

Final Documents

For

Withdrawal from the  
**Surface Water Management Agency**  
**Of**  
**Clackamas Co.**

CL0603  
Ord. #2003-95  
DOR 3-1585-2003

Final to DOR: \_\_\_\_\_

Signature:

 \_\_\_\_\_

Date of  
Mailing: 6/11/03

Final to Secretary of State: \_\_\_\_\_

Signature:

 \_\_\_\_\_

Date of  
Mailing: 7/1/03

CL0603

Sent

Received

DOR: 6/11/03

6/19/03

Sec. State: 7/1/03

Assessor: 7/1/03

Elections: 7/1/03

Mapped: Yes

Posted to Web:

Assessor Information:

Tax Lot No.:

2S1E07BA01700

Property Address:

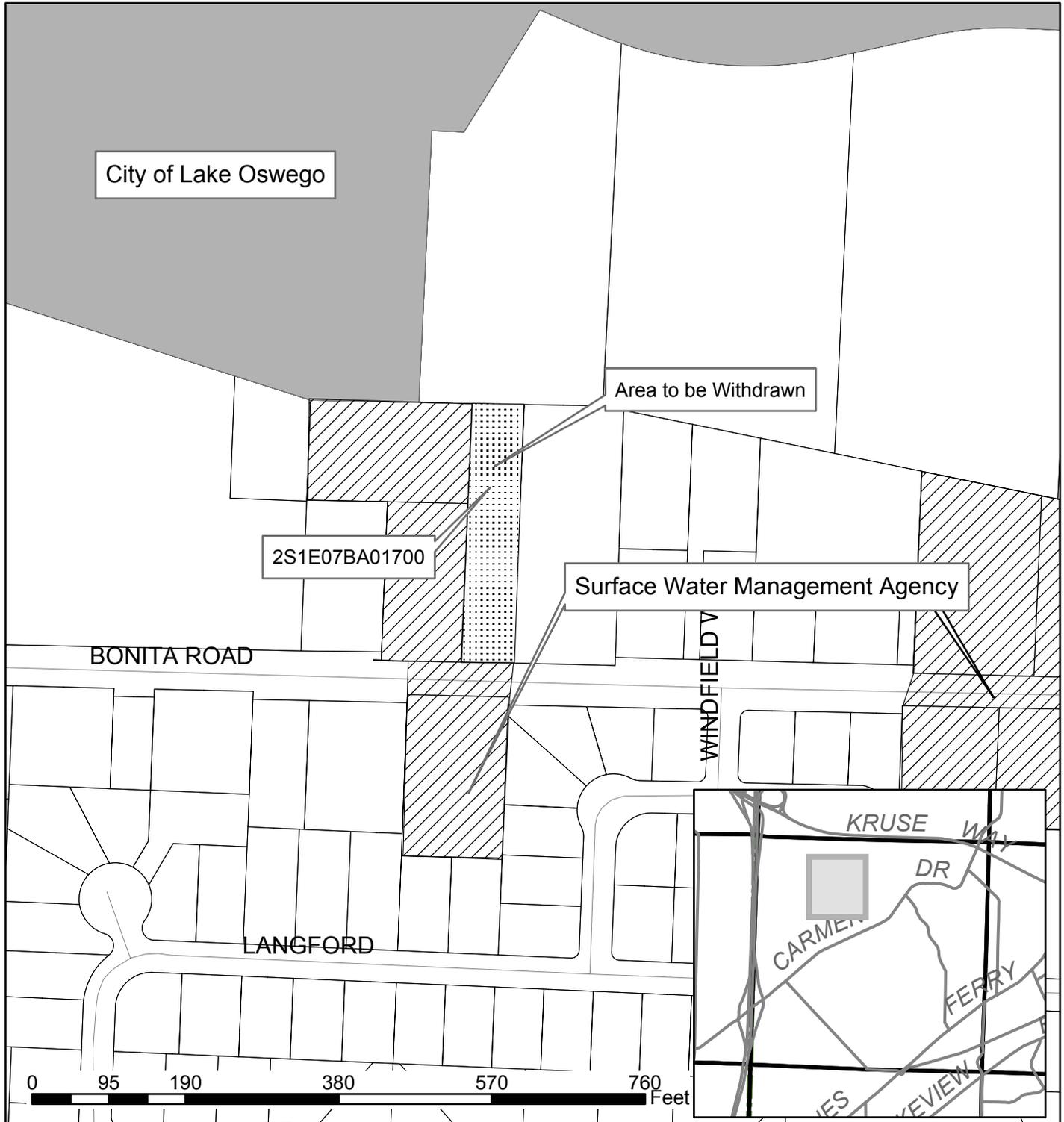
5827 SW BONITA RD

# Proposal No. CL0603

**K M C**

Ken Martin Consulting  
P.O. Box 29079  
Portland, OR 97296-9079  
(503) 222-0955

