

Dam: Lawsuit seeks to attach liability to the water district

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The city argues the water district forfeited the easement by removing the tide gates and no longer operating the structure as a dam.

The city is citing a quiet title lawsuit in Circuit Court in 1938 for surrounding land, as well as the city's partnership with the Army Corps on the levee system, as justification for taking control of the dam.

The lawsuit describes the dam as a federal asset tied to two nearby levees, but holds that the city is the rightful owner, since the city has an obligation to maintain the entire flood-control system.

Exhibits

The draft of the lawsuit details many of the arguments Blitz has made publicly on behalf of Warrenton over the past few months. But important new information is outlined in the exhibits,

and the suit foreshadows some of the questions the city will likely encounter if it takes over the dam.

The Natural Resources Conservation Service, in a February 2014 letter to the water district, declared that the federal interest in the dam was complete because the structure had reached its useful life of 50 years. The letter said the water district was free to operate and maintain the dam as the owner, including modifying or decommissioning the structure.

But Ronald Alvarado, the state conservationist for the Natural Resources Conservation Service, who authored the 2014 letter, clarified in a letter to Blitz on Friday that the federal government did not intend to infer the water district owned the property. The water district, Alvarado explained, was responsible for securing the city easement and any other rights necessary to arrange federal financing for the dam.

More importantly, Ed Berger, an assistant district counsel for the Army Corps, wrote in an email to Blitz on Wednesday that the dam and the two nearby levees are "integrally-connected components of what appears to be a single flood risk reduction system."

The city's lawsuit alleges the water district's removal of the tide gates was a potential violation of federal law. Berger suggested the Army Corps would likely insist the tide gates — or replicas — be reinstalled on the dam and any damage to the levees be repaired.

Liability

The water district has an engineering plan that concludes removing the dam would not significantly increase flooding risk, although a city consultant has questioned whether the plan accurately modeled the flood plain. The state Water Resources Department found after a 2012 inspec-

tion that the dam may no longer be capable of flood control and is likely a significant hazard. The state recommended further engineering analysis.

The water district also barricaded a gravel road over the dam over liability concerns.

If Warrenton prevails, after such an aggressive legal push to take control, the city will have to answer whether the dam is indeed necessary for flood control. Blitz has previously said the dam could be held by the city as an asset that could be removed later for wetlands mitigation on a development project. But that idea could be undermined now that the city is claiming an emergency exists and the dam needs to be operated to prevent flooding.

The lawsuit seeks to attach liability to the water district — for any failure to properly maintain the dam for flood control — and recover the money necessary to reinstall the tide gates and restore the dam.

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CITY OF SEASIDE
989 BROADWAY, SEASIDE, OR. 97138
Phone: 503-738-5511
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1. GROSS RENT.....	\$ 1,587,424.19
2. LESS: NON-TAXABLE DEDUCTIONS	
• 2a. Monthly (More than 30 consecutive days).....	\$ 531.12
• 2b. Government Exemption with support.....	\$ 1,056,574.55
• 2c. OTC Revenues (Schedule Required).....	
• 2d. Other allowable deductions.....	
3. TOTAL DEDUCTIONS (sum Line 2a through 2d).....	\$ 1,061,888.67
4. TAXABLE RENTS (Line 1 minus Line 3).....	\$ 525,535.52
5. TAX - 8% of TAXABLE RENTS (0.08 X line 4).....	\$ 42,042.84
6. EXCESS TAX COLLECTED.....	\$ 0.21
7. TOTAL TAX COLLECTED (Line 5 plus line 6).....	\$ 42,043.05
8. COLLECTION FEE 5% of total tax collected (0.05 X Line 7).....	\$ 2,102.15
9. TOTAL TAX DUE (Line 7 minus Line 8).....	\$ 40,940.90

Submitted Photo

"Exhibit A" shows Shilo's income and tax bill.

