

The Friends of the Reservoirs

Introduction to the Organization and Its Goals

1) Who are the Friends of the Reservoirs?

We are citizens concerned about Portland's open reservoirs. We treasure these landmarks that have shaped our parks, enhanced our city, and provided excellent water for over a century. We seek a water system that remains safe and secure, preserves our superb water quality, minimizes rate impacts, and values open reservoirs as part of our parks and public spaces. We believe that citizens should be equal partners in designing any public processes that will impact the reservoirs' character and function.

Members of the Friends of the Reservoirs come from both sides of the Willamette. At any given time, about 20 members constitute the core working group. These members attend bi-monthly meetings, and develop and implement our public campaign. The work of this core group is magnified by the support of 1400 concerned citizens who have participated in one or more events. The Friends inform and mobilize volunteers through our listserv of 300 members, our electronic notice board with another 250 members, a phone tree of supporters, and a website.

2) What first caused citizen opposition to the project?

Opposition to the proposal to replace the reservoirs with buried tanks quickly developed because of the City's careless, perhaps even arrogant, approach to citizen involvement. Citizens were incensed that the city would claim that the appearance of a single line item in a budget was sufficient notice and an appropriate venue for citizen discussion of an issue with such significant impact. Citizens reacted strongly when they were instructed at the first public meeting (by a representative of Montgomery Watson and Harza (MWH), consultants working for the water bureau) that citizens could only talk about "what goes on top."

3) What were some of the red flags first noted by the Friends?

Many of the Friends have experience reading or preparing consultant reports and legal documents. We immediately recognized several problems with the work of the consultants. There was a significant amount of boilerplate material that repeated, without new support or documentation, material copied from earlier

studies. The consultant reports were heavily self-referential; that is, they justified current findings based on their own previous work. We recognized that the consultants were not neutral parties. Consultants had interests to promote. By arguing for increased security or highlighting the necessity of new water quality requirements, they were making the case for additional studies and creating new opportunities for design and construction contracts.

The Friends consulted with Portland Utilities Review Board (PURB) members who are familiar with the cost and impact of the project and who understand the need to maintain deep open water reservoirs. These PURB members had also observed how the Bull Run Treatment panel had been “workshopped” by the Water Bureau, consultants, and equipment vendors so that the panel would produce the predetermined recommendation. In regards to that panel, the minority report that suggested a different treatment other than filtration was not published with the final report, nor was the abstaining panel representative’s view mentioned.

Also, we found support for our concern about their style and motivations in their own documents. In a MWH, July 2002, memorandum *Open Reservoir Study - Permitting Strategy*, the author states,

“It will be important for the City to “manage” the P1 [Public Involvement] process in a way that does not significantly delay the City’s ability to protect its municipal water supply. In essence, effective P1 is absolute for project success and it must balance meaningful public input while maintaining the Water Bureau’s construction schedule.”

In the end, MWH’s intent reframes the public involvement process as a public information campaign where public input is “managed”. In the “managed” process, professionals control the schedule, the flow of information, and frame what, when, and how questions may be asked. In this way, the most important questions are kept off the table so that “the Water Bureau’s construction schedule” is maintained.

4) The first justification for the project was based on security risk, how did the Friends respond to this concern?

All of the Friends were and remain concerned for public health and safety. On learning about the project, the first step was to seek more information from the water bureau. Conversations revealed that there was more driving the project than security. A large concern of the Friends was the fast-tracked timeline of demolition and construction. If security was just one issue, then why should the

project have to proceed in such a hurried fashion? More research revealed that the project would address a perceived level of security risk, not actual security risk.

Skepticism mounted. We learned that other serious system risks were not being acted on. From the beginning, the city and consultants had no response to the issue of intentional backflow contamination. Nor did they take any action to protect other easy points of entry such as storage tank access lids.

We also recognized that public perceptions of security risks are easily manipulated. In fact, a member of the MWH consulting team had published an article on how easily the public can be influenced by irrational fears about water safety. We recognized that risk is not some absolute that can be determined by technical calculation. Risk is very much contextual and relative. Risks must be compared to others risks. Risk mitigation must be weighed against costs. Ultimately, we must accept some level of risk in all things that we do.

Even if the reservoirs are buried or covered, many potential security risks will remain in the parks and throughout the entire water system. For example vaults and hatches for the buried tanks will need to be located throughout the park for conduit and valve access. The Friends would like to see security issues addressed in realistic terms, coupled with community values.

5) What other events raised concerns at the beginning?

The Water Bureau's credibility was already in question. It had pushed for a comprehensive billing system, had not adequately overseen its vendor contract, and only reluctantly acted to correct the problem. Cost to the ratepayer . \$20-30 million.

