

2015-JUL-24

Province of British Columbia
Ministry of Forests, Lands & Natural Resource Operations
Office of the Comptroller of Water Rights
Water Management Branch
P.O. Box 9340 Stn Prov Govt
VICTORIA, BC V9W 9M1

ATTENTION: Mr. Glen Davidson, P. Eng., Comptroller of Water Rights

Dear Mr. Davidson:

**RE: MIDDLE AND LOWER CHASE RIVER DAMS (COLLIERY DAMS) NANAIMO
COMPLIANCE WITH PROVINCIAL ORDER**

I am writing in response to the Comptroller's Order (the Order) dated 2015-APR-29 and the subsequent letter from Pamela Manhas, Barrister and Solicitor, Ministry of Justice, dated 2015-JUN-30. In Ms. Manhas' letter, she advises that the Comptroller now directs the City to comply with all the requirements of Paragraph 1(a), (b), and (c) of the Order by 2015-JUL-24.

At its meeting of 2015-JUL-20, Nanaimo City Council passed a detailed motion that included directing staff to proceed with installation of the Auxiliary Spillway. Council's motion also directed staff to undertake a number of other steps regarding the Colliery Dams. The City is now proceeding with implementing all steps outlined in Council's motion (a copy of City's Council's motion from 2015-JUL-20 is appended to this report as Attachment A).

Following is a summary of the steps the City is taking to comply with the requirements of Paragraph 1(a), (b), and (c) of the Order dated 2015-APR-29:

- 1(a) The City is proceeding with design and installation of an Auxiliary Spillway (labyrinth/box culvert, open channel alternative), outlined as Option 2 in Golder Associates (Golder) report dated 2015-JUL-08 (appended to this report as Attachment B).
- 1(b) This letter is notification of the City's selected remediation option [noted in 1(a) above] by 2015-JUL-24, as outlined in Ms. Manhas' letter.

- 1(c) Golder has prepared a design report and construction plans (Attachment B) that includes construction plans prepared by Golder for the Auxiliary Spillway, plus structural engineering designs provided by Herold Engineering for the Labyrinth weir and box culvert/bridge structure.

The City is moving ahead expeditiously on multiple initiatives (identified below) in an effort to substantially complete the Auxiliary Spillway by 2015-NOV-15, as noted in the Order.

The current status of the work being undertaken by the City as a result of Council's motion 2015-JUL-20 is as follows:

1. Golder to commence detailed design of the Auxiliary Spillway

Golder has commenced this work, with the initial step being scheduling machinery that could evaluate the undersurface conditions of the Auxiliary Spillway route to determine soil conditions and, particularly, if and where rock is located in the Auxiliary Spillway routing from the Lower Dam reservoir to Harewood Creek. Golder is preparing a letter outlining their schedule for completion of the detailed design. This letter will be forwarded to you as soon as it is received by the City.

2. Review of the Auxiliary Spillway by the Snuneymuxw First Nation (SFN)

The Auxiliary Spillway has been discussed with SFN representatives and a request has been forwarded to SFN seeking their input on the Auxiliary Spillway. It is our understanding the Auxiliary Spillway will be considered by SFN Chief and Council at an upcoming meeting and a response will be forwarded to the City thereafter. The City will forward SFN's response to the Comptroller once it is received.

3. Permits required for construction of the Auxiliary Spillway

The City had initiated discussions with permitting agencies and consultants to determine permits required for construction and applicable reports that will be needed as part of the permitting process. The City is pursuing permits required for construction and will advise the Comptroller by 2015-JUL-31 regarding the status of permit applications.

4. Retaining contractors to install the Auxiliary Spillway

City staff have initiated discussions with contractors to determine their availability and possible options to consider to expedite construction of the Auxiliary Spillway. Given that the conventional method of completing detailed designs, preparing tendering documents and undertaking a tendering process would take a number of months, the City is exploring various tendering methods to secure a contractor, which will allow for construction to begin at the earliest date possible.

