

Regular

Name City of Newport
Attn: Spencer Nebel
 Address 1169 SW Coast Highway
Newport, OR 97365
s.nebel@newportoregon.gov

Change in POU, POD
 Date Filed 3-13-2023
 Initial notice date 8-15-2023
 DPD issued date _____
 PD issued date 3/22/24
 PD notice date 3/26/24
 Date of FO 5/14/2024 Vol 131 Page 52-57

C-Date _____
 COBU due date _____
 COBU Received date _____
 Certificate issued _____

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Big Creek

Trib. of Pacific Ocean

Use Municipal Use County Lincoln

Quantity of water (CFS) _____ No. of Acres _____

Name of ditch _____

App#	Per #	Cert #	PR Date
<u>R-26260</u>	<u>R-1236</u>	<u>21358</u>	<u>8/1/1951</u>
App#	Per #	Cert #	PR Date
App#	Per #	Cert #	PR Date
App#	Per #	Cert #	PR Date
App#	Per #	Cert #	PR Date

FEES PAID		
Date	Amount	Receipt #
<u>3-13-2023</u>	<u>\$2450.00</u>	<u>140295</u>

FEES REFUNDED		
Date	Amount	Receipt #

Assignments: _____

Irrigation District _____

Agent Adam Sussman

CWRE _____

CC's list City of Newport

☐ - Oversized map - Location _____



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

May 14, 2024

City of Newport
Attn: Spencer Nebel
169 SW Coast Hwy
Newport, OR 97365

REFERENCE: Transfer Application T-14298

Enclosed is a copy of the final order approving your water right transfer application.

The time allowed to complete the transfer is specified in the final order. YOU SHOULD GIVE PARTICULAR ATTENTION TO THE TIME LIMIT. The water right for any portion of the authorized change in character of use or change in place of use NOT carried out within the time allowed will be lost.

An extension of the time limit can be allowed only upon a showing that diligent effort has been made to complete the actual change(s) within the time allowed.

You are required to hire a Certified Water Rights Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized in the transfer final order, whichever occurs first.

If you have any questions related to the approval of this transfer, you may contact your caseworker, Arla Davis, by telephone at (503) 979-3129 or by e-mail at Arla.I.davis@water.oregon.gov.

Sincerely,

Elyse D. Richman
Water Rights Services Support
Transfers and Conservation Section

cc: Nikki M. Hendricks, Watermaster Dist. # 1 (via email)
Adam Sussman, Agent

Enclosure

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER
T-14298, LINCOLN County	)	APPROVING A CHANGE IN POINT OF
	)	DIVERSION AND CHANGE IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Oregon Revised Statute (ORS) 540.510, Sec. 1, establishes the process in which the holder of water right certificates 21358, 48627 and 89100, which authorize the storage of water for municipal use, may apply to change the authorized point of diversion and place of use, under the process described in ORS 540.520 and 540.530, and may change the authorized point of diversion and place of use, under the process described in ORS 540.510 (1)(a), without losing priority of the right if: (a) The water right certificate authorizes the storage of water for municipal use; and (b) The dam at the authorized point of diversion has been determined by the Water Resources Department to have a high hazard rating, as defined in ORS 540.443, and to be unsafe or potentially unsafe, as defined in ORS 540.443. (2) After making a change described in subsection (1) of this section, when constructing the resulting new dam and reservoir, the holder of the water right certificate must comply with other applicable state and federal environmental laws. [2023 c.535 §1]

Applicant

CITY OF NEWPORT
ATTN: SPENCER NEBEL, CITY MANAGER
169 SW COAST HWY
NEWPORT, OR 97365

Findings of Fact

1. On March 13, 2023, CITY OF NEWPORT, ATTN: SPENCER NEBEL, CITY MANAGER, filed an application to change the point of diversion and to change the place of use under Certificate 21358. The Department assigned the application number T-14298.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

2. On March 13, 2023, Transfer Application T-14294 was also filed involving Certificates 48627 and 89100. Notice of the application for transfer was published on August 8, 2023, pursuant to OAR 690-380-4000.
3. One timely comment was submitted to the Department in response to the notice. The issues raised by the comment focused primarily on the following concerns:
 - a) The increased capacity of the new reservoir. OWRD must ensure that this additional storage will not be approved as part of the transfer. Any additional storage will require a new right.
 - b) Given that the new reservoir will have capacity to store more water than it can today, OWRD must ensure that there is no injury to existing rights, including instream rights, on all affected streams, including the Siletz.
 - c) The City will either need to provide fish passage or apply for a fish passage waiver, which would require mitigation. The application fails to meet statutory requirements.
4. In response to the issues raised by the timely comment received, the Department has determined:
 - a) The transfer affects the storage already authorized under Certificate 21358. No additional storage can be approved under this transfer.
 - b) The Department has determined that there is no injury to other water rights.
 - c) The Oregon Department of Fish and Wildlife (ODFW) is requiring fish screening at the new point of diversion (POD). Additionally, ORS 540.510, Sec. 1 requires the construction of the proposed dam meet all applicable state and federal environmental regulations. The transfer is conditioned so the applicant is required to follow these items.
5. On January 22, 2021, the Department notified the City of Newport of an Unsafe/Potentially Unsafe Dam, following a dam inspection performed on October 15, 2018. Notice was sent to the Interim City of Newport Engineer. The dam inspection included the following:
 - a. Corrosion of, and leakage through, the corrugated metal pipe (CMP) portion of the spillway. Subsequent inspections performed by the Department on May 29, 2019, and August 4, 2020, indicated the corrosion of the CMP portion of the overflow spillway continues to worsen with time.
 - b. A seismic stability analysis performed of both Big Creek dams indicated that both dams will deform significantly during a Cascadia Subduction Zone (CSZ) earthquake. The deformation could cause the dam crest to drop below the water line which could lead to overtopping of the dam crest and subsequent catastrophic failure of the dam.

6. On January 23, 2024, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14298 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 23, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
7. On March 5, 2024, the agent for the application requested a longer completion date for Transfer Application T-14298 due to the scale and complexity of the project. Pursuant to OAR 690-380-5140(3), the Department has modified the completion date of Transfer Application T-14298 to October 1, 2045.
8. On March 22, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14298 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on March 26, 2024, and in the Newport News Times newspaper on April 2, and April 9, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The right to be transferred is as follows:
Certificate: 21358 in the name of CITY OF NEWPORT (perfected under Permit R-1236)
Use: MUNICIPAL USE
Priority Date: AUGUST 1, 1951,
Limit: The amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 200.0 acre feet.
Source: BIG CREEK, a tributary of the PACIFIC OCEAN, to be appropriated under Application No. 26388, Permit No. 20703

The reservoir is located in:

STORAGE FOR MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
10 S	11 W	WM	33	SW NE
10 S	11 W	WM	33	SE NW
10 S	11 W	WM	33	NW SE
10 S	11 W	WM	33	NE SW
10 S	11 W	WM	33	NW SW
10 S	11 W	WM	33	SW SW
10 S	11 W	WM	33	SE SW

10. Certificate 21358 does not include a description of the location of the authorized point of diversion. The applicant has provided information describing the location of the authorized point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	11 W	WM	33	SW SW	BC 1 - 1100 FEET NORTH AND 4450 FEET WEST FROM THE SE CORNER OF SECTION 33

11. Transfer Application T-14298 proposes to move the authorized point of diversion approximately 0.59 mile upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	11 W	WM	33	NW SE	BIG CREEK DAM - 3110 FEET SOUTH AND 1790 FEET WEST FROM THE NE CORNER OF SECTION 33

12. Transfer Application T-14298 also proposes to change the place of use of the right to:

STORAGE FOR MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
10 S	11 W	WM	33	SE NE
10 S	11 W	WM	33	NE SE
10 S	11 W	WM	33	NW SE
10 S	11 W	WM	34	NW NW
10 S	11 W	WM	34	SW NW
10 S	11 W	WM	34	NE SW
10 S	11 W	WM	34	NW SW
10 S	11 W	WM	34	NW SE
10 S	11 W	WM	34	SW SE

13. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Transfer Review Criteria [ORS 540.510, Sec. 1, OAR 690-380-0100(14), 690-380-4010(2) and 690-380-2110(2)]

14. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. Big Creek Reservoir No. 1 has a maximum height of 21 feet tall and is 315 feet long. It impounds up to 200 acre-feet. A water delivery system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-14298.
16. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
17. The water right certificate authorizes the storage of water for municipal use.
18. The dam at the authorized point of diversion has been determined by the Water Resources Department to have a high hazard rating, as defined in ORS 540.443, and to be unsafe or potentially unsafe, as defined in ORS 540.443.
19. The proposed point of diversion diverts water from the same source of surface water as the authorized point of diversion, as required by OAR 690-380-2110(2).

20. The proposed changes, as conditioned, would not result in enlargement of the rights.
21. The proposed changes, as conditioned, would not result in injury to other existing water rights.
22. All other application requirements are met.

Conclusions of Law

The change in point of diversion and change in place of use proposed in Transfer Application T-14298 is consistent with the requirements of ORS 540.505 to 540.580, 540.510 Sec. 1 [2023 c.535 §1] and OAR 690-380-5000.

Now, therefore, it is ORDERED:

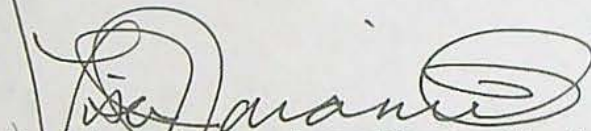
1. The change in point of diversion and change in place of use proposed in Transfer Application T-14298 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 21358 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of diversion or the new place of use.
4. Water right Certificate 21358 is cancelled.
5. The quantity of water diverted at the new point of diversion (BIG CREEK DAM) shall not exceed the quantity of water lawfully available at the original point of diversion.
6. Water shall be acquired from the same source of surface water as the original point of diversion.
7. Reservoir water use measurement:
 - a. **Before water use may begin** under this order, the water user shall install staff gages, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.
 - b. **Before water use may begin** under this order, if the reservoir is located in channel, suitable measuring devices must be installed to allow measurement of the amount of water flowing into and out of the reservoir, and an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.

8. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

9. When constructing the resulting new dam and reservoir, the holder of the water right certificate must comply with other applicable state and federal environmental laws.
10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2045**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
11. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **MAY 14 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: **MAY 15 2024**

WATER RIGHT TRANSFER COVER SHEET

Transfer: T-14298

Transfer Specialist: ARLA

Transfer Type: Regular Transfer

Reimbursement Authority? ☐

Applicant: CITY OF NEWPORT SPENCER NEBEL 169 SW COAST HWY NEWPORT, OR 97365	Agent: ADAM SUSSMAN 1600 SW WESTERN BLVD SUITE 240 CORVALLIS, OR 97333	Receiving Landowner:
Current Landowner if other than Applicant:	CWRE:	Irrigation District:
Affected Local Gov'ts: City Of Newport	Affected Tribal Gov't:	BOR Notified (date):

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
☒			21358	☐ Yes ☒ No	
☐				☐ Yes ☐ No	
☐				☐ Yes ☐ No	

Key Dates & Initial Actions (Support Staff)

Rec'd: March 13, 2023	Proposed Action(s): POINT OF DIVERSION; PLACE OF USE	
Fees Pd: 5510.00	Acknowledgement Letter Sent ☒	Basin: 18 Middle Coast
Initial Public Notice:	County sent cc: of Ack Letter ☒	County: LINCOLN
WM District: 1 Nikki M. Hendricks	WM Review request sent:	WM Review date received:
ODFW District:	ODFW Review sent:	ODFW Review date received:
Groundwater	GW Review sent:	GW Review date received:

Caseworker Actions: Newspaper & PD Notice:

Newspaper notice needed: ☐	Name of Newspaper:
Newspaper notice sent to coordinator:	Newspaper notice quote requested (NRS1):
Request for news \$ sent:	News \$ received:
Affidavit of publication received:	Last day of publication:

Peer Review: *Electronic - Checklist is in electronic folder*

Document	Drafted	Peer Review	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: 1/10/24 Initials: ACD	Date: 1/11/24 Initials: Jone	Date: 1/19/24 Initials: ACD <i>for PKS</i>	Date: 1/22/24 Initials: ACD	CW Sent: 1/22/24 WM Sheet ☒ ODFW Sheet: ☒	N/A
PD	Date: 1/23/24 Initials: ACD	Date: 1/24/24 Initials: CC	Date: 1/16/24 Initials: ACD <i>see email for PKS</i>	Date: 1/29/24 Initials: ACD Data Review Date: 1/29/24	Date: 3/20/24	Date: 3/22/24
FO	Date: 4/23/24 Initials: ACD	Date: 4/23/24 Initials: SG	Date: 4/23/24 Initials: ACD <i>PKS</i>	Date: 4/23/24 Initials: ACD	Date: 5/9/24 No. of docs for sig: 1	Date: 5/14/24

Special Issues: _____

Special Order Volume: Vol. 131 Pages 52-57

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 142571

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE #

RECEIVED FROM: GSI Water Solutions Inc.
BY:

APPLICATION
PERMIT
TRANSFER T-14298

CASH: ☐ CHECK: # 24656 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 150.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$
0207 OTHER: (IDENTIFY) Newspaper Notice \$ 150.00
0243 I/S Lease 0244 Muni Water Mgmt. Plan 0245 Cons. Water

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$
0410 RESEARCH FEES \$
0408 MISC REVENUE: (IDENTIFY) \$
TC162 DEPOSIT LIAB. (IDENTIFY) \$
0240 EXTENSION OF TIME \$

WATER RIGHTS:

0201 SURFACE WATER EXAM FEE 0202 RECORD FEE \$
0203 GROUND WATER EXAM FEE 0204 RECORD FEE \$
0205 TRANSFER EXAM FEE

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR EXAM FEE 0219 LICENSE FEE \$
LANDOWNER'S PERMIT 0220 LICENSE FEE \$

OTHER (IDENTIFY)

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ CARD#
0210 MONITORING WELLS \$ CARD#

OTHER (IDENTIFY)

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) \$
0231 HYDRO LICENSE FEE (FW/WRD) \$
HYDRO APPLICATION \$

TREASURY OTHER / RDX

FUND TITLE
OBJ. CODE VENDOR #
DESCRIPTION \$

RECEIPT: 142571

DATED 3-18-2024 BY: [Signature]

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

Arla L Davis
Transfer Specialist
Transfer and Conservation Section

cc: T-14298
Nikki M. Hendricks, District 1 Watermaster (via e-mail)
Adam Sussman, Agent for the applicant (via e-mail)

Attached is a check in the amount of \$150.00 (PCA #46118) for Newspaper Notice for Transfer T-14298 made out to Oregon Water Resources Department (or WRD)

- "for T-14298 NOTICE" written on front of check

Mail to: Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1266

Caseworker: ARLA

GSI WATER SOLUTIONS INC

Check Date: 3/13/2024

026656

Invoice Number	Date	Voucher	Amount	Discounts	Previous Pay	Net Amount
T-14298	3/7/2024	0023698	150.00			150.00
Oregon Water Resources Department						
Beneficial Checking 15		00275	150.00			150.00
TOTAL			150.00			150.00

Received
MAR 18 2024
OWRD

Received

MAR 18 2024

OWRD

Received
APR 22 2024

OWRD

Affidavit of Publication

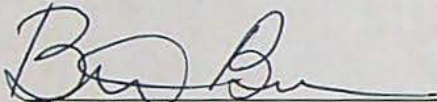
State of Oregon, County of Lincoln, -ss.

I, Britiney Briles, being first duly sworn,
depose and say that I am a Clerk of the Lincoln County
Leader, 831 NE Avery St., Newport, OR 97365 a
Newspaper of general circulation as defined by
ORS 193.010 and 193.020 state; that

**Notice of Preliminary Determination for Water Right
Transfer T-14298 T-14298 filed by City of Newport,
Spencer Nebel, City Manager, 169 SW Coast Highway,
Newport, OR 97365**

a printed copy of which is hereto annexed, was
published in the entire issue of said newspaper for
2 consecutive and successive week(s) in the
following issue:

April 3, 2024
April 10, 2024

 Clerk's Name

Subscribed and sworn to before me
this 18 day of April, 2024.
Lincoln County

Notary Public for the state of Oregon
My commission expires 03/26/28

The price for this notice was \$246.16

**NOTICE OF
PRELIMINARY
DETERMINATION
FOR WATER RIGHT
TRANSFER T-14298**

T- 14298 filed by City of
Newport, Spencer Nebel,
City Manager, 169 SW
Coast Highway, New-
port, OR 97365, propos-
es a change in point of
diversion and change in
place of use under Cer-

tificate 21358. The right
allows the storage of
200.0 acre-feet from Big
Creek in Sec. 33, T10S,
R11W, WM for municipi-
pal use. The applicant
proposes to move the
point of diversion with-
in Sec.33, T10S, R11W,
WM and to change the
place of use to Sects.
33 and 34, T10S, R11W,
WM. The Water Resourc-
es Department proposes
to approve the transfer,
based on the require-
ments of ORS Chapter
540 and OAR 690-380-
5000. Any person may
file, jointly or severally, a
protest or standing state-
ment within 30 days after
the last date of news-
paper publication of this
notice, 04/10/2024. Call
(503) 986-0935 to obtain
additional information. If
no protests are filed, the
Department will issue a
final order consistent with
the preliminary determi-
nation.

**AFFIDAVIT
OF
PUBLICATION**

Received
APR 22 2024
OWRD

COUNTY OF Lincoln
STATE OF Oregon SS.

I, Austin Patterson, being first duly sworn, depose and say that I am The Publisher of The Lincoln County Leader, a newspaper of general circulation, as defined by sections ORS 193.010 and 193.020, printed and published at Newport, in the aforesaid county and state; that the

Oregon Department of Water
Resources
Preliminary Determination for
Water Right
LCL24-2005

Was published 2 (two) successive
and consecutive week(s) in the
following issues:

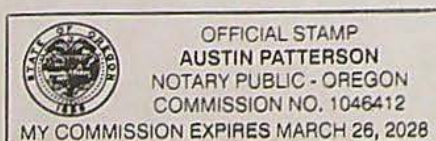
April 3, 2024
April 10, 2024



Austin Patterson

Subscribed and sworn before
me this

18 day of April 2024





Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone 503 986-0900
Fax 503 986-0904
www.oregon.gov/owrd

March 22, 2024

VIA CERTIFIED MAIL AND E-MAIL

Applicant

CITY OF NEWPORT
SPENCER NEBEL
169 SW COAST HWY
NEWPORT, OR 97365

SUBJECT: Water Right Transfer Application T-14298

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14298. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Newport News Times newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at 503-979-3129 or arla.l.davis@water.oregon.gov, if I may be of assistance.

Sincerely,

Arla L Davis

Arla L Davis
Transfer Specialist
Transfer and Conservation Section

cc: T-14298
Nikki M. Hendricks, District 1 Watermaster (via e-mail)
Adam Sussman, Agent for the applicant (via e-mail)
Kimberley Priestly, WaterWatch of Oregon, commenter (via email)

encs

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-14298, LINCOLN County	)	PROPOSING APPROVAL OF CHANGES IN
	)	POINT OF DIVERSION AND CHANGE IN
	)	PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Oregon Revised Statute (ORS) 540.510, Sec. 1, establishes the process in which the holder of water right certificates 21358, 48627 and 89100, which authorize the storage of water for municipal use, may apply to change the authorized point of diversion and place of use, under the process described in ORS 540.520 and 540.530, and may change the authorized point of diversion and place of use, under the process described in ORS 540.510 (1)(a), without losing priority of the right if: (a) The water right certificate authorizes the storage of water for municipal use; and (b) The dam at the authorized point of diversion has been determined by the Water Resources Department to have a high hazard rating, as defined in ORS 540.443, and to be unsafe or potentially unsafe, as defined in ORS 540.443. (2) After making a change described in subsection (1) of this section, when constructing the resulting new dam and reservoir, the holder of the water right certificate must comply with other applicable state and federal environmental laws. [2023 c.535 §1]

Applicant

CITY OF NEWPORT
ATTN: SPENCER NEBEL, CITY MANAGER
169 SW COAST HWY
NEWPORT, OR 97365

Findings of Fact

1. On March 13, 2023, CITY OF NEWPORT, ATTN: SPENCER NEBEL, CITY MANAGER, filed an application to change the point of diversion and to change the place of use under Certificate 21358. The Department assigned the application number T-14298.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.

2. On March 13, 2023, Transfer Application T-14294 was also filed involving Certificates 48627 and 89100. Notice of the application for transfer was published on August 8, 2023, pursuant to OAR 690-380-4000.
3. One timely comment was submitted to the Department in response to the notice. The issues raised by the comment focused primarily on the following concerns:
 - a) The increased capacity of the new reservoir. OWRD must ensure that this additional storage will not be approved as part of the transfer. Any additional storage will require a new right.
 - b) Given that the new reservoir will have capacity to store more water than it can today, OWRD must ensure that there is no injury to existing rights, including instream rights, on all affected streams, including the Siletz.
 - c) The City will either need to provide fish passage or apply for a fish passage waiver, which would require mitigation. The application fails to meet statutory requirements.
4. In response to the issues raised by the timely comment received, the Department has determined:
 - a) The transfer affects the storage already authorized under Certificate 21358. No additional storage can be approved under this transfer.
 - b) The Department has determined that there is no injury to other water rights.
 - c) The Oregon Department of Fish and Wildlife (ODFW) is requiring fish screening at the new point of diversion (POD). Additionally, ORS 540.510, Sec. 1 requires the construction of the proposed dam meet all applicable state and federal environmental regulations. The transfer is conditioned so the applicant is required to follow these items.
5. On January 22, 2021, the Department notified the City of Newport of an Unsafe/Potentially Unsafe Dam, following a dam inspection performed on October 15, 2018. Notice was sent to the Interim City of Newport Engineer. The dam inspection included the following:
 - a. Corrosion of, and leakage through, the corrugated metal pipe (CMP) portion of the spillway. Subsequent inspections performed by the Department on May 29, 2019, and August 4, 2020, indicated the corrosion of the CMP portion of the overflow spillway continues to worsen with time.
 - b. A seismic stability analysis performed of both Big Creek dams indicated that both dams will deform significantly during a Cascadia Subduction Zone (CSZ) earthquake. The deformation could cause the dam crest to drop below the water line which could lead to overtopping of the dam crest and subsequent catastrophic failure of the dam.
6. On January 23, 2024, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14298 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 23, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.

7. On March 5, 2024, the agent for the application requested a longer completion date for Transfer Application T-14298 due to the scale and complexity of the project. Pursuant to OAR 690-380-5140(3), the Department has modified the completion date of Transfer Application T-14298 to October 1, 2045.

8. The right to be transferred is as follows:

Certificate: 21358 in the name of CITY OF NEWPORT (perfected under Permit R-1236)
Use: MUNICIPAL USE
Priority Date: AUGUST 1, 1951,
Limit: The amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 200.0 acre feet.
Source: BIG CREEK, a tributary of the PACIFIC OCEAN, to be appropriated under Application No. 26388, Permit No. 20703

The reservoir is located in:

STORAGE FOR MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
10 S	11 W	WM	33	SW NE
10 S	11 W	WM	33	SE NW
10 S	11 W	WM	33	NW SE
10 S	11 W	WM	33	NE SW
10 S	11 W	WM	33	NW SW
10 S	11 W	WM	33	SW SW
10 S	11 W	WM	33	SE SW

9. Certificate 21358 does not include a description of the location of the authorized point of diversion. The applicant has provided information describing the location of the authorized point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	11 W	WM	33	SW SW	BC 1 - 1100 FEET NORTH AND 4450 FEET WEST FROM THE SE CORNER OF SECTION 33

10. Transfer Application T-14298 proposes to move the authorized point of diversion approximately 0.59 mile upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	11 W	WM	33	NW SE	BIG CREEK DAM - 3110 FEET SOUTH AND 1790 FEET WEST FROM THE NE CORNER OF SECTION 33

11. Transfer Application T-14298 also proposes to change the place of use of the right to:

STORAGE FOR MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
10 S	11 W	WM	33	SE NE
10 S	11 W	WM	33	NE SE
10 S	11 W	WM	33	NW SE
10 S	11 W	WM	34	NW NW
10 S	11 W	WM	34	SW NW
10 S	11 W	WM	34	NE SW
10 S	11 W	WM	34	NW SW

STORAGE FOR MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
10 S	11 W	WM	34	NW SE
10 S	11 W	WM	34	SW SE

12. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Transfer Review Criteria [ORS 540.510, Sec. 1, OAR 690-380-0100(14), 690-380-4010(2) and 690-380-2110(2)]

13. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. Big Creek Reservoir No. 1 has a maximum height of 21 feet tall and is 315 feet long. It impounds up to 200 acre-feet. A water delivery system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-14298.
15. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
16. The water right certificate authorizes the storage of water for municipal use.
17. The dam at the authorized point of diversion has been determined by the Water Resources Department to have a high hazard rating, as defined in ORS 540.443, and to be unsafe or potentially unsafe, as defined in ORS 540.443.
18. The proposed point of diversion diverts water from the same source of surface water as the authorized point of diversion, as required by OAR 690-380-2110(2).
19. The proposed changes, as conditioned, would not result in enlargement of the rights.
20. The proposed changes, as conditioned, would not result in injury to other existing water rights.
21. All other application requirements are met.

