

WATERWATCH OF OREGON \* STEAMBOATERS \* THE NORTH UMPQUA FOUNDATION  
UMPQUA WATERSHEDS \* UMPQUA VALLEY FLY FISHERS \* NATIVE FISH SOCIETY  
THE CONSERVATION ANGLER \* ROGUE FLYFISHERS \* OREGON WILD  
INSTITUTE FOR FISHERIES RESOURCES \* AMERICAN WHITEWATER  
PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS  
SOUTH UMPQUA RURAL COMMUNITY PARTNERSHIP  
OREGON COUNCIL FLY FISHERS INTERNATIONAL

The Honorable Kate Brown  
Office of the Governor  
900 Court Street, Suite 254  
Salem, OR 97301-4047

The Honorable Jeff Golden  
Oregon State Senate  
900 Court St. NE, S-421  
Salem, Oregon 97301

The Honorable Floyd Prozanski  
Oregon State Senate  
900 Court St. NE, S-413  
Salem, Oregon 97301

Tom Byler, Director  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

*Sent Via Email*

March 18, 2022

**Re: Public Safety and Rule of Law at Winchester Dam**

Dear Governor Brown, Senator Golden, Senator Prozanski, and Director Byler:

We hope you and yours are safe and well.

We are writing to urge the Oregon Water Resources Department (Department) and our state elected leaders to address critical public safety and water resources issues at Winchester Dam on the North Umpqua River. We acknowledge and appreciate that the Department has been responsive to public concerns and taken actions to address significant problems at this designated high hazard dam in recent years. Please consider this letter as formally putting the Department on notice that we believe approval of the Winchester Dam inspection and repair plans as submitted to the Department on or around March 15, 2022 would put people,

property, and public drinking water supplies at unacceptable risk and likely violate state water law to the detriment of the North Umpqua's natural resources, river and fishery dependent communities, and the region's economy.

Since our last correspondence, the Department has acknowledged in personal communication and via email that Winchester Dam's approximately 370-foot-long and 17-foot-high wooden crib dam section is bowing and/or sagging. This is a concerning development.

Currently the Department, through authority described under OAR 690-020- 0140(1), is reviewing a technical memo and final plans for a structural inspection and repair of the dam "to the minimum extent necessary" (DOWL Technical Memo, March 14, 2022) as proposed by the owner for summer 2022.<sup>1</sup> We have reviewed these submitted plans and believe that they are substantially deficient, do not adequately describe or address known dam safety issues, and propose water management actions that would unlawfully injure the North Umpqua's two certificated instream water rights (Certificates 58839 and 81500) among other possible violations of state water law. We detail these issues and request corrective actions below:

1. The plans propose to lower the dam's reservoir in July by "a minimum of four feet" then refill the reservoir to "pre-work levels" upon completion of "Phase 1 work." The exact time span of Phase 1 work depends on pending Oregon Department of Fish and Wildlife approval, but we understand refill will occur either in late July or early August. It is unclear how this proposed reservoir refill could occur without injuries to downstream water rights, including certificated instream rights intended to protect the North Umpqua's invaluable fisheries, including Oregon Coast Coho, which are listed under the federal Endangered Species Act. We are aware that the dam owners possess pre-1909 claim SW 398 to store 300 acre-feet of water behind Winchester Dam. We are also aware that the Department officially and invariably estimates that Winchester's reservoir stores 700 acre-feet of water. There is no record of a water right that would allow storage of the additional 400 acre-feet. Indeed, an April 18, 1994 memorandum on file at the Department plainly states there is likely "about 400 acre-feet of illegal storage" behind Winchester Dam.<sup>2</sup> The Department cannot approve a plan to refill the additional 400 acre-feet of storage without a water right or a limited license, or in a way that would injure permitted or certificated water rights downstream. Further, the North Umpqua River is currently experiencing a crippling drought and record low returns of prized summer steelhead. During last year's drought, low flows and high water temperatures forced recreational fishing closures on the North Umpqua that disrupted rural river-dependent businesses and our region's economy, as well as world-class recreational opportunities and cherished traditions. Given water year projections, it is almost certain that the same scenario will play out this summer on the North Umpqua. The Department must not compound this wide-ranging harm to the river, our fisheries, and our communities by approving depletion of instream flows to refill what the Department identifies as "illegal storage" for the convenience of a small number of recreational reservoir owners. Setting aside other significant issues raised