5. Schedule

As noted in Council's motion of 2015-JUL-20, the City is pursuing a schedule that would allow a tender to be awarded no later than 2015-SEP-01. During the period between now and September 1, the City also will work with Golder to complete detailed design, complete permit applications, and seek input from the SFN regarding the Auxiliary Spillway. Provided necessary approvals are in place and a contractor has been secured, construction would begin in September with an estimated three- to five-month duration, providing unforeseen delays are not encountered.

6. Dam Safety Section approval

The City will work with the Dam Safety Section (DSS) staff to ensure approvals are in place for work to be undertaken under the City's current water licence, permit applications to Front Counter B.C., and any other processes that are identified.

Please advise if further information is required.

Once you have had the opportunity to review the information provided in this letter and attachments, please advise that the City has met the requirements of the Order dated 2015-APR-29.

Yours truly,



Toby Seward

Acting General Manger

COMMUNITY DEVELOPMENT & PROTECTIVE SERVICES

TS/kb

cc: Wenda Mason, Manager, River Forecast Centre & Dam Safety Section
Scott Morgan, Head, Dam Safety Section
Ted Swabey, City Manager
Ian Howat, General Manager of Corporate Services

ATTACHMENT A

32015 It was moved and seconded that:

WHEREAS the City of Nanaimo has been diligently pursuing a resolution to issues first raised in 2010 regarding the Colliery Dams.

This has included:

1. engagement with the public to take into consideration the importance of the Colliery Dams Park;
2. engagement with the Snuneymuxw First Nation;
3. securing further technical analysis regarding seismic concerns that made clear the dams are not a seismic risk; and,
4. pursuing further technical analysis regarding the hydrology of the Chase River watershed and the spillway capacity of the Lower Dam with the goal of confirming and verifying engineering opinions provided to date;

AND WHEREAS a Select Committee is being established pursuant to a resolution on 2015-JUL-13, in part, to continue to pursue further technical analysis regarding the hydrology of the Chase River watershed and the spillway capacity of the Lower Dam;

AND WHEREAS the Comptroller of Water Rights issued an Order requiring the City of Nanaimo to choose between one of two options, which was further amended to include a conditional third option for overtopping;

AND WHEREAS the City has not been successful in convincing the Comptroller of Water Rights to suspend or withdraw the Order until further technical analysis can be undertaken to verify the need to spend significant public money;

THEREFORE pursuant to the Comptroller's Order dated 2015-APR-29, Council resolves to:

- a. select the following Lower Dam remediation option:
Auxiliary Spillway (Labyrinth/Box Culvert, Open Channel alternative)

AND FURTHER RESOLVE TO DIRECT STAFF TO:

- b. immediately notify the Comptroller of this selection and to undertake the preparation of a design report and construction plan for Auxiliary Spillway to be provided to the Comptroller on or before 2015-JUL-24;
- c. prepare a conceptual plan for the Middle Colliery Dam for potential use once Lower Dam remediation is complete;

- d. in collaboration with Council, in the spirit of transparency, develop Terms of Reference for a tendering process for the Auxiliary Spillway construction (Labyrinth/Box Culvert, Open Channel alternative) to be awarded no later than 2015-SEP-01;
- e. re-establish the Technical Committee as a Select Committee, including two serving Councillors, and that the terms of reference include the select committee in a consultative role throughout the installation of the Auxiliary Spillway (Labyrinth/Box Culvert, Open Channel alternative) for the Lower Colliery Dam and the preparation of a conceptual plan for the Middle Colliery Dam;
- f. in collaboration with Council develop terms of reference for an independent investigation and report on the Colliery Dam process with a focus on problems and issues that have arisen related to engineering, governance, communications, and engagement with the public and other governments.
- g. in collaboration with Council draft a letter to the Provincial government outlining our concerns with respect to the process and the handling of this matter from a government to government basis; and,
- h. abandon all legal proceedings before the Environmental Appeal Board.

The motion carried unanimously.