Determination and Proposed Action

The change in point of diversion and change in place of use proposed in Transfer Application T-14298 appear to be consistent with the requirements of ORS 540.505 to 540.580, 540.510 Sec. 1 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-14298 is approved, the final order will include the following:

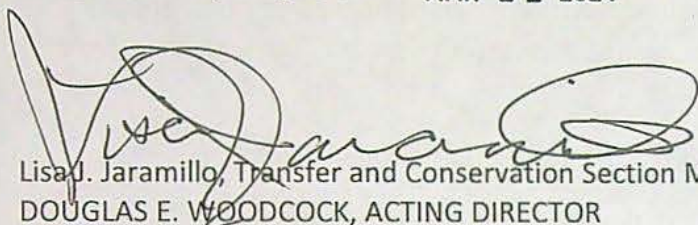
1. The change in point of diversion and change in place of use proposed in Transfer Application T-14298 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 21358 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of diversion or the new place of use.
4. Water right Certificate 21358 is cancelled.
5. The quantity of water diverted at the new point of diversion (BIG CREEK DAM) shall not exceed the quantity of water lawfully available at the original point of diversion.
6. Water shall be acquired from the same source of surface water as the original point of diversion.
7. Reservoir water use measurement:
 - a. **Before water use may begin** under this order, the water user shall install staff gages, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.
 - b. Before water use may begin under this order, if the reservoir is located in channel, suitable measuring devices must be installed to allow measurement of the amount of water flowing into and out of the reservoir, and an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.
8. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

9. When constructing the resulting new dam and reservoir, the holder of the water right certificate must comply with other applicable state and federal environmental laws.

10. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2045**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
11. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on **MAR 22 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla L Davis . if you have questions about the information in this document, you may reach me at 503-979-3129 or arla.l.davis@water.oregon.gov.

Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-380-4030, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the transfer application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. If this Preliminary Determination determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-380-0100(9)]. The protest must include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;

- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

Under the provisions of OAR 690-380-4030(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-380-0100(11) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been filed under OAR 690-380-4030. In accordance with OAR 690-380-4200, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If after hearing the Department issues a proposed Final Order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department

provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266.

House Bill 3211

Sponsored by Representative GOMBERG; Representatives JAVADI, WRIGHT, Senators ANDERSON, SMITH DB, WEBER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Authorizes holder of water right certificate that authorizes storage of water for municipal use to change authorized point of diversion and place of use without losing priority of right under specified circumstances.

Provides that authorization applies to applications for change filed after effective date of Act and before January 1, 2026.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to water right certificates that authorize the storage of water for municipal use; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) A holder of a water right certificate that authorizes the storage of water for municipal use may apply to change the authorized point of diversion and place of use, as described in ORS 540.520 and 540.530, and may change the authorized point of diversion and place of use, as described in ORS 540.510 (1)(a), without losing priority of the right if:

(a) The water right certificate authorizes the storage of water for municipal use;

(b) The dam at the authorized point of diversion has been determined by the Water Resources Department to have a high hazard rating, as defined in ORS 540.443, and to be unsafe or potentially unsafe, as defined in ORS 540.443;

(c) No in-stream water rights are located on the stream between the authorized point of diversion and the proposed point of diversion;

(d) No authorized point of diversion, other than points of diversion held by the holder of the water right certificate, is located on the stream between the authorized point of diversion and the proposed point of diversion; and

(e) The holder of the water right certificate has received funding from the Water Resources Department Water Supply Fund for design, environmental permitting and construction of a seismically sound replacement dam.

(2) After making a change described in subsection (1) of this section, when constructing the resulting new dam and reservoir, the holder of the water right certificate must comply with other applicable state and federal environmental permitting requirements.

SECTION 2. Section 1 of this 2023 Act:

(1) Applies to applications filed with the Water Resources Department after the effective date of this 2023 Act and before January 1, 2026.

(2) Is repealed on January 2, 2026.

SECTION 3. This 2023 Act being necessary for the immediate preservation of the public

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

Watermaster Review Form: Water Right Transfer



Oregon Water Resources Department
725 Summer St NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Transfer Application: T-14298

Review Due Date: 09/08/2023

Applicant Name: City of Newport

Proposed Changes: ☒ POU ☒ POD ☐ POA ☐ USE ☐ OTHER

Reviewer(s): Nikki Hendricks

Date of Review: 09/06/2023

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? ☐ Yes ☒ No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)
2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? ☐ Yes ☒ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
3. Have headgate notices been issued for the source that serves the transferred right(s)?
☐ Yes ☐ No ☒ Records not available.
4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? ☐ Yes ☒ No If "Yes", explain:
5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? ☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected:

6. Check here ☐ if it appears that downstream water rights benefit from return flows resulting from the current use of the transferred right(s)? If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

☒ N/A

7. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? If you check the box, describe and, if possible, estimate the losses:

☒ N/A

8. For instream transfers that propose protection of a reach beyond the mouth of the source stream:

☒ N/A Would the quantity be measureable into the receiving stream consistent with OAR 690-077-0015(8)? ☐ Yes ☐ No

9. For POU changes: ☒ N/A Is it likely the original place of use would continue to receive water from the same source? ☐ Yes ☐ No If "Yes", explain:

10. For POU or USE changes: ☐ N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?

☐ Yes ☒ No If "Yes", explain:

11. For POU changes that involve micro-irrigation: ☒ N/A

- a. Has the applicant made changes (absent a transfer) to convert to micro-irrigation within the current place of use boundary of the water right proposed for transfer, and previously demonstrated to the Department through monitoring and site inspections by the Watermaster that the proposed transfer will not result in injury or enlargement?

☐ Yes ☐ No If "Yes", explain:

- b. Has a temporary transfer of this nature been previously filed and approved on the same lands (or portions thereof) as those lands involved in this transfer?

☐ Yes ☒ No If "Yes", answer the following:

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:

- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:

- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- iv. Do you have any other observations regarding the temporary transfer?

☐ Yes ☐ No If "Yes", describe:

- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- c. To the best of your knowledge, if this transfer is approved, does it appear that:

- i. "Injury" will occur to other water rights that share the same source?

☐ Yes ☒ No If "Yes", explain:

- ii. "Enlargement" of the water right being transferred will occur?

☐ Yes ☒ No If "Yes", explain:

12. Are there other issues not identified through the above questions that should be considered in determining whether the change "can be effected without injury to other rights"?

☐ Yes ☒ No If "Yes", explain:

13. What alternatives may be available for addressing any issues identified above:

14. Do conditions need to be included in the transfer order to avoid enlargement of the right or injury to other rights? ☐ No ☒ Yes, as checked and provided below:

☐ For POU changes that involve micro-irrigation, provide the monitoring and reporting conditions necessary to prevent injury/enlargement:

☐ A Headgate should be required prior to diverting water.

☐ Measurement Devices for POD or POA: (if this condition is selected, also fill in the top sections of Page 4)

a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, ☐ at each point of diversion/appropriation (new and existing) OR at each new point of diversion/appropriation ☐ with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*

b. The water user shall maintain the meters or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

☒ Reservoir water use measurement: (if this condition is selected, also fill in the top sections of Page 4)

a. Before water use may begin under this order, the water user shall install staff gages, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.*

b. Before water use may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.

* The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:

☐ Weir
☐ Parshall Flume
☐ Other: _____

☐ Submerged Orifice
☐ Flow Restrictor

Oregon Water Resources Department

Measurement Condition Information for the Applicant

(To be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T- 14298



In order to avoid enlargement of the right or injury to other rights, a **staff gage** will be required to be installed **prior to diversion of water**, as a condition of this transfer:



at each point of diversion/appropriation (new and existing) **OR**



at each new point of diversion/appropriation.

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name: Nikki Hendricks

District: 1

Address: 4000 Blimp Blvd ste 400

City/State/Zip: Tillamook, OR 97141

Phone: 503-457-8989

Email: Nikki.M.Hendricks@water.oregon.gov

Note: If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.

Approval of an Alternate Measurement Device

T-

(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable alternate measurement device:

Watermaster signature

District

Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Oregon Department of Fish and Wildlife
Water Right and Diversion Transfer Comment Form
(ODFW provides to WRD so that WRD can make findings according to statutory requirements.)

Reference Transfer #: T-14298

Date of review: 9/6/23

A. Please check box if you believe there is a potential for injury to an instream water right.

☐ The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on /stream , tributary to , because .

(Please attach any available supporting information.)

Note: This will prompt WRD to make a determination whether the transfer will injure an instream water right. (OWRD makes the determination of injury to a water right, while ODFW's role is to raise concerns, and to evaluate proposed mitigation and net benefit to the resource if OWRD consents to injury of an instream water right.)

B. Please check one of the following five boxes related to fish screen requirements pursuant to ORS 540.525 or 540.532:

☐ **1. Screen Maintain**

[Select this option if the new Point of Diversion (POD) requires a fish screen and is currently equipped with an appropriate fish screen that will still be in compliance if the transferred water is diverted from this POD.]

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is currently equipped with an appropriate fish screen.

Condition: The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

☒ **2. Screen Now**

[Option 2 should generally be selected if listed fish species are present at the point of diversion and/or the originating water right diversion is currently screened. If Option 2 is selected, provide contact information on the "Fish Screening and Passage Information" sheet. The new diversion may be eligible for cost-share.]

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Condition: Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

*Please return all 3 pages to: Transfers Section, Water Resources Department,
725 Summer St. NE, Suite A, Salem, OR 97301-1266*

☐ **3. Screen 2 Year**

[Option 3 may be checked if the change is from an unscreened diversion to a HISTORIC POD or an existing POD in use for another water right, and cost-share funds are not currently available. It should NOT be checked if listed fish species are present at the point of diversion, the originating water right diversion is screened, cost-share funds are currently available, or the diversion is not eligible for ODFW's cost-share program. Please provide contact information on the "Fish Screening and Passage Information" sheet.] If extraordinary circumstances are present, please explain: _____

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost-share funds become available to assist in the construction of a fish screen. If cost-share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost-share funding.

Condition: By October 1, 20__ [Within two years after the date of this order] the water user shall install an approved fish screen at the new point of diversion. The water user may withdraw water at the new point of diversion without a screen until October 1, 20__. The water user shall provide to OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall maintain and operate the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

☐ **4. Screen Future**

[Use this option if fish are not currently present, but might possibly be at some future time.]

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that the diversion is not currently equipped with an appropriate fish screen, but a fish screen may be required in the future at the new point of diversion to prevent fish from entering the diversion.

Condition: The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification that a fish screen is required. Once installed the water user shall maintain and operate the fish screen at the new point of diversion according to ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

☐ **5. No Screen Needed**

[Check this box if fish are not currently present, and are not expected in the future.]

Signature

Jason Brandt
Printed Name

(541) 315-6222
Phone

SW Hydro Coordinator
Title

Oregon Department of Fish and Wildlife
Additional Fish Screening and Passage Information for the Applicant
(To be completed by ODFW for WRD to provide to the applicant.)

Transfer #: T-14298

The applicant should be aware that fish screening and passage may be required for certain changes in point of diversion if the boxes below are checked.

- ☒ Fish screening is required as a condition of this transfer. The fish screen must meet ODFW's design, construction, operational and maintenance standards.

Pursuant to ORS 498.306, cost-share funds may be available to assist in the installation of fish screening.

The applicant should contact the ODFW staff member below to obtain additional information on the design, construction, operational, and maintenance standards for the fish screen and to obtain information about ODFW's cost-sharing program for screening. **Prior to installation, the water user must obtain written approval from ODFW that the required screen meets ODFW's criteria.**

ODFW staff name: Toby Schuyler

Address: 3561 Klindt Dr

City/State/Zip: The Dalles/OR/97058

Phone: (541) 967-2162

- ☒ This transfer may trigger requirements for fish passage under ORS 509.585 because a new point of diversion will be constructed, an existing point of diversion's capacity will be increased, or an existing point of diversion will be abandoned. The applicant should contact the ODFW staff member below for a determination of whether native migratory fish are or were present at the applicable location, which will determine whether fish passage must be addressed.

ODFW staff name: Jason Brandt

Address: 4192 North Umpqua Hwy

City/State/Zip: Roseburg/OR/97470

Phone: (541) 315-6222

DAVIS Arla L * WRD

From: MCCORD Mike L * WRD
Sent: Wednesday, September 13, 2023 3:25 PM
To: HENDRICKS Nikki M * WRD
Cc: DAVIS Arla L * WRD
Subject: RE: Comments, City of Newport T-14298

Hi Nikki, the numbers will have to match and they do on the applications. That is what they will be bound by regardless of the city's presentation. I'm not sure exactly what they promised WW about Siletz River usage. That will be between the city and WW. It is unrelated to the actual transfer process. I guess WW could protest the transfer if the city does not give them what they thought they were going to get and force the city to designate a portion of their right to an instream as part of a settlement agreement or reach some other agreement. Only time will tell.

Mike McCord

NW Region Manager
725 Summer St. NE, Suite A, Salem, Oregon 97301 | Phone: 503-559-9347



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

From: HENDRICKS Nikki M * WRD <Nikki.M.HENDRICKS@water.oregon.gov>
Sent: Wednesday, September 13, 2023 2:55 PM
To: MCCORD Mike L * WRD <Mike.L.MCCORD@water.oregon.gov>
Subject: FW: Comments, City of Newport T-14298

Hi Mike,

I already did my Transfer reviews and no mention of the increased storage potential, which is shown in the City's Presentation. I am thinking a mitigation could be to apply for a winter storage from Siletz River to potentially offset some of the summer live flow draws. Is this even feasible? I didn't see any potential for enlargement as I figured they would be designing the new dam to current capacity. Thoughts?

Certs 21358, 48627, 89100 are the Big Creek related rights

The Siletz right is Cert 89102

From: DAVIS Arla L * WRD <Arla.L.DAVIS@water.oregon.gov>
Sent: Tuesday, September 12, 2023 7:22 AM
To: HENDRICKS Nikki M * WRD <Nikki.M.HENDRICKS@water.oregon.gov>; JANICEK Tony M * WRD <Tony.M.JANICEK@water.oregon.gov>
Cc: JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; STARNES Patrick K * WRD <Patrick.K.STARNES@water.oregon.gov>
Subject: FW: Comments, City of Newport T-14298

Good Morning,

These comments were received for Transfer Application T-14298 for the City of Newport. These are not available online. Please let me know if there are any questions.

Arla L. Davis

She/Her/Hers

Water Rights Transfer Specialist

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



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Work Schedule: Mon-Th – 6:00 a.m. to 4:30 p.m.

NOTE: The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8:00 a.m. – 5:00 p.m. every day. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: Kimberley Priestley <kjp@waterwatch.org>

Sent: Monday, September 11, 2023 3:27 PM

To: DAVIS Arla L * WRD <arla.l.davis@water.oregon.gov>

Subject: Comments, City of Newport T-14298

Hi Arla,

Attached please find WaterWatch of Oregon's initial comments on T-14298, with attachments.

If you could please confirm receipt, we would appreciate it.

Thank you, Kimberley CELL 503-756-6018

Kimberley Priestley/Senior Policy Analyst

WaterWatch of Oregon

P: 503.295.4039 x107

213 SW Ash St, Suite 208

Portland, OR 97204

www.waterwatch.org

[Join WaterWatch to Protect and Restore Oregon's Rivers](#)

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DAVIS Arla L * WRD

From: Kimberley Priestley <kjp@waterwatch.org>
Sent: Monday, September 11, 2023 3:27 PM
To: DAVIS Arla L * WRD
Subject: Comments, City of Newport T-14298
Attachments: newport transfer T 14298.pdf; 4.19.23 to Adam Sussman RE HB 3211 2023 Legislation.pdf; BigCreekDamsPresentation-ChamberLuncheon-6-7-19.pdf

Hi Arla,

Attached please find WaterWatch of Oregon's initial comments on T-14298, with attachments.

If you could please confirm receipt, we would appreciate it.

Thank you, Kimberley CELL 503-756-6018

Kimberley Priestley/Senior Policy Analyst
WaterWatch of Oregon
P: 503.295.4039 x107
213 SW Ash St, Suite 208
Portland, OR 97204
www.waterwatch.org

[Join WaterWatch to Protect and Restore Oregon's Rivers](#)

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169 SW COAST HWY
NEWPORT, OREGON 97365

COAST GUARD CITY, USA



www.newportoregon.gov

MOMBETSU, JAPAN, SISTER CITY

April 18, 2023

Senator Jeff Golden
Chair, Senate Committee on Natural Resources
Salem, OR 97301

RE: HB 3211 A, 2023 Legislative Session

Dear Chair Golden and Members of the Committee:

The City of Newport (City) is grateful for your efforts to hold a public hearing on House Bill 3211 A. During the public hearing on April 4, 2023, you heard from the City about the immediate and critical need to replace its municipal water supply dams on Big Creek; both dams have been designated as high hazard and unsafe, or potentially unsafe, by Oregon Water Resources Department (OWRD). The potential impacts to public safety and the City's economic viability are real and significant.

The City has worked with Oregon's Congressional delegation and successfully obtained authorization of \$60 million for the City that could be used to construct the new dam. However, for the Appropriations Committee to allocate these funds, the City must be "shovel ready" to move forward with the project, including having the required water right authorizations under Oregon law to store the water in the new reservoir. HB 3211 A will assure OWRD has the authority to process a water rights transfer to modify the City's existing water rights, which is the best opportunity to quickly proceed with dam replacement.

During the public hearing on HB 3211 A, the Committee also heard from WaterWatch of Oregon that it was important to their members that the City commit to certain environmental protection sideboards. As a result, the City is providing this letter to you and the Committee to document its commitment.

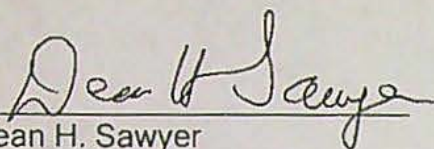
The City of Newport commits to working with the Oregon Department of Fish and Wildlife (ODFW) to include instream flows as part of their mitigation package in the Fish Passage Waiver application submitted to ODFW.

Please let us know if you have any additional questions or concerns. We look forward to the passage of HB 3211 A and the City making progress on dam replacement. We appreciate your support and leadership.

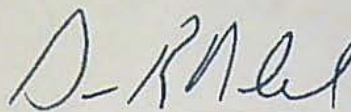
EST.

1882

Sincerely,



Dean H. Sawyer
Mayor, City of Newport, Oregon



Spencer Nebel
City Manager, City of Newport, Oregon

cc: Jan Kaplan, Council President
Cynthia Jacobi, Councilor
Beatriz Botello, Councilor
Dietmar Goebel, Councilor
CM Hall, Councilor
Ryan Parker, Councilor

EST.

1882



WaterWatch of Oregon

Protecting Natural Flows In Oregon Rivers

September 12, 2023

Oregon Water Resources Department
Attn: Arla Davis
725 Summer Street NE, Ste A
Salem, OR 97301

Re: Comments, City of Newport Transfer, T-14298

Dear Ms. Davis,

WaterWatch of Oregon is a river conservation group dedicated to restoring and protecting streamflows statewide, including rivers of the Oregon Coast. We offer the following initial comments on the City of Newport transfer application T-14298.

WaterWatch was very involved in 2023 bill negotiations on HB 3211, whose passage allowed the City to move forward with this transfer under existing transfer statutes. Central to those discussions were the City's commitments to take pressure off the City's Siletz river water rights through this transfer.

As part of that, the City has identified that the building of the new reservoir will allow it to store more water than it currently does (roughly 1110 additional acre feet), which in turn would allow the City to stop or reduce its withdrawals from the Siletz. See e.g., City of Newport Powerpoint, attached at slide 44 and 70.

As far as this transfer application, the transfer statutes prohibit the enlargement of the original right or injury to other water rights, including instream rights. ORS 540.510. Given the City has made public statements as to the increased capacity of the new reservoir, the OWRD must ensure that this additional storage will not be approved as part of the transfer. In other words, the City cannot store more water than is otherwise legally available to them currently. Any additional storage will require a new right. We are not aware of an application for additional storage in front of the OWRD.

Additionally, the Big Creek reservoirs store water diverted from the Siletz River in addition to Big Creek. Water diverted from the Siletz is piped 5 miles to the Big Creek Reservoirs. As noted, the City has made representations in numerous forums, including in legislative hearings on HB 3211, that its intent with this project is to lessen and/or stop its use of Siletz River water rights. Given that the new reservoir will have capacity to store more water than it can today, the OWRD must ensure that there is no injury to existing rights, including instream rights, on all affected streams, including the Siletz.

WaterWatch of Oregon
Main Office: 213 SW Ash St. Suite 208 Portland, OR 97204
Southern Oregon Office: PO Box 261, Ashland, OR, 97520

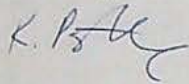
www.waterwatch.org
Main Office: 503.295.4039
S. OR Office: 541.708.0048

Central to this transfer is the building of a new dam. The new dam will be subject to Oregon's fish passage laws. The City will either need to provide fish passage or apply for a fish passage waiver, which would require mitigation. The City has committed to including instream flows as part of their mitigation package. *See 2023 Letter to Senator Golden, re: HB 3211 attached.* While this process is overseen by the Oregon Department of Fish and Wildlife, it is relevant to this transfer since this transfer will allow the building of an entirely new dam.

In conclusion, as this project moves forward, we encourage OWRD to not only ensure that the transfer will not result in enlargement or injury as required by statute, but that it work with ODFW to ensure that City commitments related to lessening/halting use of the Siletz River water rights more forward as part of the fish passage mitigation plan.

Thank you for the opportunity to comment.

Sincerely,

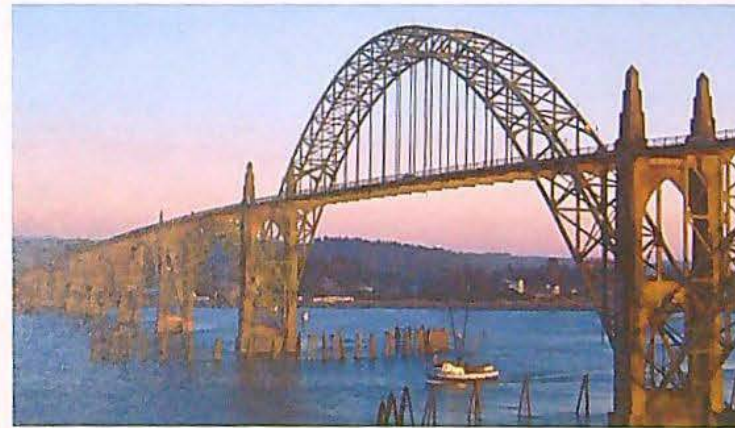
A handwritten signature in dark ink, appearing to read "K. Priestley", with a stylized flourish at the end.

