



Suite 2300
1300 SW Fifth Avenue
Portland, OR 97201-5630

John DiLorenzo Jr.
503.778.5216 tel
503.276.5716 fax

johndilorenzo@dwt.com

February 21, 2012

Terence L. Thatcher
Deputy City Attorney
1221 SW 4th Avenue, Suite 430
Portland, OR 97204

Re: *WATR v. City of Portland*
MCCC Case No. 1112-15957

Dear Terry:

When you and I spoke several weeks ago, we thought it best for you to have an opportunity to review my list of discovery topic items and then let me know whether, and how much, the Water Fund and the Sewer Fund have expended over the last 10 years with respect to each category. If the funds have made no expenditures for certain categories, there will be little need for further discovery concerning those items. If, on the other hand, the funds have expended significant amounts on other categories, we will likely have further discovery requests. Our categories are as follows:

Pertaining to the Water Fund:

From complaint:

1. Public financing of political campaigns.
2. Portland Loo Projects and maintenance.
3. Purchase of and renovation of Rose Festival building.
4. Hiring of additional staff including former Bureau of Development Services employees to perform work unrelated to the water system (e.g. Rose Festival building renovations, Dodge Park renovations, etc.).
5. Dodge Park master plan and park projects.
6. Construction, staffing and operation of a so-called "Water House."

DWT 19046056v1 0094650-000002

Anchorage
Bellevue
Los Angeles

New York
Portland
San Francisco

Seattle
Shanghai
Washington, D.C.

7. Development and maintenance of hydro parks.
8. Powell Butte II project non-water related park amenities (new caretaker residence, amphitheater, etc.).
9. Green Streets and other transfer payments to BES and other agencies.
10. Park Bureau decorative fountain modifications and maintenance.
11. Costs associated with Rose Festival ships.
12. Utility relocation costs (normally paid for by project sponsors) for Street Car and light rail projects.

--Additional programs not yet specified in the complaint:

13. Columbia Southshore land lease – Carollo UV validation facility agreements.
14. Mount Tabor Maintenance Yard Land Exchange
15. Update of 1983 publication of “Water Portland’s Precious Heritage”
16. Bear Creek House renovations and related sponsorship of events at Bear Creek.
17. Bull Run Cabin renovation.
18. Bull Run tour and advocacy program including bus purchase, staff including new bus driver position.
19. Domestic travel, meal and lodging expense by commissioners and city staff and consultants.
20. International travel, meal and lodging expense by commissioners and city staff and consultants.
21. Concert sponsorships, history event sponsorships, sponsorships of other community events.
22. Gifts (e.g. mailed water bottles, t-shirts, etc.) to infrastructure project supporters.
23. Public opinion polls from Davis, Hibbits, and Midghall presented to regional water providers.

24. System development charge waivers for builders of certain low income housing, other real estate developers and other subsidies for individual ratepayers. (In the past, the City granted these waivers from system development charges that were charged to developers to pay for the cost of providing water, sewer and storm water infrastructure. Utility customers now subsidize the new development through their utility charges).
25. Hurricane Katrina expense of \$1,976,259.00 which was incurred by "volunteering" staff of the Water Bureau while keeping them on payroll. Also specify amounts reimbursed from FEMA and length of time between expenditures and reimbursements. Specify fund(s) to which reimbursements were deposited.
26. Other charitable donations or other grants or donations to organizations, including identification of those organizations.
27. Professional association memberships, conference registrations, and travel, meals, entertainment and lodging associated therewith not included in No. 19 or 20.
28. Green power and green fuel purchases.
29. Ongoing utility licensing/franchise fees
30. Production and other costs associated with u-tube video on bike safety.
<http://www.youtube.com/watch?v=V4NDn06YvsU&noredirect=1>
31. Transfers from Departments employed by the Water Bureau to City Discrete Budget.
32. Value of time spent by Water Bureau personnel to conduct investigation of Fire Bureau/Bill Sinnott matter and other instances of bureau employees conducting investigations for other bureaus. Was the Water Bureau reimbursed for that expense?

Pertaining to the Sewer Fund:

From complaint:

1. Public financing of political campaigns.
2. Park arborists expenses.

3. Greenspace land acquisitions under the pretext of storm water management.
4. Centennial Mills acquisition led by Portland Development Commission.
5. River planning activities.

--Additional programs not yet specified in the complaint:

6. Portland Harbor Superfund cleanup costs. The bases of the City's liability go beyond any COC's which may have been discharged to the river through the storm or sanitary sewer system. These are in excess of 60 city owned properties, stations, and facilities which are environmentally impaired one extent or another and which could be the basis of the City's liability. Defense costs should not be apportioned 100% to sewer rate payers.
7. Scholarships.
8. Charitable giving, professional association memberships, conference registrations, travel, meals and lodging not included in No. 9 or 10.
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15. Art and bike rack projects.
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17. Expenses incurred in the bureau's "grey to green" initiative.

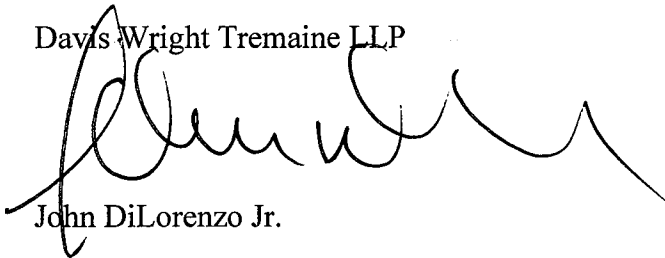
Mr. Terence L. Thatcher
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Page 5

18. Other charitable donations or other grants or donations to organizations, including identification of those organizations.
19. Transfers from departments employed by BES to City "Discrete" budget.

Please feel free to call or email to discuss all this.

Very truly yours,

Davis Wright Tremaine LLP

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John DiLorenzo Jr.

JD:smp

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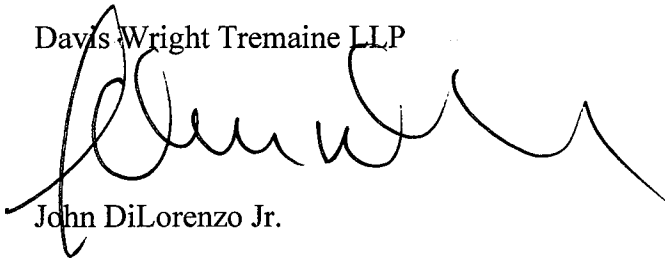
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