

Mt. Tabor Q&A

On November 18, 2014, Portland Parks & Recreation hosted a community meeting to discuss the future of the Mt. Tabor reservoirs. At that meeting, an organized group presented Commissioners Fritz and Fish with a flyer containing nine questions. As the meeting's hosts, the Commissioners committed to posting written answers to those questions in a timely way. This document provides responses to the questions and also includes a number of links to source documents. Those source documents offer additional information for those who are interested.

1. "Portland has awarded numerous water infrastructure projects to CH2M Hill. Last year, CH2M Hill admitted to the U.S. Department of Justice that it committed federal criminal violations; engaging in years of widespread fraud at the Hanford Nuclear Site in Washington (a). In addition, CH2M Hill's newly completed Powell Butte reservoir project is millions of dollars over budget, has been leaking hundreds of thousands of gallons of water every day, and their sub-contractor knowingly poisoned Johnson Creek with lethal levels of chlorine at least 14 times (b). Why are you continuing to award no-bid, no-cap contracts to a corporation that is criminally fraudulent, financially irresponsible, and environmentally destructive?"

There have been no "no-bid, no-cap contracts" awarded on the reservoir projects.

The City procurement process is prescribed by State statute and City Code. The Water Bureau follows the City of Portland's [procurement process](#) and State of Oregon [ORS 279A](#) and [ORS 279C](#) for public contracts. Bidding for construction on the Powell Butte project was a formal, competitive, low-bid process that followed City Code ([Ch 5.34 Public Contracts](#)) and State statute.

There were two phases to the [Powell Butte Reservoir #2 Project](#). Phase 1 was early site work and initial reservoir excavation. Phase 1 was designed by Portland Water Bureau staff and was competitively bid for construction. Phase 2 was the remainder of the site work and the reservoir and associated piping. Phase 2 was

competitively bid for both design and construction. Phase 2 was designed by CH2M Hill and its sub-consultants – all of which were competitively bid.

CH2M Hill was selected as the prime design contractor on the Powell Butte Reservoir #2 Project under a Professional Technical Expert contract ([Ch 5.68 COP PTE](#)) using the City’s standard bidding process (Powell Butte Reservoir #2 Phase 2 Design [PTE WTR 075](#)). CH2M Hill also followed the City’s procurement standards in selecting sub-consultant services.

SSC Construction, Inc. was selected by the City to construct Powell Butte Reservoir #2 Project, Phase 2 through a low-bid contract (see attachment for Construction Bid # 112503), again in accordance with City Code and State statute.

The Powell Butte Reservoir #2 Project is expected to be approximately \$20 million **below** budget when completed. The project was [budgeted at \\$138 million](#) and is expected to be completed at [\\$118 million](#) (2013-2014 CIPAR, p.70).

The Water Bureau worked with the construction contractor SSC Construction, Inc. to address the leaks before putting the reservoir in service. Hairline crack repair is typical in reservoir construction, and was an anticipated part of the original contract (as with any reservoir construction project). The method and standards for the repairs were included in the contract. Hairline cracks were resolved before the reservoir was put into service. The reservoir is not leaking “hundreds of thousands of gallons of water every day.”

On April 17, 2014, the Department of Environmental Quality (DEQ) [issued the City of Portland a civil penalty](#) of \$40,800 because SSC Construction, Inc., the City’s contractor on the Powell Butte Reservoir #2, Phase 2 project, had three instances of non-compliant chlorinated water discharges into Johnson Creek and one instance of non-compliant monitoring. These actions did not comply with one of the City’s DEQ permits. PWB has never before had a discharge violation of this type. Upon discovery, PWB self-reported the incident to DEQ and took steps to bring the contractor back into compliance in late 2013, ultimately changing the on-site drainage system so that a discharge like this couldn’t happen again.

2. “Former Portland Water Bureau Chief Joe Glicker, who is now the regional CEO of CH2M Hill, helped the EPA write the LT2 rule that threatens our reservoirs today.

All of Portland’s large-scale water infrastructure contracts, worth more than a billion dollars, have been awarded to MWH and CH2M Hill, companies where Joe Glicker has held an executive position (c). The Water Bureau has also kept Glicker on paid retainer as a consultant! Why do all our large scale, no-bid water contracts go to companies where Glicker is a CEO? Given the obvious conflict of interest, why does the City pay Joe Glicker to consult on water projects? How much does the City pay him? How much has CH2M Hill contributed to your campaigns?”

Mr. Glicker was the Chief Engineer, not the Chief of the Portland Water Bureau. He has not worked as an employee of the City for more than 20 years (excerpt from [Water: Portland’s Precious Heritage, Appendix E](#)).

Mr. Glicker is not on paid retainer and has no contract as a Portland Water Bureau consultant. He has not worked on any Portland Water Bureau projects in more than a decade.

Commissioner Fish reports a \$100 campaign contribution from CH2M Hill in 2004. We understand Mr. Glicker was not with CH2M Hill at that time. Commissioner Fritz confirms that neither Joe Glicker nor CH2M Hill have contributed to her campaigns.

