



# Redesigning in light of Paragraph 8

*Dr Cameron Miles*

*Indus Waters Treaty (Pakistan v  
India), PCA Case No 2023-01*

**Hearing for the First Phase on  
the Merits**

12 July 2024



# Part I

## Introduction





# The Court's questions

PCA Case No. 2023-01  
IN THE MATTER OF AN ARBITRATION  
-before-  
THE COURT OF ARBITRATION CONSTITUTED  
IN ACCORDANCE WITH THE INDUS WATERS TREATY 1960  
-between-  
THE ISLAMIC REPUBLIC OF PAKISTAN  
-and-  
THE REPUBLIC OF INDIA

QUESTIONS TO BE ADDRESSED AT  
THE HEARING FOR THE FIRST PHASE ON THE MERITS

COURT OF ARBITRATION:  
Professor Sean D. Murphy (Chairman)  
Professor Wouter Buytaert  
Mr. Jeffrey P. Minear  
Judge Awu Shawkat Al-Khasawneh  
Dr. Donald Blackmore

SECRETARIAT:  
The Permanent Court of Arbitration

20 June 2024

The Court of Arbitration invites Pakistan to address the following questions during the Hearing for the First Phase on the Merits scheduled between 8 July 2024 and 16 July 2024:

1. In its Memorial, Pakistan has described in great detail its interpretation of the Indus Waters Treaty, and in particular paragraph 8 of its Annexure D, with respect to the calculation of pondage, the location of outlets, the use of gated spillways, the location of the intakes to the turbines, and the permissible freeboard height in the design of hydroelectric plants (HEPs) on the Western Rivers. For the Court's full appreciation of how that interpretation would operate in practice, the Court invites Pakistan to:
  - a. indicate how that interpretation, if it had been applied, would have affected the design of the Baglihar HEP;
  - b. indicate how that interpretation, if it had been applied, would have affected the design of the Neelum–Jhelum HEP (were the constraints of the Indus Waters Treaty applicable to that plant).
2. India's current interpretation of the same provisions of the Indus Waters Treaty with respect to the design of HEPs on the Western rivers has not been presented by India in this proceeding. The Court invites Pakistan to:
  - a. explain in as much detail as possible Pakistan's understanding of India's current interpretation;
  - b. indicate how that interpretation, if it had been applied, would have affected the design of the Neelum–Jhelum HEP (were the constraints of the Indus Waters Treaty applicable to that plant).



## Areas of contest

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- Calculation of maximum Pondage (**Para 8(c), Ann D**).
- Placement of power intakes (**Paras 8(d), 8(f), Ann D**).
- Spillway design and placement (**Paras 8(d), 8(e), Ann D**).
- Height of freeboard (**Para 8(a), Ann D**).



