



State of Washington
Application for a Water Right

02-15-01
#10-00
ck # 525
vry

For Ecology Use
Fee Paid \$10.00
Date 02-15-01
DEPT. OF ECOLOGY
Received
FEB 15 2001
CENTRAL REGION OFFICE

Please follow the attached instructions to avoid unnecessary delays.

Section 1. APPLICANT - PERSON, ORGANIZATION, OR WATER SYSTEM

Name Mercer Ranch Power, LLC Home Tel: (____) _____ - _____
Mailing Address 9405 Arrowpoint Blvd. Work Tel: (704) 525 - 3800
City Charlotte State NC Zip+4 28273 + 8110 FAX: (704) 525 - 9934

Section 2. CONTACT - PERSON TO CALL ABOUT THE APPLICATION

Same as above

Name Mr. Kurt Humphrey Home Tel: (____) _____ - _____
Mailing Address 121 SW Morrison Street, Suite 910 Work Tel: (503) 243 - 3800
City Portland State OR Zip+4 97204 + 4274 FAX: (503) 227 - 4274
Relationship to applicant Vice President

Section 3. STATEMENT OF INTENT

The applicant requests a permit to use not more than 20 (gallons per minute or cubic feet per second) from a surface water source or ground water source (check only one) for the purpose(s) of Power, Cooling, Commercial/Industrial, Irrigation, Reservoir. ATTACH A "LEGAL" DESCRIPTION OF THE PLACE OF USE. (See instructions.) NOTE: A tax parcel number or a plat number is not sufficient.

Estimate a maximum annual quantity to be used in acre-foot per year: 10,000 AF

Check if the water use is proposed for a short-term project. Indicate the period of time that the water will be needed:
From ___/___/___ to ___/___/___

Section 4. WATER SOURCE

If SURFACE WATER	If GROUNDWATER
Name the water source and indicate if stream, spring, lake, etc. If unnamed, write "unnamed spring," "unnamed stream," etc.: <u>Columbia River, John Day Pool</u>	A permit is desired for _____ well(s).
Number of diversions: <u>1</u>	
Source flows into (name of body of water): <u>Pacific Ocean</u>	Size & depth of well(s):

LOCATION

Enter the north-south and east-west distances in feet from the point of diversion or withdrawal to the nearest section corner: 740 feet west and 225 feet south from the northeast corner of Section 6, Township 4 North, Range 24 East

1/4 of	1/4 of	Section	Township	Range (E/W)	County	If location of source is platted, complete below:		
						Lot	Block	Subdivision
<u>NE</u>	<u>NE</u>	<u>6</u>	<u>4</u>	<u>24E</u>	<u>Benton</u>			

For Ecology Use Date Received: 02-15-2001 Priority Date: FEBRUARY 15, 2001
SEPA: Exempt Not Exempt FERC License # _____ Dept. Of Health # _____
Date Accepted As Complete 03-07-01 By [Signature] Date Returned _____ By _____ WRIA: 31

Section 5. GENERAL WATER SYSTEM INFORMATION

A. Name of system, if named: _____

B. Briefly describe your proposed water system. (See instructions.)

Water will be diverted from the Columbia River at an existing pumping station. The existing pump station diverts water under several water rights for agricultural use, including surface water rights S4-01344C and S4-30053P. The pump station will be expanded with three 600 horsepower pumps capable of pumping 20 cubic feet of water per second. A water transmission line will extend to the project site where the line will split into two branches. One branch will deliver water directly to a gas-fired electrical generation plant. The other branch will deliver water to a proposed reservoir location in a topographic depression located in Sections 19 and 20 of Township 5 North, Range 24 East. Water will be circulated from the reservoir through the electrical generation plant and returned to the reservoir primarily for cooling, and other aspects of plant operations.

C. Do you already have any water rights or claims associated with this property or system? YES NO
PROVIDE DOCUMENTATION.

Section 6. DOMESTIC/PUBLIC WATER SUPPLY SYSTEM INFORMATION (Completed for all domestic/public supply uses.)

A. Number of "connections" requested: _____ Type of connection _____
(Homes, Apartment, Recreational, etc.)

B. Are you within the area of an approved water system? YES NO
If yes, explain why you are unable to connect to the system. *Note: Regional water systems are identified by your County Health Department.*

Complete C. and D. only if the proposed water system will have fifteen or more connections.

C. Do you have a current water system plan approved by the Washington State Department of Health? YES NO
If yes, when was it approved? _____ Please attach the current approved version of your plan.

D. Do you have an approved conservation plan? YES NO
If yes, when was it approved? _____ Please attach the current approved version of your plan.

Section 7. IRRIGATION/AGRICULTURAL/FARM INFORMATION (Completed for all irrigation and agriculture uses.)

A. Total number of acres to be irrigated: _____

B. List total number of acres for other specified agricultural uses:

Use _____ Acres _____

Use _____ Acres _____

Use _____ Acres _____

C. Total number of acres to be covered by this application: _____

D. Family Farm Act (Initiative Measure Number 59, November 3, 1977)

Add up the acreage in which you have a controlling interest, including only:

‡ Acreage irrigated under water rights acquired after December 8, 1977;

‡ Acreage proposed to be irrigated under this application;

‡ Acreage proposed to be irrigated under other pending application(s).

1. Is the combined acreage greater than 2000 acres? YES NO

2. Do you have a controlling interest in a Family Farm Development Permit? YES NO

If yes, enter permit no.: _____

E. Farm uses:

Stockwater - Total # of animals _____ Animal Type _____ (If dairy cattle, see below)

Dairy - # Milking _____ # Non-milking _____

Section 8. WATER STORAGE

Will you be using a dam, dike, or other structure to retain or store water?

YES NO

NOTE: If you will be storing 10 acre-feet or more of water and/or if the water depth will be 10 feet or more at the deepest point, and some portion of the storage will be above grade, you must also apply for a reservoir permit. You can get a reservoir permit application from the Department of Ecology.

Section 9. DRIVING DIRECTIONS

Provide detailed driving instructions to the project site.

Point of Diversion: From the junction of Interstate 82 and State Route 14 near the McNary Dam, proceed west along State Route 14 approximately 22 miles. Turn right (north) onto Sonova Road. Take the first right (approximately 100 yards from the junction with State Route 14). This road will curve south and pass under State Route 14. Take the next right turn onto a dirt road. This dirt road runs parallel to and between state route 14 and the Columbia River. Proceed approximately 1.2 miles west to the pump station on the Columbia River.

Proposed Place of Use: The proposed place of use is accessible by service roads on Mercer ranch from the administration offices of Mercer Ranch, and is located in the eastern half of the northeast quarter of Section 29. (CONTINUED)

Section 10. REQUIRED MAP

A. Attach a map of the project. (See instructions.)

See attached

Section 11. PROPERTY OWNERSHIP

A. Does the applicant own the land on which the water will be used?

YES NO

If no, explain the applicant's interest in the place of use and provide the name(s) and address(es) of the owner(s):

Applicant is currently negotiating to purchase land from the owner. The owner is Mercer Ranch, Inc. 46 Sonova Road, Prosser, WA 99350

B. Does the applicant own the land on which the water source is located?

YES NO

If no, submit a copy of agreement:

See attached Department of the Army Permit.

I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I grant staff from the Department of Ecology access to the site for inspection and monitoring purposes. Even though I may have been assisted in the preparation of the above application by the employees of the Department of Ecology, all responsibility for the accuracy of the information rests with me.

[Signature]
Applicant (or authorized representative)

2.11.01
Date

Mercer Ranches Inc.
Landowner for place of use (if same as applicant, write "same")
by [Signature] Sec/Treas.

2.9.01
Date

February 8, 2001

Section 3. STATEMENT OF INTENT

“Legal” Description of the Place of Use

The place of use for Mercer Ranch Power LLC water right application for 20 cfs, 10,000 AF/yr from the John Day Pool of the Columbia River:

Southeast quarter of the Southeast quarter of Section 20, Township 5 North, Range 24 East, Willamette Meridian.

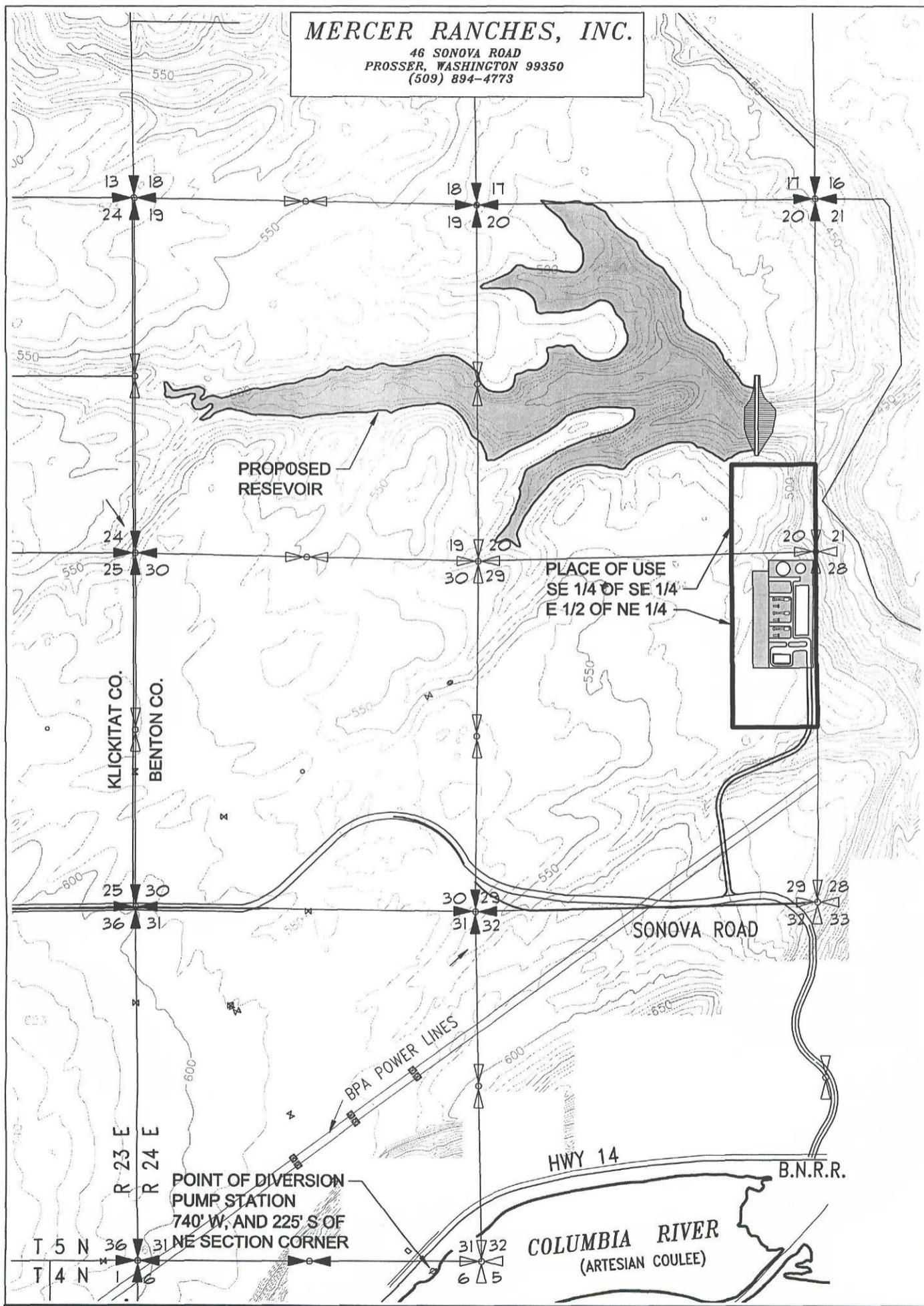
AND

East half of the Northeast quarter of Section 29, Township 5 North, Range 24 East, Willamette Meridian.

Filename: Columbia app - legal description.doc

MERCER RANCHES, INC.

46 SONOVA ROAD
PROSSER, WASHINGTON 99350
(509) 894-4773



DEPARTMENT OF THE ARMY PERMIT

Permittee: Mercer Ranch, Inc.

Permit: 95-2-00771

Issuing Office: Seattle District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Construct an extension to an existing pump station; relocate existing pumps; install 2 additional pumps and new screens; dredge approximately 70 cubic yards of material from in front of existing pump station; and discharge fill material for the construction of an equipment access pad (Additional pumping capacity for irrigation of farmland) in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Project Location: In the Columbia River, near Crow Butte State Park, Benton County, Washington.

Permit Conditions:

General Conditions:

JAN 11 1999

1. The time limit for completing the work authorized ends on _____.
If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification to this permit form this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned Water Quality Certification or Coastal Zone Management consistency concurrence are issued for your project, you must comply with the conditions specified in the certification and/or consistency determination as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in

accordance with the terms and conditions of your permit.

Special Conditions:

- a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.
- b. All work shall be completed between December 1 and March 31 of any year to minimize impacts to migrating threatened and endangered salmon species.
- c. Screens on the intakes shall have a maximum opening size of 0.0938 of an inch, and approach velocities shall not exceed 0.40 feet per second.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorization required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of the permit.

b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Mercer Ranches Inc

Milton "Bud" Mercer Jr.
Milton "Bud" Mercer Jr.

Jan 5, 1996
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Jim F. Miller

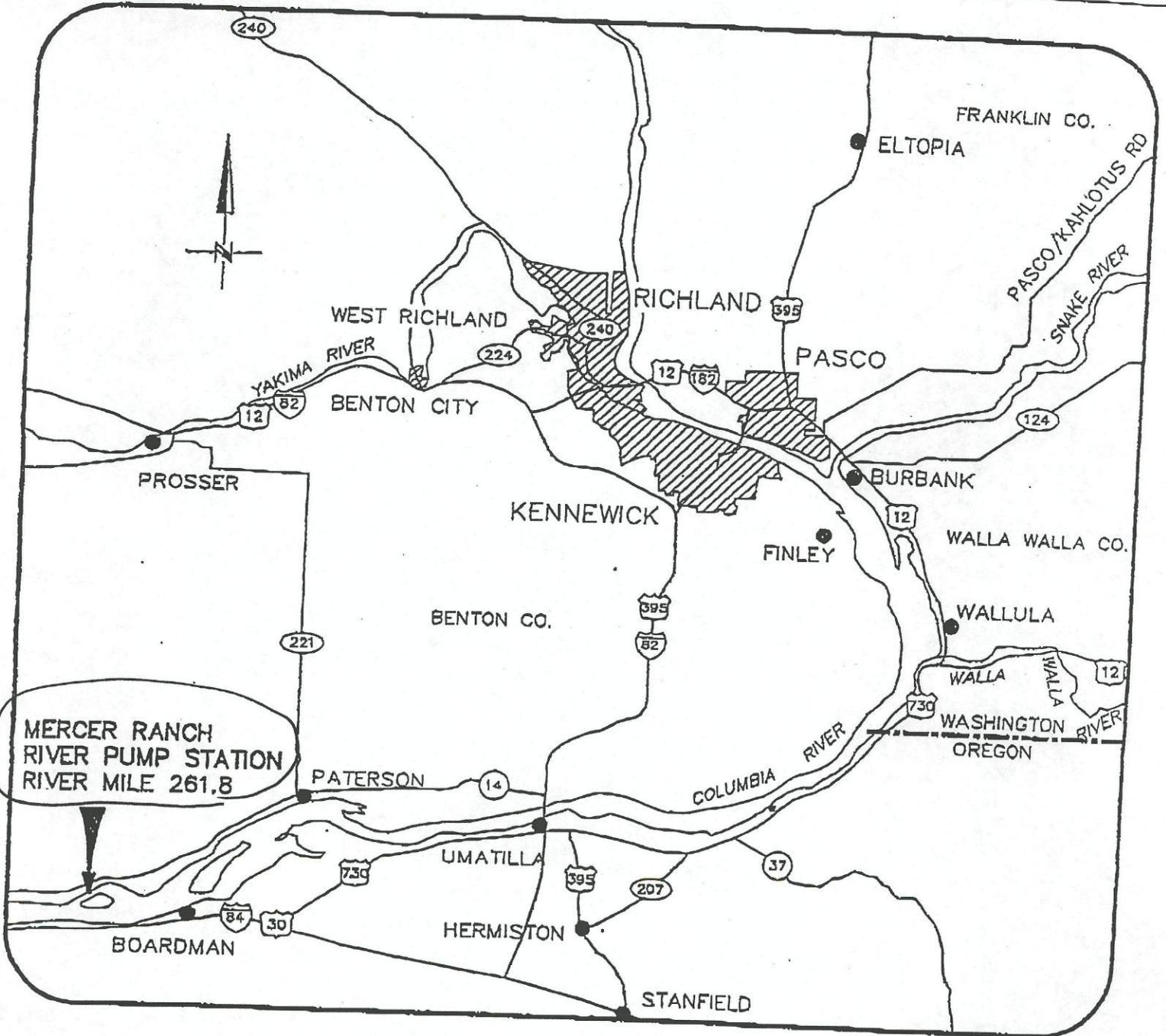
Donald T. Wynn
Colonel, Corps of Engineers
District Engineer