Seaside: Room tax for all hotels, motels set to increase in January

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Penalties and interest continue to accrue on the 113-room beachfront hotel in Seaside.

"It certainly is a significant amount of money," Van Thiel said. "It evidently is not enough because they don't turn over the tax everybody pays when they stay at the Shilo Inn."

Shilo Inn, Seaside Oceanfront LLC paid out almost \$146,000 — a late payment of more than \$54,000 delivered in July and a late payment of \$93,000 in delinquent room taxes, interest and penalties this fall — after two similar suits brought by the city. Those cases were closed after payments were made.

A lawyer for Shilo Inn did not respond to a request for comment.

Bankruptcy, restructuring

Shilo Inn was founded in 1974 by Mark Hemstreet. The 47-hotel chain, headquartered in Portland, struggled after the Sept. 11, 2001, attacks interrupted the tourist industry.

In 2002, more than half of Shilo Inns in nine states sought bankruptcy protection before re-emerging after reaching a deal with creditors.

The Great Recession brought more closings to the Shilo Inn chain, which included both the Seaside Oceanfront and Seaside East on Holladay Drive.

In 2015, Shilo's federal bankruptcy cases resulted in a restructuring deal and the sale of some Shilo properties, including the sale of Shilo Inn Seaside East.

The city was not a part of the federal proceedings,

Van Thiel said.

'No defenses'

Shilo Inn brought in gross rents of about \$1.4 million in taxable rents in Seaside for the period ending Sept. 30, of which 8 percent is subject to the city's room tax collection.

In January, the room tax for all hotels and motels increases to 10 percent, with the hike to fund Seaside Civic and Convention Center upgrades.

Van Thiel said he has had trouble on occasion collecting lodging taxes, but "it's been some time" since delinquency has led to court action.

"In the previous two times, (Shilo) paid the money," Van Thiel said. "And I expect them to this time. They don't have any defenses to it. I'm not going to let them sit there and fool around."

Housing: Some have concerns about plan to add model homes

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The homes would be available for those who make about 70 to 100 percent of the area's median income.

Before purchasing the manufactured homes, the city would have to amend the budget or wait until the new fiscal year in July, Barnes said. Other decisions — management, rent costs, the process of screening applicants, the homes' location within the RV Resort and more — have yet to be made.

Another potential development could take place at the former children's center site in Tolovana.

"If City Council agrees to move forward with the development proposals described, additional analysis, discussion and planning will be needed to move forward thoughtfully with an implementation plan," the report stated.

"I think we're fortunate to have city-owned property that gives us the opportunity to develop projects like this," Councilor Mike Benefield said. "Most cities don't, and they're struggling."

Code amendment recommendations include ensuring that city fees, accessory dwelling units and multifamily housing encourage the develop-

ment of affordable, long-term rentals. Another option the city could pursue, the report stated, is limiting the growth of short-term rentals through a combination of capping permits, neighborhood-specific regulations and enforcement.

Location concerns

Some who reside by the RV Resort on Elk Land Road and Haskell Lane have concerns about the plan to add park model homes.

"Protecting property values will be directly related to the increased amount of people, traffic flow and types of buildings erected," Rick Hudson and Laurie Hudson wrote in a letter to the city. "We purchased our home because of its location, its seclusion and its quiet corner of Cannon Beach."

Resident Jan Siebert-Wahrmond said although she has concerns about the potential locations for housing recommended by the report, she will "try to keep an open mind."

Councilor George Vetter expressed concerns about "diminishing" the RV park's value. Barnes said he would provide an analysis on the financial impact the park models could have on the RV Resort.

"We live in a beautiful place," Vetter said. "People are willing to pay a lot of money for property. If we build something or put something up within the area of where these people want to be, the pressure is always there."

He said if affordable housing were placed on the edge or outside the city, "the pressure" would not be there.

The task force is not looking to place affordable housing in "an area set aside that's less than equal to anywhere else in our city limits," Councilor Melissa Cadwallader said. "As a fellow councilor, I find your comments about 'we should be looking at less favorable property to be used,' to not be a good starting point for developing what this task force hoped to develop."