## Outline of submissions

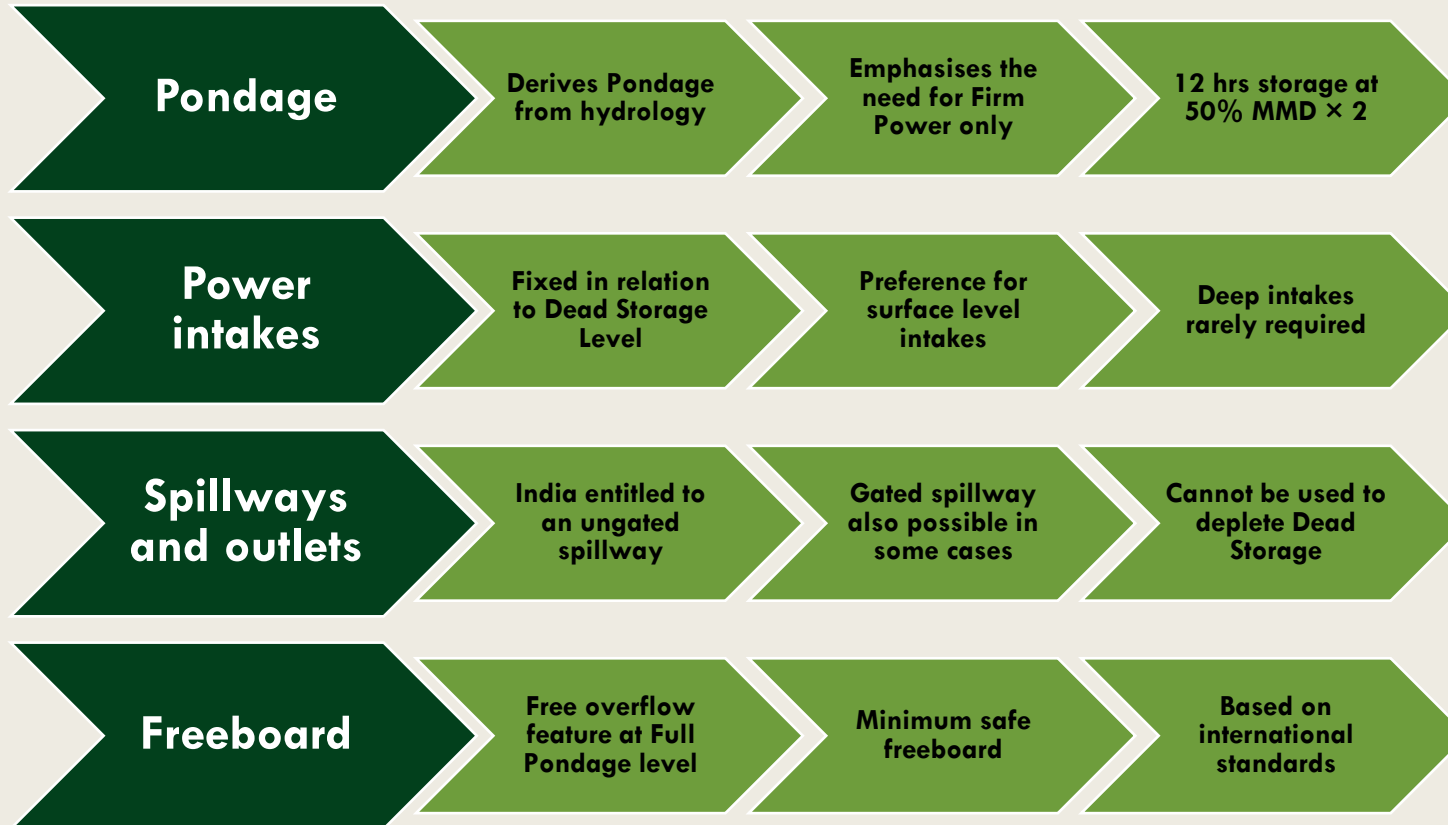
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- **Part II:** Redesigning the NJHEP and BHEP according to Pakistan's approach to Para 8, Ann D.
- **Part III:** Redesigning the NJHEP according to India's approach to Para 8, Ann D.