Kimberley Priestley
Sr Policy Analyst

Attachments

CITY OF NEWPORT BIG CREEK DAMS – SECURING WATER SYSTEM RESILIENCY

June 7, 2019



**The problem, the risks, and
the plan for addressing
the seismic deficiencies
of the Big Creek Dams**

Presented by

Timothy Gross, P.E.
Director of Public Works/City Engineer
City of Newport, OR



Background: How the Water System of Newport Works

City of Newport

Statistics/Watersheds/Water Rights

Statistics

- Population
 - 10,000 regular residents
 - Up to 50,000 with tourists
- Production
 - 764 MG in FY 17-18
 - average 2 MGD, max 5 MGD
- Large water dependent industrial base

Watersheds

- Primary Watersheds:
 - Siletz River Watershed (200 sq mi)
 - Big Creek Watershed (3.3 sq mi)

Water Rights

- Water rights in 10 different locations
- Primary water rights:
 - Big Creek
 - 10 CFS (4,488 GPM/6.46 MGD)
 - Siletz River Diversion
 - 6 CFS (2,700 GPM/3.88 MGD)



Siletz River Intake Station and Raw Water Line

Siletz Intake Station

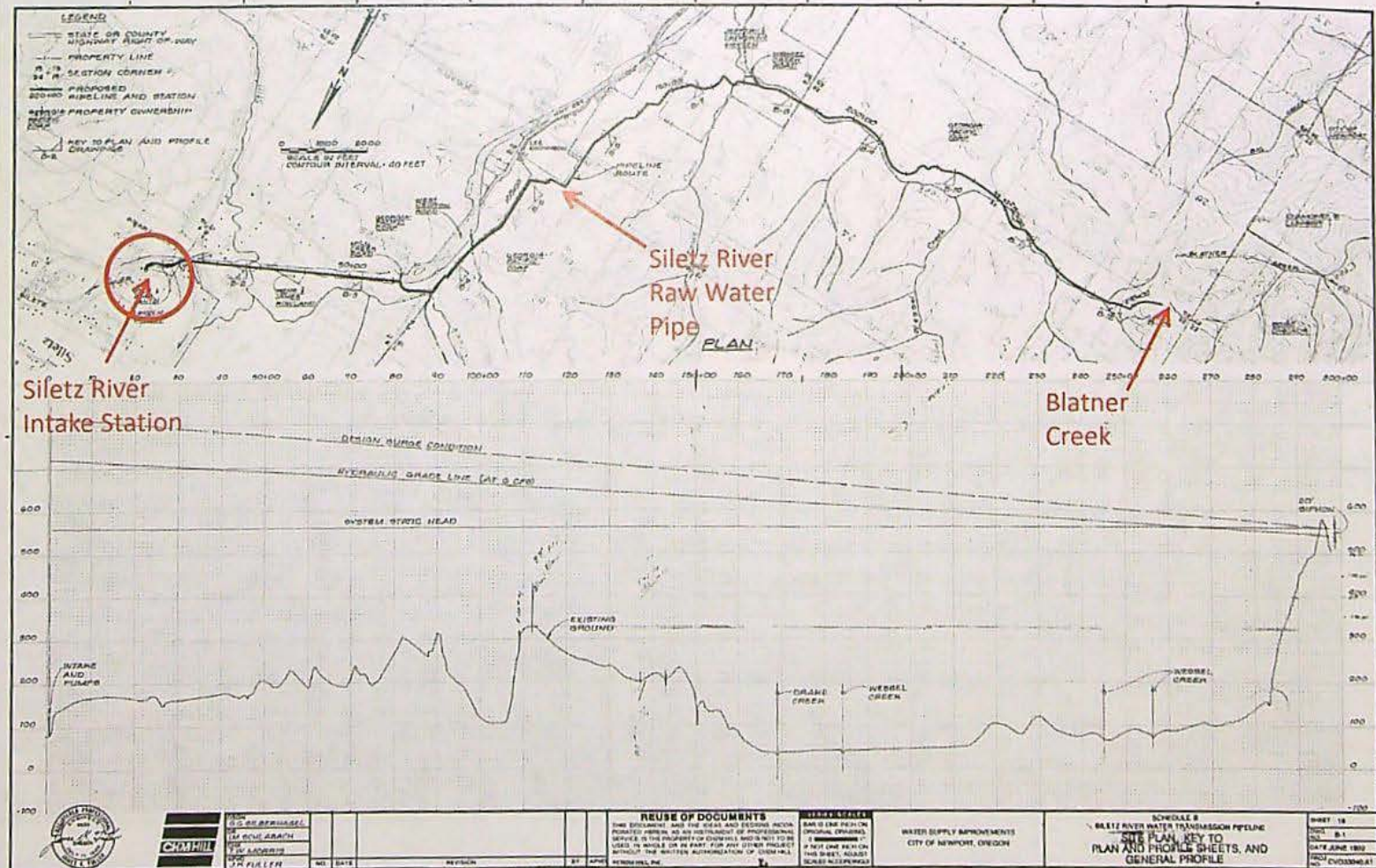
- 3-200 HP Pump
- 208 psi discharge pressure

Siletz Raw Water Line

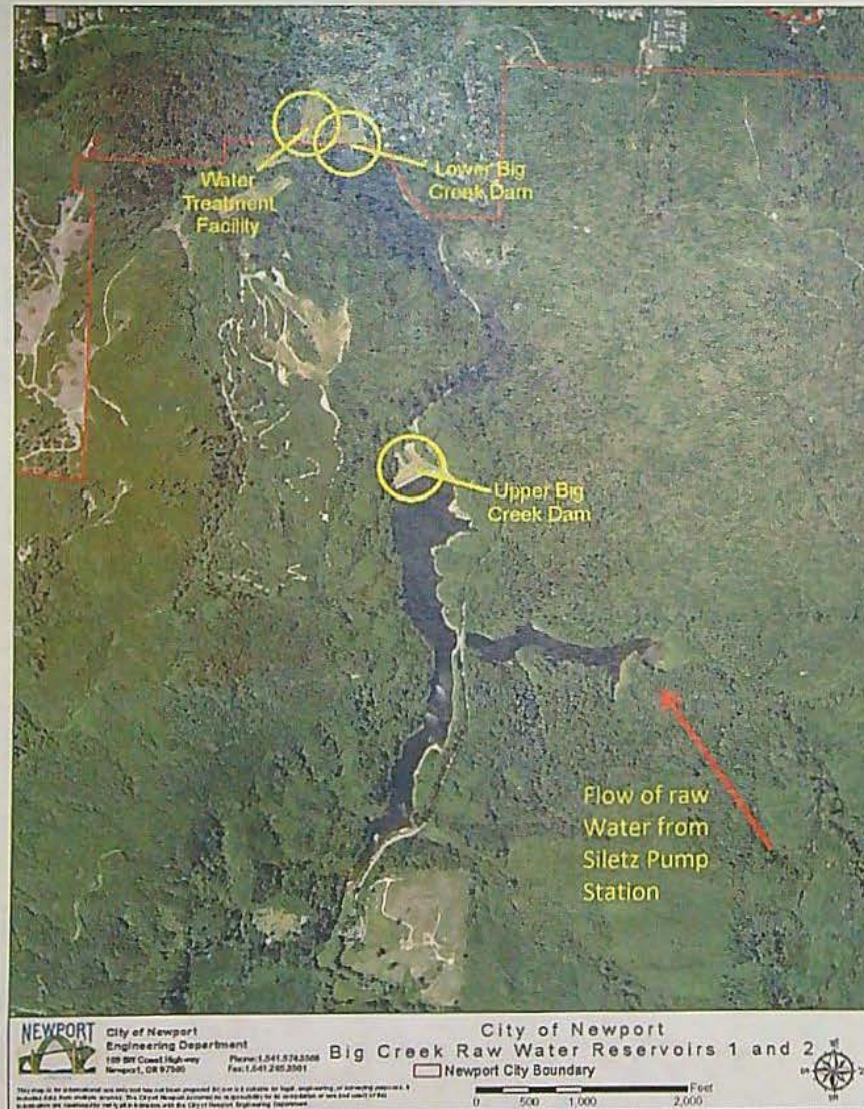
- 5.7 miles of pipe
- 550' of elevation change
- 1.9 miles of open channel flow
- Total Distance from intake to reservoir: 7.6 miles



Siletz River Intake Station and Raw Water Line



Big Creek Reservoirs 1 and 2



Raw Water Storage Capacity

- Big Creek Reservoir #1 – 200 Ac Ft (56 MG)
- Big Creek Reservoir #2 – 970 Ac Ft (271.6 MG)
- Total Storage 1,170 Ac Ft (327.6 MG)



Big Creek Dam #1

- Constructed: 1951
- Const. Cost: **\$40,706**
- Type: Embankment
- Length: 315 ft
- Height: 21 ft
- Crest Width: 12 ft



Big Creek Dam #2

- Constructed: 1968
- Cont. Cost: **\$126,864**
- Raised: 1976
- Raise Cost: **\$273,631**
- Type: embankment dam
- Length: 455 ft
- Height: 56 ft
- Crest Width: 20 ft



The Problem...

Initial Lower Big Creek Dam Condition Assessment

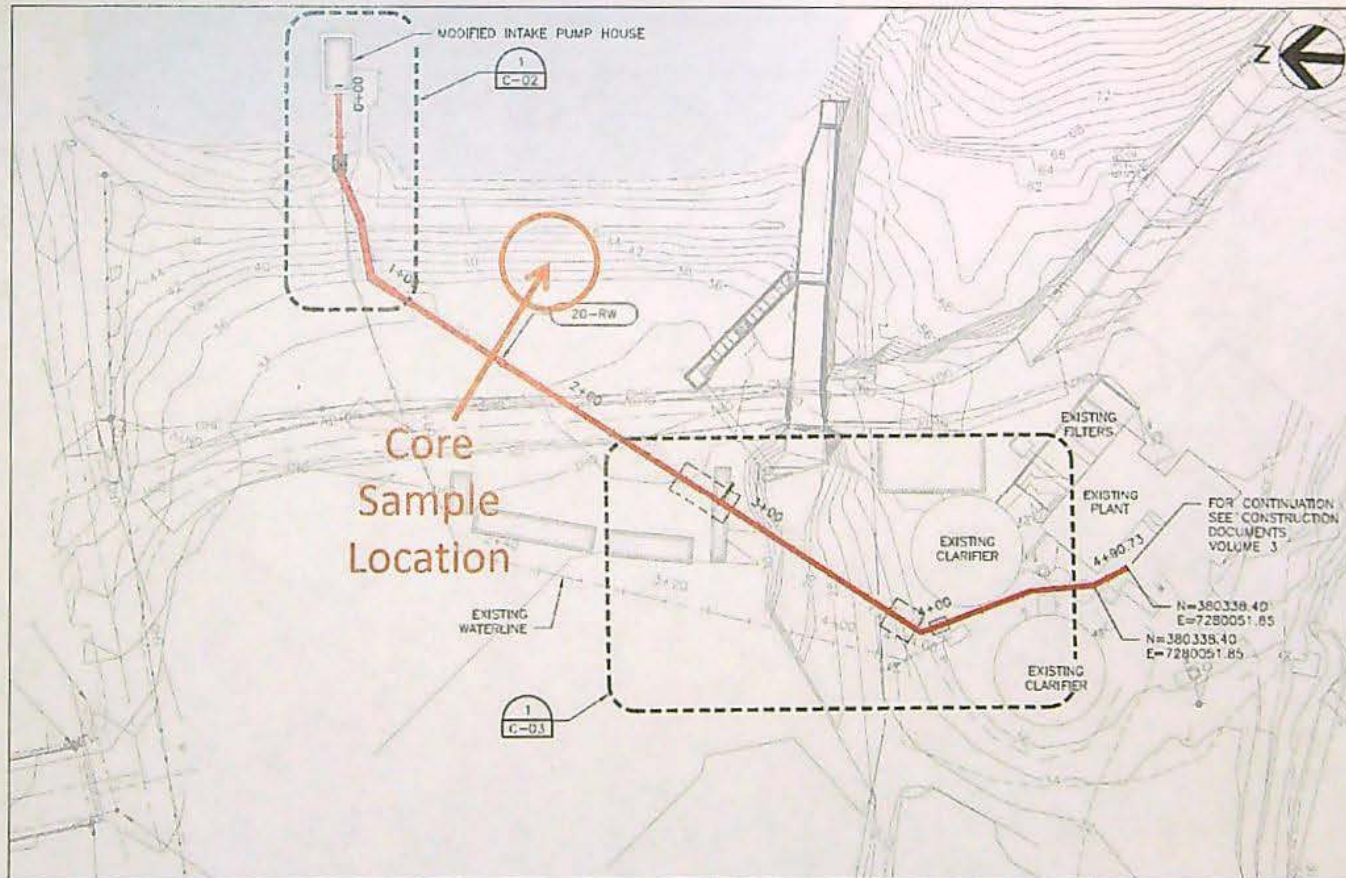
Raw Water Intake Structure Construction

- Beginning in 2010, the City began construction on a new water treatment facility and raw water intake station
- The existing raw water intake structure was planned to be rebuilt on the existing wood piles.
- Piles were to be encased in grout filled steel casings
- During a preconstruction inspection by divers, it was discovered that the as-builts on the existing pump station were incorrect and the existing piles did not have sufficient stability to support the proposed intake structure



Geotechnical Soil Analysis

Lower Big Creek Dam- Raw Water Intake Structure



- A core sample was taken in the middle of the dam to assess soil conditions for alternative pile options.

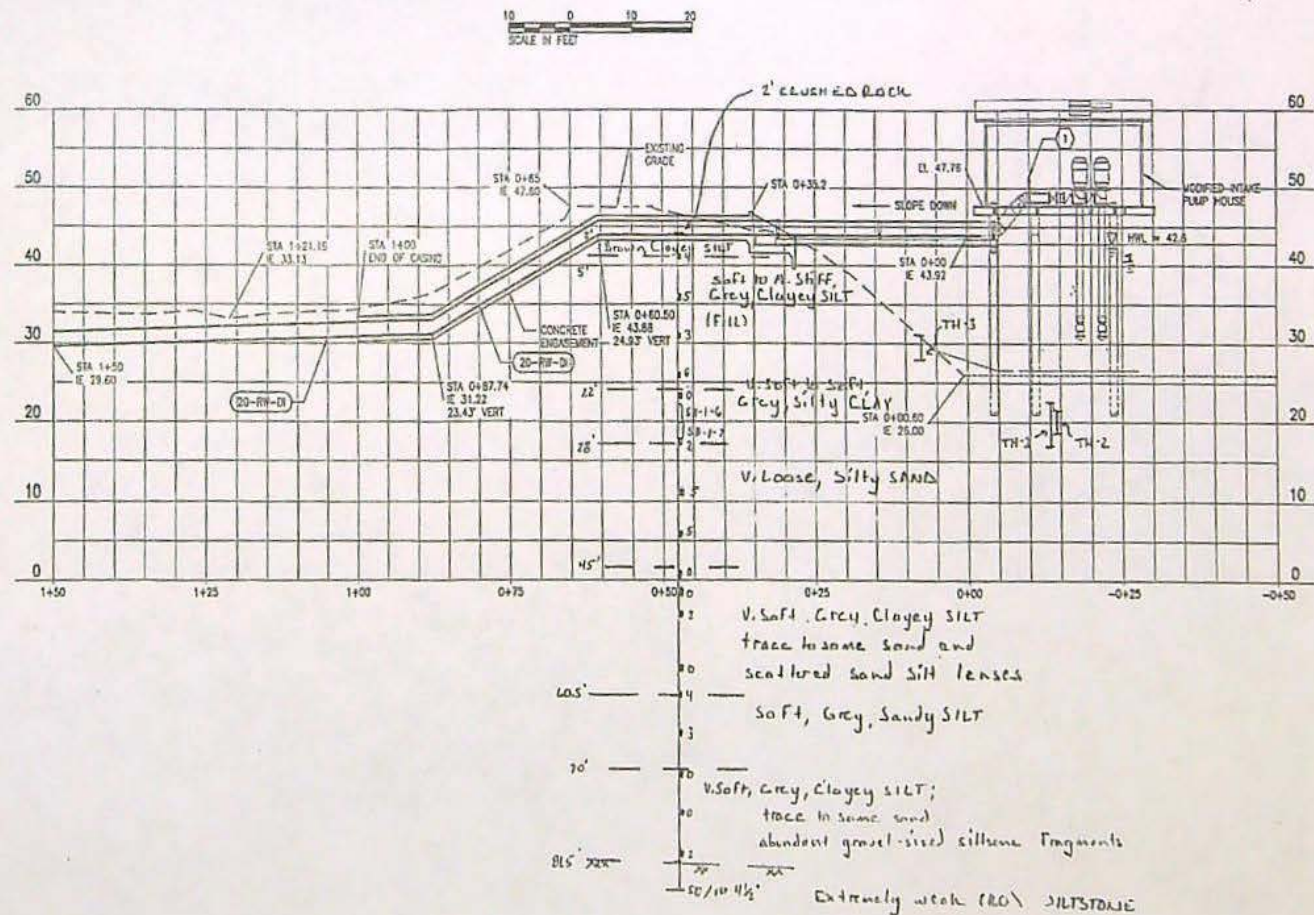
Drilling during Construction – Discovery of the Problem



Geotechnical Soil Analysis

Lower Big Creek Dam - Estimated Subsurface

- ± 22 to 28 feet - very soft to soft, grey, clayey silt (alluvium)
- ± 38 to 45 feet - very loose, silty sand
- ± 45 to 60 - feet very soft, clayey silt with scattered sandy silt lenses
- ± 60 to 70 feet - soft, sandy silt
- ± 70 to 81.5 feet - very soft, clayey silt with sand to gravel-sized, decomposed siltstone fragments
- 81.5 to 85.4 feet (bottom of the boring) - extremely weak (R0) siltstone (Nye Formation)



More Geotechnical Explorations – BC 1



More Geotechnical Explorations – BC 2



Timeline of Events

Timeline		Activity
April 2011	→	1 st Boring sample – discovered the issue
Dec 2011	→	2 nd Round of sampling at both dams
Jan - May 2012	→	Laboratory testing of 2 nd round samples
Feb 2013	→	Report “Geotechnical Investigation & Seismic Evaluation”
Nov 2013	→	3rd Round of sampling
Jan - June 2014	→	Laboratory testing of 3 rd round samples
June 2015	→	Report “Engineering Evaluation & Corrective Action Alternatives”

Engineering Analysis/Deficiency Verification Results

Results:

- The lab testing and engineering analysis show:
 - Soils are predominantly high plasticity silts and very soft
 - Will loosen strength during earthquake and move in any direction
 - Causes deformation of the dams and consequent failure



The Risk...

SUNNY DAY INUNDATION MAP - FAILURE OF DAM NO. 1 AND DAM NO. 2

(A Sunny Day Failure assumes failure of the dam by means other than a flood event, such as failure triggered by an earthquake or internal dam erosion (piping).)



Primary concerns as associated with dam failure

1. Risk to Life and Safety

- Failure inundation area affects 11 homes and Agate Beach State Park day-use parking lot

2. Loss of Raw Water Supply/Long-term Risk to Public Health

- No clean water for an indefinite period of time
- Affects 10,000-50,000 people per day indefinitely
- Emergency Management Planners estimate that coastal communities could be isolated between 2-6 months after a major Cascadia event
- It will years to rebuild a dam and intake structure sufficient to provide raw water for the water treatment plant under normal circumstances, without the devastation caused by an earthquake.

3. Economic Disaster/Recovery

- The City conservatively estimates that for every day of water disruption, a minimum of \$120 in Gross Domestic Product (GDP) is sacrificed per employee, per day. If the Big Creek Dams fail, the annual cost of water service disruption could be approximately \$80 million in GDP for the 7,470-people employed in the City of Newport.¹

¹Quinn, Alexander et al. "The Economic Benefits of Investing in Water Infrastructure." *The Value of Water Campaign*. 2017.



Primary concerns as associated with dam failure

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- Failure inundation area affects 11 homes and Agate Beach State Park day-use parking lot

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- No clean water for an indefinite period of time
- Affects 10,000-50,000 people per day indefinitely
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- It will years to rebuild a dam and intake structure sufficient to provide raw water for the water treatment plant under normal circumstances, without the devastation caused by an earthquake.

3. Economic Disaster/Recovery

- The City conservatively estimates that for every day of water disruption, a minimum of \$120 in Gross Domestic Product (GDP) is sacrificed per employee, per day. If the Big Creek Dams fail, the annual cost of water service disruption could be approximately \$80 million in GDP for the 7,470-people employed in the City of Newport.¹

¹Quinn, Alexander et al. "The Economic Benefits of Investing in Water Infrastructure." *The Value of Water Campaign*. 2017.



Primary concerns as associated with dam failure

1. Risk to Life and Safety

- Failure inundation area affects 11 homes and Agate Beach State Park day-use parking lot

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- It will years to rebuild a dam and intake structure sufficient to provide raw water for the water treatment plant under normal circumstances, without the devastation caused by an earthquake.

3. Economic Disaster/Recovery

- The City conservatively estimates that for every day of water disruption, a minimum of \$120 in Gross Domestic Product (GDP) is sacrificed per employee, per day.¹ If the Big Creek Dams fail, the annual cost of water service disruption could be approximately **\$233 million in GDP for the 7,470-people employed in the City of Newport.**

¹Quinn, Alexander et al. "The Economic Benefits of Investing in Water Infrastructure." *The Value of Water Campaign*. 2017.

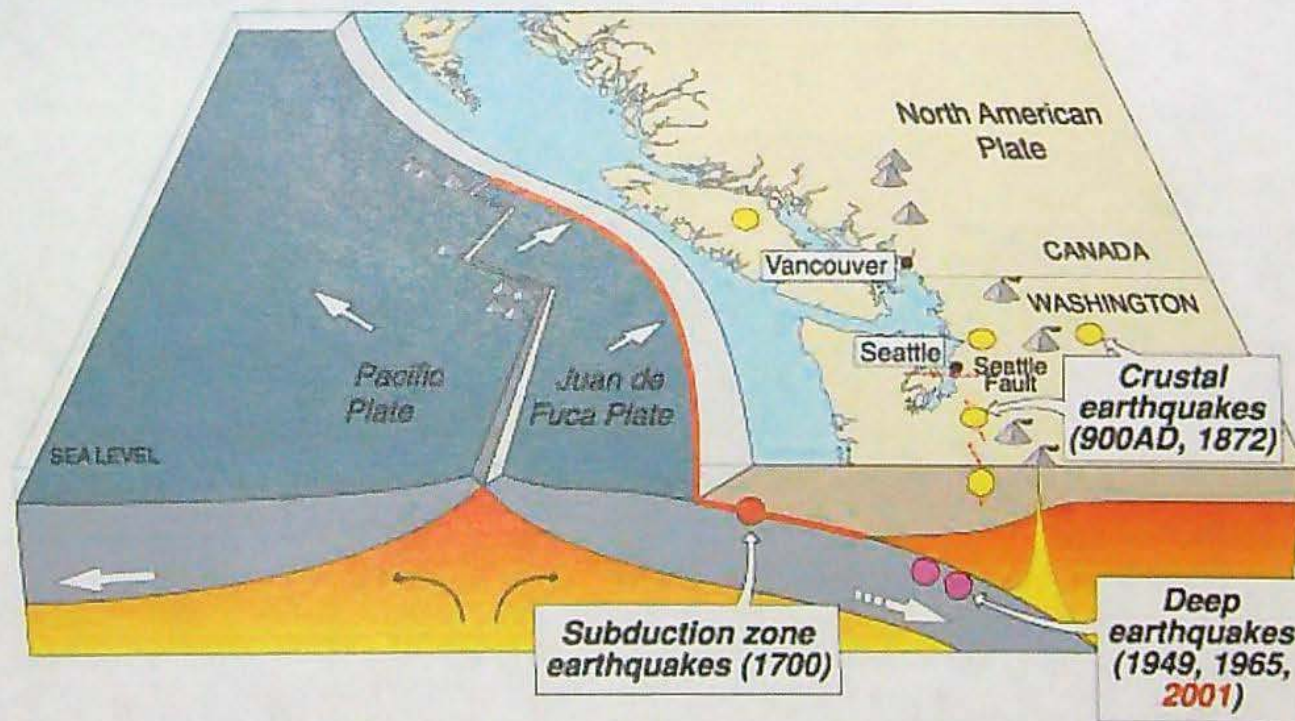


The Earthquake Hazard

Types of Earthquakes

Cascadia Subduction Zone (CSZ)