The Water Bureau and Commissioners Sten and Saltzman were pushing hard for a regionalization of the water system. Even though significant concerns were being raised by citizens, the City Auditor, and members of the PURB, resistance was slow to mobilize. The Friends were concerned that the push for regionalization and a large centralized filtration system was the real driving force behind the decision to bury the reservoirs. We continue to believe that the two are very closely related.

6) On what basis can the Friends claim legitimacy as important stakeholders in this process?

Through grassroots organizing and demonstrations of widespread public support, we have established our claim as significant stakeholders in this process. Friends of the Reservoirs have also received support for our position from:

- A majority of the members of the Public Advisory Commission (PAC) who participated in the panel examining “what goes on top”
- Portland Water Users Coalition
- City of Portland Historic Landmark Commission
- Architects, Designers and Planners for Social Responsibility
- Bosco-Milligan Foundation Architectural Heritage Center
- Southeast Uplift Neighborhood Coalition and numerous neighborhood organizations throughout the city (Pearl District, Arlington Heights, Mount Tabor, South Tabor, Concordia, Overlook and others)
- More than 1000 citizens who twice demonstrated their opposition by holding hands and circling Mt. Tabor’s largest reservoir
- Portland Utilities Review Board former chair, Jim Abrahamson
- Seventy seven percent of poll respondents who said they favored a review of the reservoir plan.

7) Why did the Friends choose an adversarial strategy?

We did not choose an adversarial strategy; it was the only strategy that remained when our concerns were ignored. We faced enormous odds in getting our case to the public. The decision to destroy the reservoirs and replace them with buried tanks was presented to the public as part of the City’s response to security concerns following the tragedy of September 11. Citizen resistance to the City’s decision was framed by members of the Council as irresponsible and narrowly self-interested. Rather than creating a space for dialogue with concerned citizens, we were described as uncompromising and only interested in aesthetic issues.

Until the creation of the Review Panel, the City Council has insisted that the appearance of a line item relating to the reservoirs in the May 2002 budget was adequate public notice. In presenting the decision to the public, the City Council

sought to limit citizen discussion to “what goes on top.” In our many appearances before Council, they reaffirmed this position. Commissioner Saltzman, in every public statement to date, has stated that he believes the decision to bury was the correct one. Only with the creation of the review panel, did he acknowledge that other solutions may be possible.

The City also had the weight of its professional water bureau bureaucracy and their well paid consultants behind its decisions. The primary recourse that a citizens group has, to overcome this deference to specialist knowledge, is to challenge assumptions, identify contradictions, expose cozy relationships and question the process by which conclusions were reached and issues were framed. This is by necessity an adversarial process.

The adversarial model is also an artifact of how the media reports on local issues. Rather than seeing our work as a part of an ongoing dialogue over a public policy issue, the media most often frames controversial news stories as dualities. While this provides a forum for our ideas, it also constructs the Friends as oppositional and defiant of authority.

Portland’s commission form of government also forces citizens to become more adversarial. Commissioners have both managerial and political roles. Like other managers, they are dependent on their agencies to provide them with information. They do not have independent resources to challenge agency established policy. As managers, they will more often defend agency policy against challengers. Unlike Council members who are elected from Districts, they do not have a neighborhood constituency to please and are therefore unlikely to champion what they perceive to be a neighborhood cause.

8) What sort of relationship do the Friends hope to establish with the review panel?

The creation of the review panel provides the opportunity for a new type of relationship, one that is more dialogic than adversarial. We welcome the opportunity to break away from position taking and engage in a participatory problem solving process. Rather than testifying before the committee and presenting legalistic briefs, we would like to enter into a conversation about the strengths and weaknesses of the claims made by all sides. That suggests a very different process than what we have experienced with the City Council where we have been limited to a one-way presentation limited to 3-minute sound bites. You are fortunate to have at your disposal a facilitator who is trained in these techniques and who could guide us in this process. If we engage in a process in which we are both full participants, we have the possibility of developing mutual

understanding, so that we can arrive at an inclusive solution that will engender a sense of shared responsibility.

9) When the review panel was presented for approval before City Council, the Friends spoke in opposition to the process that resulted in the creation of the panel. What are the Friends concerns?

At issue are the basic principles of dispute resolution.

- all stakeholders in the dispute must be at the table
- stakeholders jointly determine the nature of the problem and options to be considered
- they mutually agree on the rules of the game
- they jointly select those who will arbitrate the dispute

Using these basic principles as a guide, we perceived several problems with the process that led to the creation of the review panel.

The Friends were not at the table: We have established our claim as stakeholders in this process. However, we were not invited to participate in determining the structure, process or constitution of the review panel.