## Part II

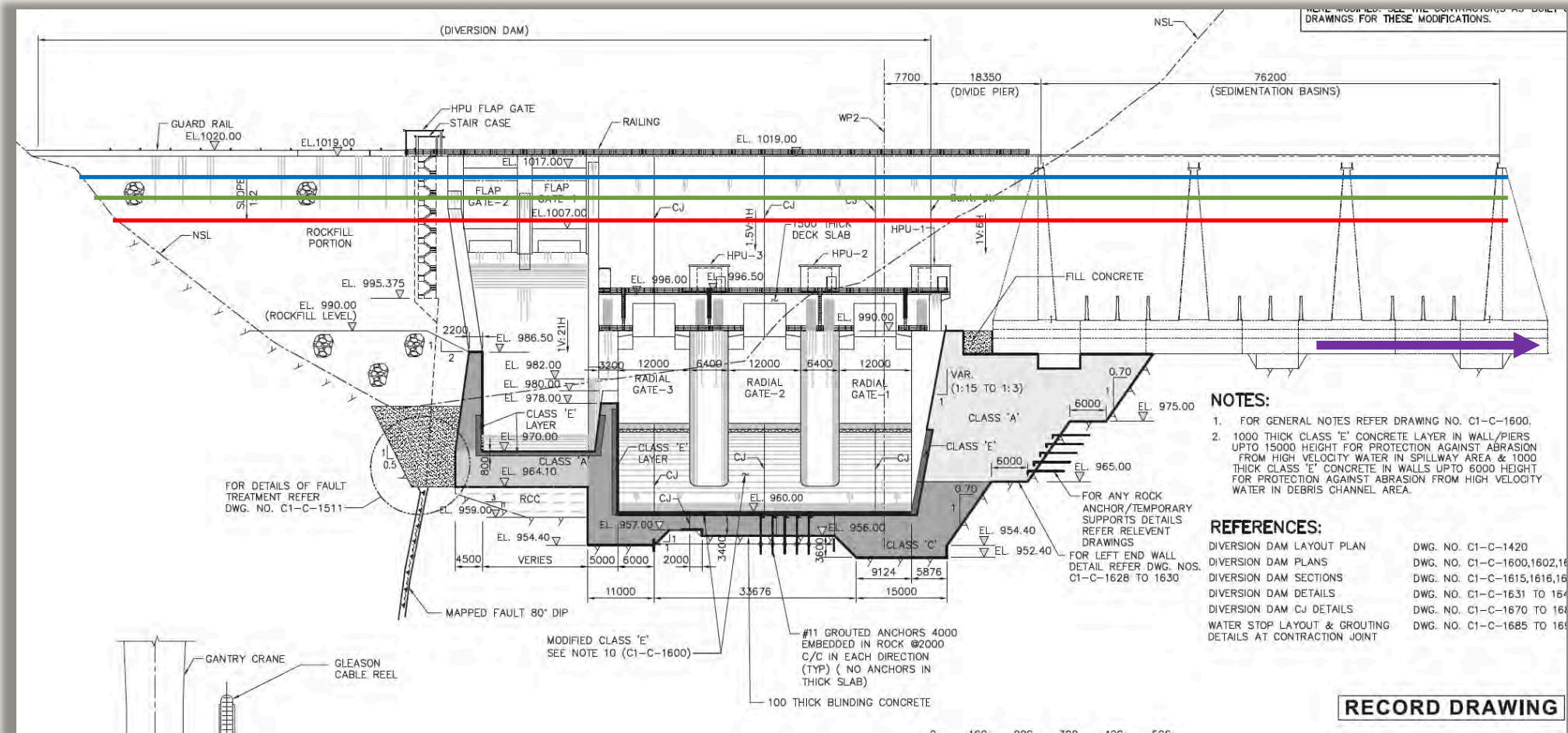
Redesigning the NJHEP and  
BHEP according to Pakistan's  
approach