Cascadia earthquake sources

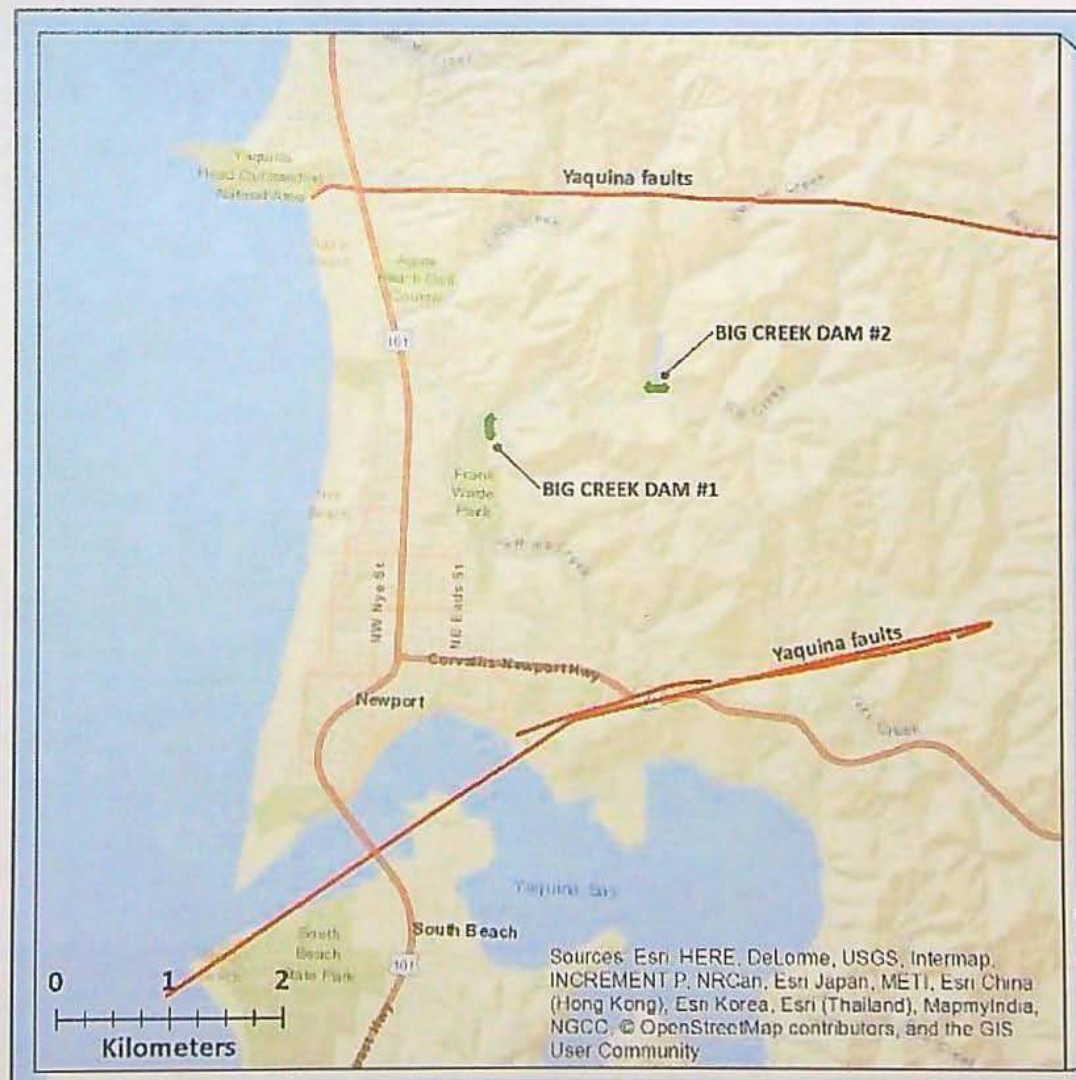


Crustal Faults



Types of Earthquakes

Crustal Faults



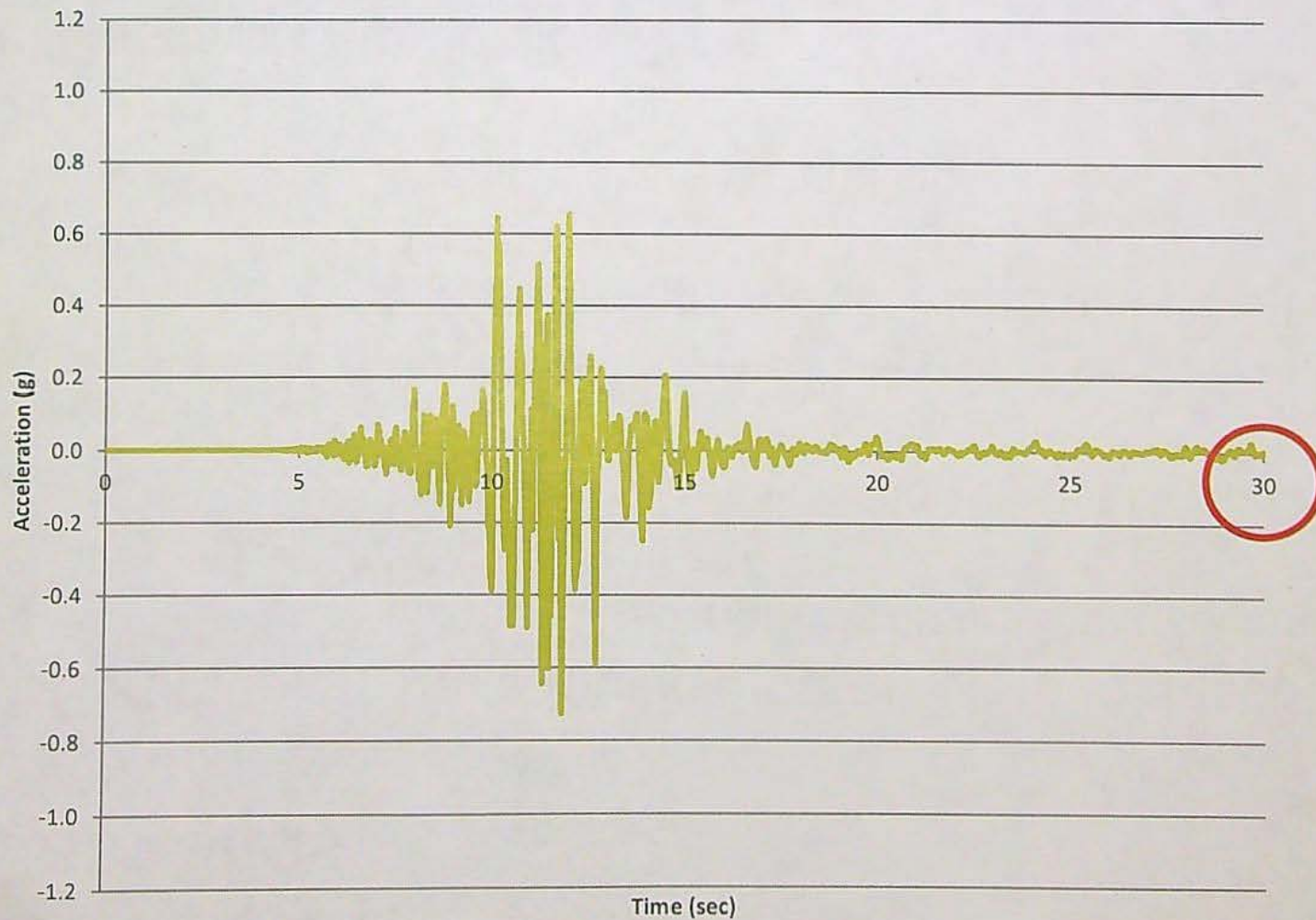
The Earthquake Hazard at the Newport Dam Sites

- Earthquakes have multiple parameters to describe them
 - » Magnitude – length of rupture and total amount of energy released
 - » Distance between location of rupture and critical structure
 - » Return period – how often the energy is released
 - » PGA – peak ground acceleration of the entire earthquake
 - » Duration of strong shaking
- Cascadia Subduction Zone
 - » High magnitude (M 8 to 9+), long duration (200+ seconds)



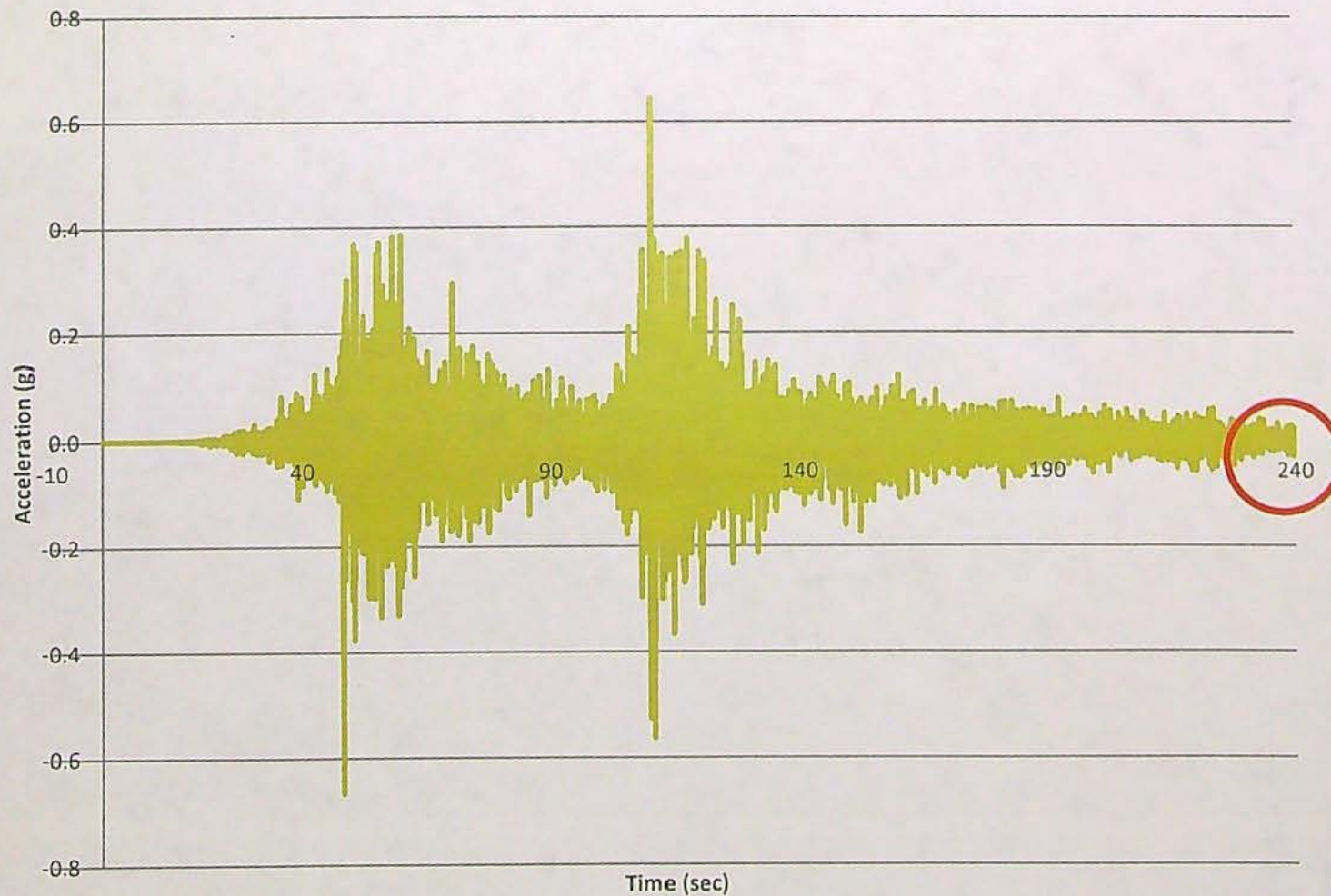
Response of Earth Embankments to Earthquakes

Crustal - Yaquina



Response of Earth Embankments to Earthquakes

Subduction - Interface



Breach Through Transverse Cracks and Overtopping



Figure 8: View of Breach in Fujinuma Main Dam from Right Abutment
(N37.3014°, E140.1957°, April 23, 2011)



The Earthquake Hazard at Newport Dam Sites

Table 2A. Probabilistic Seismic Hazard Deaggregation Contributions at PGA

Return Period	PGA (g)	Contributions from Principal Sources at PGA (%)			
		Gridded (other crustal)	Yaquina Faults	Cascadia Subduction Zone	
				Interface ¹	Intraslab
475-year	0.30	4.4	30.4	59.0	4.4
975-year	0.52	<3	35.8	60.4	<3
2,475-year	0.86	<3	35.2	63.5	<3
4,975-year	1.15	<3	32.8	66.6	<3
9,950-year	1.47	<3	29.8	69.9	<3

¹CSZ Interface includes Cascadia M8.0-M8.2 floating, M8.3-M8.7 floating and megathrust sources



Summary of Estimated Deformations of Newport Dams

Table 1: Summary of Estimated Embankment Crest/Downstream Slope Deformations at BC-1 and BC-2

Recurrence Interval Event (years)	Estimated Peak Ground Acceleration (PGA ~ g's)	Est. Deformations - Empirical (Swaisgood, 2003) (inches)			Est. Deformations – Newmark (inches)		
		Lower Bound	Best Estimate	Upper Bound	Lower Bound	Best Estimate	Upper Bound
BC 1							
2475	0.79	15	33	68	50	>76	90
4975	1.12	218	478	>478	116	>160	184
BC 2							
2475	0.79	15	33	68	32	>48	54
4975	1.12	218	478	>478	56	>96	112

Green – Acceptable, no corrective actions required

Yellow – Marginal to unacceptable, corrective actions required

Red - Unacceptable, expedited corrective actions needed



Engineering Analysis/Deficiency Verification

- BC-1:
 - Will fail by settlement and overtopping during a large earthquake.
 - Smaller earthquakes will result in significant damage to the dam, outlet works, water supply pump station, and ability to operate the reservoir
 - Foundation material is very deep. Remediation is challenging and expensive.
 - Small amount of storage in the reservoir and the very large anticipated remediation costs, rehabilitation of this dam is judged as non-feasible.

Engineering Analysis/Deficiency Verification

- BC-2:
 - Unacceptable deformations large earthquake events
 - Likely to fail due to overtopping and/or seepage through transverse cracks after the shaking
 - Significant damage during more frequent seismic events
 - Deformations of the upstream slope will be significant for the larger earthquakes resulting in damage or failure of the outlet works, intake structure, and discharge pipeline (similar to BC1)

The Plan: Corrective Action Alternatives

Alternatives for Corrective Actions – Options

What do we do?

1. Nothing
 - OWRD has directed the City that the dams either needs to be rehabilitated/replaced or the water drawn down to a level so that the reservoirs no longer present a hazard.
 - Drawing down the reservoirs would result in not having enough water to meet demand.
2. Move the water supply elsewhere
 - Rocky Creek or alternate site
 - Desalinization
 - Wastewater Reuse
3. Rebuild/Rehabilitate the Existing Dam(s)
 - BC1 – bad soils too deep – unfeasible
4. Replace the existing Dams with a new Dam(s)

Alternatives for Corrective Actions – Options

Rocky Creek - History

- Initiative started by the City of Newport in 1997 to find a secondary water source to meet future demand.
- Resulting report was the [Long-Range Water Supply Report](#) created by Fuller & Morris Engineers in 1997. This document was a study of Newport's water supply and the potential for regionalization of water supplies. This report rated the alternatives identified in order of least environmental impact and most desirable from the standpoint of Newport or a regional supply as follows:

Newport

1.) Big Creek

2.) Rocky Creek

3.) Big Rock Creek

Regional

1.) Rocky Creek

2.) Big Rock Creek

- Resulted in the creation of the [Central Coast Water Council](#), a consortium of Coastal water suppliers working to develop a regional supply at Rocky Creek.

-City of Lincoln City

-City of Newport

-City of Siletz

-City of Toledo

-City of Waldport

-City of Yachats

-Seal Rock Water District

-Southwest Lincoln County Water District

-Kernville/Gleneden Beach/Lincoln Beach Water District



Alternatives for Corrective Actions – Options

Rocky Creek - History

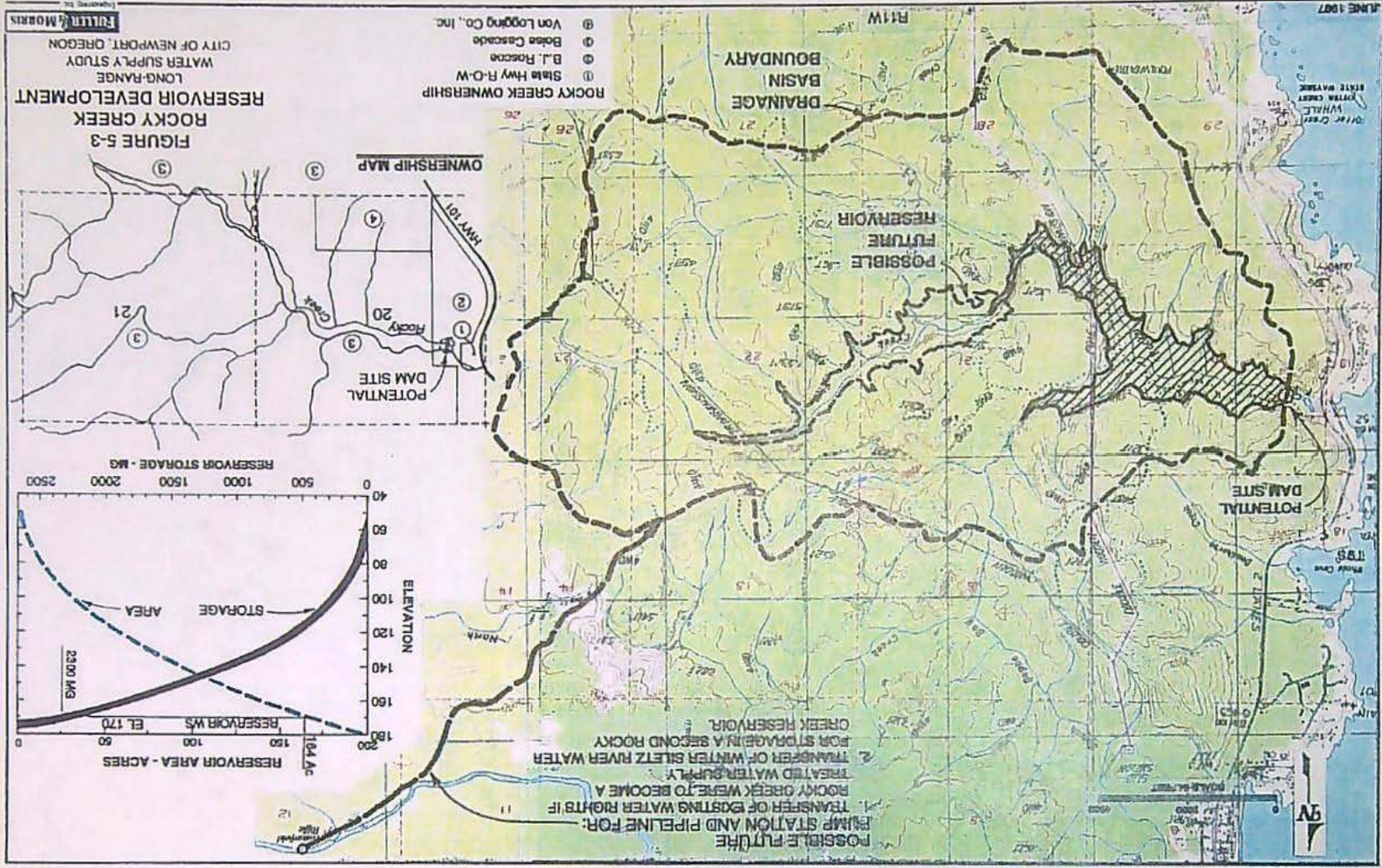
- The costs for the pre-construction development of the Rock Creek Reservoir would be carried by the City of Newport and Lincoln City and other Council members could choose to participate at the point of construction and would reimburse Newport and Lincoln City for their share of the development costs
- A water rights application was submitted by the City's of Newport and Lincoln City in April of 1998 to construct a reservoir at Rock Creek to store 9,000 AF of water. The application resulted in the creation of the Rocky Creek Regional Water Supply Project – Preliminary Water Management Plan created to answer questions raised during review of the application.
- Application was incomplete and placed on administrative hold until 2012 at which time OWRD indicated that the application would be rejected unless it was completed.
- The City of Lincoln City did not want to participate any longer, therefore Newport withdrew the original application and submitted a completed alternate application which was subsequently approved as complete pending a Proposed Final Order. The City of Newport then asked that the application be placed on administrative hold pending the completion of the Mid-Coast Water Planning Partnership.



Alternatives for Corrective Actions – Options Rocky Creek Drainage Area



Alternatives for Corrective Actions – Options Rocky Creek Drainage Area



Alternatives for Corrective Actions – Options Regional Water Supply Plan



Alternatives for Corrective Actions – Options

Rocky Creek was rejected as a viable alternative for the following reasons:

1. The Rocky Creek project assumed to be in addition to the storage in the Big Creek reservoirs. **The Big Creek reservoirs still need to be either removed, rehabilitated or replaced.**
2. Construction costs according to ENR Construction Cost Index have increased 189% since 1997. The planning level estimate of \$40M in 1997 is \$76M in 2018.
3. The Rocky Creek concept did not consider seismic design standards nor tsunami risk. The proposed raw water alignment is down Hwy 101 between Cape Foulweather and Newport which is unstable and within the tsunami zone.
4. The Rocky Creek development was expected to be completed by 2025, 28 years. The City of Newport does not have the time to develop a new water source considering the imminent seismic risk to the current reservoirs.
5. There is currently not regional support to develop Rocky Creek and the original planning documents concur that the project is unfeasible for Newport to attempt alone.



