



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

**JAN 27 2012**

The Honorable Jeffrey A. Merkley  
United States Senate  
Washington, D.C. 20510

OFFICE OF WATER

Dear Senator Merkley:

Thank you for your letter of October 13, 2011, concerning the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). You requested that, as the EPA reviews the LT2 rule, we “include an assessment of the unique circumstances relevant to the City of Portland’s drinking water system” and that the EPA “thoroughly explore whether there are more cost-effective ways to counter the risks of contaminated water, taking into full account the unique and extraordinary water supply characteristics of Portland’s Bull Run watershed and other attributes of Portland’s drinking water system.”

The LT2 rule is important for drinking water quality and public health protection. The provision that requires drinking water systems to choose between covering their finished water reservoirs, or treating the water leaving uncovered reservoirs before distributing it to consumers, is intended to protect against the potential for re-contamination of treated drinking water in uncovered finished water reservoirs with disease-causing organisms, specifically *Cryptosporidium*, *Giardia*, and viruses.

The EPA will conduct a thorough review of the LT2 rule. As part of the review, EPA will assess and analyze new data and information regarding occurrence, treatment, analytical methods, health effects, and risk from *Cryptosporidium*, *Giardia*, and viruses to evaluate whether there are new or additional ways to manage risk while assuring equivalent or improved public health protection. Science will drive our ultimate decision.

We intend to hold a public meeting in the spring of 2012 to present and discuss new information related to uncovered finished water reservoirs. The City of Portland is encouraged to participate and to present any information at that meeting, which the EPA will be happy to consider as part of its regulatory review process. EPA looks forward to continuing to work with the City of Portland and other stakeholders as we move forward in this review process.

In your letter you also request a delay of implementation of the LT2 rule requirement to cover open finished water reservoirs while the LT2 review process is underway, taking into consideration the unique circumstances faced by public water systems. The rule review process does not provide a basis to modify the City of Portland’s LT2 compliance obligations. Thus, the requirements of the LT2 rule are and will continue to be in effect throughout the LT2 review process. However, there may be specific facts that warrant compliance schedule adjustments. Many public water systems face multiple challenges as they manage, maintain, and operate their systems. In addition, infrastructure construction projects may also present challenges. It is entirely appropriate for primacy agencies to evaluate these system-specific facts when evaluating a request to adjust a compliance schedule. If a schedule

adjustment is appropriate, the public water system should have robust interim measures in place to ensure public health protection, and those interim measures should remain in effect until that system comes into compliance with the rule.

Many public water systems have already taken action to protect their drinking water as required by the rule, and many others are on a path to do so in the near future. In the 1970s, there were an estimated 700 uncovered reservoirs in the United States. In 2006, at the time the LT2 rule was promulgated, the number of uncovered reservoirs had been reduced to 81. Since then, public water systems have taken steps to cover, decommission, or treat the water before distributing it to consumers at an additional 38 reservoirs. Today, only 43 uncovered finished water reservoirs are still in use, all of which are under enforceable schedules to meet the LT2 rule's cover or treat requirements. Of these 43 reservoirs, most are currently undergoing construction or have schedules to complete construction in the next few years.

Thank you for taking the time to share the City of Portland's concerns. The EPA appreciates Portland's commitment to delivering safe water to its customers. If you have additional questions, please feel free to contact me, or your staff can contact Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy K. Stoner". The signature is fluid and cursive, with a prominent loop at the end.

Nancy K. Stoner  
Acting Assistant Administrator