11 January 1996
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)



MERCER RANCH
RIVER PUMP STATION
RIVER MILE 261.8

PROPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

1. IRVINGTON NORTHERN RR
100 FIRST INTERSTATE CENTER
9 THIRD AVENUE
ATLANTA GA 30304-1105

2. ARMY CORPS OF ENGINEERS
BUILDING 602
CITY - COUNTY AIRPORT
WALLA WALLA WA 99362-9285

3. SSE O. THOMAS
BOX 1442
COMA WA 98402

4. CECL W. ROCK
RT 2 BOX 406
HARRISON OR 97844

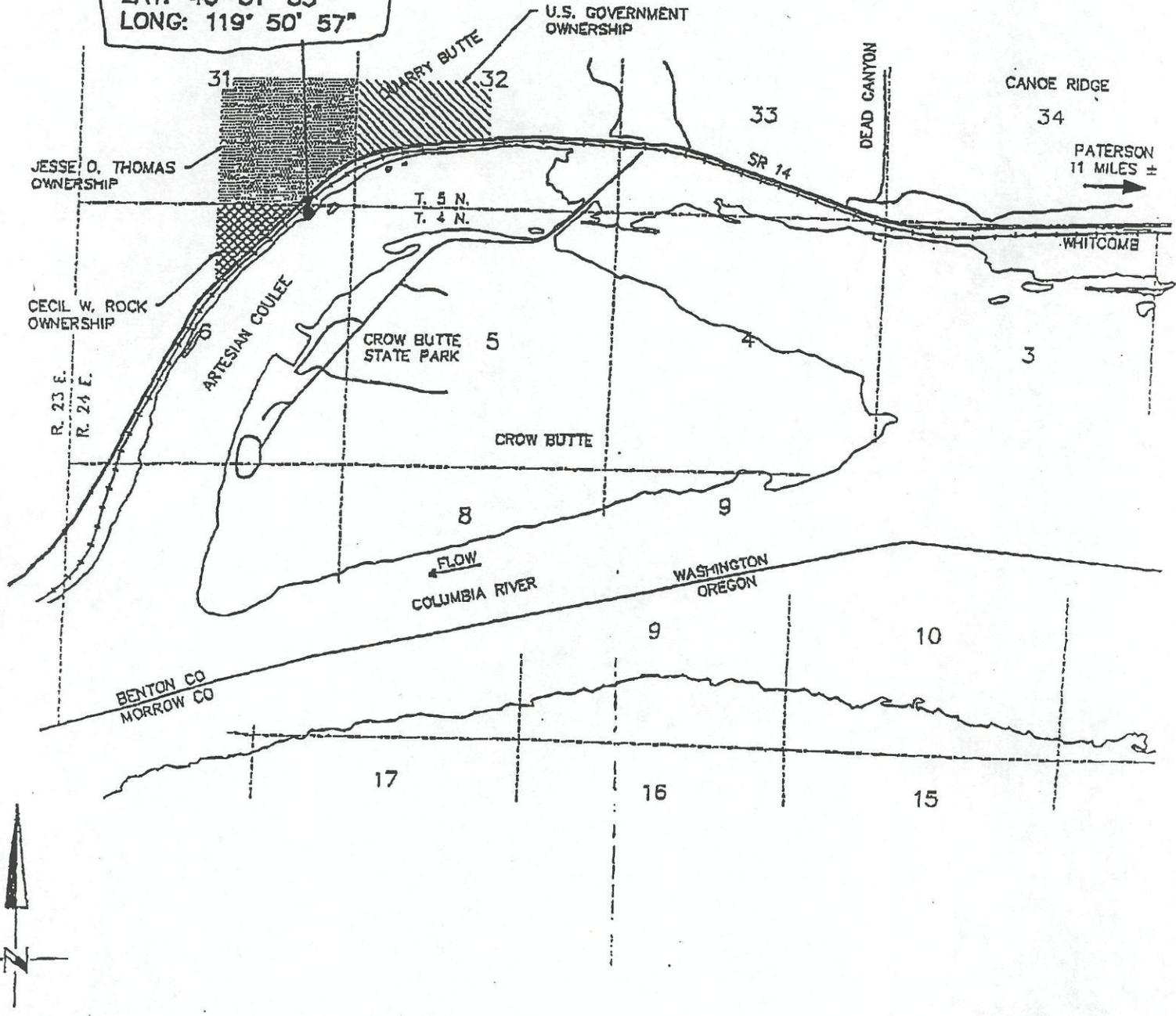
LOCATION MAP

MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

3553CORP.DWG

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 1 of 6

**MERCER RANCH
RIVER PUMP STATION
RIVER MILE 261.8
LAT: 45° 51' 55"
LONG: 119° 50' 57"**



RPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

BLINGTON NORTHERN RR
30 FIRST INTERSTATE CENTER
1 THIRD AVENUE
WALLA WA 99104-1105

3. ARMY CORPS OF ENGINEERS
BUILDING 502
CITY - COUNTY AIRPORT
WALLA WALLA WA 99362-8263

SE O. THOMAS
BOX 1442
DUA WA 98402

4. CECIL W. ROCK
RT 2 BOX 406
IRRIGON OR 97844

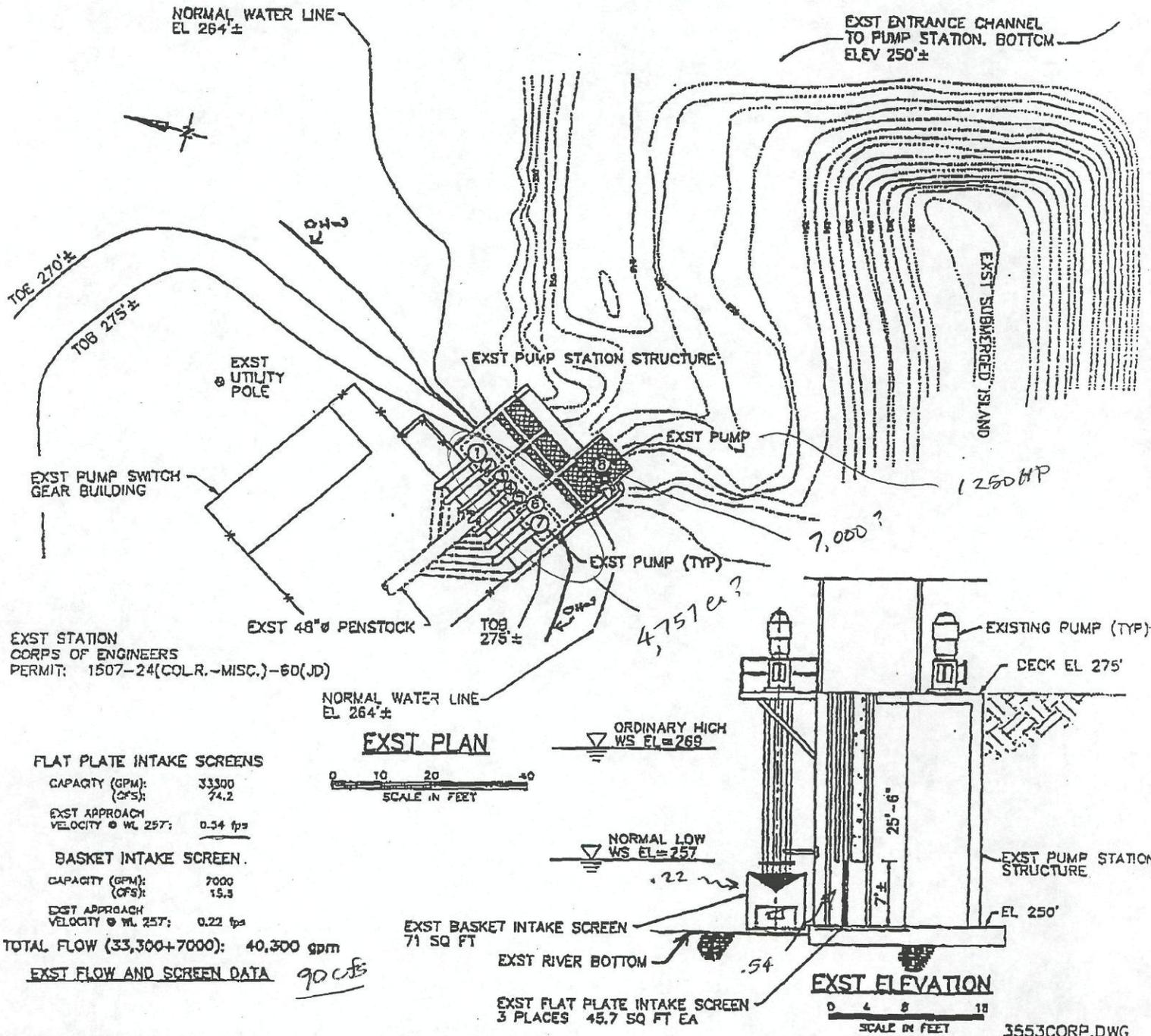
SITE MAP



MERCER RANCH, INC.
46 SONOVA ROAD
DROSSER WASHINGTON 99350

3553CORP.DWG

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 2 of 6



EXST STATION
CORPS OF ENGINEERS
PERMIT: 1507-24(COLR.-MISC.)-60(JD)

FLAT PLATE INTAKE SCREENS

CAPACITY (GPM): 33300
(CFS): 74.2
EXST APPROACH VELOCITY @ WL 257: 0.54 fps

BASKET INTAKE SCREEN.

CAPACITY (GPM): 7000
(CFS): 15.3
EXST APPROACH VELOCITY @ WL 257: 0.22 fps

TOTAL FLOW (33,300+7000): 40,300 gpm

EXST FLOW AND SCREEN DATA 90 CFS

EXST PLAN
SCALE IN FEET
0 10 20 40

ORDINARY HIGH WS EL=269

NORMAL LOW WS EL=257

EXST BASKET INTAKE SCREEN
71 SQ FT

EXST RIVER BOTTOM

EXST FLAT PLATE INTAKE SCREEN
3 PLACES 45.7 SQ FT EA

EXST ELEVATION
SCALE IN FEET
0 4 8 10

3553CORP.DWG

URPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

BURLINGTON NORTHERN RR
1000 FIRST INTERSTATE CENTER
199 THIRD AVENUE
SEATTLE WA 98104-1109

3. ARMY CORPS OF ENGINEERS
BUILDING 602
CITY - COUNTY AIRPORT
WALLA WALLA WA 99162-0265

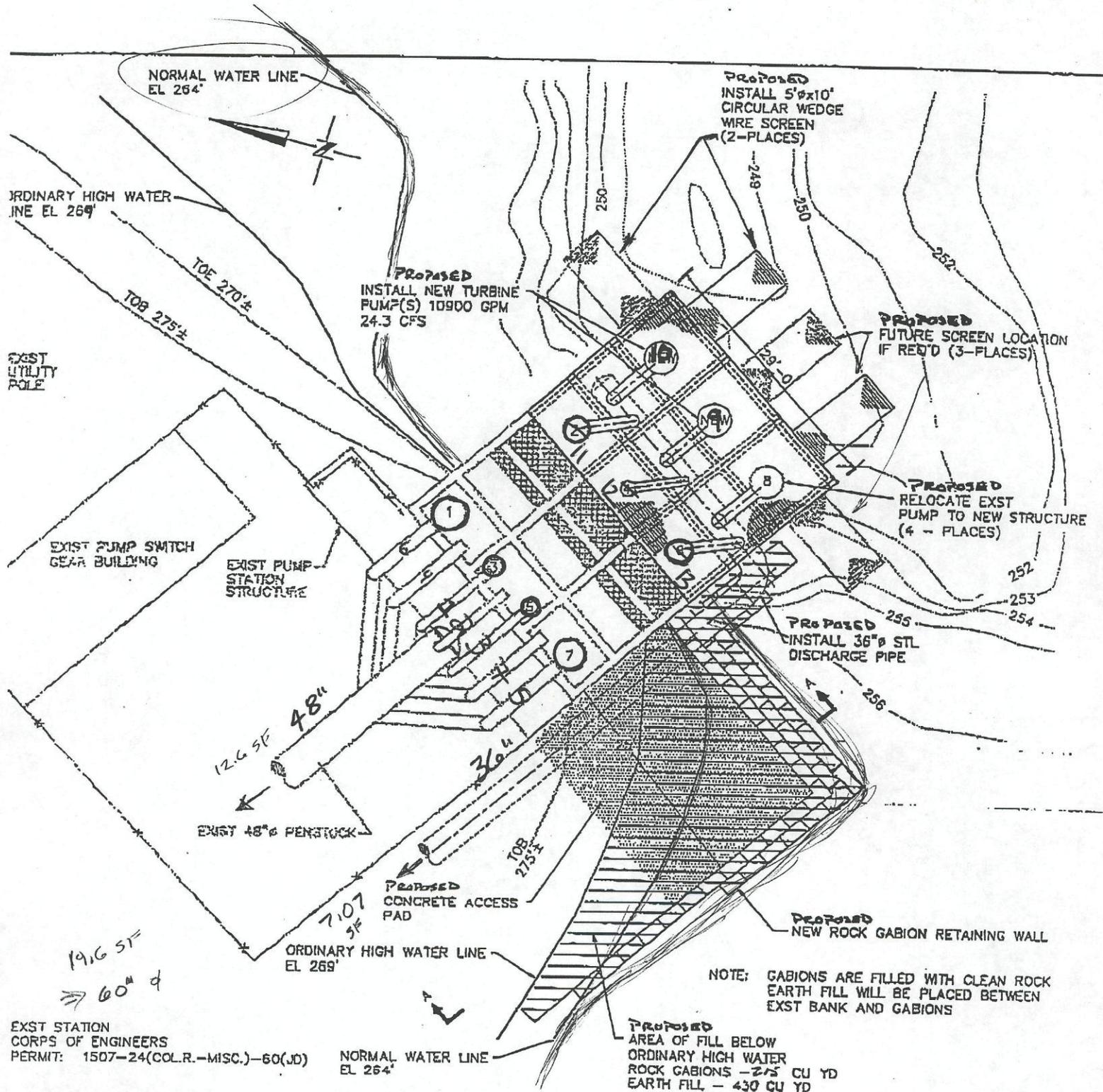
ESSE O. THOMAS
O BOX 1442
ACOMA WA 98402

4. GEOR. W. RDOCK
RT 2 BOX 400
IRRIGON OR 97844

EXISTING PLAN AND ELEVATION

MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 3 of 6
Date: REVISED 9-28-95



NOTE: GABIONS ARE FILLED WITH CLEAN ROCK
 EARTH FILL WILL BE PLACED BETWEEN
 EXST BANK AND GABIONS

PROPOSED
 AREA OF FILL BELOW
 ORDINARY HIGH WATER
 ROCK GABIONS - 275 CU YD
 EARTH FILL - 430 CU YD

3553CORP.DWG

PROPOSE: IMPROVE INTAKE SCREENING
 INCREASE PUMPING CAPACITY

JACENT PROPERTY OWNERS:

