit to the community immediately. This concept reflects the direction we have voted for and supported in the past. We support option 1 (Bin/Toolbox) – (HACCP). Thank you.

Portland Utility Review Board
Frank Ray, Chair
Scott Fernandez
Deborah Lark
Loren Lutzenhiser
Paulette Rossi

Cc City Council