## Pakistan's approach to Para 8, Ann D



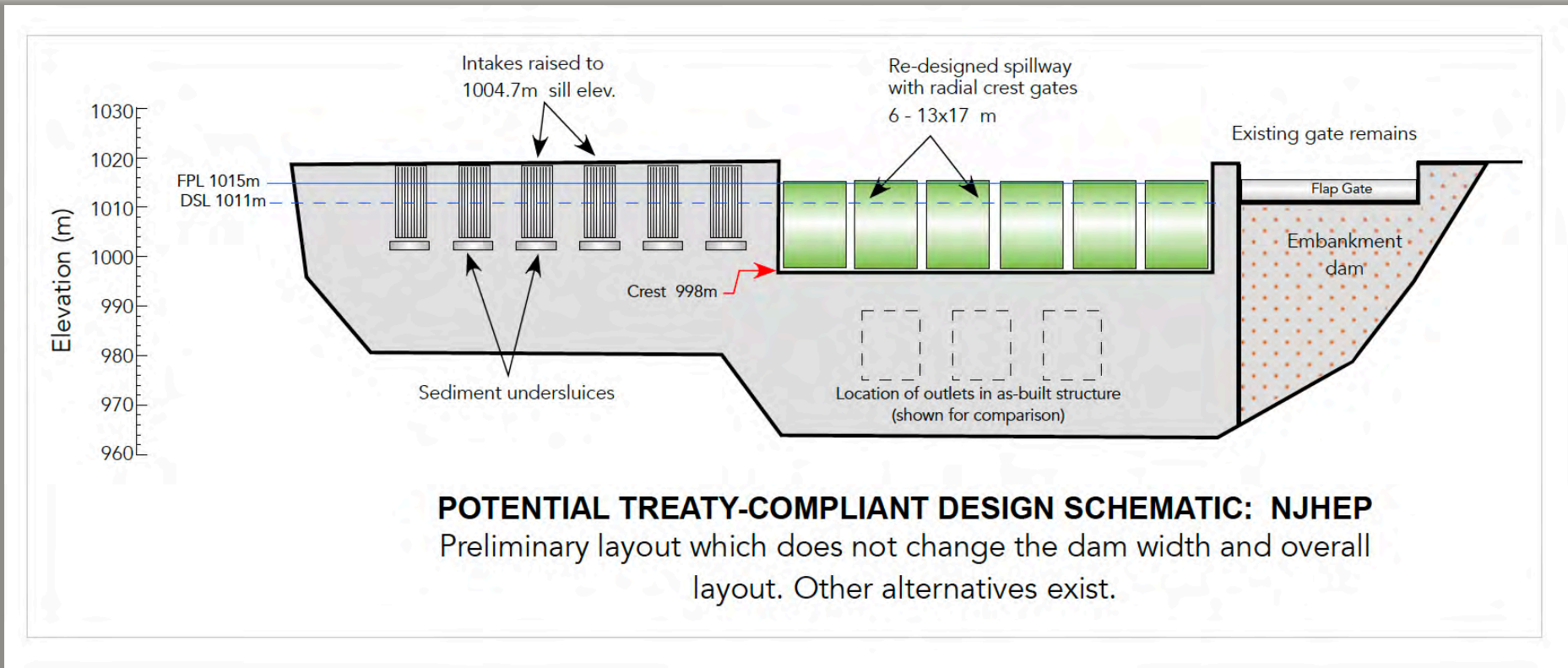
# Original NJHEP design





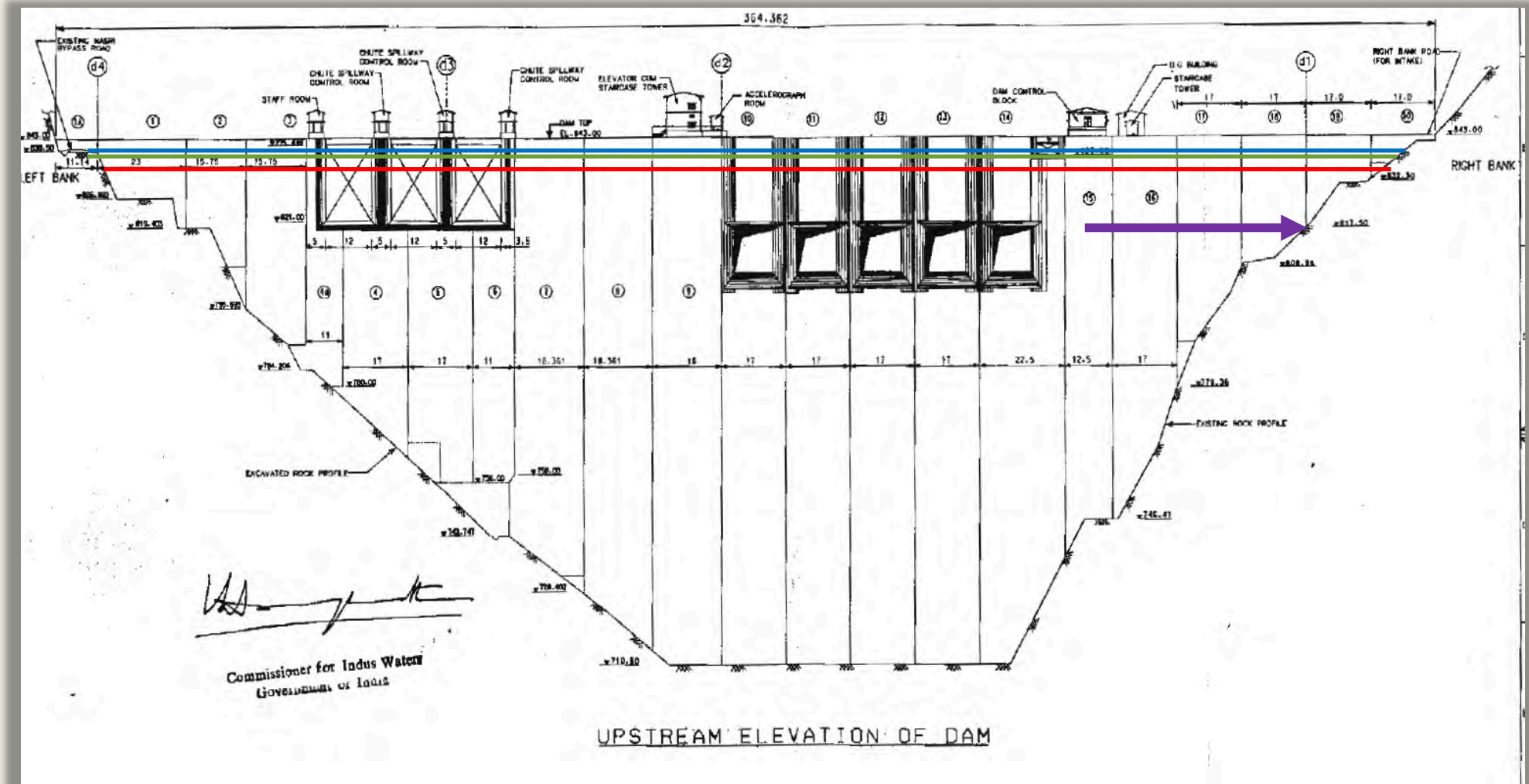