1. ARMY CORPS OF ENGINEERS
 BUILDING 602
 CITY - COUNTY AIRPORT
 WALLA WALLA WA 99362-9265

2. BRINGTON NORTHERN RR
 100 FIRST INTERSTATE CENTER
 19 THIRD AVENUE
 ATTLA WA 98104-1105

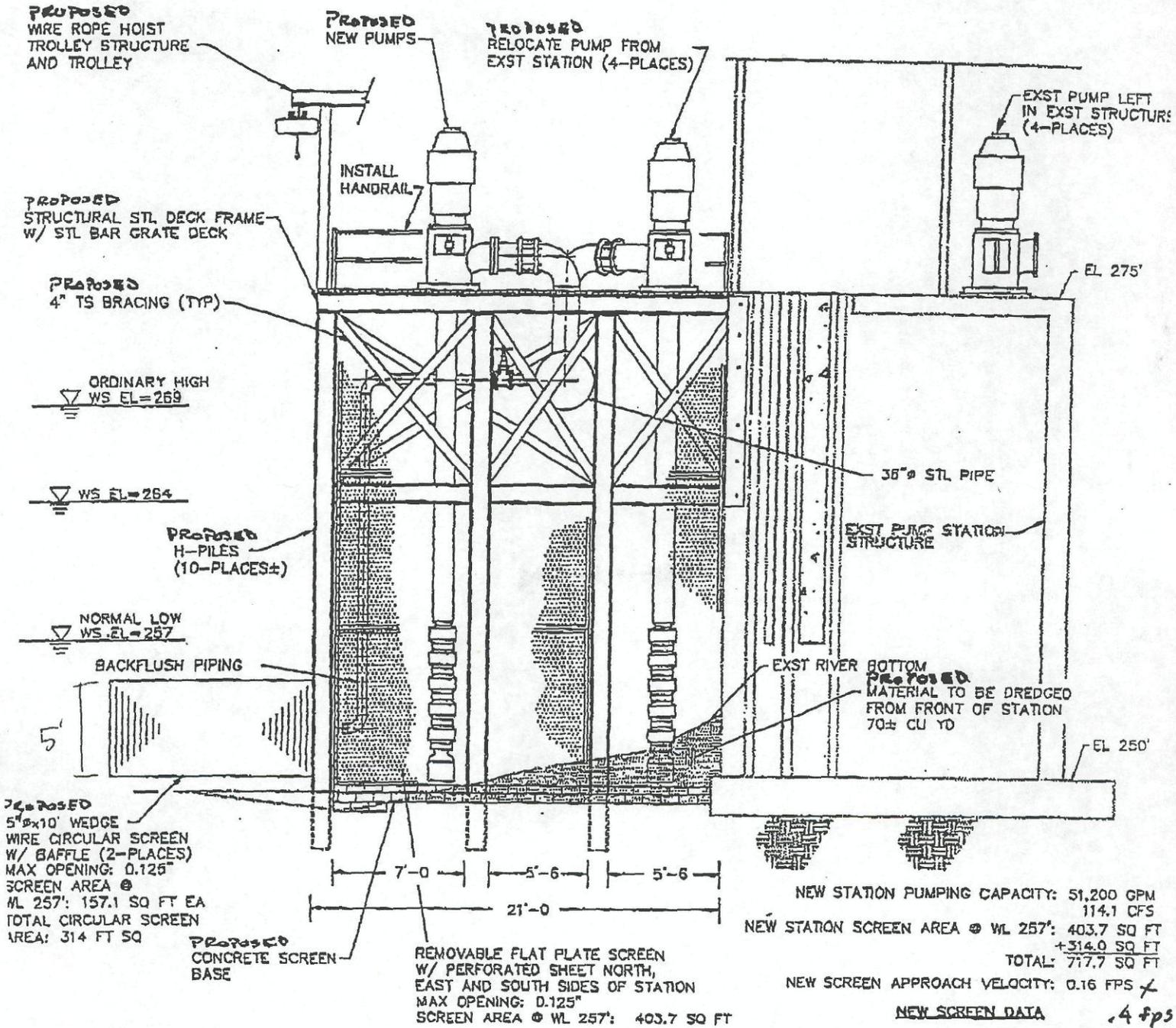
3. CECIL W. ROCK
 RT 2 BOX 406
 BRICCON OR 97844

SSE O. THOMAS
 1 BOX 1442
 COMA WA 98402

PROPOSED
 PLAN

MERCER RANCH, INC.
 46 SONOVA ROAD
 PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
 Mercer Ranch, Inc.
 Columbia River (Lake Umatilla)
 Near: Crow Butte State Park
 Benton County, Washington
 Proposed Work: Expand existing
 irrigation pump station
 Sheet 4 of 6
 Date: REVISED 9-28-95



NEW STATION PUMPING CAPACITY: 51,200 GPM
 114.1 CFS
 NEW STATION SCREEN AREA @ WL 257': 403.7 SQ FT
 + 314.0 SQ FT
 TOTAL: 717.7 SQ FT
 NEW SCREEN APPROACH VELOCITY: 0.16 FPS
NEW SCREEN DATA .4 fps

3553CORP.DWG

POSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

AGENT PROPERTY OWNERS:

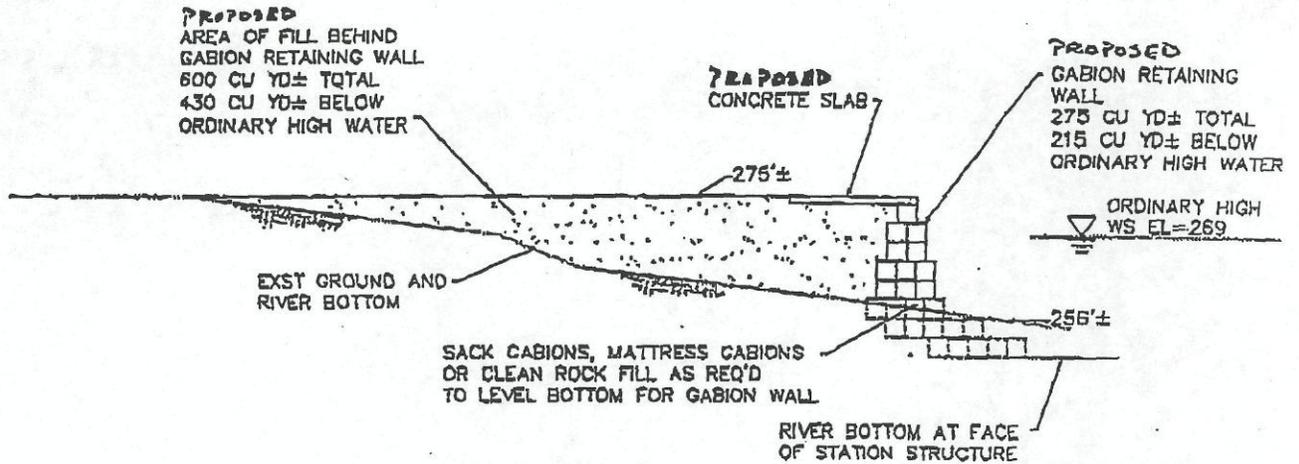
- 1. KINGTON NORTHERN RR
3 FIRST INTERSTATE CENTER
THIRD AVENUE
WALLA WA 99104-1103
- 2. ARMY CORPS OF ENGINEERS
BUILDING 802
CITY - COUNTY AIRPORT
WALLA WALLA WA 99382-0265
- 3. E. O. THOMAS
BOX 1442
WIA WA 98402
- 4. CECIL W. ROCK
RT 2 BOX 408
IRRIGON OR 97841

PROPOSED ELEVATION



MERCER RANCH, INC.
 46 SONOVA ROAD
 PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
 Mercer Ranch, Inc.
 Columbia River (Lake Umatilla)
 Near: Crow Butte State Park
 Benton County, Washington
 Proposed Work: Expand existing
 irrigation pump station
 Sheet 5 of 6



SECTION A



NOTE: PUMP STATION NOT SHOWN FOR CLARITY

3553CORP.DWG

PROPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

CLINGTON NORTHERN RR
301 FIRST INTERSTATE CENTER
THIRD AVENUE
TILE WA 98104-1105

3. ARMY CORPS OF ENGINEERS
BUILDING 602
CITY - COUNTY AIRPORT
WALLA WALLA WA 99382-8265

E. O. THOMAS
BOX 1042
MA WA 98402

4. CECIL W. ROCK
RT 2 BOX 406
IRRIGON OR 97814

**PROPOSED
CROSS SECTIONS**

MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 6 of 6
Date: REVISED 9-28-95



US Army Corps
of Engineers
Seattle District

Public Notice of Application for Permit

Regulatory Branch
Post Office Box 3755
Seattle, Washington 98124-2255
Telephone (206) 764-3495
ATTN: Tim R. Erkel, Project Manager

Public Notice Date: 3 August 1995
Expiration Date: 5 September 1995
Reference: 95-2-00771
Name: Mercer Ranch, Inc.

Interested parties are hereby notified that an application has been received for a Department of the Army permit in accordance with Section 10 of the Rivers and Harbors Act of March 3, 1899, and Section 404 of the Clean Water Act, for certain work described below and shown on the enclosed drawings.

APPLICANT - Mercer Ranch, Inc.
46 Sonova Road
Prosser, Washington 99350
ATTN: Mr. Bud Mercer
Telephone: (509) 894-4773

AGENT - SCM Consultants, Inc.
7601 West Clearwater Avenue #301
Kennewick, Washington 99336
ATTN: Mr. Dale G. Van Schoiack
Telephone: (509) 783-1625

LOCATION - In the Columbia River near Crow Butte State Park, Benton County, Washington.

WORK - Construct an extension to an existing irrigation pump station; relocate existing pumps; install 2 additional pumps and new screens; dredge approximately 70 cubic yards of material from in front of existing pump station; and discharge fill material for the construction of an equipment access pad and a debris barrier.

PURPOSE - To provide an additional 10,900 ± gallons per minute to the station's existing capacity.

ADDITIONAL INFORMATION - The proposed screen configuration will reduce approach velocities from 0.4 to 0.16 feet per second at peak pumping capacity. The proposed debris barrier is designed to prevent the movement of milfoil into the area of the pump station.

ENDANGERED SPECIES - The Endangered Species Act of 1973, as amended, requires assessment of potential impacts to listed and proposed species. Three species of salmon occur in the proposed project area: Snake River sockeye salmon (Oncorhynchus nerka) - listed as endangered; Snake River spring/summer chinook salmon (Oncorhynchus tshawytscha) - listed as threatened; and Snake River fall chinook salmon (Oncorhynchus tshawytscha) - listed as threatened as a genetically separate population from the spring/summer chinook salmon. The bald eagle (Haliaeetus leucocephalus), listed as threatened in the State of Washington, also occurs in the proposed project area. After receipt of comments from this public notice, the Corps of Engineers will evaluate the potential impacts to these species.

CULTURAL RESOURCES - Presently unknown archeological, scientific, prehistorical or historical data may be lost or destroyed by work to be accomplished under the requested permit. The work is not located on a property registered in the National Register of Historic Places. This public notice has been provided to the appropriate State Historic Preservation Officer.

PUBLIC HEARING - Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

EVALUATION - The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

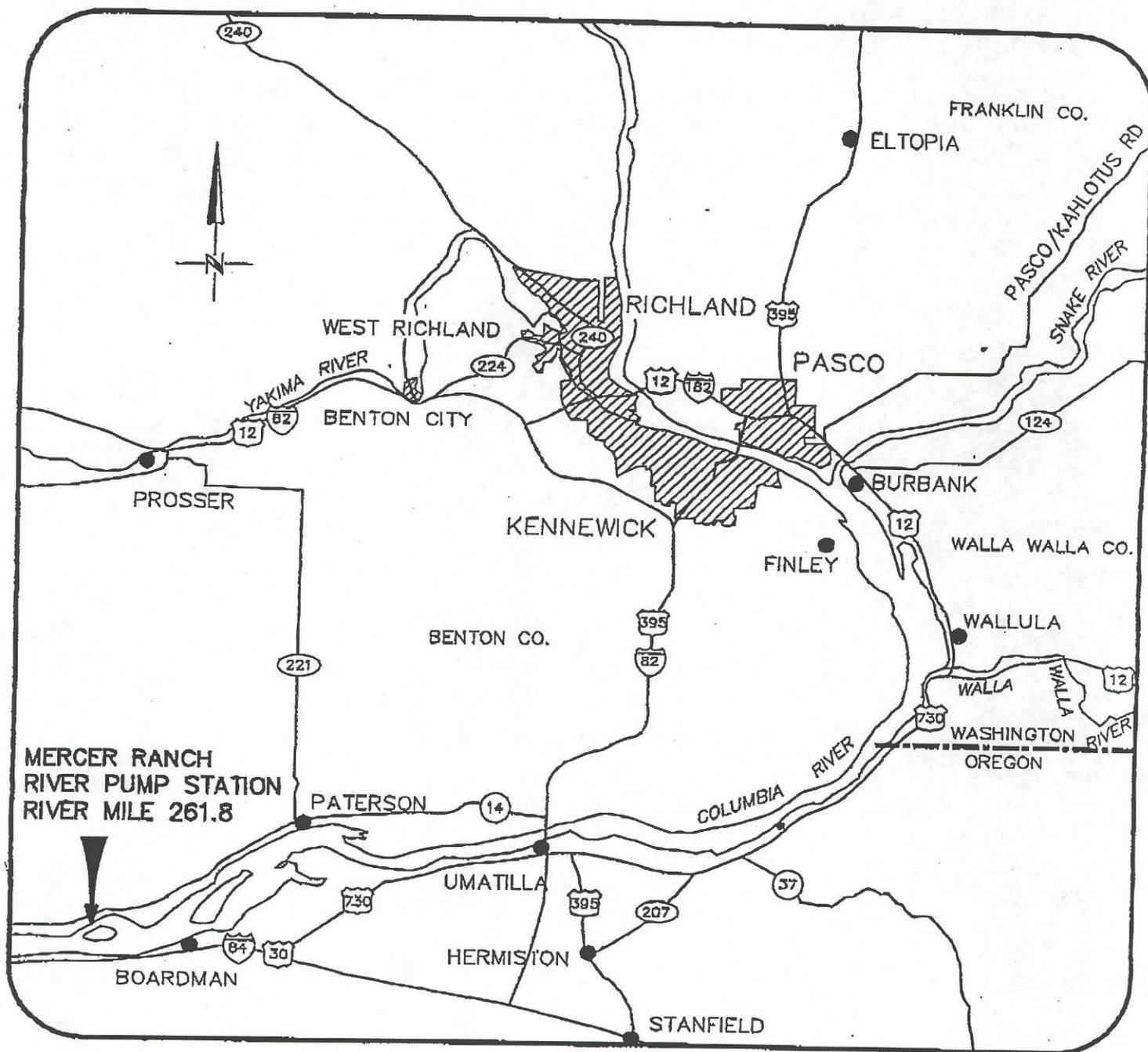
The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act.

ADDITIONAL EVALUATION - Benton County has issued an exemption from the requirement of obtaining a Shorelines Substantial Development permit for this project.