Alternatives for Corrective Actions – Options

Other rejected alternatives:

1. Desalinization:

- **Negatives:**
 - Costly: estimated at \$113M
 - Doubles cost of operation/doubles rates
 - High electrical demand. Unlikely current electrical infrastructure is sufficient.
 - Not seismically resilient because of electrical demand.
- **Benefits:**
 - Unlimited water supply
 - No longer drawing water from the Siletz

2. Raw Water Re-use:

- **Negatives:**
 - People do not like the concept of drinking treated wastewater
 - ½ of Newport water demand is from fishing industry and is discharged to the Bay, therefore water supply will need to be constantly supplemented
 - Costly: estimated at \$64M
 - Will still need to withdraw from Siletz

Alternatives for Corrective Actions

Storage Capacity

3. Rebuild/Rehabilitate the Existing Dam(s)
 4. Replace the existing Dams with a new Dam(s)
- Storage capacities:

BC-1 = 200 acre-feet

BC-2 = 970 acre-feet

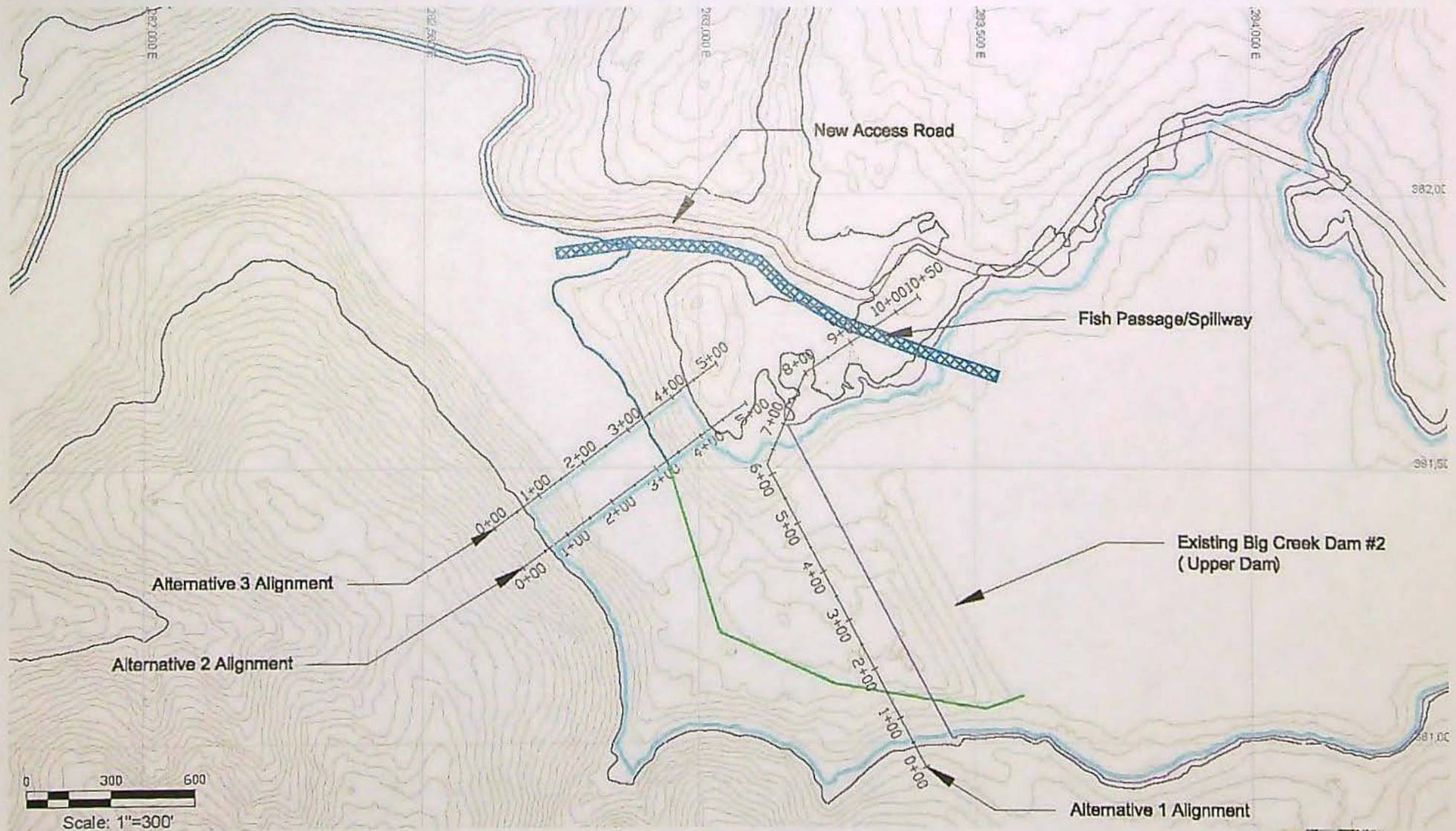
Future projection = 1000 acre-feet

Sediment storage = 100 acre-feet

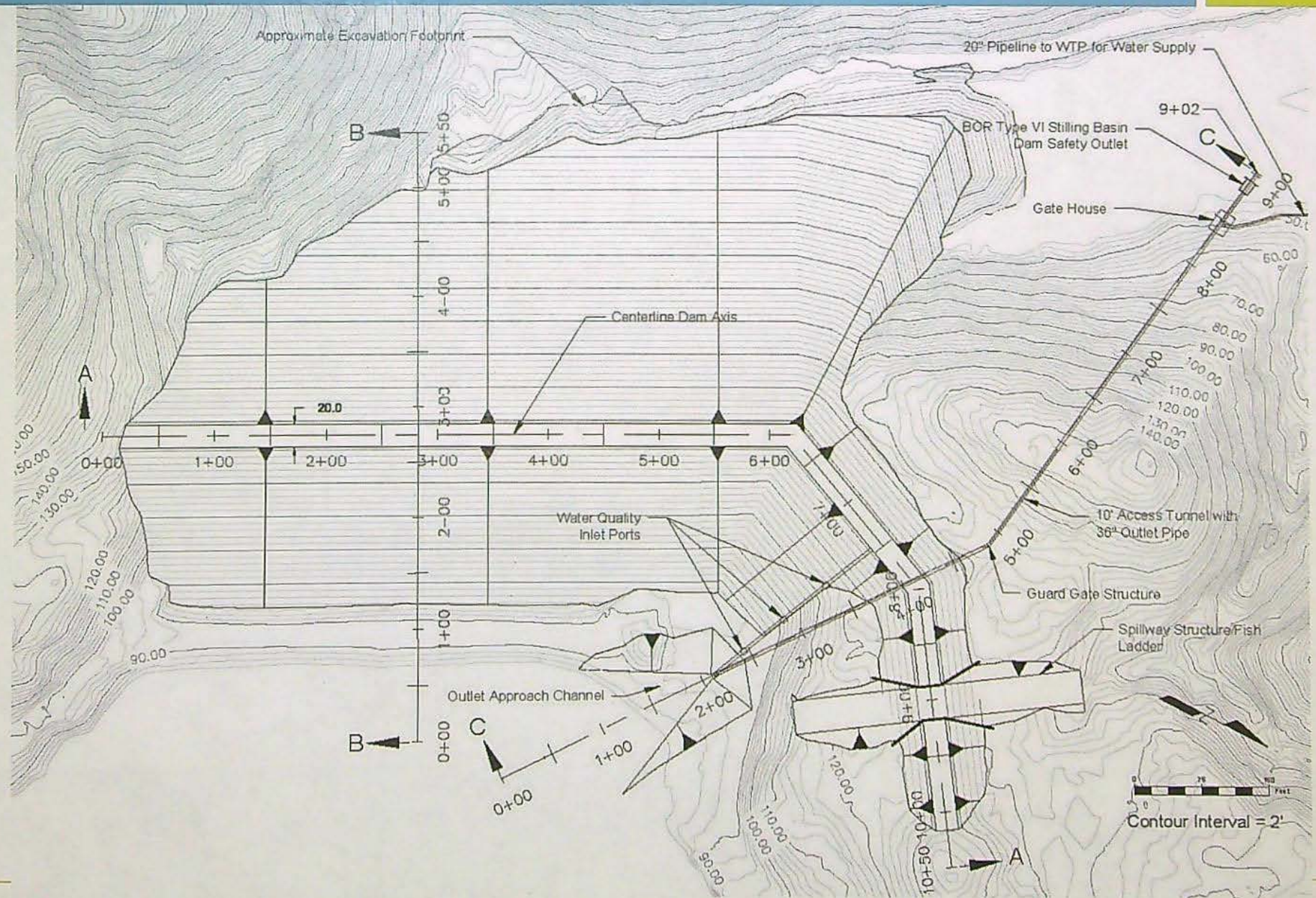
Total Future = 2,270 acre-feet



Alternatives for Corrective Actions Narrowed down to 3 Options

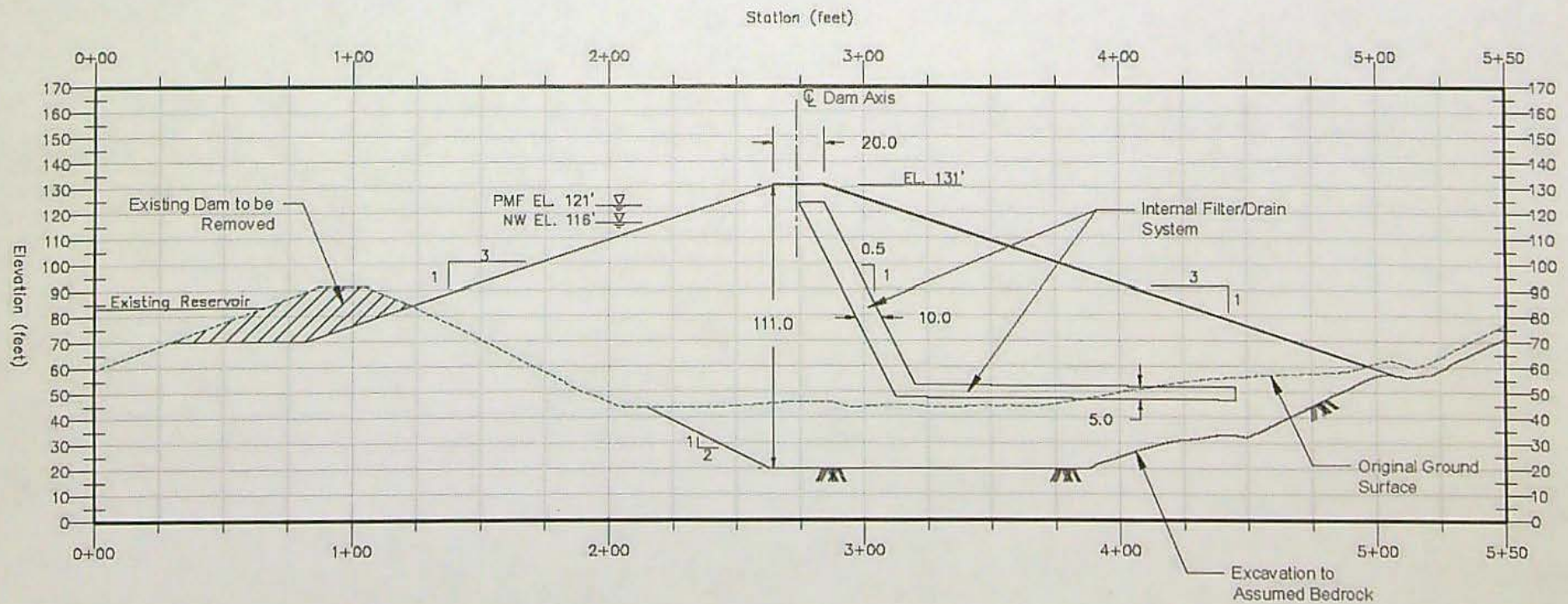


Alternatives 1 – Raising & Modifying Existing Dam

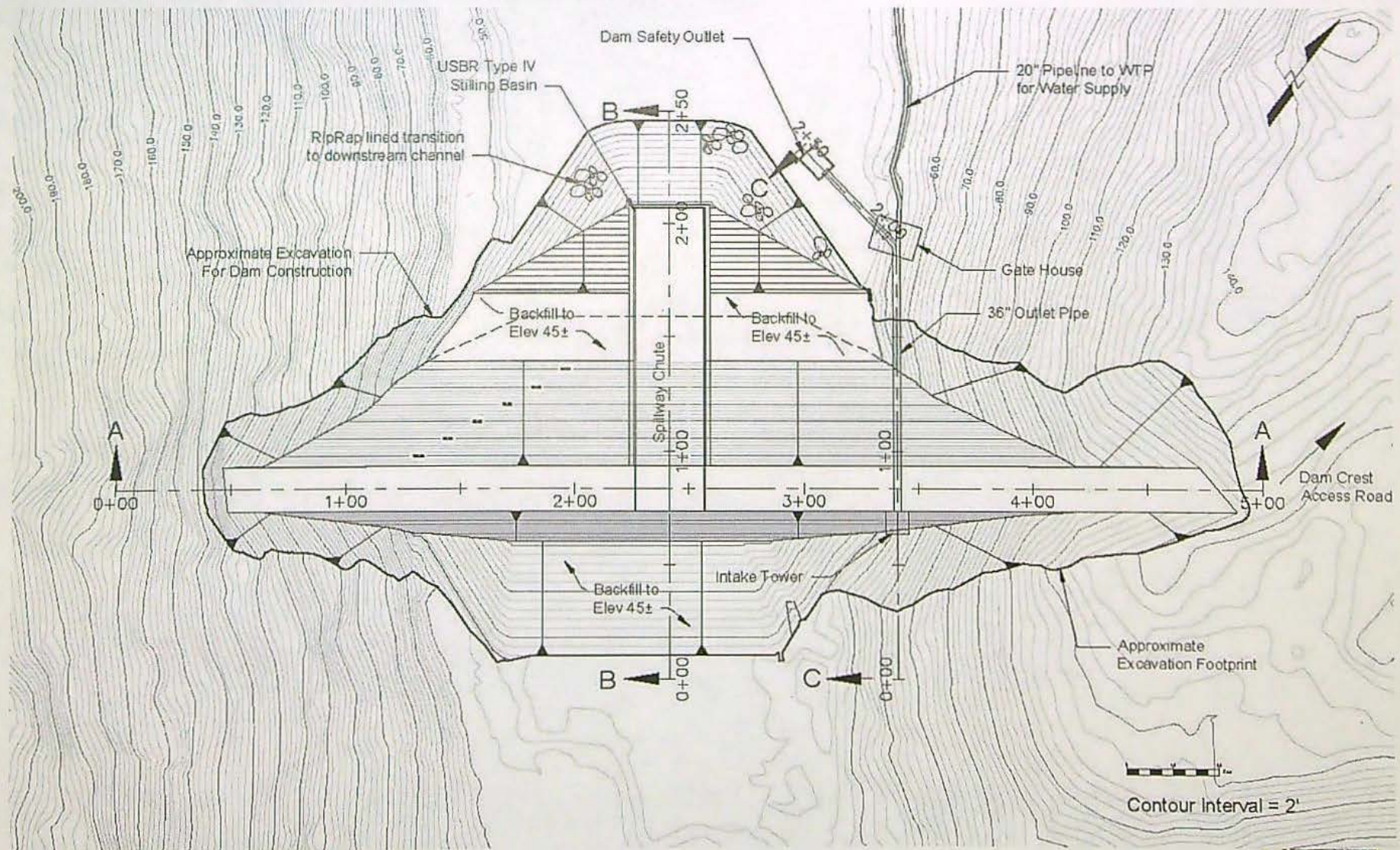


Alternatives 1 – Raising & Modifying Existing Dam

Alternative 1 Embankment Section B-B 2+85



Alternatives 2 – RCC Dam (Roller Compacted Concrete)

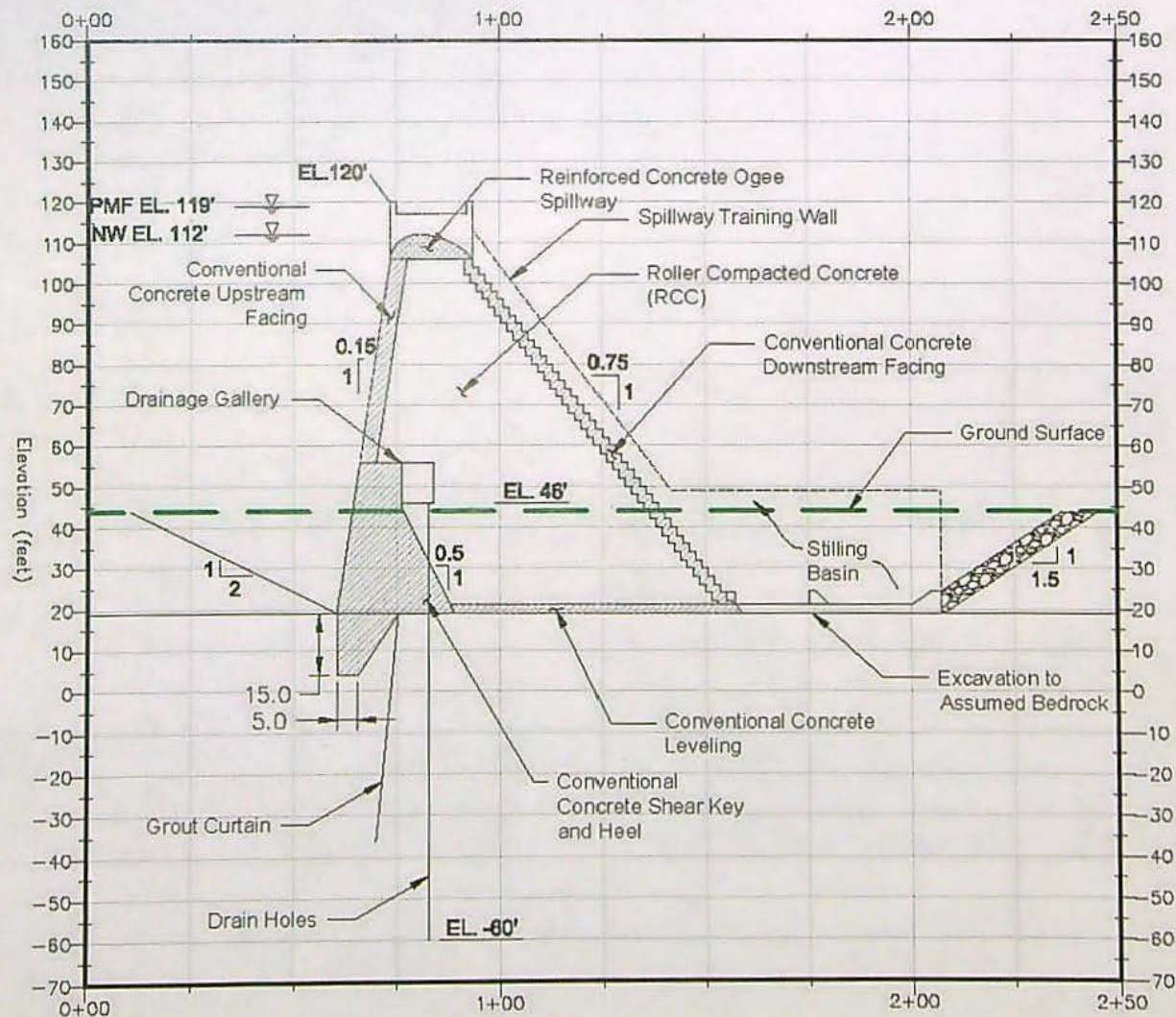


Alternatives 2 – RCC Dam (Roller Compacted Concrete)

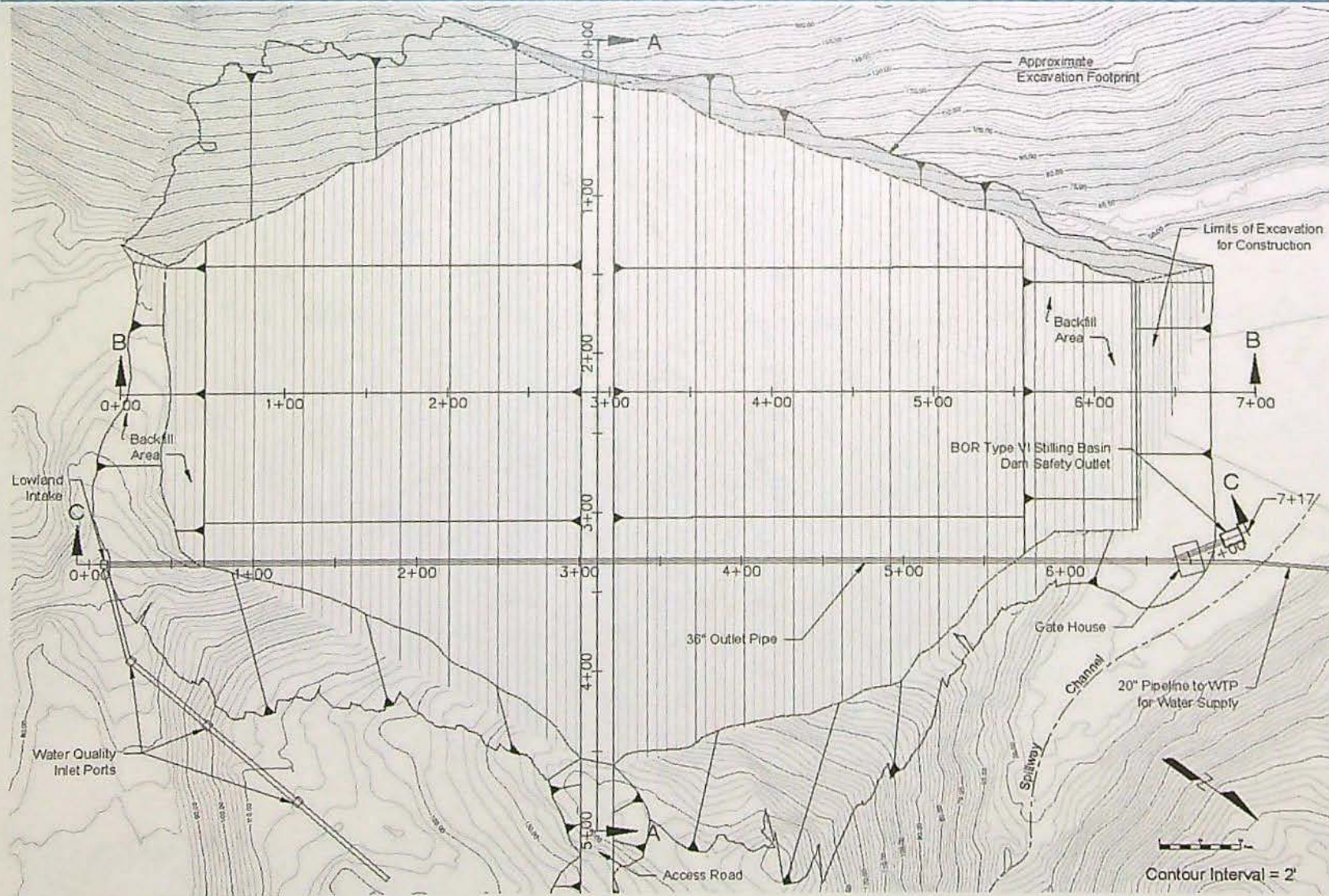


Alternatives 2 – RCC Dam (Roller Compacted Concrete)

Alternative 2 RCC Dam – Section B-B 2+40
Station (feet)