Withdrawal from the Surface Water Management Agency  
Clackamas Co.  
2S1E07BA



PROPOSAL No. CL0603  
Surface Water Management Agency  
Figure 1

# Notice to Taxing Districts

ORS 308.225



Cartographic Unit  
 PO Box 14380  
 Salem, OR 97309-5075  
 (503) 945-8297, fax 945-8737

Surface Water Mgt Agency  
 Director, Fiscal Svcs  
 902 Abernethy Rd  
 Oregon City, OR 97045

**Description and Map Approved**  
**June 19, 2003**  
**As Per ORS 308.225**

Description     Map received from: METRO  
 On: 6/16/2003

This is to notify you that your boundary change in Clackamas County for  
**WITHDRAWAL FROM SURFACE WATER MANAGEMENT AGENCY**

ORDER #2003-95 (CL-0603)

has been:     Approved            6/19/2003  
                    Disapproved

Notes:

Department of Revenue File Number: 3-1585-2003

Prepared by: Jennifer Dudley, 503-945-8666

Boundary:     Change     Proposed Change  
 The change is for:

- Formation of a new district
- Annexation of a territory to a district
- Withdrawal of a territory from a district
- Dissolution of a district
- Transfer
- Merge

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving  
Boundary Change Proposal  
No. CL-0603

ORDER NO. 2003-95

This matter coming before the Board at this time,  
and it appearing that the owners of the territory to be withdrawn have petitioned to withdraw the  
territory from the Surface Water Management Agency of Clackamas County;

It further appearing that this Board is charged with  
deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code  
3.09; and

It further appearing that staff retained by the  
County have reviewed the proposed boundary change and issued a report which complies with  
the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before  
the Board for public hearing on May 1, 2003 and that a decision of approval was made on May  
1, 2003; and

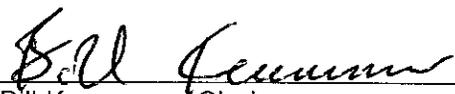
It further appearing that the Board was required to  
hold a second hearing as required by ORS 198.810 (1); and

It further appearing that the Board held a final  
hearing as required by ORS 198.810 (1) on May 22, 2003 and that no election is required  
because no sufficient petitions were submitted as required by ORS 198.810 (2); and

NOW, THEREFORE, IT IS HEREBY ORDERED  
that Boundary Change Proposal No. CL-0603 is approved for the reasons stated in attached  
Exhibit A and that the territory described in Exhibit B and depicted on the attached map is  
hereby withdrawn from the District.

ADOPTED this 22nd day of May, 2003.

BOARD OF COUNTY COMMISSIONERS

  
Bill Kennemer, Chair

  
Millicent Morrison, Recording Secretary

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving  
Boundary Change Proposal  
No. CL-0603

ORDER NO. 2003-95

This matter coming before the Board at this time, and it appearing that the owners of the territory to be withdrawn have petitioned to withdraw the territory from the Surface Water Management Agency of Clackamas County;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on May 1, 2003 and that a decision of approval was made on May 1, 2003; and

It further appearing that the Board was required to hold a second hearing as required by ORS 198.810 (1); and

It further appearing that the Board held a final hearing as required by ORS 198.810 (1) on May 22, 2003 and that no election is required because no sufficient petitions were submitted as required by ORS 198.810 (2); and

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL-0603 is approved for the reasons stated in attached Exhibit A and that the territory described in Exhibit B and depicted on the attached map is hereby withdrawn from the District.

ADOPTED this 22nd day of May, 2003.