COMMENT AND REVIEW PERIOD - Comments on these factors will be accepted and made part of the record and will be considered in determining whether it would be in the best public interest to grant a permit. Comments should reach this office, Attn: Regulatory Branch, not later than the expiration date of this public notice to ensure consideration and refer to the following name and file number:

Mercer Ranch, Inc.
95-2-00771

Encl
Drawings (6)



3553CORP.DWG

PURPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

1. BURLINGTON NORTHERN RR
2000 FIRST INTERSTATE CENTER
999 THIRD AVENUE
SEATTLE WA 98104-1105

3. ARMY CORPS OF ENGINEERS
BUILDING 502
CITY - COUNTY AIRPORT
WALLA WALLA WA 99362-8255

2. JESSE O. THOMAS
PO BOX 1442
TACOMA WA 98402

4. CECIL W. ROCK
RT 2 BOX 406
IRRIGON OR 97844

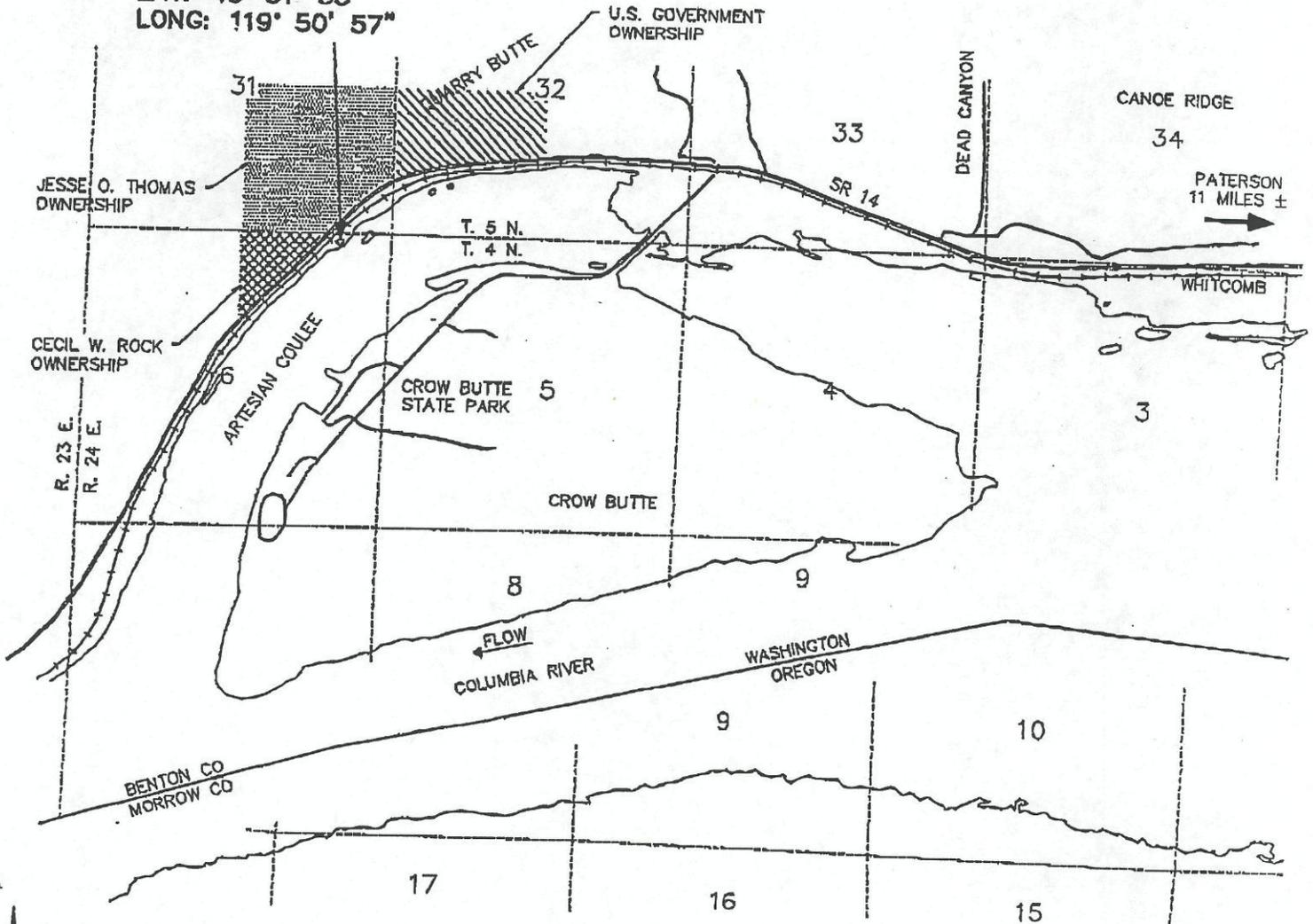
LOCATION MAP

MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 1 of 6
Date: 7-20-95

MERCER RANCH RIVER PUMP STATION RIVER MILE 261.8

LAT: 45° 51' 55"
LONG: 119° 50' 57"



PURPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

1. BURLINGTON NORTHERN RR
2000 FIRST INTERSTATE CENTER
990 THIRD AVENUE
SEATTLE WA 98104-1105

3. ARMY CORPS OF ENGINEERS
BUILDING 802
CITY - COUNTY AIRPORT
WALLA WALLA WA 99302-9265

2. JESSE O. THOMAS
PO BOX 1442
TACOMA WA 98402

4. CECIL W. ROCK
RT 2 BOX 406
IRIDGON OR 97844

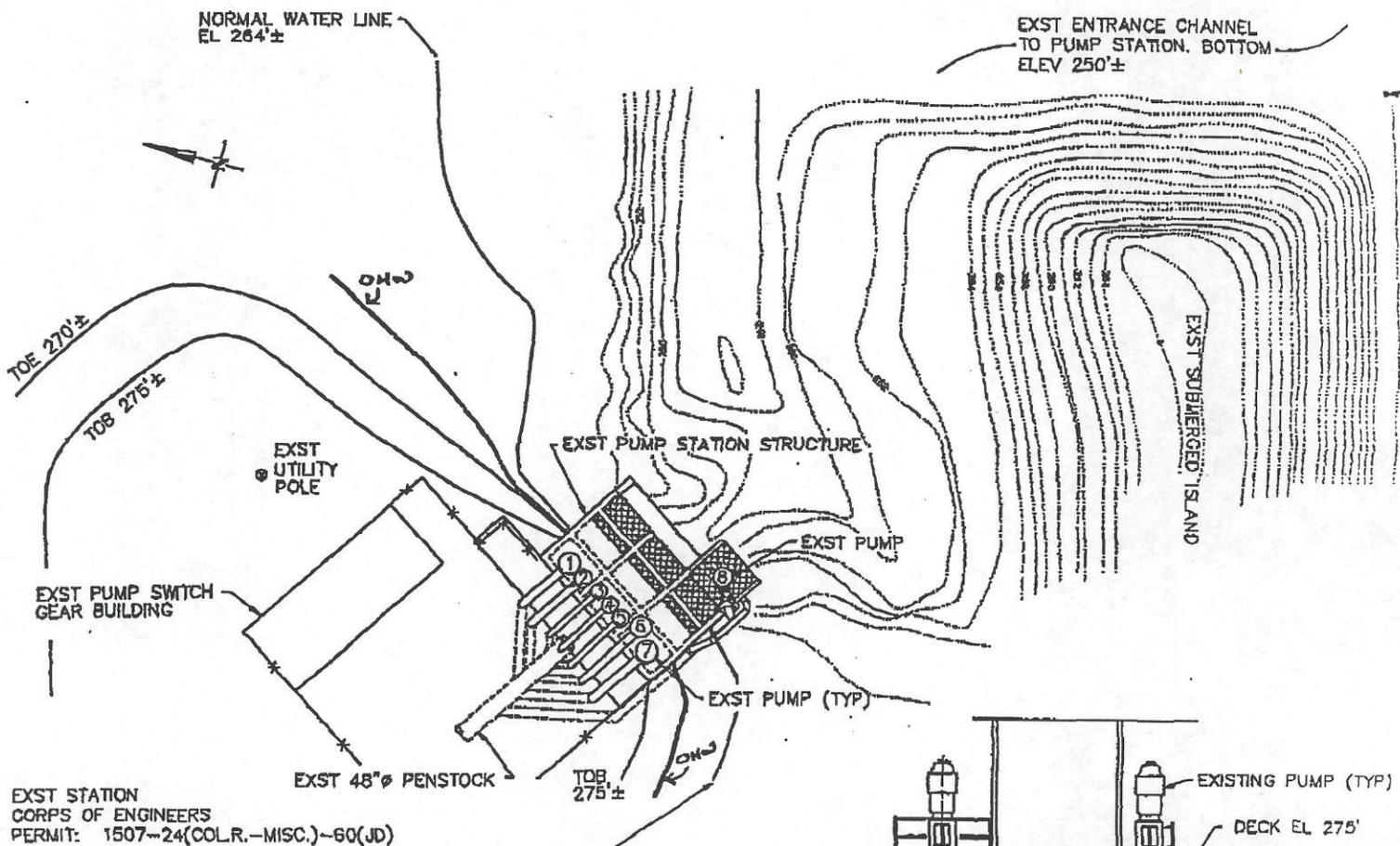
SITE MAP



MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

3553CORP.DWG

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 2 of 6
Date: 7-20-95



EXST STATION
CORPS OF ENGINEERS
PERMIT: 1507-24(COL.R.-MISC.)-60(JD)

FLAT PLATE INTAKE SCREENS

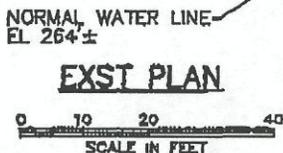
CAPACITY (GPM): 33300
(CFS): 74.2
EXST APPROACH VELOCITY @ WL 257: 0.54 fps

BASKET INTAKE SCREEN

CAPACITY (GPM): 7000
(CFS): 15.6
EXST APPROACH VELOCITY @ WL 257: 0.22 fps

TOTAL FLOW (33,300+7000): 40,300 gpm

EXST FLOW AND SCREEN DATA



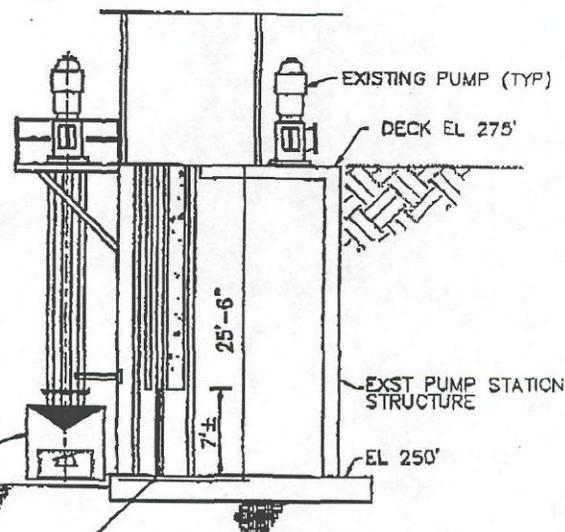
ORDINARY HIGH
WS EL=269

NORMAL LOW
WS EL=257

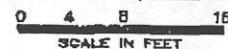
EXST BASKET INTAKE SCREEN
71 SQ FT

EXST RIVER BOTTOM

EXST FLAT PLATE INTAKE SCREEN
3 PLACES 45.7 SQ FT EA



EXST ELEVATION



3553CORP.DWG

PURPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

1. BURLINGTON NORTHERN RR
2000 FIRST INTERSTATE CENTER
989 THIRD AVENUE
SEATTLE WA 98104-1103

2. JESSE O. THOMAS
PO BOX 1442
TACOMA WA 98402

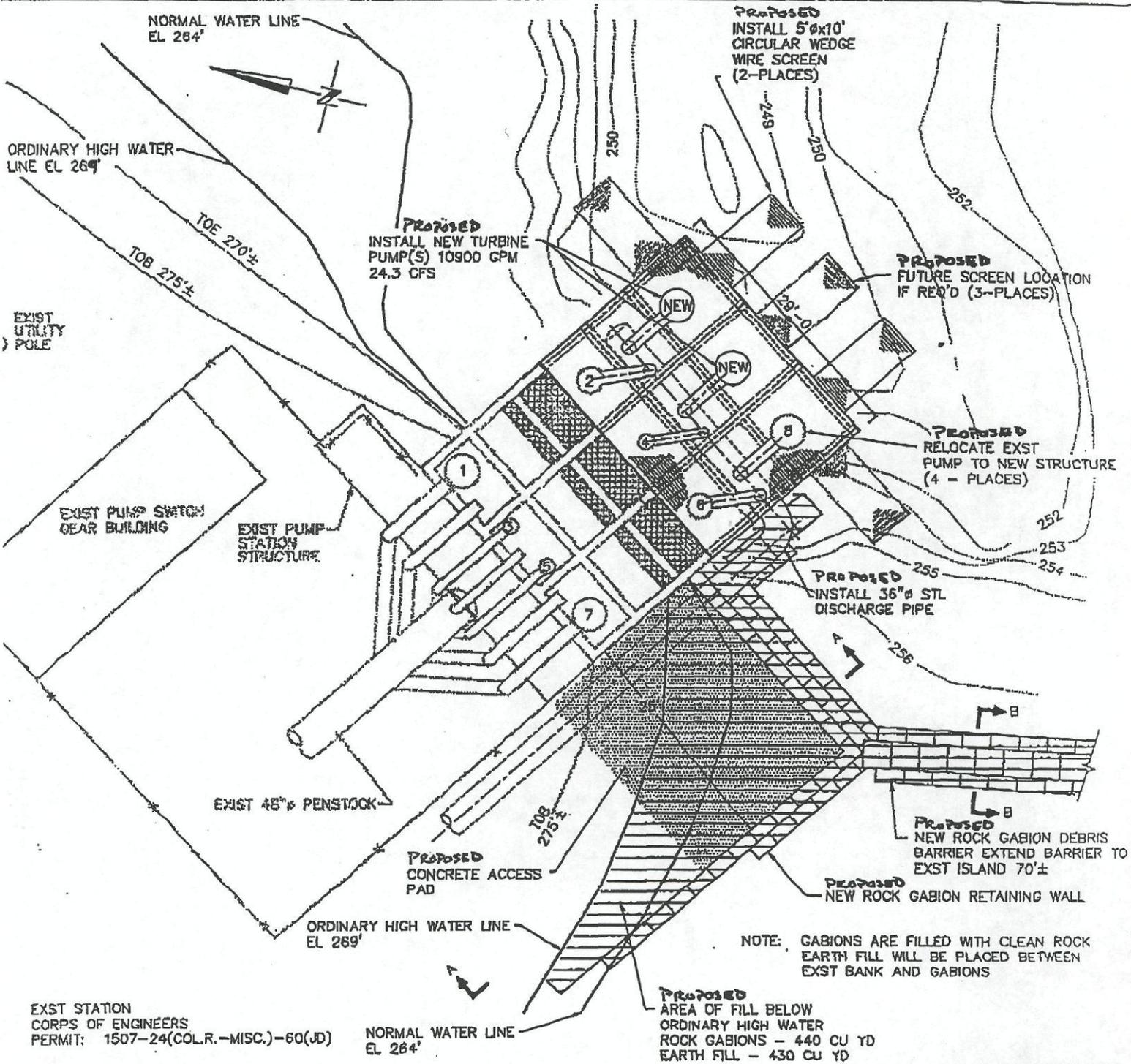
3. ARMY CORPS OF ENGINEERS
BUILDING 802
CITY - COUNTY AIRPORT
WALLA WALLA WA 99362-8205

4. CECIL W. ROCK
RT 2 BOX 406
IRRIGON OR 97844

**EXISTING
PLAN AND ELEVATION**

MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existing
irrigation pump station
Sheet 3 of 6
Date: 7-20-95