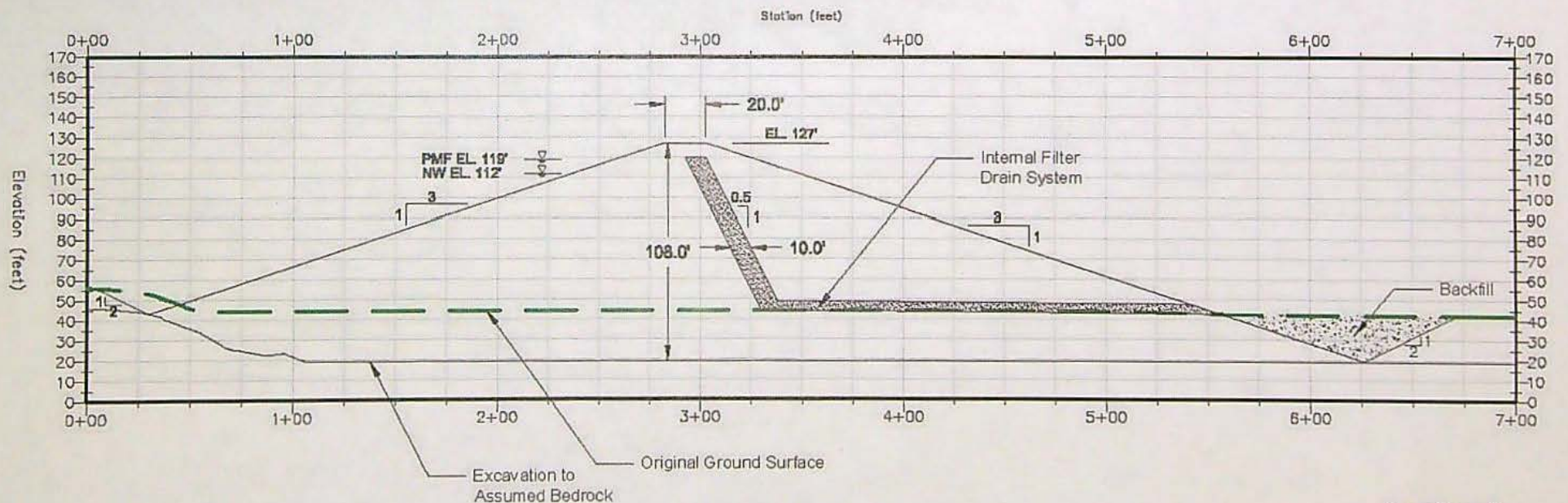


Alternatives 3 – New Embankment Dam

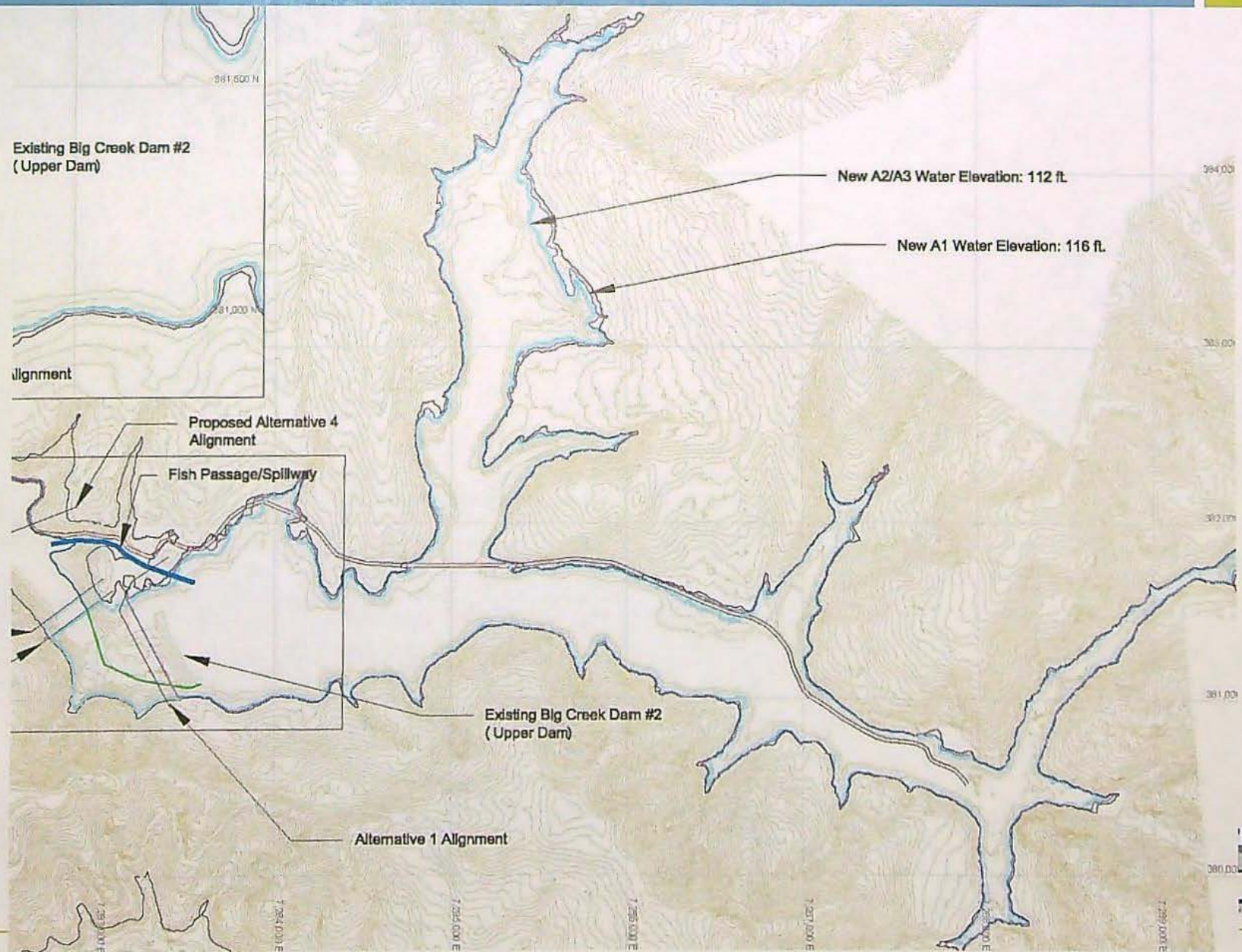


Alternatives 3 – New Embankment Dam

Alternative A3 Embankment Section B-B 2+40



Alternatives for Corrective Actions – Inundation Area



All Alternatives – Comparison

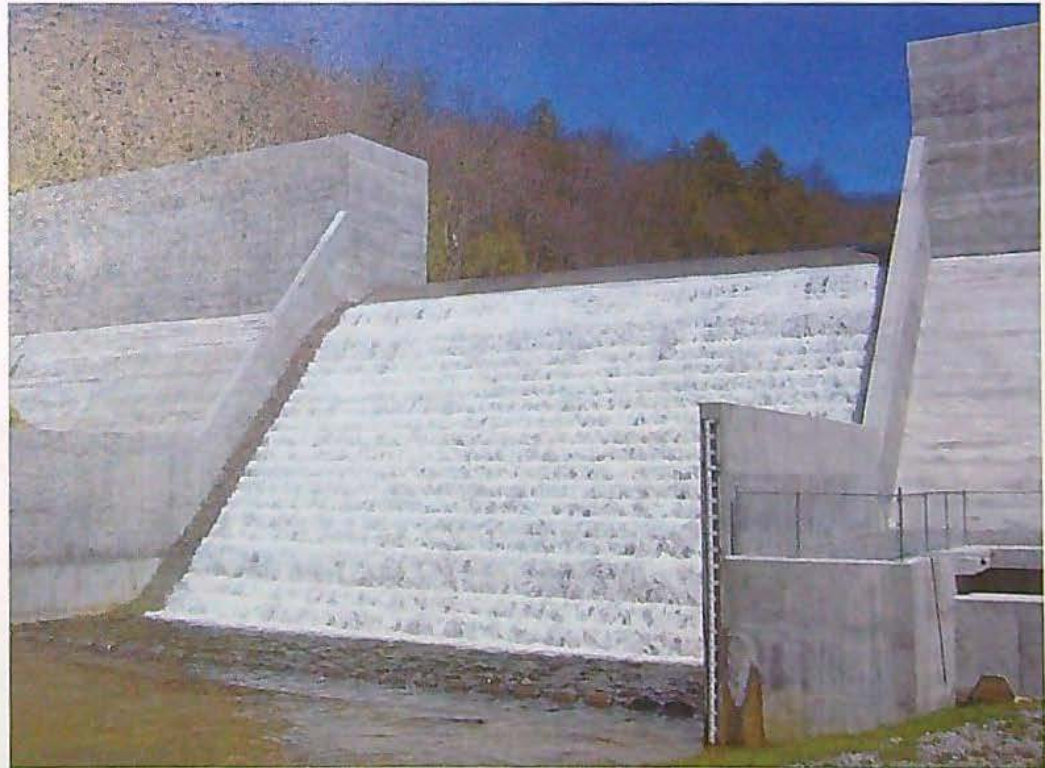
- Constructability
- Excavation volume
- Construction material
- Foundation conditions
- Spillway design
- Intake structure
- Outlet works
- Dewatering
- Seismic resiliency
- Hydraulic resiliency
- Environmental impacts
- Maintenance
- Total costs

Recommended Option

Based on cost estimate & advantages/disadvantages:

Alternative 2 – RCC Dam

- Constructability
- Spillway included
- Less construction time
- Less footprint – less excavation
- Better intake structure
- Less environmental impacts
- Better seismic resiliency
- Less maintenance

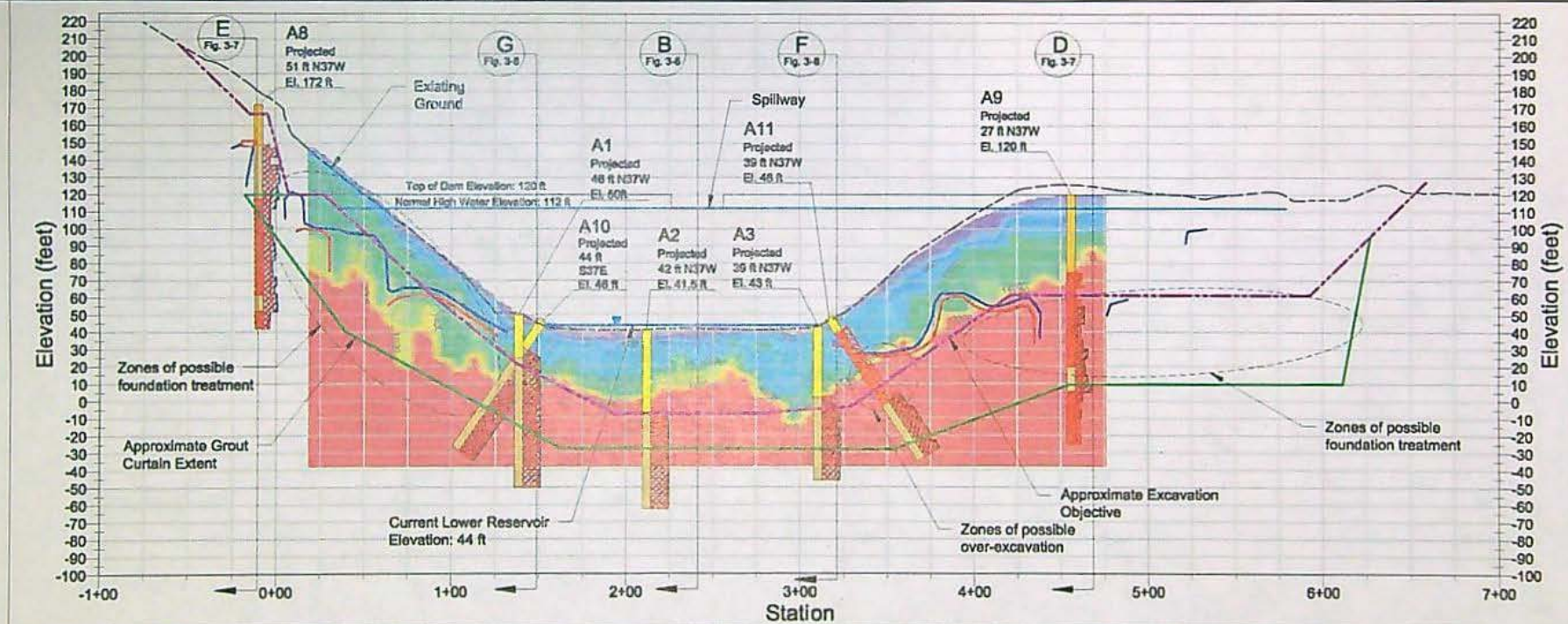


Evaluation of the Recommended Alternative

Geotechnical Site Investigation



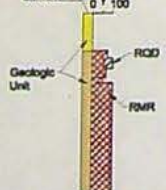
Geotechnical RCC Dam Profile



LEGEND

BORING LOGS

A10
Projected
44 ft S37E
El. 46 ft



GEOLOGIC UNITS:

Qc - Colluvium / Residual Soil

Qal - Alluvium

Tn - Nye Formation Mudstone

HF - Highly Fractured or Weak Zone (RMR < 40)

SEISMIC REFRACTION SURVEY P-WAVE VELOCITY

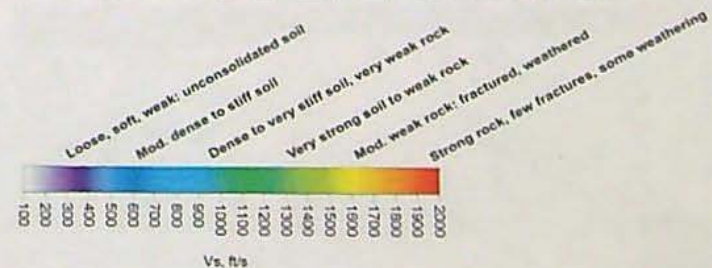
5,000 FPS

6,500 FPS

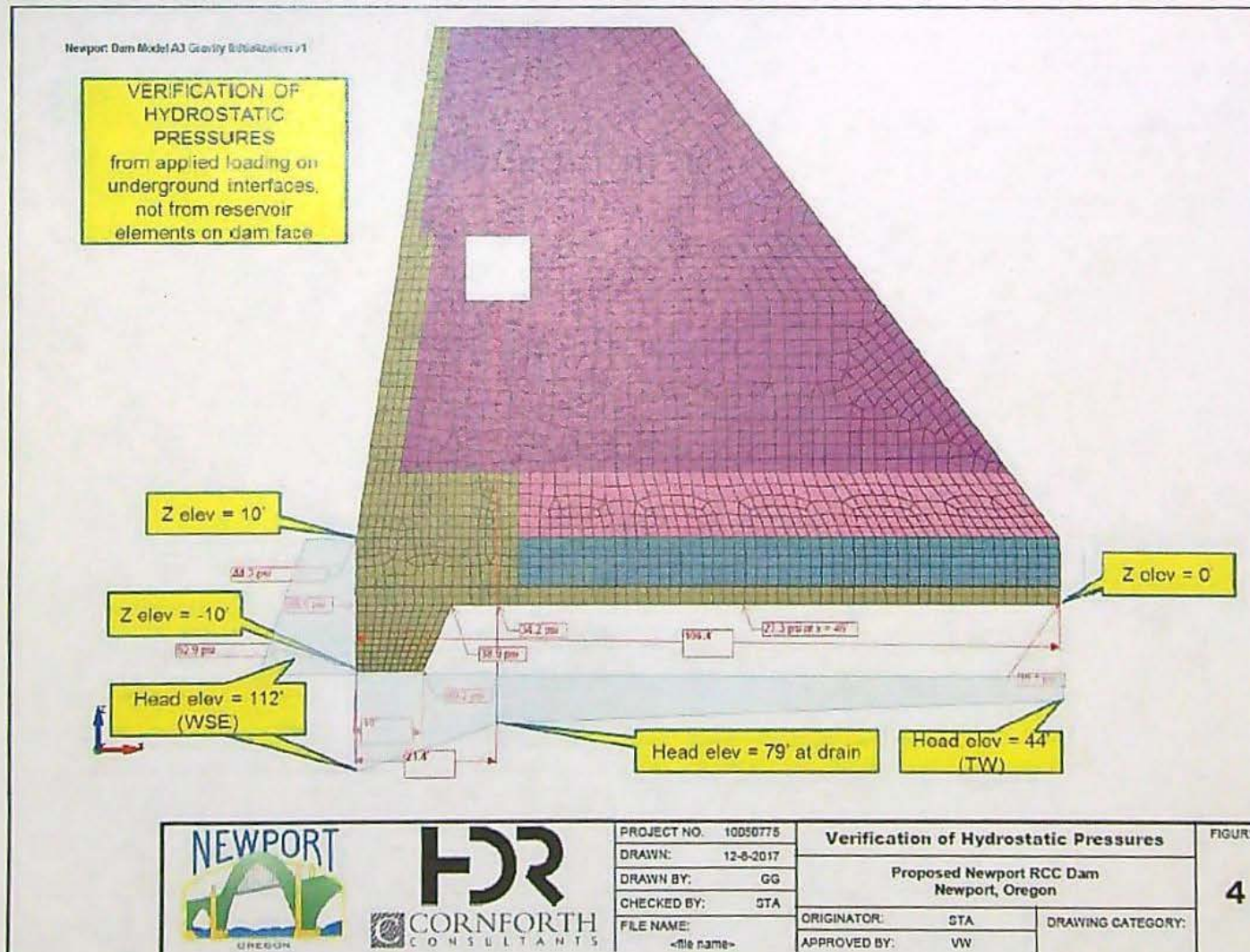
A RCC Dam Axis Profile

Fig. 1-3
Scale: 1 inch = 60 feet

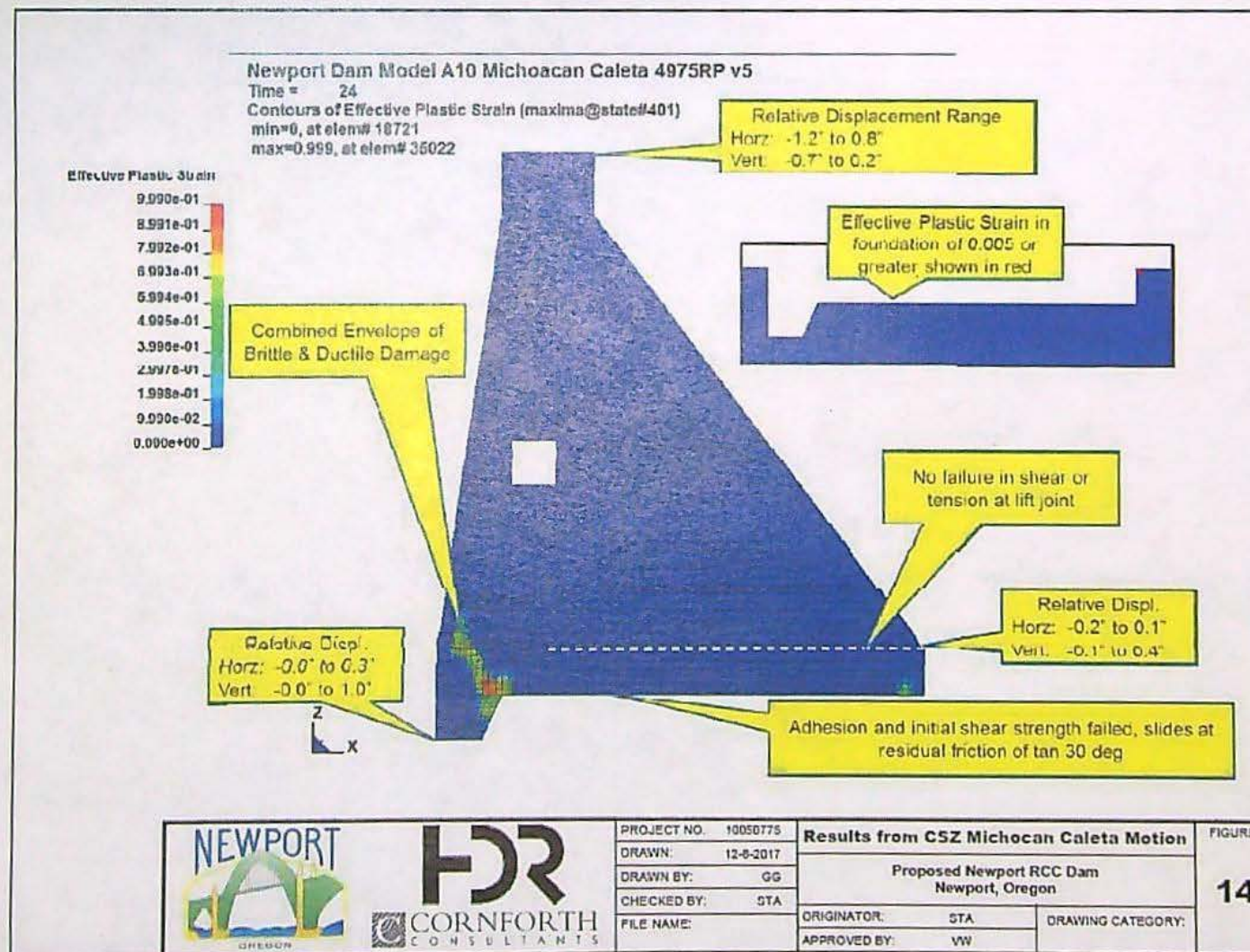
Refraction Microtremor (ReMi) S-wave Velocity Scale