The appointed task force included Duane Johnson of Duane Johnson Real Estate; Todd Johnston, Northwest Oregon Housing Authority executive director; Ken McQuhae, retired engineer and resident; Dave Norstedt, Martin Hospitality vice president of operations; Brandon Ogilvie, a local contractor; Sheri Russell, Columbia Bank branch manager; City Manager Brant Kucera; and council liaison Cadwallader.

'If we build something or put something up within the area of where these people want to be, the pressure is always there.'

Councilor George Vetter

THE DAILY ASTORIAN

TV LISTINGS

Evening listings THURSDAY

THURSDAY EVENING												DECEMBER 8	
A	L	6 PM	6:30	7 PM	7:30	8 PM	8:30	9 PM	9:30	10 PM	10:30	11 PM	11:30
2	KATU	(2) KATU News at 6		Jeopardy!	Wheel of Fortune	Toy Story	Shrek the Halls	Baking Show "Bread Week" (N)		Notorious "Taken" (SF) (N)		KATU News at 11	(35) Jimmy Kimmel
3	KOMO	(4) KOMO 4 News		Wheel of Fortune	Jeopardy!	Toy Story	Shrek the Halls	Baking Show "Bread Week" (N)		Notorious "Taken" (SF) (N)		KOMO 4 News	(35) Jimmy Kimmel
5	KING	(5) (5:20) NFL Football Oakland Raiders at Kansas City Chiefs Site: Arrowhead Stadium -- Kansas City, Mo. (L)					5th Quarter	Evening	Evening	Dateline NBC		KING 5 News	(35) Tonight Show
6	KOIN	(6) KOIN Local 6 at 6	CBS Evening News	Extra	Ent. Tonight	Big Bang Theory	Great Indoors (N)	Mom (N)	Life in Pieces (N)	Genius "A Bunker Hill Christmas" (N)		KOIN 6 News @ 11	(35) S. Colbert
7	KIRO	(7) KIRO 7 News	CBS Evening News	The Insider	Ent. Tonight	Big Bang Theory	Great Indoors (N)	Mom (N)	Life in Pieces (N)	Genius "A Bunker Hill Christmas" (N)		KIRO News	(35) S. Colbert
8	KGW	(8) (5:20) NFL Football Oakland Raiders at Kansas City Chiefs Site: Arrowhead Stadium -- Kansas City, Mo. (L)					Paired Program	Paired Program	Inside Edition	Dateline NBC		KGW News at 11	(35) Tonight Show
9	KRCW	(9) Last Man Standing	Last Man Standing	Modern Family	Modern Family	LegendTomor. "The Chicago Way" (N)	Supernatural "Lotus" (N)			KGW News at 10	Two and a Half	Two and a Half	Met Your Mother
10	KOPB	(10) Painting the Town	Business (N)	PBS NewsHour		Age Reversed With Miranda Esmonde-White		Viewer's Choice					
12	KPTV	(12) 6 O'Clock News		Family Feud	Family Feud	Taraji's White Hot Holidays (N)	Pitch "Don't Say It" (N)			10 O'Clock News		11 O'Clock News	2 Broke Girls
13	KPDx	(13) Mike & Molly	Mike & Molly	Big Bang Theory	Big Bang Theory	FOX 12's 8 O'Clock News on PDX-TV	FOX 12's 9 O'Clock News on PDX-TV			Family Guy	Family Guy	American Dad	Cleveland Show
14	KCPQ	(14) Modern Family	Modern Family	Big Bang Theory	Big Bang Theory	Taraji's White Hot Holidays (N)	Pitch "Don't Say It" (N)			Q13 News at 10		Q13 News	The Simpsons
20	TBS	(20) Seinfeld	Seinfeld	Seinfeld	2 Broke Girls	2 Broke Girls	2 Broke Girls	Big Bang Theory	Big Bang Theory	Big Bang Theory	Big Bang Theory	Conan (N)	