NOTE: GABIONS ARE FILLED WITH CLEAN ROCK
 EARTH FILL WILL BE PLACED BETWEEN
 EXST BANK AND GABIONS

Proposed
 AREA OF FILL BELOW
 ORDINARY HIGH WATER
 ROCK GABIONS - 440 CU YD
 EARTH FILL - 430 CU YD

3553CORP.DWG

PURPOSE: IMPROVE INTAKE SCREENING
 INCREASE PUMPING CAPACITY

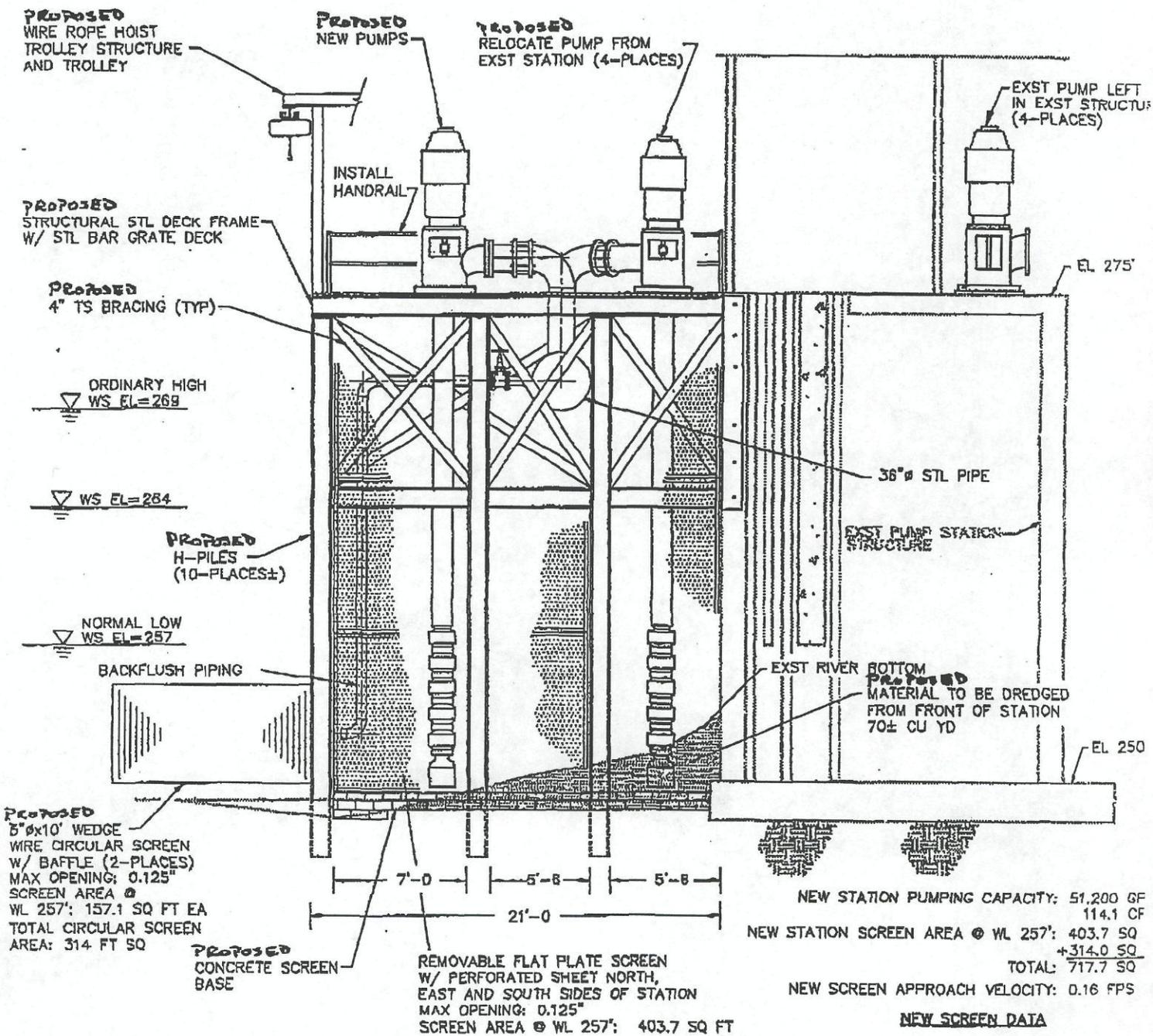
ADJACENT PROPERTY OWNERS:

- 1. BURLINGTON NORTHERN RR
 2000 FIRST INTERSTATE CENTER
 999 THIRD AVENUE
 SEATTLE WA 98104-1105
- 2. JESSE D. THOMAS
 PO BOX 1442
 TACOMA WA 98402
- 3. ARMY CORPS OF ENGINEERS
 BUILDING 602
 CITY - COUNTY AIRPORT
 WALLA WALLA WA 99362-9265
- 4. CECIL W. ROCK
 RT 2 BOX 408
 IRRIGON OR 97844

**PROPOSED
 PLAN**

MERCER RANCH, INC.
 46 SONOVA ROAD
 PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
 Mercer Ranch, Inc.
 Columbia River (Lake Umatilla)
 Near: Crow Butte State Park
 Benton County, Washington
 Proposed Work: Expand existing
 irrigation pump station
 Sheet 4 of 6
 Date: 7-20-95



3553CORP.DW

PURPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

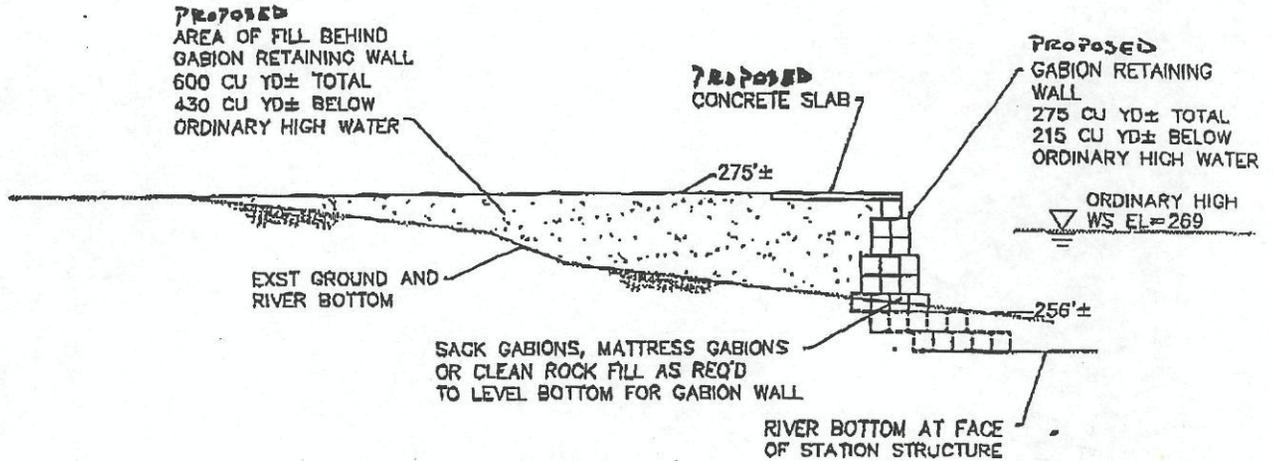
- 1. BURLINGTON NORTHERN RR
2000 FIRST INTERSTATE CENTER
939 THIRD AVENUE
SEATTLE WA 98104-1105
- 2. JESSE O. THOMAS
PO BOX 1442
TACOMA WA 98402
- 3. ARMY CORPS OF ENGINEERS
BUILDING 602
CITY - COUNTY AIRPORT
WALLA WALLA WA 99362-0285
- 4. DECIL W. ROCK
RT 2 BOX 406
IRRIGON OR 97844

**PROPOSED
ELEVATION**



MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

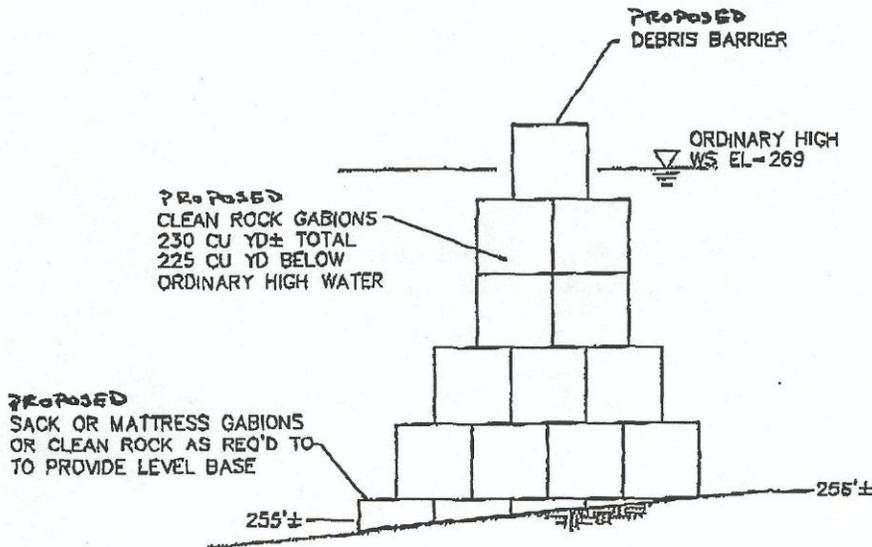
Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existi
irrigation pump station
Sheet 5 of 6
Date: 7-20-95



SECTION A



NOTE: PUMP STATION NOT SHOWN FOR CLARITY



SECTION B



NOTE: SACK AND MATTRESS GABIONS ARE DIFFERENT THAN THE ONE CU YD CELL GABIONS IN SIZE AND SHAPE ONLY

3553CORP.DWG

PURPOSE: IMPROVE INTAKE SCREENING
INCREASE PUMPING CAPACITY

ADJACENT PROPERTY OWNERS:

1. BURLINGTON NORTHERN RR
2000 FIRST INTERSTATE CENTER
998 THIRD AVENUE
SEATTLE WA 98104-1106

3. ARMY CORPS OF ENGINEERS
BUILDING 602
CITY - COUNTY AIRPORT
WALLA WALLA WA 99382-9265

2. JESSE O. THOMAS
PO BOX 1442
TACOMA WA 98402

4. CECIL W. ROCK
RT 2 BOX 408
IRRIGON OR 97844

**PROPOSED
CROSS SECTIONS**

MERCER RANCH, INC.
46 SONOVA ROAD
PROSSER, WASHINGTON 99350

Ref. No. 95-2-00771
Mercer Ranch, Inc.
Columbia River (Lake Umatilla)
Near: Crow Butte State Park
Benton County, Washington
Proposed Work: Expand existin
irrigation pump station
Sheet 6 of 6
Date: 7-20-95



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Notice of Application for
Water Quality Certification

Date: August 3, 1995

Notice is hereby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 401 of the federal Clean Water Act of 1977 (PL 95-217), to certify that the project described in the Corps of Engineers Public Notice No. 95-2-00771 will comply with Sections 301, 302, 303, 306, and 307 of the Act, and with applicable provisions of State and Federal water pollution control laws.

Any person desiring to present views on the project pertaining to compliance with water pollution control laws may do so by providing written comments within 30 days of the above publication date to:

Permit Coordination Unit
Department of Ecology
P.O. Box 47703
Olympia, WA 98504-7703.

JUVENILE FISH

SCREEN CRITERIA

Developed by
National Marine Fisheries Service
Environmental & Technical Services Division
Portland, Oregon
Revised February 16, 1995

I. GENERAL CONSIDERATIONS:

This document provides guidelines and criteria to be utilized in the development of functional designs of downstream migrant fish passage facilities for hydroelectric, irrigation, and other water withdrawal projects. This material has been prepared by the National Marine Fisheries Service (NMFS) as a direct result of responsibilities for prescribing fishways (including fish screen and bypass systems) under Section 18 of the Federal Power Act, administered by the Federal Energy Regulatory Commission (FERC).

This material is also applicable for projects that are undergoing consultation with the NMFS, pursuant to responsibilities for protecting fish under the Endangered Species Act (ESA).

Since these guidelines and criteria are general in nature, there may be cases where site constraints or extenuating circumstances dictate that certain criteria be waived or modified. Conversely, where there is a need to provide additional protection for fish, site-specific criteria may be added. These circumstances will be considered by NMFS on a project-by-project basis.

In designing an effective fish screen facility, the swimming ability of the fish is a primary consideration. Research has shown that swimming ability of fish varies and may depend upon a number of factors relating to the physiology of the fish, including species, size, duration of swimming time required, behavioral aspects, migrational stage, physical condition and others, in addition to water quality parameters such as dissolved oxygen concentrations, water temperature, lighting conditions, and others. For this reason, screen criteria must be expressed in general terms.

To minimize risks to anadromous fish at some locations, the NMFS

may require investigation (by the project sponsors) of important and poorly defined site-specific variables that are deemed critical to development of the screen and bypass design. This investigation may include factors such as fish behavioral response to hydraulic conditions, weather conditions (ice, wind, flooding, etc.), river stage-discharge relationships, seasonal operational variability, potential for sediment and debris problems, resident fish populations, potential for creating predation opportunity, and other information. The size of salmonids present at a potential screen site usually is not known, and can change from year to year based on flow and temperature conditions. Thus, adequate data to describe the size-time relationship requires substantial sampling efforts over a number of years. The NMFS will assume that fry-sized salmonids and low water temperatures are present at all sites and apply the appropriate criteria listed below, unless adequate biological investigation proves otherwise. The burden-of-proof is the responsibility of the owner of the screen facility.

Proposed facilities which could have particularly significant impacts on fish, and new unproven juvenile fish protection designs, frequently require: 1) development of a biological basis for the concept; 2) demonstration of favorable fish behavioral response in a laboratory setting; 3) an acceptable plan for evaluating the prototype installation; and 4) an acceptable alternate plan developed concurrently for a screen and bypass system satisfying these criteria, should the prototype not adequately protect fish. Additional information on unproven juvenile fish protection devices can be found in "Experimental Fish Guidance Devices," Position Statement of the National Marine Fisheries Service, Northwest Region, January 6, 1995.

Screen and bypass criteria for juvenile salmonids are provided below. Specific exceptions to these criteria occur in the design of small screen and bypass systems (less than 25 cubic feet per second). These are listed in Section K, Modified Criteria for Small Screens.

Striped bass, herring, shad, and other anadromous fish species may have eggs and/or very small fry which are moved with any water current (tides, streamflows, etc.). Installations where these species are present may require special screen and/or

bypass facilities, including micro-screens and require individual evaluation of the proposed project. In instances where local regulatory agencies require more stringent screening requirements for species of resident or anadromous fish, the NMFS will generally defer to the more conservative criteria.

II. GENERAL PROCEDURAL GUIDELINES

A functional design should be developed that defines type, location, size, hydraulic capacity, method of operation, and other pertinent juvenile fish screen facility characteristics. In the case of applications to be submitted to the FERC and consultations under the ESA, a functional design for juvenile (and adult) fish passage facilities must be developed and submitted as part of the application. It must reflect the NMFS input and design criteria and be acceptable to the NMFS. Functional design drawings must show all pertinent hydraulic information, including water surface elevations and flows through various areas of the structures. Functional design drawings must show general structural sizes, cross-sectional shapes, and elevations. Types of materials must be identified where they will directly affect fish. The final detailed design shall be based on the functional design, unless changes are agreed to by the NMFS.

All juvenile passage facilities shall be designed to function properly through the full range of hydraulic conditions in the lake, tidal area, or stream and in the diversion, and shall account for debris and sedimentation conditions which may occur.

III. SCREEN CRITERIA FOR JUVENILE SALMONIDS

A. Structure Placement

1. Streams and Rivers:

a. Where physically practical and biologically desirable, the screen shall be constructed at the diversion entrance with the screen face generally parallel to river flow. Physical factors that may preclude screen construction at the diversion entrance include excess river gradient, potential for damage by large debris, and potential for heavy sedimentation. For screens

constructed at the bankline, the screen face shall be aligned with the adjacent bankline and the bankline shall be shaped to smoothly match the face of the screen structure to prevent eddies in front, upstream, and downstream of the screen. If trash racks are used, sufficient hydraulic gradient is required to route juvenile fish from between the trash rack and screens to safety.

b. Where installation of fish screens at the diversion entrance is not desirable or impractical, the screens may be installed in the canal downstream of the entrance at a suitable location. All screens installed downstream from the diversion entrance shall be provided with an effective bypass system approved by NMFS, designed to collect juvenile fish and safely transport them back to the river with minimum delay. The angle of the screen to flow should be adequate to effectively guide fish to the bypass (see Section F, Bypass Layout).

2. Lakes, Reservoirs and Tidal areas:

a. Intakes shall be located offshore where feasible to minimize fish contact with the facility. Water velocity from any direction toward the screen shall not exceed allowable approach velocities (see Section B, Approach Velocity). When possible, intakes shall be located in areas with sufficient sweeping velocity to minimize sediment accumulation in or around the screen and to facilitate debris removal and fish movement away from the screen face (see Section C, Sweeping Velocity).

b. If a screened intake is used to route fish past a dam, the intake shall be designed to withdraw water from the most appropriate elevation based on providing the best juvenile fish attraction and appropriate water temperature control downstream of the project. The entire range of forebay fluctuation shall be accommodated in design, unless otherwise approved by the NMFS.

B. Approach Velocity - Definition: Approach velocity is the water velocity component perpendicular to and approximately three inches in front of the screen face.