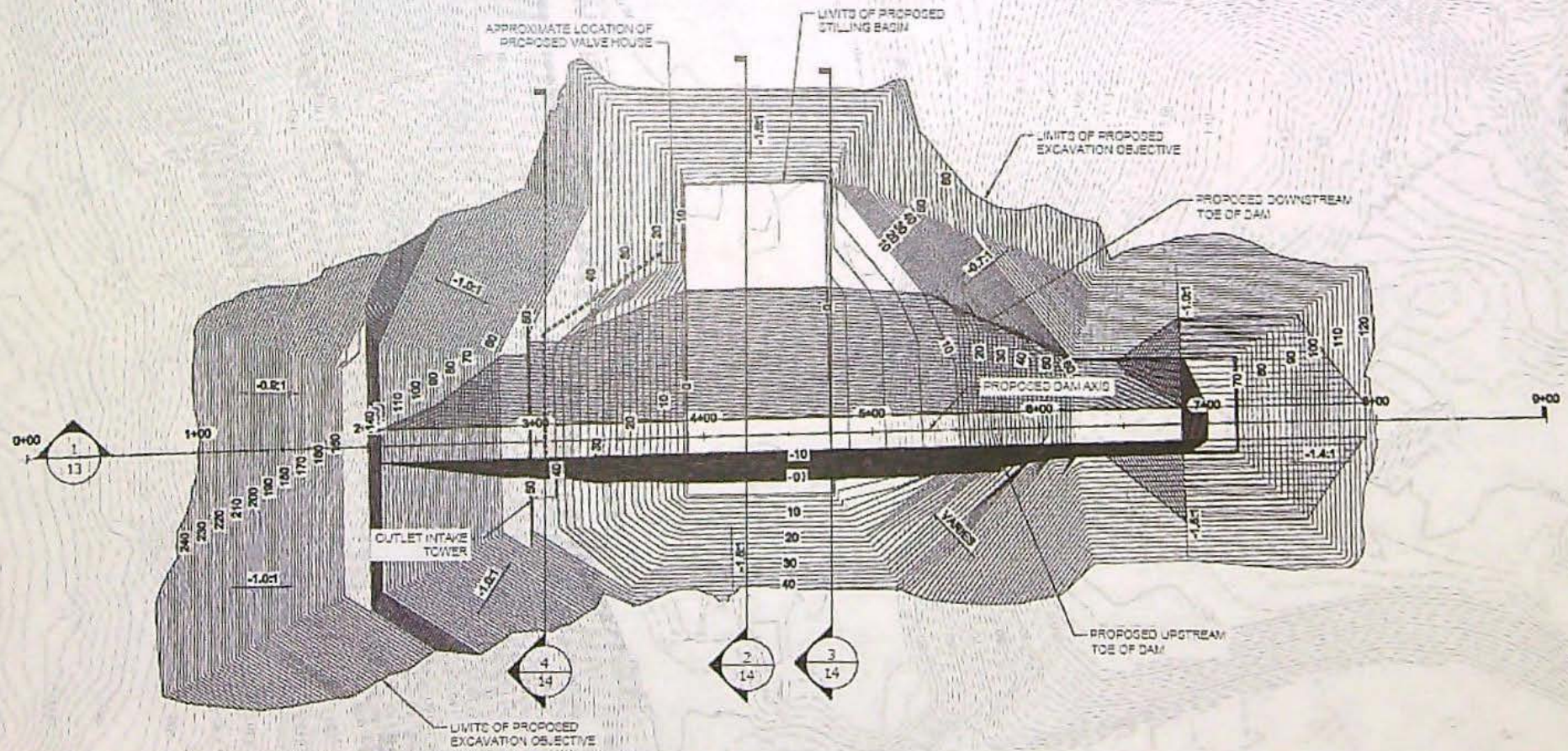
Structural Engineering Evaluation



Structural Engineering Evaluation



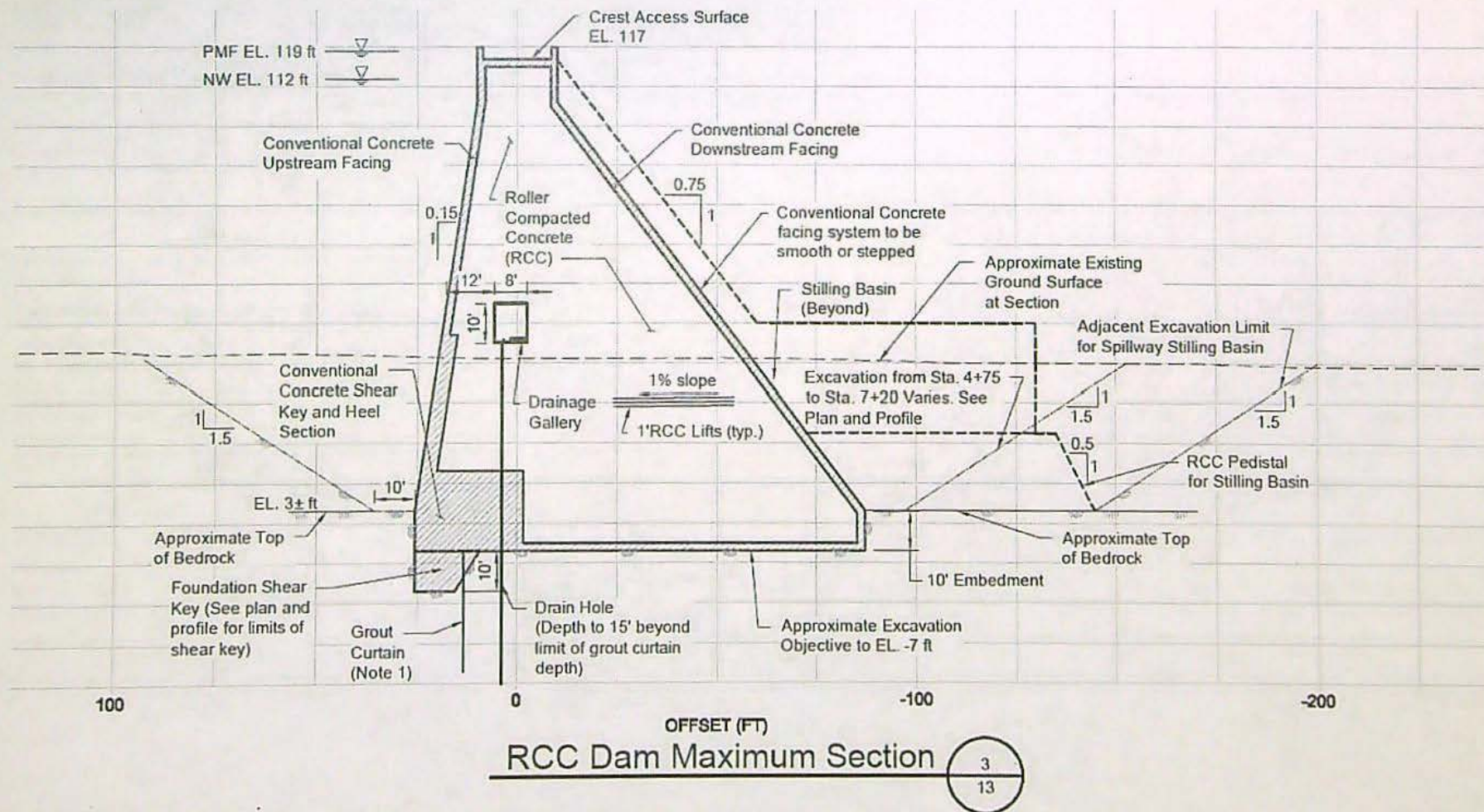
Proposed Dam - Plan



PLAN VIEW

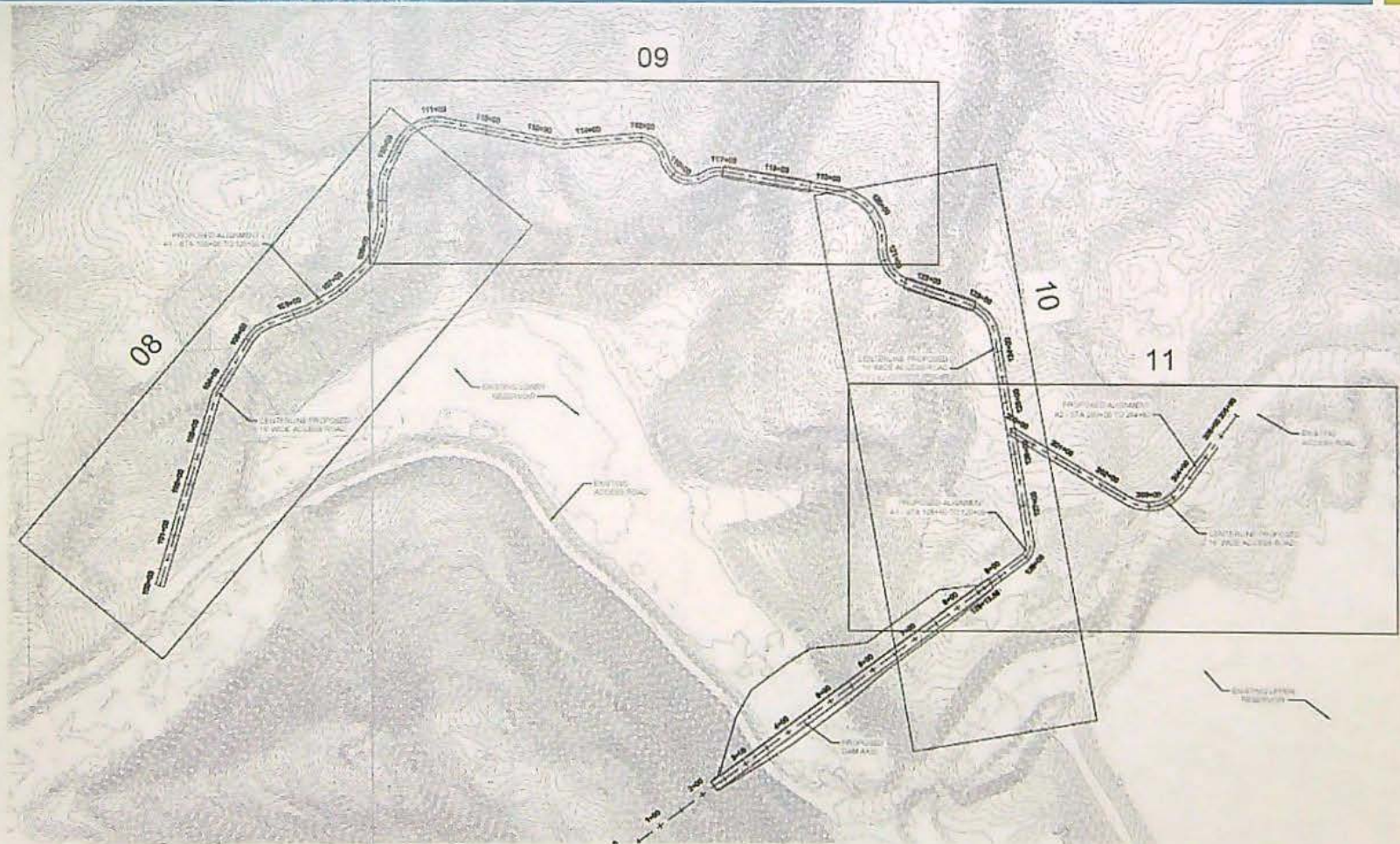
Proposed Dam – Cross Section

Bottom: -7', Top: 119'



Other Design Parameters

Access Road

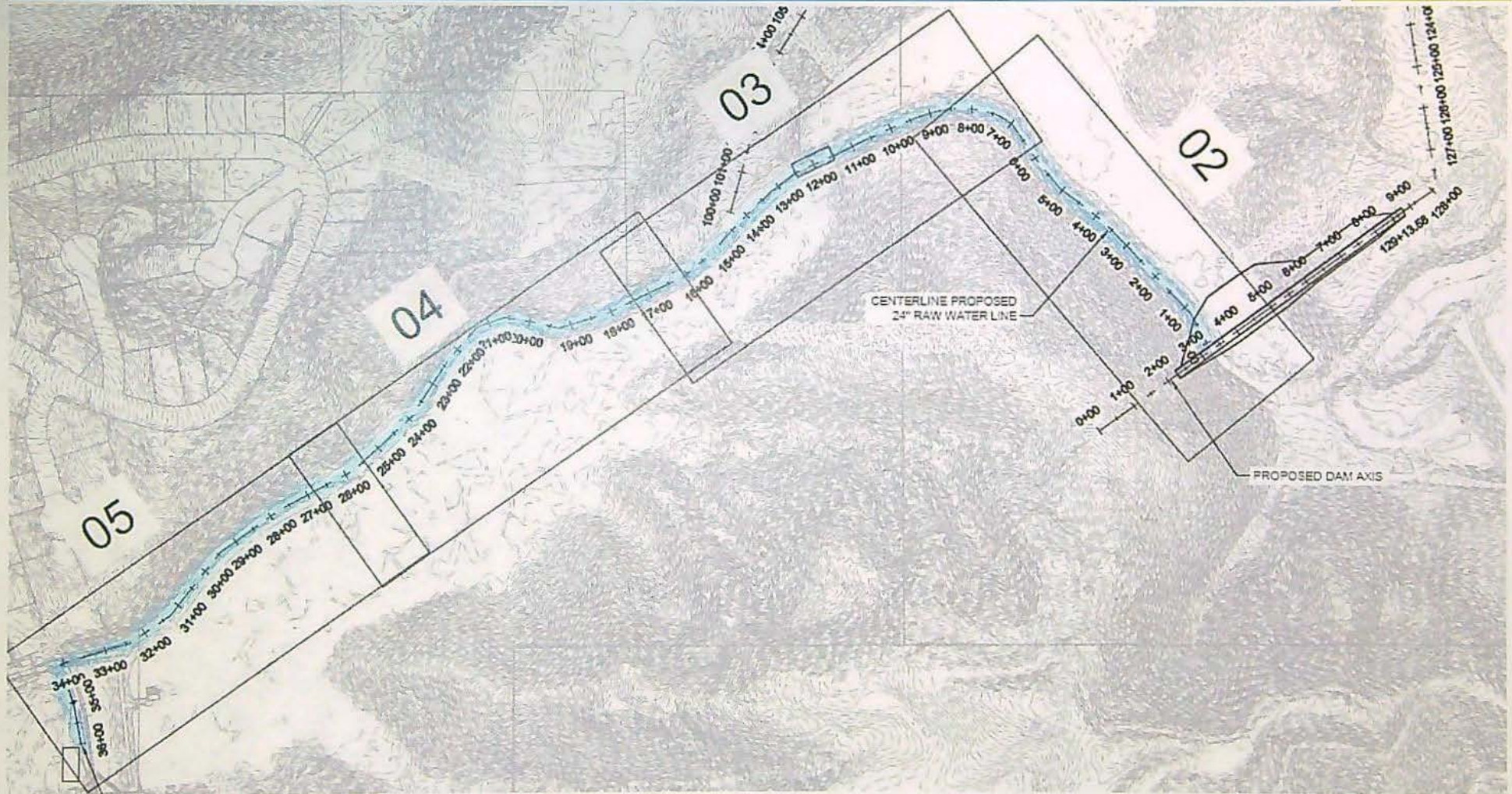


SCALE IN FEET
PRELIMINARY NOT
FOR CONSTRUCTION



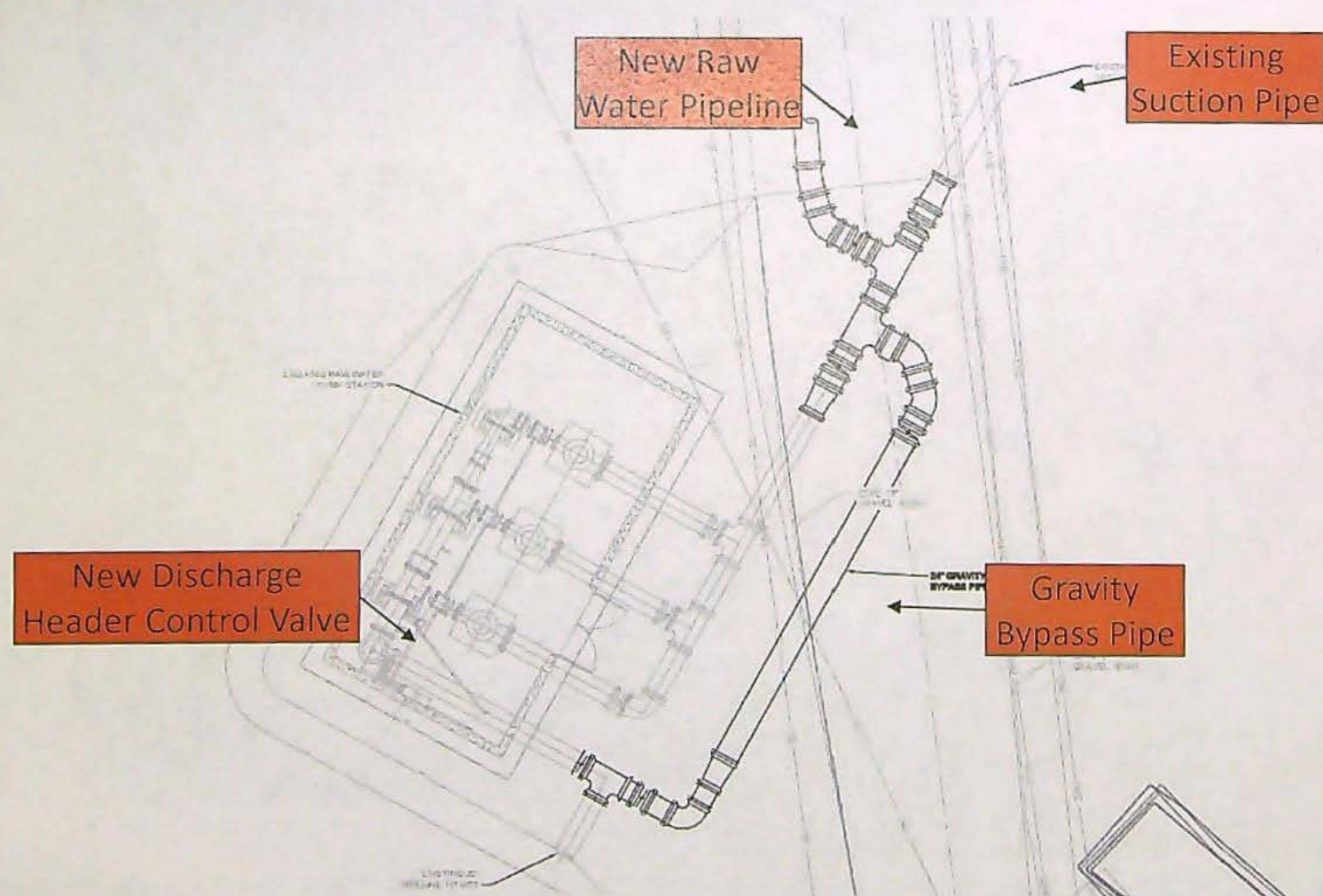
Other Design Parameters

Raw Water Pipeline



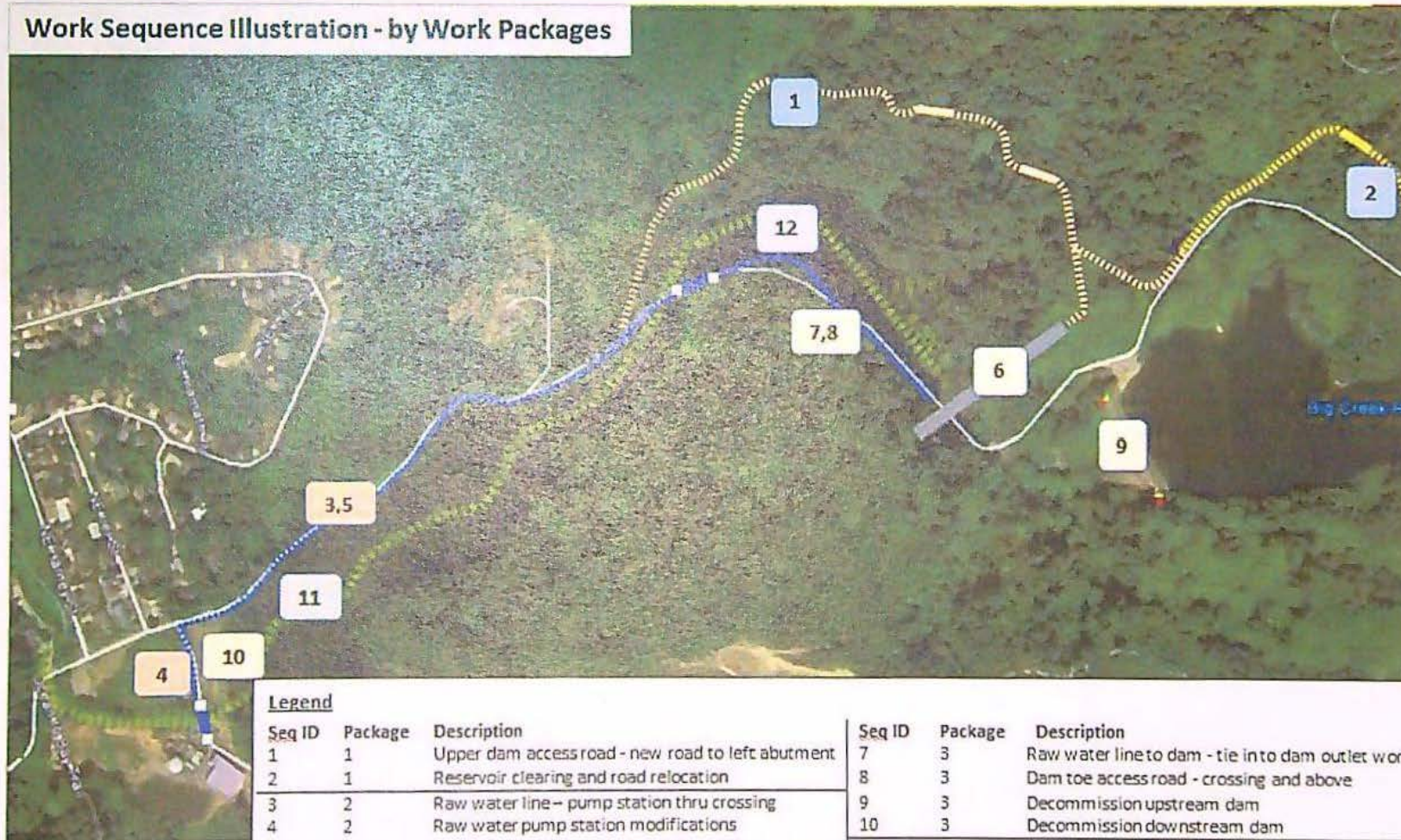
Other Design Parameters

Raw Water Pump Station



Construction Sequence – Work Packages

Work Sequence Illustration - by Work Packages



Legend

Seq ID	Package	Description	Seq ID	Package	Description
1	1	Upper dam access road - new road to left abutment	7	3	Raw water line to dam - tie into dam outlet works
2	1	Reservoir clearing and road relocation	8	3	Dam toe access road - crossing and above
3	2	Raw water line - pump station thru crossing	9	3	Decommission upstream dam
4	2	Raw water pump station modifications	10	3	Decommission downstream dam
5	2	Improve entrance road - below crossing	11	4	Stream restoration - crossing to confluence
6	3	RCC dam - complete scope	12	4	Stream restoration - dam to crossing

Cost Opinion Summary

Cost Basis	Base Cost	Low Range	High Range	Base Cost % of Total
Contractor "Bid" before design contingency (2018 dollars)	39,410,250	30,352,650	47,797,400	100%
Work Package 1 - Roads & Reservoir Clearing	4,860,450	3,888,360	5,832,540	12%
Work Package 2 - Raw Water Line Construction	1,620,000	1,296,000	1,944,000	4%
Work Package 3 - Dam Construction & Decommissioning	32,004,800	24,428,290	38,910,860	81%
Work Package 4 - Stream Restoration	925,000	740,000	1,110,000	2%
Work Package 5 - Fish Passage (Waiver being pursued)	0	0	0	0%
Total Project Costs (after contingencies and non-contract costs, before escalation)	61,200,000	47,100,000	74,200,000	
Total Project Costs - Escalated at 3.5% to March 2022	70,600,000	54,400,000	85,600,000	
% of Base	100%	77%	121%	
Total Escalated Project Costs as % of Contractor "Bid"...	179%	179%	179%	
Select Information				
RCC Quantity - cy	87,000	87,000	87,000	
RCC Unit Cost	\$ 135 /cy	\$ 110 /cy	\$ 155 /cy	
Work Package 3 costs per cy RCC	\$368	\$281	\$447	



Value Engineering

What is value engineering?

- Experts poke holes in the design, explore alternative solutions, and find ways to cut costs
- October 16th, 17th and 18th of 2018 – VE Study Workshop
- Industry experts:
 - Facilitator – Daniel Clancy, MFSI
 - Embankment Dam Seismic Engineer – Mike Beaty, Beaty Engineering LLC
 - RCC Dam Seismic Engineer – Larry Nuss, Nuss Engineering LLC
 - Overall Review Engineer – Jeff Szytel, WSC
 - Geotechnical Engineer – John Sager, Cornforth Consultants
 - Cost Estimator and Construction Engineer – Dan Hertel, Engineering Solutions LLC
 - State Dam Safety Engineer - Keith Mills, OWRD
 - City of Newport City Engineer - Timothy Gross



Value Engineering

Value Engineering - Study Objectives

- Ways to reduce cost?
- How to address maximum earthquake and/or Cascadia subduction event?
- Are there ways to separate construction and public access?
- How to address long term water supply needs?
- How to address seismic susceptibility?

VE Recommendations approved by City Council for further evaluation

Out of 34 creative ideas brainstormed, the following were developed & quantified within **functional categories**:

Construct Dam

Curve dam in plan to improve seismic stability - \$2,312,000

Construct Road

Use select dam foundation excavation for road embankment materials - \$314,000

Intake Water

Replace concrete tower with multilevel steel tower - \$343,000

Restore Reservoir and Stream

Lower BC-1 pool in lieu of stream restoration - \$1,158,000

Source Siletz Water

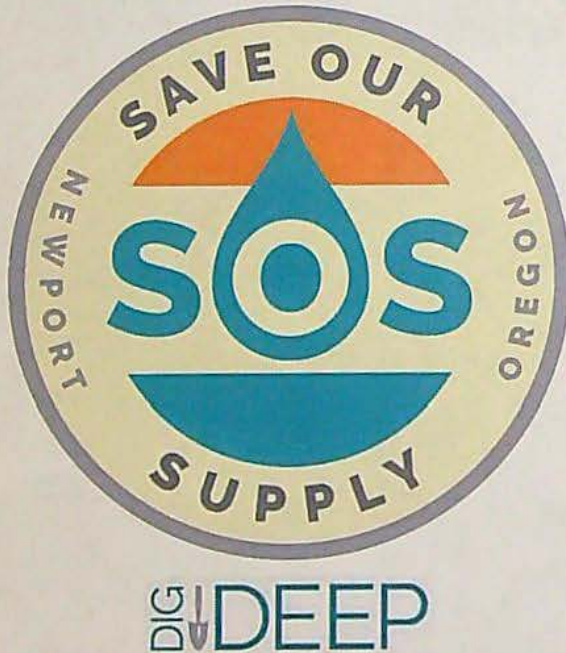
Raise new dam to avoid using Siletz water +\$2,936,000

Total VE Cost Modification Recommendations: - \$1,191,000

Estimated Big Creek Dam Project Cost: \$69,409,000



Where Are We At Now, And What's Next ?



- HDR Engineering is completing the reservoir analysis and will soon begin environmental permitting
- City is working with Dig Deep Research to develop an outreach program called *Save our Supply* to raise awareness about the Big Creek Dams Project
- City is working with Dig Deep research to develop a funding strategy to include a variety of funding programs
- Long term - City is developing a legislative strategy to raise the awareness of the risk and costs associated with the Big Creek Dams with the goal of influencing water infrastructure investments at the State and Federal level.
 - SB894 was introduced by Senator Roblan and co-sponsored by Representative Gomberg to dedicate \$44M from the State General Fund for the Big Creek Dam construction
- Short term - City is continuing to pull together funds to continue design and environmental permitting – anticipated permitting and designs costs are approximately \$6M.



Thank You! Questions?

Presented by

Timothy Gross, P.E.
Director of Public Works/City Engineer
City of Newport, OR
t.gross@newportoregon.gov
541-574-3369



STATE OF OREGON
WATER RESOURCES DEPARTMENT
725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # 140295

INVOICE # _____

RECEIVED FROM: City of Newport
BY: _____

APPLICATION NA
PERMIT _____
TRANSFER NA see below

CASH: ☐ CHECK: # 61464 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 2,450.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$ _____
OTHER: (IDENTIFY) \$ _____

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$ _____
0410 RESEARCH FEES \$ _____
0408 MISC REVENUE: (IDENTIFY) 46110 \$ _____
TC162 DEPOSIT LIAB. (IDENTIFY) Cont. 48627 \$ _____
0240 EXTENSION OF TIME 89100 \$ _____

WATER RIGHTS:

0201 SURFACE WATER EXAM FEE \$ _____ RECORD FEE \$ _____
0203 GROUND WATER \$ _____ 0204 \$ _____
0205 TRANSFER \$ 2,450.00

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR EXAM FEE \$ _____ LICENSE FEE \$ _____
LANDOWNER'S PERMIT 0220 \$ _____

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ _____ CARD# _____
0210 MONITORING WELLS \$ _____ CARD# _____

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) \$ _____
0231 HYDRO LICENSE FEE (FW/WRD) \$ _____
HYDRO APPLICATION \$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT:

140295

DATED: 3-13-23

BY: [Signature]

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

VENDOR: 2334 OREGON WATER RESOURCES DEPARTMENT
INVOICE # _____ INV DATE _____ DESCRIPTION _____
022423 OWRD 2/24/2023 Application Fee: Water Right Transfer BCD # _____

3/03/2023

Check No: 61464

INV AMOUNT

2,450.00

TOTAL AMOUNT 2,450.00

RECEIVED

MAR 13 2023

OWRD

Application for Permanent Water Right Transfer



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Part 1 of 5 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

RECEIVED

MAR 13 2023

OWRD

Check all items included with this application. (N/A = Not Applicable)

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: - http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. **\$2,450 enclosed**
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☐ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: Certificate 21358 (See Attachment A)**
Please include a separate Part 5 for each water right. (See instructions on page 6)
NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.

Attachments:

- ☒ Completed Transfer Application Map. **(See Attachment B)**
- ☒ Completed Evidence of Use Affidavit and supporting documentation. **(See Attachment C)**
- ☐ ☒ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- ☐ ☒ N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- ☒ ☐ N/A Oregon Water Resources Department's Land Use Information Form with approval and signature from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if all of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone. **(See Attachment D)**
- ☐ ☒ N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- ☐ ☒ N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

- | | |
|--|--|
| ☐ Application fee not enclosed/insufficient | ☐ Map not included or incomplete |
| ☐ Land Use Form not enclosed or incomplete | ☐ Evidence of Use Form not enclosed or incomplete |
| ☐ Additional signature(s) required | ☐ Part _____ is incomplete |

Other/Explanation _____

Staff: _____ 503- _____ Date: ____/____/____

Part 2 of 5 – Transfer Application Map

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- ☒ ☐ N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For a list of CWREs, see http://apps.wrd.state.or.us/apps/wr/cwre_license_view/. CWRE stamp and signature are not required for substitutions.
- ☐ ☒ N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- ☒ Permanent quality printed with dark ink on good quality paper.
- ☒ The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- ☒ A north arrow, a legend, and scale.
- ☒ The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- ☒ Township, Range, Section, ¼ ¼, DLC, Government Lot, and other recognized public land survey lines.
- ☒ Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- ☒ Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- ☒ Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- ☒ Existing place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- ☒ ☐ N/A Proposed place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions.
- ☒ Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- ☒ ☐ N/A If you are proposing a change in point(s) of diversion or well(s), show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with five or more digits after the decimal (example – 42.53764°).