21	KZJQ	(21) Two and a Half	Two and a Half	Last Man Standing	Last Man Standing	Modern Family	Modern Family	Q13 News at 9	Q13 News at 9	Big Bang Theory	Big Bang Theory	Friends	Friends
29	ESPN	(29) Champ Drive	"Playoff Preview" (L)	College GameDay (N)		SportsCenter	SportsCenter			SportsCenter	SportsCenter		
30	ESPN2	(30) (5:00) NCAA Basketball Iowa/Ia. (L)		SportsCenter		WorldofSport (N)	World of Sports	Jalen & Jacoby (N)	30 for 30 Shorts	30 for 30 "The '85 Bears" Super Bowl XX champion Chicago Bears are looked at.			
31	NICK	(31) Henry Danger	Henry Danger	Henry Danger	The Thundermans	*** Ice Age: The Meltdown (06) Voices of John Leguizamo, Ray Romano.	Full House	Full House	Friends	Friends	Friends	Friends	Friends
32	DISN	(32) Hannah Montana	Hannah Montana	Bizaardvark	Bizaardvark	*** Aladdin (92) Voices of Scott Weinger, Robin Williams. (40) Cali Style	(05) Girl Meets W.	Bizaardvark	K.C. Undercover	Friends Whenever			
34	FAM	(34) (5:00) Deck the Halls	Danny de Vito.	*** Elf (2003, Comedy) James Caan, Bob Newhart, Will Ferrell.		*** A Christmas Carol (09, Ani) Voices of Gary Oldman, Colin Firth, Jim Carrey.			The 700 Club				
35	FMC	(35) (5:00) The Other Woman	Cameron Diaz.	(15) *** The Other Woman (2014, Comedy) Nikolaj Coster-Waldau, Leslie Mann, Cameron Diaz.		(25) *** What's Your Number? (11, Comedy) Chris Evans, Ari Graynor, Anna Farris. (35) FXM Presents							
36	ROOF	(36) Runway "Life is Full of Surprises"		Project Runway "A Power Trip"	Runway (N)	(50) P. Runway (N)	Project Runway "An Unconventional Trip"		Project Runway: Fashion Startup (N)	PR Startup			
38	ROOT	(38) (5:30) WPT Poker	NPGL Fitness New York Rhinos vs. D.C. Brawlers			AMA Supercross -- St. Louis, Mo.							Champions Tennis
39	FST	(39) (5:30) NCAA Basketball Texas A&M vs. TCU (L)		Fox College Hoops	Fox Sports Live	TMZ Sports (N)	Speak for Yourself		Skip and Shannon: Undisputed Opinions on the biggest sports topics of the day.				
43	SPIKE	(43) Cops	Jail	Cops	Cops	Cops	Cops	Cops	Cops	Cops	Cops	Cops	Cops
44	COM	(44) (5:50) Futurama	(25) Futurama	(55) Futurama	Futurama	Tosh.0	Tosh.0	Amy Schumer: Mostly Sex Stuff	Trevor Noah: African American	The Daily Show (N) @midnight (N)			
45	HIST	(45) Pawn Stars	Pawn Stars	Pawn Stars	Pawn Stars	Alone "Making the Cut" (N)	Alone "A New Land" (N)	(05) The Selection "Dip in the Fire" (N)	(05) The Selection "Dip in the Fire" (N)	(05) The Selection "Dip in the Fire" (N)			
46	A&E	(46) The First 48		The First 48 "Stray Shot"		First 48 "Bad Romance/ Out of Control"	Nightwatch "Pride" (N)	Gangland Undercover "Nowhere Man"	The First 48 "Deadly Premonition" (N)				
47	TLC	(47) Long Lost Family		My 600-lb Life "James' Story"		My 600-lb Life "Chuck's Story"	My 600-lb Life "Teretha's Story"	Extreme Weight Loss "Sara"	My 600-lb Life "James' Story"				