# Pakistan's modified NJHEP design



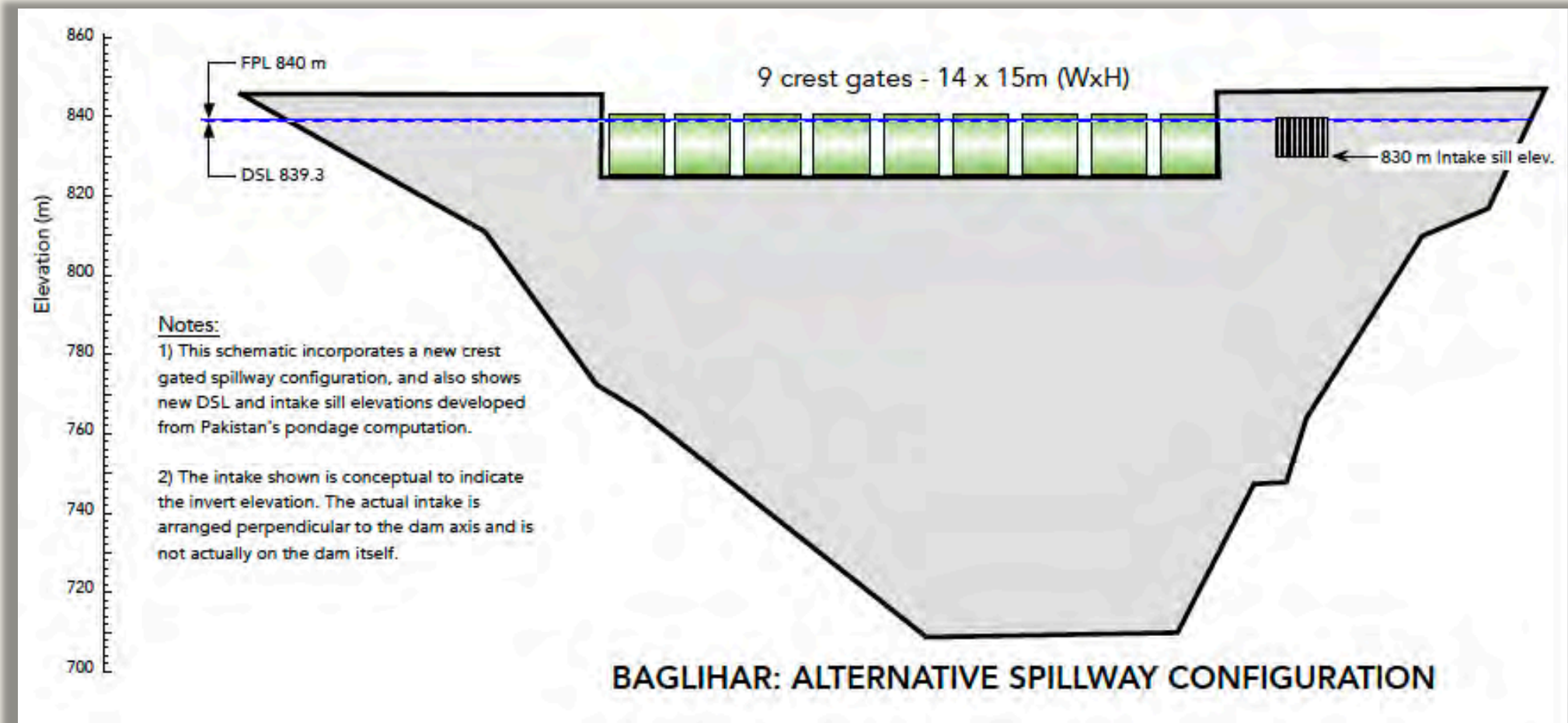


# Original BHEP design





# Pakistan's modified BHEP design



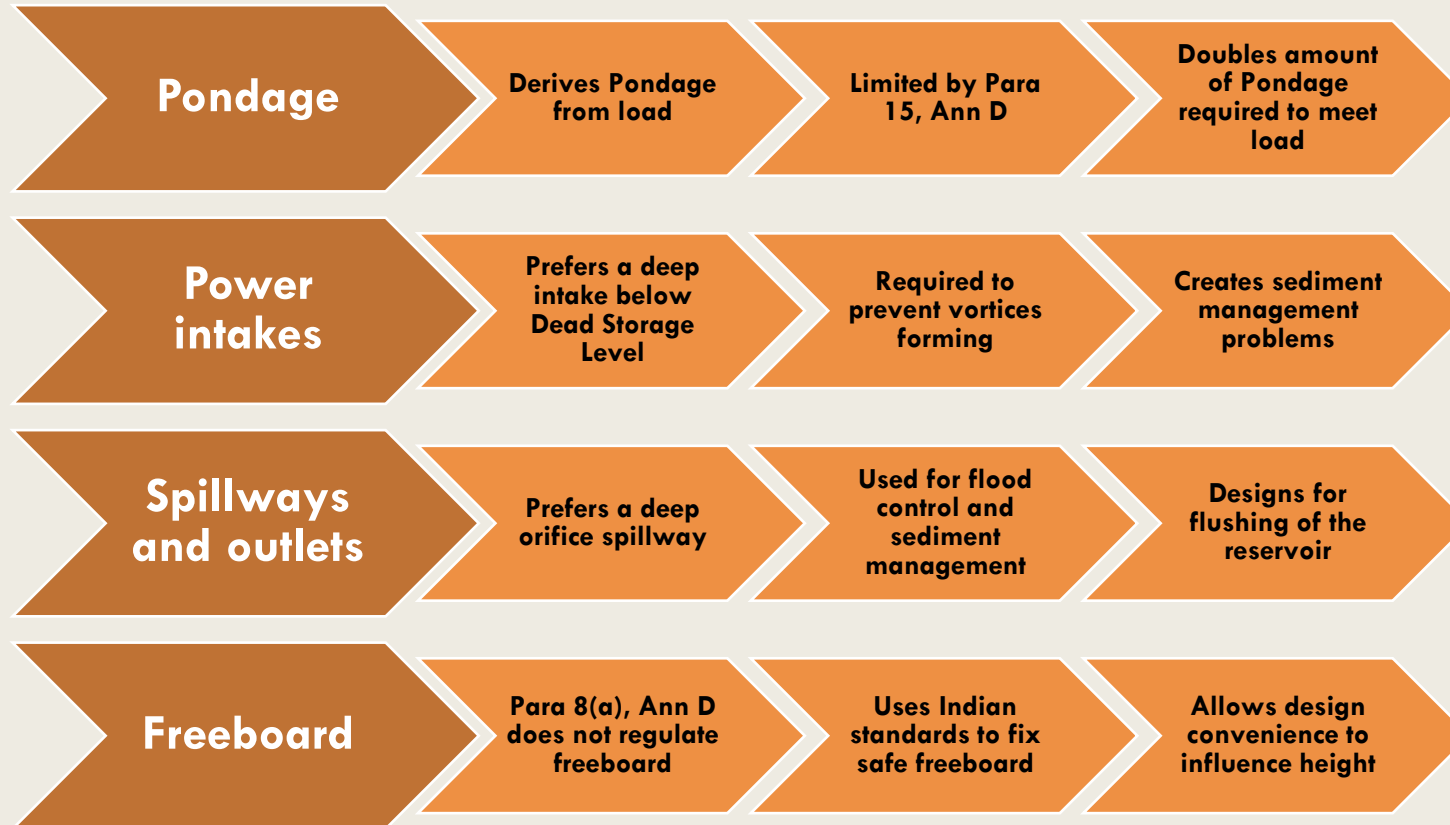


## **Part III**

Redesigning the NJHEP

according to India's approach





# India's approach to Para 8, Ann D



# India's modified NJHEP design

