



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Helgeson, Brown, Mital, Simpson and Carlson  
FROM: Mike McCann, Interim Chief Energy Officer and Patty Boyle, Principal Project Manager  
DATE: December 5, 2017  
SUBJECT: Resolution to accept the Carmen-Smith Project License when issued by the FERC  
OBJECTIVE: Approval of Resolution 1728 – Carmen-Smith License Acceptance

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## **Issue**

This Consent Calendar Item requests approval of Resolution 1728 authorizing the General Manager to accept the Carmen-Smith License if it is materially consistent with the Amended and Restated Settlement Agreement or file for rehearing if it is considered inconsistent. This resolution provides Board direction to staff regarding license acceptance allowing a timely response to the FERC when the license is issued.

## **Background**

On November 8, 2016, the Board approved Resolution 1629 that authorized the General Manager to enter into the Carmen-Smith Amended and Restated Settlement Agreement and associated FERC filings related to the revisions of the Carmen-Smith Final License Application. Principally these revisions changed the upstream and downstream fish passage provisions from a fish ladder and screen system to a trap and haul system. The revisions also modified the recommended term of the license, established protocols for fish passage evaluation, resolved jurisdictional issues regarding the Wild and Scenic River, and provided for a set of interim measures to be implemented prior to license issuance. The revised contracts and filings were submitted to the FERC on November 30, 2016.

## **Discussion**

### License Issuance

Since submitting the Amended and Restated Settlement Agreement, staff have remained in close contact with the FERC on their progress for establishing additional required filings in order to issue the license. In collaboration with EWEB staff, the FERC completed a tour of the Carmen-Smith Project and convened a technical conference in March. The tour allowed FERC staff and other interested parties to learn first-hand about the features of the Project and the planned environmental improvements. The technical conference allowed the parties to agree on expectations regarding revisions to the required exhibits to the license in order to bring them up to date in required form and content from their original 2006 versions. Those updates have been completed and all required submissions from EWEB have been made.

There are three outstanding filings required before the FERC can complete its review of the Amended and Restated Settlement Agreement and License Application. Still pending are the Biological Opinions from US Fish and Wildlife and National Marine Fisheries respectively and the 401 Water Quality Certificate from the Oregon Department of Environment Quality. Those filings are expected sometime in the first quarter of 2018.

Issuance of the license will occur subsequent to the remaining filings. When issued, EWEB will have 30 days to either accept the license or file for rehearing. If the proposed resolution is approved and assuming the License is materially consistent with the Amended and Restated Settlement Agreement, EWEB will file its acceptance of the license and begin deployment activities. If the license is not consistent with the Agreement, EWEB would file for rehearing and likely request a stay of all or part of the license. Because EWEB only has 30 days to make this filing, and the timing of license issuance is highly uncertain, this resolution ensures a timely response from EWEB to the FERC.

### **Requested Board Action**

Staff requests approval of Resolution 1728, Carmen-Smith License Acceptance. Please feel free to contact me with any questions.

**RESOLUTION NO. 1728  
DECEMBER 2017**

**EUGENE WATER & ELECTRIC BOARD  
CARMEN-SMITH LICENSE ACCEPTANCE**

**WHEREAS**, the Eugene Water & Electric Board (EWEB) has applied to the Federal Energy Regulatory Commission (FERC) for a “New Major License” (License) for operation of the Carmen-Smith Hydroelectric Project;

**WHEREAS**, EWEB negotiated an Amended and Restated Settlement Agreement with twelve (12) natural resource agencies, Native American tribes, environmental groups and other parties on environmental, recreation, cultural and other improvements to the Carmen-Smith Hydroelectric Project as part of the relicensing process;

**WHEREAS**, the EWEB Board of Commissioners approved the Amended and Restated Settlement Agreement on November 1, 2016 via Board Resolution No. 1629.

**WHEREAS**, the FERC is expected to issue a new license that is materially consistent with the Amended and Restated Settlement Agreement;

**WHEREAS**, EWEB must accept or dispute the license within 30 days of issuance;

**NOW THEREFORE BE IT RESOLVED**, that the General Manager is authorized to accept the License if it is materially consistent with the Amended and Restated Settlement Agreement or file for rehearing if it is considered inconsistent.

Dated this 5<sup>th</sup> day of December 2017

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

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President

I, ANNE M. KAH, the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the resolution adopted by the Board at its December 5, 2017 Regular Board Meeting.

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Assistant Secretary