1. **Salmonid fry** [less than 2.36 inches {60.0 millimeters (mm)} in length]: The approach velocity shall not exceed 0.40 feet per second (fps) {0.12 meters per second (mps)}.

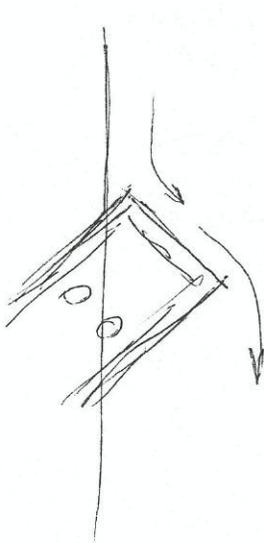
2. Salmonid fingerling {2.36 inches (60.0 mm) and longer}: The approach velocity shall not exceed 0.80 fps (0.24 mps).

3. The total submerged screen area required (excluding area affected by structural components) is calculated by dividing the maximum diverted flow by the allowable approach velocity (also see Section K, Modified Criteria for Small Screens).

4. The screen design must provide for uniform flow distribution over the screen surface, thereby minimizing approach velocity. This may be accomplished by providing adjustable porosity control on the downstream side of screens, unless it can be shown unequivocally (such as with a physical hydraulic model study) that localized areas of high velocity can be avoided at all flows.

C. Sweeping Velocity - Definition: Sweeping velocity is the water velocity component parallel and adjacent to the screen face.

1. Sweeping velocity shall be greater than the approach velocity. This is accomplished by angling the screen face at less than 45°



c. Woven wire screen: Screen openings shall not exceed 3/32 or 0.0938 inches (2.38 mm) in the narrow direction (example: 6-14 mesh).

d. Screen material shall provide a minimum of 27% open area.

2. Fingerling criteria - If biological justification can be provided to demonstrate the absence of fry-sized salmonids {less than 2.36 inches (60.0 mm)} in the vicinity of the diversion intake leading to the screen, the following criteria apply for screen material:

a. Perforated plate: Screen openings shall not exceed 1/4 or 0.25 inches (6.35 mm).

b. Profile bar screen: The narrowest dimension in the screen openings shall not exceed 1/4 or 0.25 inches (6.35 mm) in the narrow direction.

c. Woven wire screen: Screen openings shall not exceed 1/4 or 0.25 inches (6.35 mm) in the narrow direction.

d. Screen material shall provide a minimum of 40% open area.

3. The screen material shall be corrosion resistant and sufficiently durable to maintain a smooth uniform surface with long term use.

E. Civil Works and Structural Features

1. The face of all screen surfaces shall be placed flush (to the extent possible) with any adjacent screen bay, pier noses, and walls to allow fish unimpeded movement parallel to the screen face and ready access to bypass routes.

2. Structural features shall be provided to protect the integrity of the fish screens from large debris. Provision of a trash rack, log boom, sediment sluice, and other measures may be needed. A reliable, ongoing preventative maintenance and repair program is necessary to assure facilities are kept free of debris

and that screen mesh, seals, drive units, and other components are functioning correctly.

3. Screen surfaces shall be constructed at an angle to the approaching flow, with the downstream end of the screen terminating at the entrance to the bypass system.

4. The civil works shall be designed in a manner that eliminates undesirable hydraulic effects (such as eddies and stagnant flow zones) that may delay or injure fish or provide predator habitat or predator access. Upstream training wall(s), or some acceptable variation thereof, shall be utilized to control hydraulic conditions and define the angle of flow to the screen face. Large facilities may require hydraulic modeling to identify and correct areas of concern.

F. Bypass Layout

1. The screen and bypass shall work in tandem to move out-migrating salmonids (including adults) to the bypass outfall with a minimum of injury or delay. The bypass entrance shall be located so that it can easily be located by out-migrants. Screens placed in diversions shall be constructed with the downstream end of the screen terminating at a bypass entrance. Multiple bypass entrances (intermediate bypasses) shall be employed if the sweeping velocity will not move fish to the bypass within 60 seconds, assuming fish are transported at this velocity.

2. The bypass entrance and all components of the bypass system shall be of sufficient size and hydraulic capacity to minimize the potential for debris blockage.

3. In order to improve bypass collection efficiency for a single bank of vertically-oriented screens, a bypass training wall shall be located at an angle to the screens, with the bypass entrance at the apex and downstream-most point. This will aid fish movement into the bypass by creating hydraulic conditions that conform to observed fish behavior. For single or multiple vee screen configurations, training walls are not required, unless a intermediate bypass is used (see Section F, Bypass Layout, Part 1).

4. In cases where there is insufficient flow available to satisfy hydraulic requirements at the bypass entrance (entrances) for the main screens, a secondary screen may be required. This is a screen located in the main screen bypass which allows the prescribed bypass flow to be used to effectively attract fish into the bypass entrance(s) and then allow for all but a reduced residual bypass flow to be routed back (by pump or gravity) for the primary diversion use. The residual bypass flow (not passing through the secondary screen) would then convey fish to the bypass outfall location or other destination.

5. Access is required at locations in the bypass system where debris accumulations may occur.

6. The screen civil works floor shall be designed to allow fish to be routed back to the river safely, if the canal is dewatered. This may entail a sumped drain with a small gate and drain pipe, or similar provisions.

G. Bypass Entrance

1. Each bypass entrance shall be provided with independent flow-control capability, acceptable to NMFS.

2. The minimum bypass entrance flow velocity must be greater than or equal to the maximum flow velocity vector resultant upstream of the screens. A gradual and efficient acceleration of flow into the bypass entrance is required to minimize delay by out-migrants.

3. Ambient lighting conditions are required at, and inside of, the bypass entrance and should extend downstream to the bypass flow control.

4. The bypass entrance must extend from the floor to the canal water surface.

H. Bypass Conduit Design

1. Bypass pipes shall have smooth surfaces and be designed to

provide conditions that minimize turbulence. Bypass conduits shall have a smooth joint design to minimize turbulence and the potential for fish injury and shall be satisfactory to the NMFS.

2. Fish shall not be pumped within the bypass system.
3. Fish shall not be allowed to free-fall within a confined shaft in a bypass system.
4. Pressures in the bypass pipe shall be equal to or above atmospheric pressures.
5. Bends shall be avoided in the layout of bypass pipes due to the potential for debris clogging. Bypass pipe center-line radius of curvature (R/D) shall be greater than or equal to 5. Greater R/D may be required for super-critical velocities.
6. Bypass pipes or open channels shall be designed to minimize debris clogging and sediment deposition and to facilitate cleaning as necessary. Therefore, the required pipe diameter shall be greater than or equal to 24 inches {0.610 meters (m)}, and pipe velocity shall be greater than 2.0 fps (0.610 mps), unless otherwise approved by the NMFS, for the entire operational range (also see Section K, Modified Criteria for Small Screens, Part 4).
7. Closure valves of any type are not allowed within the bypass pipe, unless approved by NMFS.
8. The minimum depth of open-channel flow in a bypass conduit shall be greater than or equal to 0.75 feet (0.23 m), unless otherwise approved by the NMFS (also see Section K, Modified Criteria for Small Screens, Part 5).
9. Sampling facilities installed in the bypass conduit shall not impair normal operation of the facility.
10. The bypass pipe hydraulics should not produce a hydraulic jump within the pipe.

I. Bypass Outfall

1. Bypass outfalls should be located such that ambient river velocities are greater than 4.0 fps (1.2 mps).
2. Bypass outfalls shall be located to minimize avian and aquatic predation in areas free of eddies, reverse flow, or known predator habitat.
3. Bypass outfalls shall be located where the receiving water is of sufficient depth (depending on the impact velocity and quantity of bypass flow) to ensure that fish injuries are avoided at all river and bypass flows.
4. Maximum bypass outfall impact velocity (including vertical and horizontal velocity components) shall be less than 25.0 fps (7.6 mps).
5. The bypass outfall discharge into tailrace shall be designed to avoid adult attraction or jumping injuries.

J. Operations and Maintenance

1. Fish screens shall be automatically cleaned as frequently as necessary to prevent accumulation of debris. The cleaning system and protocol must be effective, reliable, and satisfactory to the NMFS. Proven cleaning technologies are preferred.
2. Open channel intakes shall include a trash rack in the screen facility design which shall be kept free of debris. In certain cases, a satisfactory profile bar screen design can substitute for a trash rack.
3. The head differential to trigger screen cleaning for intermittent type cleaning systems shall be a maximum of 0.1 feet (0.03 m) or as agreed to by the NMFS.
4. The completed screen and bypass facility shall be made available for inspection by NMFS, to verify compliance with the design and operational criteria.
5. Screen and bypass facilities shall be evaluated for biological effectiveness and to verify that hydraulic design objectives are achieved.

K. Modified Criteria for Small Screens (Diversion flow less than 25 cfs)

The following criteria vary from the criteria listed above and apply to smaller screens. Twenty-five cfs is an approximate cutoff; however, some smaller diversions may be required to apply more universal criteria listed above, while some larger diversions may be allowed to use the "small screen" criteria listed below. This will depend on site constraints.

1. The screen area required is shown in Section B, Approach Velocity, Parts 1, 2 and 3. Note that "maximum" applies to the greatest flow diverted, not necessarily the water right.
2. Screen orientation:
 - a. For screen lengths less than or equal to 4 feet, screen orientation may be angled or perpendicular relative to flow.
 - b. For screen lengths greater than 4 feet, screen-to-flow angles must be less than or equal to 45 degrees (see Section C, Sweeping Velocity, Part 1).
 - c. For drum screens, the design submergence shall be 75% of drum diameter. Submergence shall not exceed 85%, nor be less than 65% of drum diameter.
3. The minimum bypass pipe diameter shall be 10 inches, unless otherwise approved by NMFS.
4. The minimum allowable pipe depth is 0.15 feet (1.8 inches or 4.6 cm) and is controlled by designing the pipe gradient for minimum bypass flow.

Questions concerning this document can be directed to NMFS Environmental and Technical Services Division Engineering staff, at 503-230-5400.

Adopted,

(original on file)

ADDENDUM

JUVENILE FISH SCREEN CRITERIA FOR PUMP INTAKES

Developed by

National Marine Fisheries Service
Environmental & Technical Services Division
Portland, Oregon
May 9, 1996

The following criteria serve as an addendum to current National Marine Fisheries Service gravity intake juvenile fish screen criteria. These criteria apply to new pump intake screens and existing inadequate pump intake screens, as determined by fisheries agencies with project jurisdiction.

Definitions used in pump intake screen criteria

Pump intake screens are defined as screening devices attached directly to a pressurized diversion intake pipe. Effective screen area is calculated by subtracting screen area occluded by structural members from the total screen area. Screen mesh opening is the narrowest opening in screen mesh. Approach velocity is the calculated velocity component perpendicular to the screen face. Sweeping velocity is the flow velocity component parallel to the screen face with the pump turned off.

Active pump intake screens are equipped with a cleaning system with proven cleaning capability, and are cleaned as frequently as necessary to keep the screens clean. Passive pump intake screens have no cleaning system and should only be used when the debris load is expected to be low, and

- 1) if a small screen (less than 1 CFS pump) is over-sized to eliminate debris impingement, and
- 2) where sufficient sweeping velocity exists to eliminate debris build-up on the screen surface, and
- 3) if the maximum diverted flow is less than .01% of the total minimum streamflow, or
- 4) the intake is deep in a reservoir, away from the shoreline.

Pump Intake Screen Flow Criteria

The minimum effective screen area in square feet for an active pump intake screen is calculated by dividing the maximum flow rate in cubic feet per second (CFS) by an approach velocity of

0.4 feet per second (FPS). The minimum effective screen area in square feet for a passive pump intake screen is calculated by dividing the maximum flow rate in CFS by an approach velocity of 0.2 FPS. Certain site conditions may allow for a waiver of the 0.2 FPS approach velocity criteria and allow a passive screen to be installed using 0.4 FPS as design criteria. These cases will be considered on a site-by-site basis by the fisheries agencies.

If fry-sized salmonids (i.e. less than 60 millimeter fork length) are not ever present at the site and larger juvenile salmonids are present (as determined by agency biologists), approach velocity shall not exceed 0.8 FPS for active pump intake screens, or 0.4 FPS for passive pump intake screens. The allowable flow should be distributed to achieve uniform approach velocity (plus or minus 10%) over the entire screen area. Additional screen area or flow baffling may be required to account for designs with non-uniform approach velocity.

Pump Intake Screen Mesh Material

Screen mesh openings shall not exceed 3/32 inch (2.38 mm) for woven wire or perforated plate screens, or 0.0689 inch (1.75 mm) for profile wire screens, with a minimum 27% open area. If fry-sized salmonids are never present at the site (by determination of agency biologists) screen mesh openings shall not exceed 1/4 inch (6.35 mm) for woven wire, perforated plate screens, or profile wire screens, with a minimum of 40% open area.

Screen mesh material and support structure shall work in tandem to be sufficiently durable to withstand the rigors of the installation site. No gaps greater than 3/32 inch shall exist in any type screen mesh or at points of mesh attachment. Special mesh materials that inhibit aquatic growth may be required at some sites.

Pump Intake Screen Location

When possible, pump intake screens shall be placed in locations with sufficient sweeping velocity to sweep away debris removed from the screen face. Pump intake screens shall be submerged to a depth of at least one screen radius below the minimum water surface, with a minimum of one screen radius clearance between screen surfaces and adjacent natural or constructed features. A clear escape route should exist for fish that approach the intake

volitionally or otherwise. For example, if a pump intake is located off of the river (such as in an intake lagoon), a conventional open channel screen should be considered, placed in the channel or at the edge of the river. Intakes in reservoirs should be as deep as practical, to reduce the numbers of juvenile salmonids that approach the intake. Adverse alterations to riverine habitat shall be minimized.

Pump Intake Screen Protection

Pump intake screens shall be protected from heavy debris, icing and other conditions that may compromise screen integrity. Protection can be provided by using log booms, trash racks or mechanisms for removing the intake from the river during adverse conditions. An inspection and maintenance plan for the pump intake screen is required, to ensure that the screen is operating as designed per these criteria.

DEPARTMENT OF THE ARMY PERMIT EVALUATION
AND DECISION DOCUMENT

Reference: 95-2-00771

Mercer Ranch, Inc.

Concerning issuance of a Department of the Army permit under Section 10 of the Rivers and Harbors Act of March 3, 1899, and Section 404 of the Clean Water Act.

1. Introduction. This permit decision document constitutes the Statement of Findings, the Finding of no Significant Impact, the Environmental Assessment, and the Section 404(b)(1) Evaluation for the work described in the enclosed public notice.

My decision is to issue a provisional Department of the Army permit for the proposed work as modified.

2. Description of the Proposed Work. Construct an extension to an existing irrigation pump station including relocating existing pumps, installing 2 additional pumps with fish screens; dredge approximately 70 cubic yards; and discharge fill for the construction of an equipment access pad in the Columbia River near Crow Butte State Park, Benton County, Washington.

Modification. The project was modified after the issuance of the public notice to eliminate the construction of the debris barrier.

3. Need and Purpose. To provide an additional 10,900 gallons per minute (23.6 cfs) to the station's existing pumping capacity. The water is used to irrigate farm land north of the pump station.

4. Alternatives. NO ACTION. Without the proposed project, the applicant would not be able to expand current farming operations into currently untilled land. Efficiency of the existing pumps would also not be increased if they are left in their current locations, and the screening efficiency would also not be improved.

ALTERNATIVE LOCATIONS. The relocation of the existing pump station would not provide any environmental or economic benefits. To the contrary, relocation would result in disturbance to additional areas of Columbia River shoreline, and would significantly increase the cost of the project because of the need to relocate existing pump station infrastructure. Relocating the pump station is not a practicable alternative.

ALTERNATIVE METHODS. Alternative methods of constructing the proposed facility are limited to alternative materials. The proposed steel piling could be replaced with concrete, wood or

plastic without a difference in effects. Likewise, the fill for the equipment access pad could be held in place with sheet piling or a concrete bulkhead, but neither of these alternatives would reduce the size of the fill required.