The Friends did not participate in determining the nature of the problem or options to be considered: It is a truism that those who frame the issue and choose the options largely determine the outcome of the process. In his press release, Commissioner Saltzman took full advantage of his ability to do this. First, he described the reservoirs as “wide open to contamination both incidental and intentional.” Second, he instructed the panel to consider only very narrow concerns like the “infrastructure needs of these aging facilities, the security issues raised by the vulnerability studies and the City’s required response to pending federal drinking water requirements.” Third, he also constrained the options the committee could consider to only five and specifically excluded consideration of one of the alternatives the Friends have proposed — real time monitoring.

Had we participated in the process, the issue would have been framed in quite another way. Our starting point for discussion would begin with the understanding:

- that the reservoirs are a unique and irreplaceable resource for the city
- that a critical aspect of their historic character is their continued operation as functioning open reservoirs
- that burial is a last option; to be considered only when all other alternatives

are exhausted

- that the City should be actively pursuing efforts to shape the EPA rules to allow city water systems to meet performance standards rather than specific regulatory solutions
- that creative solutions and minimal mitigation can address EPA concerns.

The Friends did not participate in setting the rules of the game. For example, we have been excluded from helping determine:

- how public testimony is taken
- how written testimony will be submitted, distributed and evaluated
- whether any issues will be excluded from consideration
- public access to all meetings and whether closed meetings will be permitted
- public access to documents
- how the public will be notified of meetings
- what time of the day the panel will meet
- how resources will be expended and technical advisors selected
- how long the panel will remain active

This list is suggestive not comprehensive. While some of the issues are yet to be determined, others have already been decided. Commissioner Saltzman has stated that some options are off the table. He has limited the committee to 90 days.

The Friends did not participate in the selection of those who will arbitrate the dispute. Commissioner Saltzman nominated the panel and chose the chair. This is our most important reservation about the proposed panel. Commissioner Saltzman has not changed his position on the reservoirs. In his recent press release, he reiterated his belief that “the City Council’s May 2002 decision to bury [the reservoirs] was a good one.” Therefore it seems unlikely that his selections are unbiased. While we withhold judgment on the individuals who have been selected, it is clear who has been excluded, citizen stakeholders .not only from the panel .but from participation in the process of creating the panel. We believe that Council truly wants to see a resolution to this dispute, but this can only

happen if citizens and stakeholders own the process. But it is hard for citizens to own what we did not help create.

10) Do we continue to have reservations about aspects of the review panel?

While many of our general concerns remain, we are heartened by the early response of Ogden Beeman and the review panel facilitation team. We have asked for meetings to discuss how the work of the panel will be conducted and they have responded. We hope that this openness will continue and that it is an indication that we are entering into a more dialogic relationship.

Having said this, we will continue to identify specific concerns that we believe stand in the way of open discussion and unbiased evaluation. Commissioner Saltzman has stated that all members will come to the panel unburdened by previous position taking on the Reservoirs. However, one member of the panel, William Glaze, does not meet that criteria. Dr. Glaze was the chair of the committee that wrote the EPA rules that are being cited as justification for burial. He has supported the position of the EPA expressed in the draft rule. Since we believe that one of the solutions to the reservoir problem is to challenge the draft EPA rule (as many of the other large unfiltered water systems have done), we find it difficult to see how Dr. Glaze can be considered impartial.

We are also concerned with the criteria for the selection of the technical advisor. The reservoir issue spans many areas requiring specialist evaluation. Besides water quality and security, it involves land use and planning, park design, legal issues, historical resources, public participation, and public finance. However, the technical advisor is a specialist in only one of these areas, water quality. Because no professional evaluation or testimony is being sought in any of the other areas, we feel that these concerns will only be considered at the margins.

Other panels and advisory committees related to the reservoirs or water issues have fallen short of offering the whole view of an issue. As mentioned in #3, the Bull Run Treatment Panel began with a predetermined outcome, that the Bull Run needed additional treatment, and the minority and abstaining members reports were ignored in the final report. In the “what goes on top” Public Advisory Committee, the Memorandum of Concern, signed by a majority of the representatives, was not included in the final PAC report. These issues seem to be troubling symptoms of a less than open and fair process.

11) How has the city’s rationale for destroying the current reservoirs and

replacing them with buried tanks changed over time?

The City's rationale began as one of security. The City emphasized that the reservoirs are vulnerable to intentional contamination. As the evidence has mounted that:

- risk of intentional contamination has been overstated,
- covering the reservoirs adds only marginal levels of protection,
- other easily accessed points of entry for intentional contamination will remain after the reservoirs are buried,
- that risks to other parts of the system, such as seismic risks to river crossings and trestles are more imminent and dangerous,

the City has shifted its emphasis to the necessity of compliance with pending EPA regulations.

As we have challenged the City's reading of rule requirements and have demonstrated that compliance does not require burial or covering. And as we have asked the City to join other unfiltered systems such as Boston, Seattle and New York in their efforts to redraft the rule to allow performance standards rather than a particular regulatory solution, the City has shifted to their latest justification, that the facilities are aging.