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<sup>1</sup> Plans available here: <https://bit.ly/3CU0Vu3> and memo here: <https://bit.ly/3Ju0IA0>

<sup>2</sup> Memo available here: <https://bit.ly/37ztxwU>

by the facts stated above, we request that at a minimum the Department reject the plan as submitted and only approve a modified inspection and repair plan that does not unlawfully appropriate water or injure instream water rights. OAR 690-020-0140(6) provides the Department discretion to consider plan alternatives that maintain water levels in most of the reservoir while conducting repairs in a manner that protects life, property, and infrastructure. For example, this may be achieved for the currently proposed Phase 1 work by dewatering and isolating only the work area through cofferdam construction.

2. The submitted plans fail to address or even acknowledge the known dam safety issue of the inadequately supported concrete cap covering approximately 200 feet of the dam's wooden crib section. This cap corresponds with one of the areas of visible bowing/sagging in the dam, as well as the area of the largest chronic voids and leaks through the dam face as documented by multiple past engineering reports in Department files. As stated on p. 11 of a 1976 report in Department files by the engineer of record who designed and installed this cap, "the currently proposed [concrete cap] structure will not be capable of resisting water pressures at flood conditions."<sup>3</sup> This 1976 report is not included on the list of referenced documents on p. S02 of the currently submitted "final plan" under review. A 1985 engineer's report on Winchester Dam in Department files states on p. 8 that, "[t]he wooden section adjacent to the Ogee section and continuing for 201.5 ft. to the north has a concrete cap, and this cap has numerous voids under it, these should be grouted to prevent shifting in the future." This same report further states on p. 7 that "[t]he wooden structure Dam with the concrete cap" ranks third among the dam's "most likely areas of failure."<sup>4</sup> This 1985 report is also omitted from the reference documents listed in the currently submitted "final plan." A 1987 engineer's report in Department files states on p. 4 that "[t]he cavity [in the south end of the crib dam] is approximately 25 ft. wide by 5 ft. high by 15 ft. deep." It further states on p. 5: "When finer rock material was washed out, creating the cavity noted, the concrete load [of the 202-foot-long concrete cap] was carried by the 12x12 posts." On p. 9, this same report states that "[t]he concrete cap is only partially carried by the timber dam face as interior 12x12 posts carry most of this load. One fourth of the cap weight has been applied to the face of the dam."<sup>5</sup> This 1987 report at least is listed as a reference on p. S02 of the currently submitted plan. But despite this readily available information, the currently submitted plan proposes no quantity of replacement fill or any other reinforcement in the interior south crib area, only steel reinforcement on the timber dam face to provide "structural support." This would appear to leave three quarters of the weight of the concrete cap inadequately supported, while also apparently leaving critical interior supports uninspected, unreinforced, and unprotected by new fill from the force of the river's main current. For this reason, we request that the Department reject the plan as submitted and only approve a modified inspection and repair plan that inspects and takes action to address this known dam safety issue.

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<sup>3</sup> Report available here: <https://bit.ly/3N1dLv4>

<sup>4</sup> Report available here: <https://bit.ly/3tqw8la>

<sup>5</sup> Report available here: <https://bit.ly/36tuCpx>

3. The submitted plan purports to address future “shifting” and “structural support” of the entire crib dam, but provides no quantitative information or analysis to support this assertion or provide a baseline to evaluate the current and future rate of dam deformation. Nor do the submitted plans provide any information or analysis regarding the easily observed sagging/bowing in the crib dam. This apparently longstanding dam safety issue precipitated installation of control points and alignment measurements at the dam in the 1980s, but there is no reference to these control points nor to data derived from these control points in the currently submitted plans. A 1986 engineer’s report in Department files states on p. 5 that “[t]he alignment of the dam is generally good. New control points were set in the concrete cap that will show any movement in the future.” This same report states on p. 6: “The control points on the powerhouse were checked again, and no movement was detected, as was previously the case.”<sup>6</sup> This 1986 report is also omitted from the reference documents listed in the currently submitted “final plan.” A 1987 engineer’s report in Department file states on p. 6: “The alignment of the dam is generally good. All of the points set in the concrete cap and powerhouse show no movements.”<sup>7</sup> This report is listed as a reference in the submitted final plan but the information regarding control points is omitted. The two reports referenced here were produced by an engineering firm, OBEC, absorbed into the engineering firm DOWL, now overseeing dam inspection and repair. DOWL should already be in possession of both these reports and the preexisting control point data. They must share this data with the Department and the public. For the reasons above, we request that the Department reject the plan as submitted and only approve a modified inspection and repair plan that includes available control point data and analysis of dam alignment and movement to allow for appropriate evaluation of the adequacy of the proposed “minimum” repairs. We also request that the Department incorporate the use of these control points and data into annual Winchester Dam inspections going forward.