48	DISC	(48) Fast 'N' Loud		Fast 'N' Loud: Revved Up (N)		Fast 'N' Loud "Hot Wheels of Fortune" (N)	Wild Hawaii "Secrets of the Deep"	Wild Hawaii "Land of Fire"	Wild Mississippi "Raging Waters"				
49	NBA	(49) Untamed Americas "Deserts"		Wild Yellowstone "The Frozen Frontier"	Wild Yellowstone "Grizzly Summer"		Inside the NBA	NBA Basketball Minnesota Timberwolves at Toronto Raptors					
50	TNT	(50) (4:00) NBA Basketball	NBA Basketball San Antonio Spurs at Chicago Bulls Site: United Center -- Chicago, Ill. (L)										
51	AMC	(51) (5:00) *** Goodfellas (1990, Crime Story) Joe Pesci, Robert De Niro, Ray Liotta.		*** The Italian Job (2003, Action) Charlize Theron, Donald Sutherland, Mark Wahlberg.		*** Inside Man (06, Thriller) Clive Owen, Denzel Washington.							
52	USA	(52) Law & Order: S.V.U. "Justice Denied"		Law & Order: S.V.U. "Father Dearest"		Law & Order: S.V.U. "Twenty-Five Acts"	Law & Order: SVU "Sheltered Outcasts"	Falling Water "The Well" (N)	(05) Law&O: SVU "Monster's Legacy"				
53	FOOD	(53) Chopped "Gyro We Go Again"		Chopped "Family Food Fight"		Chopped "Test Tendron Intentions"	Chopped "Taco Time!" (N)	Beat Flay (N)	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay
54	HGTV	(54) Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	House Hunters (N)	House Hunters (N)	House Hunters	House Hunters	House Hunters	House Hunters
56	FX	(56) *** Ice Age: Continental Drift (12) Voices of Denis Leary, Ray Romano.		*** Hotel Transylvania (12, Ani) Kevin James, Andy Samberg, Adam Sandler.		*** Hotel Transylvania (12, Ani) Kevin James, Andy Samberg, Adam Sandler.							
57	CNN	(57) Anderson Cooper 360		CNN Tonight With Don Lemon		CNN Tonight With Don Lemon	Anderson Cooper 360	Anderson Cooper 360	CNN Tonight With Don Lemon				
58	FNC	(58) The Kelly File With Megyn Kelly		Hannity		The O'Reilly Factor		The Kelly File With Megyn Kelly	Hannity	On the Record			
61	CNN	(61) Shark Tank		Shark Tank		Shark Tank		Jay Leno's Garage "Just Add Water"	Jay Leno Garage "The Essence of Cool"	Paid Program	Paid Program		
63	BRV	(63) Million Listing "White Wedding Day"		Million Listing "Zeppo Marx the Spot"		Listing "Nightmare on Altman Street"	Million Dollar List "Turn and Burn" (N)	Top Chef "Southern Hospitality" (N)	WatchWhat (N)	Million Dollar List			
64	TCM	(64) (5:00) The Glass Menagerie (50, Dra)		(15) *** Period of Adjustment (62) Anthony Franciosa, Jim Hutton, Jane Fonda.		(15) The Glass Menagerie (1950, Drama)							
65	SYFY	(65) (5:00) The Wolfman (10) Emily Blunt.		*** Resident Evil: Afterlife (10) Wentworth Miller, Ali Larter, Milla Jovovich.		*** Maleficent (2014, Adventure) Elle Fanning, Sharlto Copley, Angelina Jolie.		Dark Shadows (12, Fant) Johnny Depp.					
162	RFD	(162) SF Machinery	Small Town	Rural America "Tarter Farm and Ranch"	Steve Lantvit	Rural Eve News	Market Journal	GA Farm Monitor	SF Machinery	Small Town	Time Life Library		



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