BOARD OF COUNTY COMMISSIONERS

  
Bill Kennemer, Chair

  
Millicent Morrison, Recording Secretary

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Initiating  
Annexation of Certain Territory  
To Clackamas County Service District  
No. 5, Clackamas County, Oregon



RESOLUTION NO. 2003-84  
page 1 of 1

Whereas Clackamas County Service District No. 5, organized and operating under ORS 451 of Oregon Revised Statutes, desires to annex the territory legally described in Exhibit A;

Whereas, by authority of ORS 198.850(3) the Board of the District may initiate the annexation; and,

Whereas, by authority of ORS 451.485 the Board of County Commissioners is the Board of the District; and,

Whereas, a part of the territory lies in the City of Happy Valley and the City has consented to annexation of its territory as required by ORS 198.720(1);

NOW THEREFORE, IT IS RESOLVED BY THE BOARD OF CLACKAMAS COUNTY SERVICE DISTRICT NO.5, at a regular session held on the 1<sup>st</sup> day of May, 2003, that:

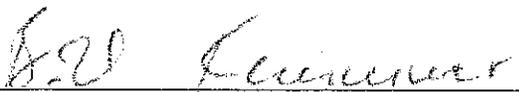
Section 1. The Board hereby initiates proceedings for annexation of the territory to the District pursuant to ORS 198.850(3).

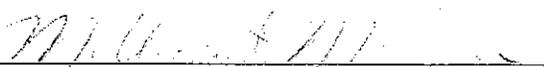
Section 2. The Board hereby approves the proposed annexation in accordance with ORS 198.850.

Section 3. The Board hereby directs staff to file this Resolution and all other required documents with the appropriate county officials forthwith.

ADOPTED this 1<sup>st</sup> day of May, 2003.

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Millicent Morrison, Recording Secretary

## FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 72.9 acres, two single family units, two barns, a population of 4 and has an assessed value of \$4,152,505.
2. The property owners desire sewer service to facilitate eventual development in accordance with the Rock Creek Comprehensive Plan which calls for Mixed Use Commercial on the lower half and Hillside Residential on the upper half.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

A second set of criteria can be found in the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexation, which can only be done after all required 195 agreements are in place and which must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of *urban planning area agreements* between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.

7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party.

4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).
5. The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include "... compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are actually now part of Metro's Regional Framework Plan. Another previously freestanding construct that is now an element of the Framework Plan is the 2040 Growth Concept.

Metro has adopted the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan. Nothing in these two functional plans speaks to criteria for deciding on boundary changes for sanitary sewer districts.

The Regional Framework Plan contains chapters on citizen involvement, on policies, parks, housing, etc. All of these chapters of the Framework Plan have been examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The territory is inside the City of Happy Valley and covered by the City's Rock Creek Area Comprehensive Plan. This Plan designates the area as Mixed Use Commercial (lower half) and Hillside Residential (upper half). Zoning includes R-7 (Residential, 5 units per acre), MUR-S (Mixed Use Residential-Single Family), MUC (Mixed Use Commercial) and MUC Multifamily.
7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements relative to sewer service in this area of Clackamas County.
8. This large area will be served by a new sewer line which will be extended east from SE 147<sup>th</sup> Avenue.

9. The territory is within the Sunrise Water Authority. There are existing water lines in the area including an 18 inch line in Sunnyside and 6 & 12 inch lines in SE. 162<sup>nd</sup>.
10. The area receives police service from the City of Happy Valley.
11. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
12. The area to be annexed receives park & recreation service from the City of Happy Valley. This service will not be affected by annexation to the County Service District for sanitary sewers.

## CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with any urban service agreements under ORS 195. As noted in Finding No. 7 there are no ORS 195 agreements in place in this area. The Board concludes that its decision is not inconsistent with any such agreements.
2. The Metro Code calls for consistency with directly applicable provisions of urban planning area agreements between the annexing entity and any necessary party. The annexing entity (CCSD # 1) does not have an urban planning area agreement with any necessary party.
3. The Metro Code at 3.09.050 (d) (3) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans." ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plan, which is Happy Valley's Rock Creek Area Comprehensive Plan and concludes this proposal complies with it. No directly applicable service agreements were found to exist.
4. The Metro Code at 3.09.050 (d) (4) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in the regional framework or any functional plans."

There are no directly applicable criteria in Metro's two adopted functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan. All elements of the Regional Framework Plan were examined and found not to contain any directly applicable standards and criteria for service district boundary changes.

5. Metro Code 3.09.050 (d) (5) states that another criteria to be addressed is: "Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services." Annexation is necessary to make this critical service available to service future development. The Board therefore concludes that annexation promotes the timely, orderly and economic provision of this service.