We do not believe it is in the public interest to adopt a rushed process to minimally repair this dam solely for the convenience of a small group of recreational reservoir owners, especially after these owners have chosen to delay taking this action for years after receiving written requests by the Department starting in 2019.

Finally, we strongly urge the Department to reject the Winchester Dam owners’ recent request to reduce the dam’s hazard rating from “high” to “significant.” There is no support for the requested action. The analysis provided in the dam owner’s submitted November 12, 2021 reclassification memo in support of this request clearly indicates that this dam qualifies under statute and rule for its current “high” hazard rating.<sup>8</sup> The argument that persons recreating below the dam will not perish but instead “take notice” in time to move through a rugged river channel and up out of harms way of a breach of a dam currently without any breach warning system or on site personnel is an unrealistic and outrageous approach to

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<sup>6</sup> Report available here: <https://bit.ly/3ij4y35>

<sup>7</sup> Ibid at 5.

<sup>8</sup> Memo available here: <https://bit.ly/3ihEzct>

public safety. This memo and its rationale, which evaluates only flood and dry season sunny day flows, also ignores the extremely high popularity of the area below the dam among fishermen and boaters during wet season mid-level flows. It also ignores the difficulties facing anyone attempting to safely pilot and disembark from a driftboat or similar watercraft in a rapidly rising river containing multiple rapids, thick vegetation, and other obstacles, especially with children or elderly passengers who commonly enjoy recreating below the dam. We strongly oppose this reclassification request.

As we have stated before, members of our organizations, our families, our neighbors, and our friends live and/or recreate in the river below this dam, or depend on the salmon resources from this river for our livelihoods. The people, property, and public infrastructure of the North Umpqua River below Winchester Dam are currently at unacceptable risk of harm because the dam owners have ignored or put off Department requests and warnings over many years, and are now attempting to cut corners and rush a necessary inspection and repair. We urge you all to please support and take action now to correct this problem and ensure safety for our families, friends, and neighbors.

Sincerely,

Jim McCarthy  
Southern Oregon Program Director  
WaterWatch of Oregon

Jeff Dose  
President  
Steamboaters

Becky McRae  
Chair  
The North Umpqua Foundation

Stanley Petrowski  
President  
South Umpqua Rural Community Partnership

Kirk Blaine  
Southern Oregon Regional Coordinator  
Native Fish Society

Mike McCoy  
President  
Umpqua Valley Fly Fishers

Kasey Hovik  
Executive Director  
Umpqua Watersheds

Glen Spain  
Northwest Regional Director  
Pacific Coast Federation of Fishermen's Associations  
Institute for Fisheries Resources

Doug Heiken  
Conservation and Restoration Coordinator  
Oregon Wild

Steve Day  
Board  
Rogue Flyfishers

Mike Brinkley  
Vice President, Conservation  
Oregon Council Fly Fishers International

Thomas O'Keefe  
Pacific Northwest Stewardship Director  
American Whitewater

Dave Moskowitz  
Executive Director  
The Conservation Angler

Cc:

The Honorable Ron Wyden, U.S. Senate  
The Honorable Jeff Merkley, U.S. Senate  
The Honorable Peter DeFazio, U.S. House of Representatives  
Director Richard Whitman, DEQ  
Director Curt Melcher, ODFW  
Keith Mills, OWRD  
Lauren Brown, DSL  
Anita Andazola, U.S. Army Corps of Engineers  
Kate Wells, NMFS  
Jim Thraikill, USFWS  
Cow Creek Tribe  
City of Roseburg  
Umpqua Basin Water Association  
Oregon Water Resources Commission  
Oregon Fish and Wildlife Commission