ALTERNATIVE OPERATING PROCEDURES. The Columbia River is used as a migratory route for endangered and threatened Snake River salmon species. The migrations occur when irrigation pump stations are operating. Potential impacts to the salmon species from reduced water volumes caused by water withdrawals could be decreased by operating the pump stations during periods of higher flows and/or when the threatened and endangered salmon are not using the river. Since this would result in pumping at a time when irrigation is not needed, the water would need to be stored until the irrigation season. This alternative is not practicable because of the cost and land area that would be involved in constructing a storage facility. Water usage would also increase with the implementation of such an alternative because of the evaporation while the water is being stored.

5. Coordination. The work was coordinated with the general public and the appropriate local, state, and Federal agencies in accordance with procedures specified in 33 CFR, Parts 320-330. The following points are considered pertinent in evaluating comments received in response to the proposal's public notice dated 3 August 1995:

a. Federal Agencies. The National Marine Fisheries Service responded with a letter dated 7 September 1995. The Service objected to the construction of the debris barrier because of its obstruction of movement of migratory fish species.

District Engineer's Response: The applicant requested that the debris barrier be removed from the permit application. The drawings have been modified to delete the debris barrier.

The Environmental Protection Agency responded in a letter dated 8 September 1995 objecting to the issuance of the permit because of potential impacts to threatened and endangered salmon species. The EPA recommended that the permit be held in abeyance until the National Marine Fisheries Service has concluded a cumulative effects study, or denied.

District Engineer's Response: The issue of impacts to the threatened and endangered salmon species was addressed through informal consultation with the National Marine Fisheries Service, the Federal Agency responsible for such oversight. EPA had no comments relating to their role in the Section 404 aspects of the project.

The Department of the Interior, U.S. Fish and Wildlife Service, had no comments on the proposed work. The Department

of the Interior, Bureau of Reclamation, responded in a letter dated 1 September 1995 objecting to the issuance of the permit based on the effects of the National Marine Fisheries Service's 2 March 1995, Biological Opinion on the Bureau. The Bureau is supplying water for flow augmentations in the Snake and Columbia Rivers that would normally have been used for irrigation in the upper Snake River regions of Idaho. The Bureau does not believe it is right to restrict the use of water by irrigators to augment flows above Lower Granite Dam while permitting additional withdrawals below Lower Granite Dam.

District Engineer's Response: The proposed project will increase the pumping capacity of the applicants facility by approximately 24 cubic feet per second. This is within the allowable water withdrawal limits set by the applicant's Permit to Appropriate Public Waters of the State of Washington. When setting the appropriation volume for a permit, the State must take into consideration the affects of the appropriation on all users of the water body. It would therefore be the State's responsibility to ensure that issuance of an appropriation permit will not affect upstream or downstream users. The increase in withdrawal rates at the applicant's facility is insignificant when compared to the volume of flow in the Columbia River at the point of withdrawal. The increased capacity at this site will not impact flow rates in the Snake River.

b. State and Local Agencies. Benton County, the local governing body, has no objections to the work.

The State of Washington has not issued a 401 Water Quality Certification as of the date of this document. Therefore, the permit will not be valid until the State issues their certification or the certification has been waived. ✓

Comments of these agencies are predicated upon the applicant's compliance with the State Shoreline Management Act and other applicable local laws, regulations, and codes governing this work.

c. Individual or Organized Groups. No individual or organized groups commented on the proposal.

d. Treaty Indians. No comments were received from any other Indians or from any other Treaty Indian Tribes.

In the mid-1800's the United States entered into treaties with a number of Indian tribes in Washington. These treaties guaranteed the signatory tribes the right to "take fish at usual and accustomed grounds and stations . . . in common with all citizens of the territory." Over the years, the courts have held that this right comprehends certain subsidiary rights, such as access to their "usual and

accustomed" fishing grounds, and the right to take up to 50 percent of the harvestable anadromous fish runs passing through those grounds, as needed to provide them with a moderate standard of living. In U.S. v. Washington 759 F2d 1353 (9th Cir 1985) the court indicated that the obligation to prevent degradation of the fish habitat would be determined on a case by case basis.

The work proposed in this application has been analyzed with respect to its effects on the rights described above, and my conclusions are that (1) the work will not interfere with access to usual and accustomed fishing grounds or with fishing activities; (2) the work will not cause the degradation of anadromous fish runs and habitat; and (3) the work will not impair the tribes' ability to meet moderate living needs.

6. Impact Evaluation. Both the individual and cumulative impacts of the proposed work have been evaluated by this office. Evaluation considered relevant factors including conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. Possible alternatives to reduce identified adverse impacts have also been considered and incorporated where practicable.

Section 7 of the Endangered Species Act Coordination. Threatened and endangered species that occur in the proposed project area include the Snake River sockeye salmon (*Oncorhynchus nerka*) listed as endangered, the Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) listed as threatened, and the Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) listed as threatened and genetically separate population from the spring/summer chinook salmon. Only the Snake River fall chinook spawn in the main stem of the Snake River from the upper extent of the Lower Granite Dam pool to Hells Canyon Dam and the lower reaches of the Imnaha, Grande Ronde, Clearwater and Tucannon Rivers. The Snake River sockeye and spring/summer salmon spawn in tributaries to the Snake River. None of the listed species spawn in the area of the proposed project. The project would have no effect on the spawning habitat of any of the three listed species.

All three of the listed salmon species use the project area for adult and juvenile migration. The public notice stated that the screen size will be a maximum of 0.125 of an inch and approach velocity will be 0.16 feet per second. At the time of the public notice, these values met the known screening criteria of the National Marine Fisheries Service (NMFS). On 13 September 1995,

$$= \frac{6}{64} = \frac{3}{32}$$

the NMFS sent the Corps revised juvenile fish screening criteria dated 16 February 1995. In response to the revised criteria, the permit will be conditioned to require screening with a maximum opening of 0.0938 of an inch, and a maximum approach velocity of 0.40 feet per second. With conditioning of the permit to meet the updated screening criteria, and to limit the work to between December 1 and March 31 of any year, this project is not likely to adversely affect the migration of any of the listed salmon species.

Critical habitat for the listed salmon species includes the Snake River from the Salmon River to the Columbia River, and the Columbia River from the Snake River to the Pacific Ocean. The proposed project is located in an area of the critical habitat that is used only as a migration corridor for the listed species. The proposed project will have no affect on spawning habitat, juvenile rearing habitat, or areas for growth and development to adulthood because the project has no habitat value for these functions. Within the juvenile and adult migration corridor, the applicant proposes to dredge approximately 70 cubic yards and place approximately 215 cubic yards of clean rock fill in gabions and 430 cubic yards of earth fill landward of the gabions. The minor channel modifications from this project will have no affect on the quality or extent of the migration corridor. Water quality, quantity and temperature will not be affected. The scope of the modifications to the listed species' habitat in regard to substrate, cover, food, riparian vegetation, and space because of the proposed project are insignificant. Therefore, the proposed project will have no effect on the critical habitat of the listed species.

This evaluation has not identified any potentially significant adverse effects that would accrue from any actions taken under the terms of this permit.

7. Section 404(b)(1) Evaluation. The work was evaluated pursuant to Section 404(b)(1) of the Clean Water Act in accordance with the guidelines promulgated by the Environmental Protection Agency (40 CFR 230) for evaluation of the discharge of dredged or fill material into waters of the United States. The proposed discharge represents the least environmentally damaging practicable alternative and includes all appropriate and practicable measures to minimize adverse effects on the aquatic environment. In addition, consideration has been given to the need for the work, and to such water quality standards as are appropriate and applicable by law. The work will not result in the unacceptable degradation of the aquatic environment.

8. Determinations. I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application, as well as the stated views of other interested Federal and non-Federal agencies and the concerned

public, relative to the work in navigable waters of the United States.

I have made the following determinations:

a. Finding Of No Significant Impact. Performance of this work, in accordance with the following special conditions of the permit, will not significantly affect the quality of the human environment:

1. All work shall be completed between December 1 and March 31 of any year to minimize impacts to migrating threatened and endangered salmon species.

2. Screens on the intakes shall have a maximum opening size of 0.0938 of an inch, and approach velocities shall not exceed 0.40 feet per second.

Further, I have determined that the issuance of this particular permit is a Federal action not having a significant impact on the environment. I have thus concluded that the preparation of a formal Environmental Impact Statement is not required.

b. Section 404(b)(1) Evaluation. The discharges and methods specified in the proposed work are in accordance with the Section 404(b)(1) guidelines.

c. Public Interest. The proposed work is considered to be not contrary to the general public interest. Particular attention was given to the location and general design to prevent possible obstructions to navigation with respect to both the public use and the neighboring proprietors' access to the Columbia River.

9. Findings. The work complies with state and local laws and is consonant with National policy, statutes, and administrative directives. I find that issuance of a Department of the Army permit for this work is based upon a thorough analysis of the various evaluation factors and determinations that have been identified herein.

29 Dec 95

Date

Mr. Clarence E. Baxter
DONALD T. WYNN

Colonel, Corps of Engineers
District Engineer



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P. O. BOX 2946
PORTLAND, OREGON 97208

COPY

NPPND-WM-P
1507-24 (Columbia R.-Misc.)-60A.

20 November 1968

Mercer Ranches, Inc.
Post Office Box 68
Prosser, Washington 99350

Gentlemen:

Your pumping plant at approximate river mile 261.0 in the Columbia River was inspected on Friday, 15 November 1968, and found to be in accordance with the plans found in your Department of the Army permit No. 1507-24 (Columbia R.-Misc.)-60A(JD). It has been brought to our attention that the required fish screens are in, and are identical to the spare screen inspected by our representative. No further inspection of your installation is considered necessary by this office.

Sincerely yours,


D. L. HARSHBERGER
Acting Chief, Navigation Division

Copy furnished:
Connecticut General Life Ins. Co.



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P. O. BOX 2946
PORTLAND, OREGON 97208

COPY

NPPND-WM-P
1507-24 (Columbia R.-Misc.)-60A(JD)

9 January 1969

Mercer Ranches, Inc.
P. O. Box 68
Prosser, Washington 99350

ATTN: Mr. Donald A. Mercer

Dear Mr. Mercer:

Inclosed are copies of your Department of the Army permit (3 pages) and your Right-of-Way easement.

Only the items mentioned in Condition (i) of the third page of the permit need be reported. This condition was intended primarily for dredging operations or construction work which would hinder the navigability of the waterway. In the case of your operations a written statement of completion will be satisfactory.

Sincerely yours,

George E. Hyde
GEORGE E. HYDE

Chief, Navigation Division

Incl
as stated



COPY

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS

BLDG. 602, CITY-COUNTY AIRPORT
WALLA WALLA, WASHINGTON 99362

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NPWOP-NF

10 March 1972

Mercer Ranches, Inc.
P. O. Box 68
Prosser, Washington 99350

Gentlemen:

This is to inform you that in accordance with the provision included in Section 10 of the River and Harbor Act of 1899, a Department of the Army permit is required prior to initiating maintenance dredging in any navigable waterway.

This would include, but not be limited to, maintenance dredging at barge slips, mooring facilities, and pumping plant channels. The owners of the facility are required to apply for the permit, and are cautioned that processing the application will take at least 45 days.

Application forms for such permits may be obtained by contacting either Mr. Clarence Van Scotter or myself by telephone at 509-525-5500 at the Walla Walla District Corps of Engineers.

Sincerely yours,

A handwritten signature in cursive script, reading "Duane M. Downing", is written over the typed name.

DUANE M. DOWNING
Chief, Operations Division

COPY

NOTE.—It is to be understood that this instrument does not give any property rights either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations, nor does it obviate the necessity of obtaining State assent to the work authorized. It MERELY EXPRESSES THE ASSENT OF THE FEDERAL GOVERNMENT SO FAR AS CONCERNS THE PUBLIC RIGHTS OF NAVIGATION. (See *Cummings v. Chicago*, 138 U. S., 410.)

16-13168-2

PERMIT

Portland District, Corps of Engineers.
628 Pittock Block, Portland, OR 97205
9 July 1968

Mercer Ranches, Incorporated
Post Office Box 68
Prosser, Washington 99350

Gentlemen:

Referring to written request dated 15 February 1968

I have to inform you that, upon the recommendation of the Chief of Engineers, and under the provisions of Section 10 of the Act of Congress approved March 3, 1899, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," you are hereby authorized by the Secretary of the Army.

to construct a pumping plant for irrigation purposes

(Here describe the proposed structure or work.)

in the Columbia River at approximate river mile 261.0

(Here to be named the river, harbor, or waterway concerned.)

at near Whitcomb, Washington.

(Here to be named the nearest well-known locality—preferably a town or city—and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)

in accordance with the plans shown on the drawing attached hereto marked

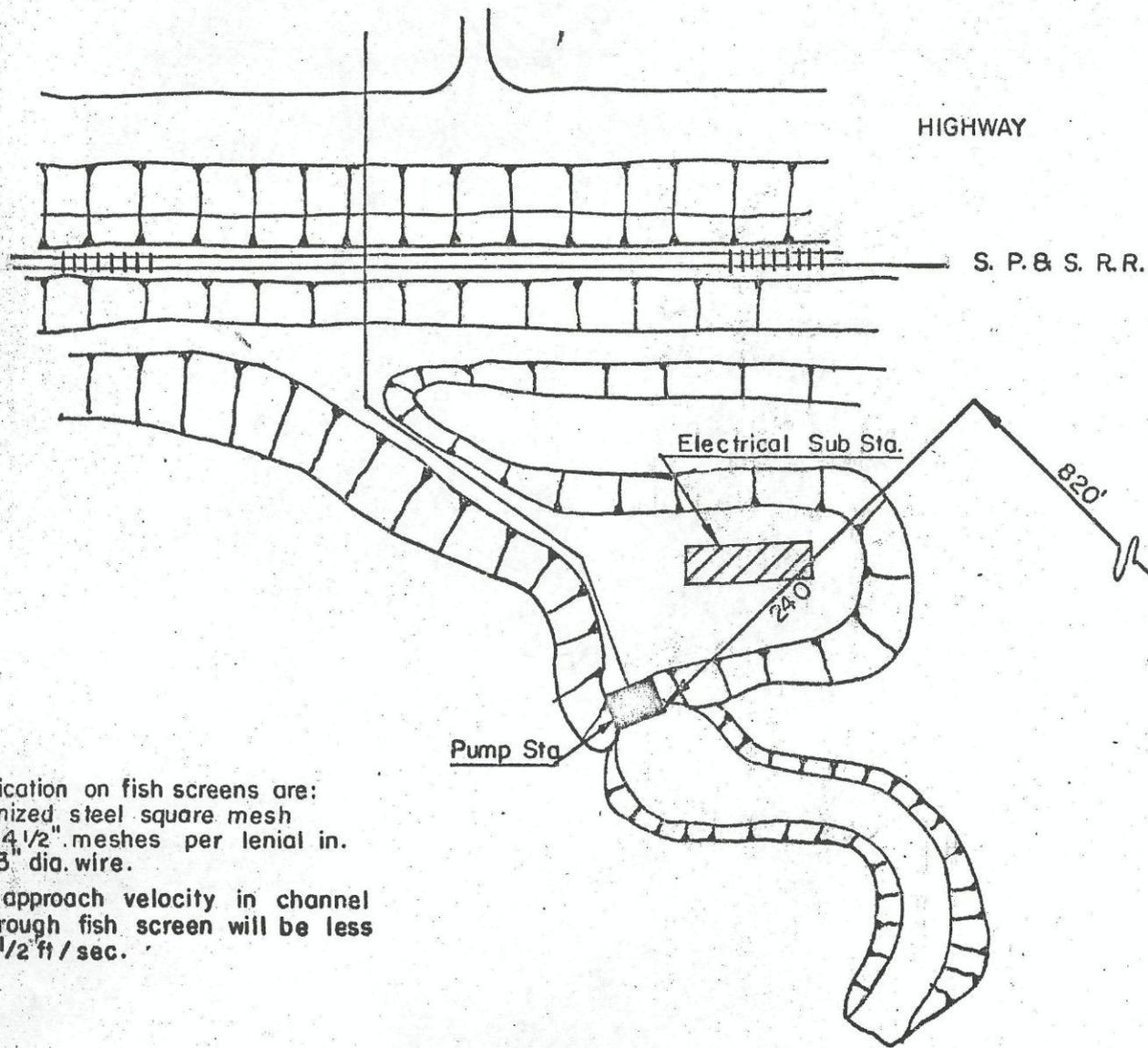
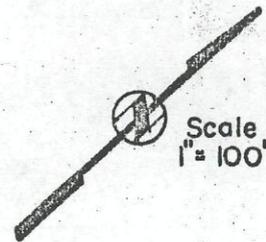
(Or drawings; give file number or other definite identification marks.)