We also find the "aging facilities" argument problematic since documentation from the water bureau's own study states that the reservoirs are sound and can be maintained for another fifty years.

12) What actions have the Friends taken to advance our cause?

The Friends have engaged in a persistent campaign to raise public awareness. In a separate document in this folder we provide a timeline of many and varied activities we have undertaken,, Below are some highlights:

- Establishing an organizational structure, Friends of the Reservoirs
- Maintaining an active research program involving soliciting and reading thousands of pages of documentation on the project and related water issues
- Meeting every two weeks since the campaign began

- Creating two listserves, a distribution list and phone list of supporters
- Creating and maintaining a website
- Developing poster, yard sign, t-shirt, and bumper sticker campaigns
- Publishing and distributing informational brochures
- Sponsoring a public information forum attended by 170
- Sponsoring two Hands Around the Reservoirs (January and September of 2003) that attracted approximately 800-1000 supporters to each event.
- Sponsoring Historic Preservation Day event at the Mt Tabor Reservoirs
- Doing extensive historic research on the reservoirs
- Writing the nominations for the National Register of Historic Places for the reservoirs at both Washington Park and Mt Tabor Parks
- Attending and commenting at all the public forums and all the PAC meetings
- Developing a supportive relationship with the Water Users Coalition
- Maintaining an active media campaign that has resulted in widespread coverage
- Developing white papers on costs, consultants, alternatives and other issues
- Testifying before City Council six times
- Developing a successful fundraising campaign that has raised well over \$25,000 (This figure does not recognize the value of volunteer hours)
- Implementing informational campaigns aimed at neighborhood organizations and other groups.
- Tabling at neighborhood events
- Challenging the City land use decisions at LUBA, appellate and circuit courts

- Undertaking a legal challenge to the City's issuance of revenue bonds
- Getting three initiative petitions approved for circulation and implementing a campaign to gather petition signatures
- Hearing from Council and Mayoral candidates who have attended Friends' meetings
- Actively supporting candidates for office
- Developing a comprehensive position statement for the Reservoir Review Panel
- Helping to foster an understanding of broader issues of concern in the city (campaign finance reform, conflicts of interest in contracting, disregard for public process, planning guidelines and code)
- Working exceptionally hard and not giving up

13) What is the basis and the current status of the Friends legal, political and preservation efforts?

Land use appeal: The case is based on the argument that the city improperly used an exception to the permit definition to avoid an evidentiary hearing regarding the cover and bury projects. The Portland zoning code requires conditional use review with an evidentiary hearing before it can change the reservoirs from a combination storage/purification use to a new storage/protection use. The appeals of both the Washington Park and Mt. Tabor projects are pending before the Oregon Court of

Appeals. An injunction is also be pursued in Multnomah County Circuit Court to rectify the city's violation of its own zoning code.

Bond Case: Oregon law requires public notice before issuing revenue bonds. Here the city not only failed to give notice of its decision to bond fund the reservoir project, it actively concealed its plan in order to bypass public opposition. The purpose of the bond suit is to compel the city to obey Oregon law. The case has been pending for several months and the judge may rule at any time. In the interim, the City has reconfigured and approved the sale of a limited amount of bonds. In doing so, it has provided a specific description of bond purposes and has specifically excluded the use of these bonds for the Mt Tabor reservoir replacement project.

Initiatives: Petitioners were alarmed by the Water Bureau's determination to avoid public scrutiny of its decisions. Oregon law prohibits an initiative petition from addressing more than one topic. Therefore, the first petition requires a public vote before the Water Bureau can sell or destroy any system infrastructure. The second petition limits the amount rates can be increased for capital spending projects to a 3% rate increase (approximately \$15 million) per year without a public vote. The third petition establishes a public board to set annual water rates. The three petitions have been approved for placement on the ballot and the Friends have an active campaign to gather the signatures to get them placed on the November ballot.

Nomination of the Reservoirs and Parks to the National Register of Historic Places: As of January 15, 2004, the Mt. Tabor and Washington Park Reservoirs have been placed on the National Register of Historic Places. A separate nomination has been submitted for Mt. Tabor Park. The city's zoning code acknowledges the importance of national register properties and provides for a thorough design review process in regards to alterations and demolitions.

Section: Introduction to Friends organization and its goals

Appendix

- A. 12/16/03. Letter from Friends of the Reservoirs to Commissioner Saltzman
- B. 0 1/08/04. Letter from Commissioner Saltzman to Friends of the Reservoirs Executive Board
- C. Summary: Land Use Cases
- D. Summary: Revenue Bond Case
- E. Summary: Initiatives to Change the City Charter
- F. Timeline of Activities