3. “Well-reasoned science suggests that some underground reservoirs pose increased health threats to humans, including cancer from radon, heavy metals, bacteria, and nitrification (d). Given that Mt. Tabor’s water system already provides healthy water, why are you not taking substantive action to keep the system functional?”

Radon dissipates via natural mechanisms in both uncovered and covered reservoirs. In covered storage reservoirs, radon dissipates through vents in the reservoirs (the vents allow for air flow between the reservoir and the outside environment as water levels rise and fall throughout the day).

Radon is a colorless, tasteless, odorless radioactive gas produced during the breakdown of uranium, a naturally occurring mineral in rocks and soil. The overall exposure of radon from Portland’s drinking water [is low](#).

The primary route of radon exposure is inhalation of the air in a home. According to the [Environmental Protection Agency \(EPA\)](#), radon in soil under homes is the biggest source of radon in indoor air and presents a greater risk of lung cancer than radon in drinking water.

It is estimated that only [1-2 percent of radon in the air comes from drinking water](#), and only when and if it is present in the drinking water source. Radon has never been detected in the [Bull Run](#) surface water supply (2014 Water Quality Report, page 2).

Radon is sometimes found in groundwater and it has previously been detected at varying levels in the Columbia South Shore Well Field. In Portland Water Bureau's system, groundwater typically constitutes less than 5 percent of the total annual water supply.

Additionally, radon has a half-life (the amount of time for half of the substance to decay) of 3.8 days. This means that radon will continue to decay and dissipate as it travels from the groundwater wells throughout the distribution system to a home.

The EPA, the U.S. Surgeon General, and the Oregon Health Authority all recommend that the public test for radon gas in their homes. More information on this topic can be found at <http://epa.gov/radon/>.

4. "The EPA is currently reviewing and may revise their LT2 ruling in 2016 (e). Would you abandon the Mt. Tabor reservoir disconnect if the ruling were reversed? What would be the implications of postponing project plans until 2016? How large is the supposed EPA fine?"

- a. "Would you abandon the Mt. Tabor reservoir disconnect if the ruling were reversed?"

The City Council at that time could consider reversing the disconnection if the LT2 rule is reversed. The disconnection is designed to be reversible.

- b. "What would be the implications of postponing project plans until 2016?"

If the Water Bureau postponed projects or otherwise failed to comply with the current LT2 Rule compliance schedule, it would be subject to fines per reservoir, per violation, per day, at a potential cost of greater than or equal to \$75,000 per day, in addition to other possible sanctions (Safe Drinking Water Act Penalties documents [p. 379](#) and [385](#)).

c. “How large is the supposed EPA fine?”

Under Section 1414(b) of the Safe Drinking Water Act, the EPA may issue fines up to \$25,000 per day per violation. This fine could be assessed per reservoir, per day, at a potential cost \$75,000. This does not include other possible sanctions assessed by the State of Oregon.

5. “City Hall has been very vocal about Portland’s need to prepare for a 9.0 earthquake. Why even consider destroying our best source of accessible emergency water? Why not leave open an option to reconnect?”

The disconnection work at Mt. Tabor is reversible.

The Water Bureau is actively working to understand the risks associated with its seismic vulnerabilities and identify how to get the system back up and running quickly after a seismic event.

[Several engineering studies](#) have found Portland’s five open reservoirs, constructed in 1894 and 1910, to be structurally unsound (see [p. 225, 231 and 232](#) of the Oregon Resilience Plan and [two emails](#) for the Independent Review Panel in 2004 specifically addressing Mt. Tabor’s seismic vulnerability). The [open reservoirs](#) were constructed with very little rebar and thin, 9- to 12-inch walls and base. Reservoirs 5 and 3 have many cracks and require rubber liners to help retain water. Mt. Tabor’s Reservoir 1 has leaked since it was built in 1894.

The major focus of the PWB for the last several decades has been to ensure that the water supply facilities can withstand seismic forces and be functional immediately after an earthquake. Some recent examples of projects to support seismic resiliency include upgrades of the Groundwater Pump Station and Headworks, and hardening of the conduits.

One of the three conduits is completely buried from Bull Run to the hub at Powell Butte. The bureau recently completed a project to bury Conduits 2 and 4 under the Sandy River to reduce their vulnerability.

The Water Bureau anticipates beginning construction on a new crossing of the Willamette River within the next five years.

Seismically sound reservoirs are under construction at Kelly Butte and Powell Butte, and the design for a new reservoir at Washington Park is currently underway with construction scheduled to start in 2016. New reservoirs at Kelly Butte, Powell Butte and Washington Park will meet current seismic standards.

The Water Bureau is confident that this new storage, with structures built to today's earthquake standards, will significantly reduce Portland's vulnerability.

6. "The U.S. government has granted National Historic Landmark (NHL) status to the Mt. Tabor reservoirs, parks and buildings. Why are you proposing to destroy resources of value to every American citizen? Wouldn't limited park funds be better spent on the underserved East Portland area?"