"1507-24 (Columbia R.-Misc.)-60/1 (JD)"

A.

subject to the following conditions:

COPY



Specification on fish screens are:
Galvanized steel square mesh
cloth, 4 1/2" meshes per lenial in.
0.063" dia. wire.

The approach velocity in channel
& through fish screen will be less
than 1/2' ft / sec.

MERCER RANCHES
INC.

CARMA IRRIGATION
PROJECT

PUMP STATION

A.

COPY

(a) That the work shall be subject to the supervision and approval of the District Engineer, Corps of Engineers, in charge of the locality, who may temporarily suspend the work at any time, if in his judgment the interests of navigation so require.

(b) That any material dredged in the prosecution of the work herein authorized shall be removed evenly and no large refuse piles, ridges across the bed of the waterway, or deep holes that may have a tendency to cause injury to navigable channels or to the banks of the waterway shall be left. If any pipe, wire, or cable hereby authorized is laid in a trench, the formation of permanent ridges across the bed of the waterway shall be avoided and the back filling shall be so done as not to increase the cost of future dredging for navigation. Any material to be deposited or dumped under this authorization, either in the waterway or on shore above high-water mark, shall be deposited or dumped at the locality shown on the drawing hereto attached, and, if so prescribed thereon, within or behind a good and substantial bulkhead or bulkheads, such as will prevent escape of the material in the waterway. If the material is to be deposited in the harbor of New York, or in its adjacent or tributary waters, or in Long Island Sound, a permit therefor must be previously obtained from the Supervisor of New York Harbor, New York City.

(c) That there shall be no unreasonable interference with navigation by the work herein authorized.

(d) That if inspections or any other operations by the United States are necessary in the interest of navigation, all expenses connected therewith shall be borne by the permittee.

(e) That no attempt shall be made by the permittee or the owner to forbid the full and free use by the public of all navigable waters at or adjacent to the work or structure.

(f) That if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army, it shall cause unreasonable obstruction to the free navigation of said water, the owner will be required upon due notice from the Secretary of the Army, to remove or alter the structural work or obstructions caused thereby without expense to the United States, so as to render navigation reasonably free, easy, and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners shall, without expense to the United States, and to such extent and in such time and manner as the Secretary of the Army may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable capacity of the watercourse. No claim shall be made against the United States on account of any such removal or alteration.

(g) That the United States shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

(h) That if the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the U. S. Coast Guard, shall be installed and maintained by and at the expense of the owner.

(i) That the permittee shall notify the said district engineer at what time the work will be commenced, and as far in advance of the time of commencement as the said district engineer may specify, and shall also notify him promptly, in writing, of the commencement of work, suspension of work, if for a period of more than one week, resumption of work, and its completion.

(j) That if the structure or work herein authorized is not completed on or before 31st day of December, 1971, this permit, if not previously revoked or specifically extended, shall cease and be null and void.

By authority of the Secretary of the Army:

ROBERT L. BANGERT
Colonel, Corps of Engineers
District Engineer

Hyde

Iverson

Dean L. Harshberger
BY DEAN L. HARSHBERGER

Harshberger

Acting Chief, Navigation Division

Hollenbeck

COPY

NPWRE-MD

16 May 1968

TO: Chief, Management & Disposal Branch

FROM: DA, Walla Walla District, Corps of Engineers, Building 602,
City-County Airport, Walla Walla, Wash 99362

REMARKS: Transmitted is a conformed copy of Department of the Army Easement No. DACW68-2-68-105 to Mercer Ranches, Inc. This easement grants a right of way for the construction, operation, and maintenance of an irrigation water pipeline over, across, in, and upon certain John Day Lock and Dam project lands located in Benton County, State of Washington. Payment of \$200.00 covers the term rental.

Distribution:

Executed

NPWRE w/SF1036
ENCRE-P w/SF1036
Grantee (sep ltr)

Conformed

NPWDC-F-F w/SF1036
NPWJP (dupe) w/SF1036
~~NPWRE-MD w/SF1036~~

COPY

DEPARTMENT OF THE ARMY
EASEMENT FOR RIGHT OF WAY

(PIPELINE)

No. DACW68-2-68-165

ON JOHN DAY LOCK AND DAM PROJECT

THE SECRETARY OF THE ARMY, under and by virtue of the authority vested in him by Title 10, United States Code, Section 2669, hereby grants to **MERCER RANCHES, INC.**, a corporation organized and existing under and by virtue of the laws of the State of Washington, with principal office at Prosser, Washington,

hereinafter designated as the grantee, for a period not exceeding ~~()~~ years from the date hereof, an easement for a right of way for construction, operation, and maintenance of an irrigation pipeline, hereinafter referred to as said line,

under over/across, in, and upon land under the control of the Secretary of the Army at the location shown in red on Exhibit "A" attached hereto and made a part hereof, and described as follows:

A strip of land lying in the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Sec. 31, T. 5 N., R. 24 EWM, Benton County, State of Washington, said strip of land being 20 feet in width, being 10 feet on each side of the following-described line:

(Beginning at a point of intersection with the south line of said Sec. 31 and the northwesterly right-of-way line of Washington P.S.H. No. 8 (S.R. 12) and S 42° 56' W 17.5 feet along said right of way, said point of beginning being further described as being East 130 feet and S 42° 56' W 17.5 feet from the southwest corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Sec. 31, thence N 29° 29' 31" W 288.5 feet, more or less, to a point on the John Day Lock and Dam project boundary line and the point of terminus of the above-described line.

The strip of land above described contains 0.13 of an acre, more or less.

THIS EASEMENT is granted subject to the following conditions:

1. The grantee shall pay to the United States compensation in the amount of TWO HUNDRED AND NO/100-----DOLLARS (\$200.00), payable in advance. Compensation shall be made payable to the Treasurer of the United States and forwarded by the grantee to the District Engineer, Walla Walla District, Corps of Engineers, Bldg. 602, City-County Airport, Walla Walla, Washington 99362.

COPY

2. The installation and/or operation and maintenance of said line shall be accomplished without cost or expense to the United States under the general supervision and subject to the approval of the officer having immediate jurisdiction over the property, hereinafter designated as "said officer", and in such manner as not to endanger personnel or property of the United States on the said United States land or obstruct travel on any road thereon. The grantee shall have the right of ingress and egress for such purposes.

3. The use and occupation of said land incident to the exercise of the privileges hereby granted shall be subject to such rules and regulations as the said officer may from time to time prescribe.

4. The grantee shall supervise the said line and cause it to be inspected at reasonable intervals, and shall immediately repair any leaks found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said line and the making of any repairs thereto, the premises shall be restored immediately by the grantee, at the grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of the said officer.

5. Any property of the United States damaged or destroyed by the grantee incident to the use and occupation of the said premises, shall be promptly repaired or replaced by the grantee to the satisfaction of the said officer or in lieu of such repair or replacement the grantee shall, if so required by the said officer, pay to the United States money in an amount sufficient to compensate for the loss sustained by the United States by reason of damages to or destruction of Government property.

6. The United States reserves to itself the right to construct, use, and maintain across, over, and/or under the right of way hereby granted, electric transmission, telephone, telegraph, water, gas, gasoline, oil and sewer lines, and other facilities, in such manner as not to create any unreasonable interference with the use of the right of way herein granted.

7. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the said premises, nor for damages to the property of the grantee, ~~or for injuries to the person of the grantee (if an individual)~~, nor for damages to the property or injuries to the person of the grantee's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to government activities, and the grantee shall hold the United States harmless from any and all such claims.

8. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the construction, maintenance, and use of said line.

9. That the grantee shall furnish through said line such service as may be required from time to time for governmental purposes on said land, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable but which shall never exceed the most favorable rates granted by the grantee for similar service.

10. In the event all or any portion of said land occupied by said line shall be needed by the United States, or in the event the existence of said line shall be considered detrimental to governmental activities, the grantee shall, from time to time, upon notice so to do, and as often as so notified, remove said line and related facilities to such other location or locations on said project land as may be designated by said officer, and, in the event said line shall not be removed or relocated within ninety (90) days after any aforesaid notice, the United States may cause the same to be done at the expense of the grantee.

COPY

11. ~~This easement may be terminated by the Secretary of the Army upon a reasonable notice to the grantee if the Secretary of the Army shall determine that the right of way hereby granted interferes with the use or disposal of said land or any part thereof by the United States, or it may be terminated by the Secretary of the Army for failure, neglect, or refusal by the grantee fully and promptly to comply with any and all of the conditions of this grant, or for nonuse, abandonment, for a period of two consecutive years, or for abandonment.~~

12. Upon the expiration or termination of this grant, the grantee shall, without expense to the United States, and within such time as the Secretary of the Army may indicate, remove the said line from said land and restore the premises hereby authorized to be used and occupied to a condition satisfactory to the said officer. In the event the grantee shall fail, neglect, or refuse to remove the said line and so restore the premises, the United States shall have the option either to take over the said line as the property of the United States, without compensation therefor, or to remove the said line and perform the restoration work as aforesaid at the expense of the grantee, and in no event shall the grantee have any claim for damages against the United States or its officers or agents, on account of the taking over of said line or on account of its removal.

13. The conditions of this instrument shall extend to and be binding upon and shall inure to the benefit of the heirs, representatives, successors, and assigns of the grantee.

14. That it is understood that this instrument is effective only insofar as the rights of the United States in the said property are concerned; and that the grantee shall obtain such permission as may be necessary on account of any other existing rights.

15. The right is hereby reserved to the United States, its officers, agents, contractors and employees, to enter upon said premises at any time and for any purpose necessary or convenient in connection with river and harbor and flood control work, to remove therefrom timber or other material required or necessary for such work, and to flood said premises whenever necessary, and the grantee shall have no claim for damages of any character on account thereof. The right to flood said premises shall include the right to inundate the land permanently or intermittently as may be necessary in the operation of the reservoir or pool. The United States shall not be liable for damages to any property of the grantee that may be located upon said premises as the result of such inundation, wave action, the deposit of debris, or any other cause resulting from the operation of the dam and reservoir.

16. Pipeline will be placed not less than twenty-four (24) inches below the surface of the ground. Backfill will be packed in trench. Any excess material will be spread thinly and uniformly over the trench and ground surface immediately adjoining in a manner satisfactory to said officer.

17. It is understood that the granting of this easement does not preclude the necessity of obtaining the permit required under the provisions of Section 10 of the Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. 403).

18. That this easement and right of way for a water pipeline is granted for the exercise of water rights granted by the State of Washington. It is understood and agreed that no right to use water from the reservoir is created by this grant. It is further understood by the grantee that the granting of this easement does not preclude the Secretary of the Interior from requiring the grantee to enter into an appropriate water service contract in consideration of such irrigation benefits as may, in the opinion of the Secretary of the Interior, be derived from the withdrawal of irrigation water from the reservoir.

19. The granting clause and Conditions 7, 10, 11, and 13 were altered

COPY

STATE OF WASHINGTON)
) ss.
COUNTY OF WALLA WALLA)

On this day personally appeared before me _____
Max K. Tysor _____, to me known to be the Real Estate Officer,
Walla Walla District, Corps of Engineers, who executed the within and fore-
going instrument, and acknowledged that he signed the same in the capacity
above stated by authority of the Secretary of the Army and for the uses
and purposes therein mentioned.

GIVEN under my hand and official seal this 15th day of
May, 1968.

(SEAL)

Armin Wm Flach

Notary Public in and for the State of
Washington, residing at Walla Walla.
My commission expires 17 October 1969

COPY

Standard Form No. 1036
7 GAO 4500
1036-104

STATEMENT AND CERTIFICATE OF AWARD

No. DAAG 00-2-C-105
(Contract)

Date 15 May 1968

Department of the Army
(Department or establishment)

Walla Walla District
Corps of Engineers
(Bureau or office)

Bldg. 602, City-County Airport
Walla Walla, Washington 99302
(Location)

METHOD OF OR ABSENCE OF ADVERTISING

METHOD OF ADVERTISING

1. By advertising in newspapers. Yes No
2. (a) By advertising in circular letters sent to _____ dealers.
(b) And by notices posted in public places. Yes No

(If notices were not posted in addition to advertising by circular letters sent to dealers, explanation of such omission must be made below.)

ABSENCE OF ADVERTISING

Without advertising in accordance with _____

(Cite law pursuant to which contract was negotiated and the applicable section and paragraph thereof. If contract was negotiated under a public exigency which would not admit of the delay incident to advertising, or because of it being impracticable to secure competition, state below or on the reverse hereof, the circumstances requiring negotiation.)

FOR USE BY G.A.O. ONLY			
Indexed	Card	Reviewed	Date

AWARD OF CONTRACT

- | | Yes | No |
|--|--------------------------|--------------------------|
| A. To lowest bidder as to price (Expenditures) | <input type="checkbox"/> | <input type="checkbox"/> |
| B. To highest bidder as to price (Receipts) | <input type="checkbox"/> | <input type="checkbox"/> |

CERTIFICATE

I CERTIFY that the foregoing statement is true and correct; that the written findings required by law to be submitted with the contract in case of negotiation, upon a determination by the agency head or other authorized official that such method of contracting is necessary, are attached thereto; that the total number of bids received is _____, and that where lower bids (expenditure contracts) or higher bids (receipt contracts) as to price were received, a statement of reasons for their rejection, together with an abstract of bids received, including all lower than that accepted in case of expenditure contracts and all higher in case of receipt contracts, is given below or on the reverse hereof or on a separate sheet attached hereto; that the articles or services covered by the agreement (expenditure) are necessary for the public service; and that the prices charged are just and reasonable.

***Title 10, United States Code, Section 2669, authorizes the Secretary of the Army to grant easements for rights of way over, in, and upon lands under his control for gas, water, and sewer pipelines.**

Because of the nature of the use, competition was not deemed practicable. Consideration from the grantee was reserved at not less than the fair market value.

Contracting Officer
Chief, Real Estate Division

(Title)

/s/ Max K. Tysor
MAX K. TYSOR Signature of contracting officer

NOTE.—This statement and certificate will be used to support all agreements, both formal contracts and less formal agreements of whatever character, involving the expenditure or receipt of public funds. It must be executed and signed by the contracting officer (unless the award is made by or is subject to approval by an officer other than the contracting officer, when execution and signature may be made by such officer).



Cogentrix Energy, Inc.
121 SW Morrison Street, Suite 910
Portland, OR 97204
503-243-3800
Fax 503-227-4274

February 8, 2001

Water Resources Section
Central Regional Office
Washington Department of Ecology
15 West Yakima Ave., Suite 200
Yakima, WA 98902-3452

*00
10 ek # 1525
vrg*



ATTENTION: Sandra K. Anderson, Initial Water Rights Application Processor

RE: APPLICATION FOR A NEW WATER RIGHT – MERCER RANCH POWER

Dear Ms. Anderson:

Mercer Ranch Power, LLC is submitting the attached application for a water right for the instantaneous quantity of 20 cubic feet per second, and an annual quantity of 10,000 acre feet per year to support the operation of a gas-fired electrical generation plant in southwest Benton County, Washington.

Should you need any additional information, or if there is anything that I can do to facilitate the processing of this application, please do not hesitate to contact me. I would be most happy to help in any way possible. I look forward to the Department of Ecology's favorable review of this application.

Sincerely,

MERCER RANCH POWER, LLC



Kurt Humphrey
Vice President, Development

Attachments: State of Washington Application for a Water Right
Legal Description of Place of Use
Location Map
Department of the Army Permit