# EXHIBIT B

Proposal No. CL-0603

Part of Lot 4, according to the duly filed plat of BONITA MEADOWS, filed April 6, 1911 as Map No. 285, Records of the County of Clackamas and State of Oregon, described as follows:

Beginning at a point 200 feet East, of the Southwest corner of Lot 4; thence North 341.6 feet; thence East 65 feet; thence South 341.6 feet, more or less, to Bonita Road; thence West 65 feet to the point of beginning.

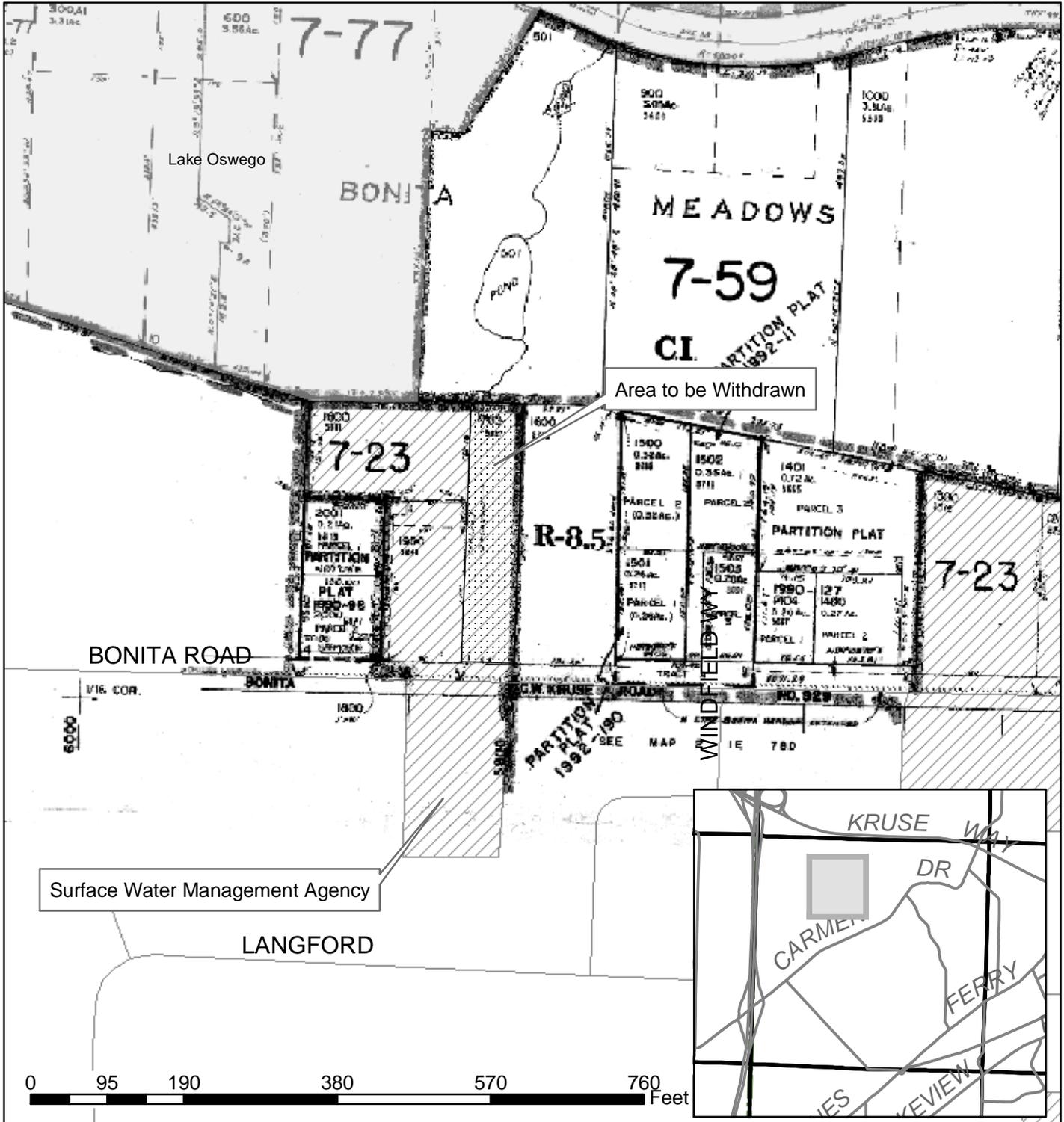
CENTER OF

# Proposal No. CL0603



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Withdrawal from the Surface Water Management Agency  
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PROPOSAL No. CL0603  
Surface Water Management Agency  
Figure 2