The Water Bureau believes the project under consideration preserves and protects the historic resources. No Parks funds are being spent on the Water Bureau project.

Mt. Tabor Park and Mt. Tabor Reservoirs are both listed on the National Register of Historic Places ([two documents](#) and [photos](#)) as historic resources, not "National Historic Landmarks." The proposal is being reviewed by the Portland Historic Landmarks Commission and the Oregon State Historic Preservation Office. If any resources will be adversely affected, mitigation will be required to preserve the historic value of the resource.

7. "Many municipalities across the country received LT2 extension deferrals. At one point you pledged to seek a deferral, but you have not practiced due diligence in this matter. How, when there are still options available for securing a deferral, can you justify abandoning this effort?"

The Council does not agree that there are options available for securing a deferral.

No city in America has received a waiver or a variance from the uncovered reservoir requirement of the federal LT2 mandate.

The City of Portland worked with a broad coalition to fight the unfunded federal LT2 mandate for a decade. The City pursued a number of paths to avoid the requirement, including working with its federal Congressional delegation, filing a lawsuit in federal court, and appealing directly to the EPA. The City requested a deferral from the Oregon Health Authority (OHA) three times, and was denied three times, including as recently as April 2013.

Following a federal court's rejection of Portland's [legal challenge](#) to the final LT2 rule on November 6, 2007, Portland developed a schedule for replacing its existing open drinking water facilities with enclosed storage. Portland was required to submit the schedule and have it approved by the federal Environmental Protection Agency (EPA) by April 1, 2009. [EPA approved the schedule on March 27, 2009.](#)

In November 2009, then-Commissioner-in-Charge Randy Leonard requested direction from the EPA regarding how the City could pursue a potential variance to the uncovered reservoir requirements of the LT2 rule. In [January 2010, the EPA responded, indicating that variances are not applicable to the uncovered reservoir requirements of the LT2 rule.](#)

In February 2012, the Portland Water Bureau submitted a detailed [request](#) for an extension (deferral) to its uncovered reservoir compliance schedule. The extension was based on a similar request granted to New York City and requested additional time for the Water Bureau to manage the large design and construction contracts that are required to complete the work. On May 18, 2012, [the Oregon Health Authority rejected](#) the Water Bureau's request for an extension.

On February 4, 2013, then-Commissioner-in-Charge Steve Novick submitted a [revised request](#) for an extension to the uncovered reservoir compliance schedule. The revised request was based on economic and regulatory

circumstances cited by the City of Rochester, New York in its successful request for an extension to its own state mandated uncovered reservoir compliance schedule. Congressman Earl Blumenauer also submitted a [letter](#) in support of Commissioner Novick’s request. In April 2013, OHA denied Commissioner Novick’s request.

Portland City Council announced in a [letter](#) on June 3, 2013:

“The City of Portland has been turned down several times over the years in its request to avoid or delay complying with public health requirements regarding open drinking water reservoirs. In May 2013, the Oregon Health Authority refused our latest request for a delay.

Faced with no other legal options and with deadlines looming, the city will move forward to meet the compliance timeline.”

8. “You both have been outspoken about your support for the new City Comprehensive Plan. However you have both failed to abide by the following Goals for Community:

2.D: Transparency and Accountability. You have repeatedly negotiated contracts with private industry behind the scenes while telling the public that you are fighting for us. You have not afforded the community our right to be substantively heard about our legitimate concerns in these matters. Your processes are not balanced.

2.E.: Meaningful Participation. The public has not had meaningful opportunities to participate in and influence all stages of planning and decision-making as is required...you have only allowed meaningful participation regarding what would happen once the Reservoirs are shut down.

2.F.: Accessible and Effective Participation in city planning, policy, investment, and decision-making processes. The public has had no ability to influence these processes, only to discuss what to do after the fact, and fight to save some trees.

How can you justify not filling your promise to abide by these sections of the Plan?”

We believe we have kept our promises.

The new Comprehensive Plan has not yet been considered or adopted by Council, and neither Commissioner Fish nor Commissioner Fritz have commented on the proposal currently under review by the Planning and Sustainability Commission. Each of us have demonstrated our commitment to transparency, accountability, meaningful participation, and accessible and effective participation throughout our service on the Council.

We co-sponsored the public involvement process over several months earlier this year to engage community members in the land use process discussing the disconnection project, before the design was final. Input from neighbors contributed to some changes in the design of that project, including preserving trees.

Since it is currently in the quasi-judicial system and the issue may be appealed to the City Council after the initial decision by the citizen volunteers on the Historic Landmarks Commission, we are not allowed to comment on the specifics in the application.

9. “You both ran your elections on platforms of accountability, discretionary budget management, and not serving corporate over public interest. Yet, you censor the public from discussing legitimate economic, environmental, and health concerns, you give no-bid, no-cap contracts to your associates, and you clearly cannot control what have become multi-million dollar cost overruns. Why have you both failed to uphold campaign promises to practice honest and efficient governance in contrast to the typical bureaucrat?”

We disagree with the tenets of the question. It does not deserve the dignity of a response.