Part 3 of 5 – Fee Worksheet

FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)

1	Base Fee (includes one type of change to one water right for up to 1 cfs)	1	\$1,360
	Types of change proposed: ☒ Place of Use ☐ Character of Use ☒ Point of Diversion/Appropriation Number of above boxes checked = <u>2 (2a)</u> Subtract 1 from the number in line 2a = <u>1 (2b)</u> <i>If only one change, this will be 0</i>		
2	Multiply line 2b by \$1090 and enter »	2	\$1090
	Number of water rights included in transfer <u>1 (3a)</u> Subtract 1 from the number in 3a above: <u>0 (3b)</u> <i>If only one water right this will be 0</i>		
3	Multiply line 3b by \$610 and enter »	3	0
	Do you propose to add or change a well, or change from a surface water POD to a well? ☒ No: enter 0 ☐ Yes: enter \$480 for the 1 st well to be added or changed _____ (4a) Do you propose to add or change additional wells? ☒ No: enter 0 ☐ Yes: multiply the number of additional wells by \$410 _____ (4b)		
4	Add line 4a to line 4b and enter »	4	0
	Do you propose to change the place of use or character of use? ☐ No: enter 0 on line 5 ☒ Yes: enter the cfs for the portions of the rights to be transferred (see below*): <u>0 (5a)</u> Subtract 1.0 from the number in 5a above: _____ (5b) If 5b is 0 or less, enter 0 on line 5 » If 5b is greater than 0, round up to the nearest whole number: _____ (5c) and multiply		
5	5c by \$410, then enter on line 5 »	5	0
6	Add entries on lines 1 through 5 above » » » » » » » » » » Subtotal:	6	\$2,450
	Is this transfer: ☐ necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? ☐ endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat? If one or more boxes is checked, multiply line 6 by 0.5 and enter on line 7 »		
7	If no box is applicable, enter 0 on line 7 »	7	
8	Subtract line 7 from line 6 » Transfer Fee:	8	\$2,450

*Example for Line 5a calculation to transfer 45.0 acres of Primary Certificate 12345 (total 1.25 cfs for 100 acres) and 45.0 acres of Supplemental Certificate 87654 (1/80 cfs per acre) on the same land:

1. For irrigation calculate cfs for each water right involved as follows:
 - a. Divide total authorized cfs by total acres in the water right (*for C12345, $1.25 \text{ cfs} \div 100 \text{ ac}$*); then multiply by the number of acres to be transferred to get the transfer cfs (*$\times 45 \text{ ac} = 0.56 \text{ cfs}$*).
 - b. If the water right certificate does not list total cfs, but identifies the allowable use as 1/40 or 1/80 of a cfs per acre; multiply number of acres proposed for change by either 0.025 (1/40) or 0.0125 (1/80). (*For C87654, $45.0 \text{ ac} \times 0.0125 \text{ cfs/ac} = 0.56 \text{ cfs}$*)
2. Add cfs for the portions of water rights on all the land included in the transfer; however **do not count cfs for supplemental rights on acreage for which you have already calculated the cfs fee for the primary right on the same land**. The fee should be assessed only once for each "on the ground" acre included in the transfer. (*In this example, blank 5a would be only 0.56 cfs, since both rights serve the same 45.0 acres. Blank 5b would be 0 and Line 5 would then also become 0*).

FEE WORKSHEET for SUBSTITUTION -N/A

1	Base Fee (includes change to one well)	1	\$990.00
	Number of wells included in substitution _____ (2a) Subtract 1 from the number in 2a above: _____ (2b) <i>If only one well this will be 0</i>		
2	Multiply line 2b by \$480 and enter » » » » » » » » » » » » » » » »	2	
3	Add entries on lines 1 through 2 above » » » » » » Fee for Substitution:	3	

Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME The City of Newport, Attn: Spencer Nebel		PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS 169 SW Coast Highway		FAX NO.	
CITY Newport	STATE OR	ZIP 97365	E-MAIL s.nebel@newportoregon.gov
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT/BUSINESS NAME GSI Water Solutions, Attn: Adam Sussman		PHONE NO. 541-257-9001	ADDITIONAL CONTACT NO.
ADDRESS 1600 SW Western Blvd., Suite 240		FAX NO.	
CITY Corvallis	STATE OR	ZIP 97321	E-MAIL asussman@gsiws.com
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why:
The City is requesting to change the point of diversion and place of use for its storage right Certificate 21358 in order to comply with the Oregon Water Resources Department's January 22, 2021, Notification of Unsafe/ Potentially Unsafe Dam, which includes a requirement to remove the existing dam associated with Certificate 21358 (Big Creek Reservoir #1 Dam) and construct a replacement dam. The required replacement of the dam necessitates a change in the authorized point of diversion and place of use for Certificate 21358.

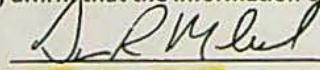
Check One Box

- ☐ By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); OR
- ☒ I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; OR
- ☐ I affirm the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: **Newport News Times.**
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.

I (we) affirm that the information contained in this application is true and accurate.


 Applicant signature

Spencer Nebel, City Manager 03-09-23
 Print Name (and Title if applicable) Date

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Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? ☒ Yes ☐ No*

*If NO, include signatures of all deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.

Check the following boxes that apply:

- ☒ The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- ☐ The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- ☐ Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold? ☐ Yes ☒ No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:

https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

RECEIVING LANDOWNER NAME N/A			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS			FAX NO.	
CITY	STATE	ZIP	E-MAIL	
Describe any special ownership circumstances:				
The confirming Certificate shall be issued in the name of: ☐ Applicant ☐ Receiving Landowner				

☐ Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. (Tip: Complete and attach Supplemental Form D.) **N/A**

IRRIGATION DISTRICT NAME	ADDRESS		
CITY	STATE	ZIP	

☐ Check here if water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity. **N/A**

ENTITY NAME	ADDRESS		
CITY	STATE	ZIP	

 To meet State Land Use Consistency Requirements, you must list all county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME CITY OF NEWPORT PLANNING DEPARTMENT	ADDRESS 169 SW COAST HWY		
CITY Newport	STATE OR	ZIP 97365	

Part 5 of 5 – Water Right Information

Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

CERTIFICATE # 21358

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Description of Water Delivery System

MAR 13 2023

System capacity: 200 acre-feet OR

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_____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. Big Creek Reservoir #1 Dam (BC 1) has a maximum height of 21 feet tall and is 315 feet long. It impounds up to 200 acre-feet.

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)
(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-_____)	Tw	Rng	Sec	¼	¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
BC 1	☒ Authorized ☐ Proposed	N/A	10	S	11	W	33	SW SW	600 1100 feet North and 4450 feet West from SE Corner, Section 33
Big Creek Dam	☐ Authorized ☒ Proposed	N/A	10	S	11	W	33	NW SE	900 3110 feet South and 1790 feet West from the NE Corner, Section 33
	☐ Authorized ☐ Proposed								
	☐ Authorized ☐ Proposed								

Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):

- | | |
|--|---|
| ☒ Place of Use (POU) | ☐ Supplemental Use to Primary Use (S to P) |
| ☐ Character of Use (USE) | ☐ Point of Appropriation/Well (POA) |
| ☒ Point of Diversion (POD) | ☐ Additional Point of Appropriation (APOA) |
| ☐ Additional Point of Diversion (APOD) | ☐ Substitution (SUB) |
| ☐ Surface Water POD to Ground Water POA (SW/GW) | ☐ Government Action POD (GOV) |

Will all of the proposed changes affect the entire water right?

- ☒ Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- ☐ No Complete all of Table 2 to describe the portion of the water right to be changed.

Please use and attach additional pages of Table 2 as needed.
See page 6 for instructions.

Do you have questions about how to fill-out the tables?
Contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Changes to Water Right Certificate # 21358

List the change proposed for the acreage in each $\frac{1}{4}$ $\frac{1}{4}$. If more than one change is proposed, specify the acreage associated with each change.
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.											Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.										
Twp	Rng	Sec	$\frac{1}{4}$ $\frac{1}{4}$	Tax Lot	Gvt Lot or DLC	Acre	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp		Rng	Sec	$\frac{1}{4}$ $\frac{1}{4}$	Tax Lot	Gvt Lot or DLC	Acre	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date		
EXAMPLE																						
2	S	9	E 15 NE NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E 1 NW NW	500	1	10.0		POD #5	1901		
											2	S	9	E 2 SW NW	500		5.0		POD #6	1901		
										POU/POD	Please see the proposed location on the map in Attachment B						N/A	Storage for Municipal Use	Big Creek Dam	8/1/1951		
TOTAL ACRES:											TOTAL ACRES:						N/A					

Additional remarks: The proposed place shown on the map in Attachment B is the modified location of the reservoir after the new dam (Big Creek Dam) is constructed to address dam safety concerns. The identified location is the proposed place of use for Certificate 21358 as well as Certificates 48627 and 89100.

For Place of Use or Character of Use Changes

Are there other water right certificates, water use permits or ground water registrations associated with the "from" or the "to" lands? ☐ Yes ☐ No ☒ N/A – Certificate 21358 authorizes the storage of water for municipal use, so "layering" does not apply.

If YES, list the certificate, water use permit, or ground water registration numbers: _____.

 Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

For Substitution (ground water supplemental irrigation will be substituted for surface water primary irrigation) -

N/A

Ground water supplemental Permit or Certificate # _____;

Surface water primary Certificate # _____.

For a change from Supplemental Irrigation Use to Primary Irrigation Use - N/A

Identify the primary certificate to be cancelled. Certificate # _____

For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation: N/A

- ☐ Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

Tip: You may search for well logs on the Department's web page at:

http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

AND/OR

- ☐ Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

Table 3. Construction of Point(s) of Appropriation - N/A

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-_____	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well -specific rate (cfs or gpm). If less than full rate of water right

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STATE OF OREGON

COUNTY OF LINCOLN

CERTIFICATE OF WATER RIGHT

This Is to Certify, That CITY OF NEWPORT

of Newport, State of Oregon, has made proof
to the satisfaction of the STATE ENGINEER of Oregon, of a right to store the waters of
Big Creek, a tributary of the Pacific Ocean, to be appropriated under
Application No. 26388, Permit No. 20703,

for the purposes of
municipal use

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under Reservoir Permit No. R-1236 of the State Engineer, and that said right to store said
waters has been perfected in accordance with the laws of Oregon; that the priority of the right
hereby confirmed dates from August 1, 1951,

that the amount of water entitled to be stored each year under such right, for the purposes afore-
said, shall not exceed 200 acre-feet.

The reservoir is located in Section 33 (SW $\frac{1}{4}$ NE $\frac{1}{4}$) , Tp. 10 S , R. 3 E , W.M.
(SE $\frac{1}{4}$ NW $\frac{1}{4}$)
(NW $\frac{1}{4}$ SE $\frac{1}{4}$)
(NE $\frac{1}{4}$ SW $\frac{1}{4}$)
(NW $\frac{1}{4}$ SW $\frac{1}{4}$)
(SW $\frac{1}{4}$ SW $\frac{1}{4}$)
(SE $\frac{1}{4}$ SW $\frac{1}{4}$)

WITNESS the signature of the State Engineer,
affixed this 20th day
of June, 1956.

LEWIS A. STANLEY

State Engineer.

Recorded in State Record of Water Right Certificates, Volume 15, page 21358.

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Application for Water Right Transfer Evidence of Use Affidavit



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing.
Supporting documentation must be attached.

State of Oregon)
) ss

County of LINCOLN

I, SPENCER NEBEL, in my capacity as CITY MANAGER FOR THE CITY OF NEWPORT,

mailing address 169 SW Coast Highway, Newport, OR 97365

telephone number (____)____, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

☐ Personal observation ☒ Professional expertise

2. I attest that:

☒ Water was used during the previous five years on the entire place of use for
Certificate # 21358; OR

☐ My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

- ☐ Confirming Certificate # _____ has been issued within the past five years; OR
- ☐ Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: _____ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); OR
- ☒ The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- ☐ Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # _____ (For Historic POD/POA Transfers)

(continues on reverse side)

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3. The water right was used for: (e.g., crops, pasture, etc.): STORAGE FOR MUNICIPAL USE

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

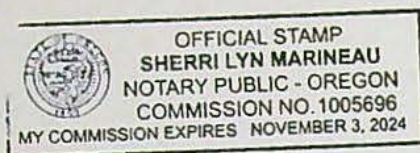
[Signature]
Signature of Affiant

March 9, 2023
Date

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Signed and sworn to (or affirmed) before me this 9th day of March, 2023.



[Signature]
Notary Public for Oregon

My Commission Expires: 11/3/2024

Supporting Documents	Examples
☐ Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
☐ Copies of receipts from sales of irrigated crops or for expenditures related to use of water	• Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
☐ Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	• District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
☒ Aerial photos containing sufficient detail to establish location and date of photograph	Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.
☐ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number
☒ A presumption of forfeiture for non-use would be rebutted under ORS 540.610(2).	A finding of forfeiture would impair the rights of the city to the use of water. See certificate in Attachment A.



Evidence of Use Certificate 21358

Township 10 South,
Range 11 West (W.M.)

LEGEND

 Tax Lot

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NOTE

Aerial imagery taken on July 7, 2020.



0 224 448
Feet

Date: February 9, 2023
Data Sources: BLM, ESRI, ODOT,
USGS, NAIP Imagery (2020)



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Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

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Applicant(s): The City of Newport

Mailing Address: 169 SW Coast Highway

City: Newport

State: OR

Zip Code: 97365

Daytime Phone: _____

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:	Proposed Land Use:
<u>See attached map</u>					_____	☐ Diverted ☐ Conveyed ☒ Used	<u>Storage for municipal use</u>
_____	_____	_____	_____	_____	_____	☐ Diverted ☐ Conveyed ☐ Used	_____

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

City of Newport

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- ☐ Permit to Use or Store Water ☒ Water Right Transfer ☐ Permit Amendment or Ground Water Registration Modification
☐ Limited Water Use License ☐ Allocation of Conserved Water ☐ Exchange of Water

Source of water: ☒ Reservoir/Pond ☐ Ground Water ☐ Surface Water (name) Big Creek Reservoir #1

Estimated quantity of water needed: 200 ☐ cubic feet per second ☐ gallons per minute ☒ acre-feet

Intended use of water: ☐ Irrigation ☐ Commercial ☐ Industrial ☐ Domestic for _____ household(s)
☐ Municipal ☐ Quasi-Municipal ☐ Instream ☒ Other Storage for municipal use

Briefly describe:

The Oregon Water Resources Department has required the City to remove and replace the existing dam for Big Creek Reservoir #1 due to potentially unsafe conditions. Accordingly, the City is filing a transfer application to request to change the location of the point of diversion (dam) and place of use (reservoir) for the water right that authorizes the storage of water in Big Creek Reservoir #1.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

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For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- ☒ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):
- ☐ Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

RESERVOIR PROPERTIES ARE LOCATED IN A P-1 (PUBLIC STRUCTURES) ZONE. DAM REPLACEMENT IS ALLOWED PER NHC 14.03.100(4). WILL SERVE EXISTING USES.

Name: DERRICK TOKOS Title: COMMUNITY DEVELOPMENT DIRECTOR
 Signature: [Signature] Phone: 541.544.0626 Date: 3/7/23
 Government Entity: CITY OF NEWPORT

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

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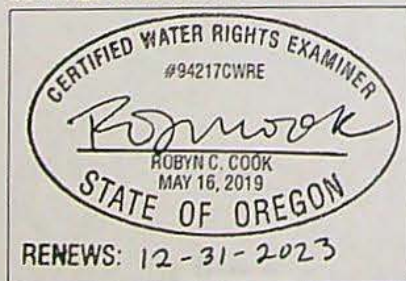
LEGEND

- Proposed Point of Diversion (POD)
- Big Creek Dam
- ▨ Proposed Place of Use (POU)
- Tax Lot
- ~ Watercourse
- Waterbody
- Government Lot (GL)

**Transfer Application for the City of Newport
Proposed Point of Diversion and Place of Use
Certificates 21358, 48627 and 89100**

Lincoln County
Township 10 South, Range 11 West (W.M.)

CERTIFIED WATER RIGHTS EXAMINER STAMP



LOCATION DESCRIPTION

Proposed Point of Diversion
Located 3110 feet South and 1790 feet West from the NE corner
of Section 33, Township 10 South, Range 11 West (W.M.)

DISCLAIMER
This map was prepared for the purpose of
identifying the location of a water right only and
it is not intended to provide legal dimensions
or location of property ownership lines.

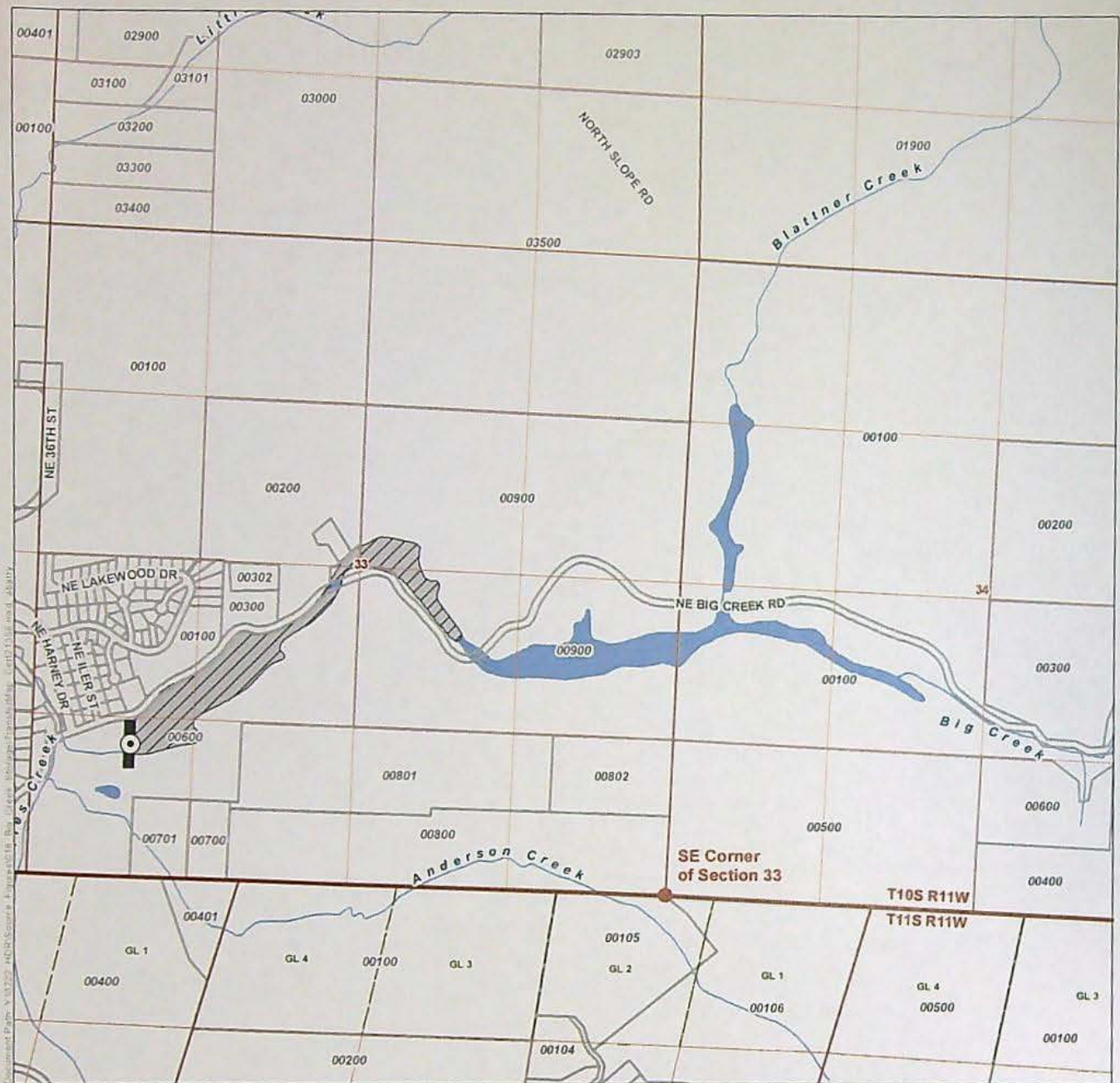
Date: February 13, 2023
Data Sources: BLM, ESRI, OWRD, USGS,
Lincoln County, HDR (2022)



0 660 1,320
1 inch = 1,320 feet



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LEGEND

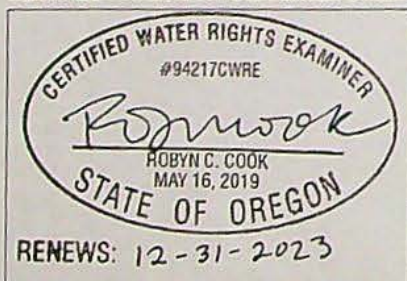
- Authorized Point of Diversion (POD)
- Big Creek Reservoir #1 Dam
- Authorized Place of Use (POU)
- Government Lot (GL)
- Tax Lot
- Watercourse
- Waterbody

Transfer Application for the City of Newport Authorized Point of Diversion and Place of Use

Certificate 21358

Lincoln County
Township 10 South, Range 11 West (W.M.)

CERTIFIED WATER RIGHTS EXAMINER STAMP



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MAR 13 2023

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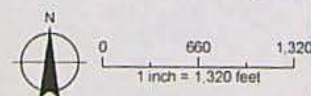
LOCATION DESCRIPTION

Authorized Point of Diversion
Located 1100 feet North and 4450 feet West from the SE corner
of Section 33, Township 10 South, Range 11 West (W.M.)

DISCLAIMER

This map was prepared for the purpose of identifying the location of a water right only and it is not intended to provide legal dimensions or location of property ownership lines.

Date: February 13, 2023
Data Sources: BLM, ESRI, OWRD, USGS, Lincoln County, HDR (2022)



14298



LEGEND

- Proposed Point of Diversion (POD)
- Big Creek Dam
- Proposed Place of Use (POU)
- Government Lot (GL)
- Tax Lot
- Watercourse
- Waterbody

Transfer Application for the City of Newport Proposed Point of Diversion and Place of Use

Certificates 21358, 48627 and 89100

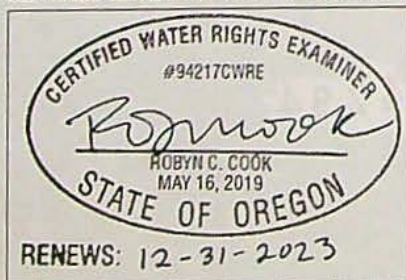
Lincoln County
Township 10 South, Range 11 West (W.M.)

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CERTIFIED WATER RIGHTS EXAMINER STAMP



LOCATION DESCRIPTION

Proposed Point of Diversion
Located 3110 feet South and 1790 feet West from the NE corner of Section 33, Township 10 South, Range 11 West (W.M.)

DISCLAIMER
This map was prepared for the purpose of identifying the location of a water right only and it is not intended to provide legal dimensions or location of property ownership lines.

Date: February 13, 2023
Data Sources: BLM, ESRI, OWRD, USGS, Lincoln County, HDR (2022)



0 660 1,320
1 inch = 1,320 feet



14298

STATE OF OREGON

COUNTY OF

LINCOLN

CERTIFICATE OF WATER RIGHT

This Is to Certify, That CITY OF NEWPORT

of City Hall, Newport, State of Oregon, 97365, has made

proof to the satisfaction of the Water Resources Director, of a right to store the waters of Big Creek, tributary Pacific Ocean appropriated under Permit No. 33127 for storage in Big Creek Reservoir No. 2

municipal

for the purpose of

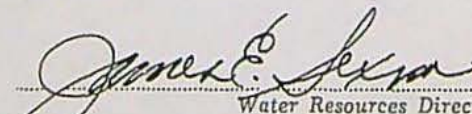
under Reservoir Permit No. R-5134, and that said right to store said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from March 24, 1967 for 310 a.f., June 5, 1968 for 35 a.f.

that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 345.0 acre feet

The reservoir is located in

NE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 33
W $\frac{1}{2}$ NW $\frac{1}{4}$
N $\frac{1}{2}$ SW $\frac{1}{4}$
W $\frac{1}{2}$ SE $\frac{1}{4}$
Section 34
T. 10 S., R. 11 W., W. M.

WITNESS the signature of the Water Resources Director, affixed
this date, October 5, 1979


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 42, page 48627

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