



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD
PUBLIC AFFAIRS

Rely on us.

TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Lance Robertson, Public Affairs Manager
DATE: July 10, 2009
SUBJECT: McKenzie River meeting and Leaburg shelter dedication community outreach

Public Affairs is taking several steps to ensure adequate community and public notice of your Aug. 4 board meeting and the Leaburg Lake visitor shelter dedication. Our aim is to make sure that the McKenzie River Valley community is made aware of the meeting in Leaburg, since there will be an expanded time set aside for you to hear public comments about issues of interest to the community.

A few of the actions we will be taking prior to Aug. 4 are:

- Publication of meeting notices (display advertising) in the McKenzie River Reflections and The Register-Guard.
- A news release issued to all local media, including the River Reflections.
- E-mail notifications to key stakeholders, residents and interest groups.
- Media outreach regarding a specific project or issue of interest to the McKenzie River community.
- Notification on EWEB's web site.

As you also know, we are preparing for a short ceremony dedicating the new visitors' shelter at Leaburg Lake, which is scheduled to start about 5:30 p.m. (following your drift boat trip). The current agenda calls for remarks from General Manager Randy Berggren and Board President Ron Farmer, followed by refreshments and dessert. The ceremony should take about a half hour.

Public Affairs is currently working on some new interpretive signage for the visitors' shelter and park. As part of this effort, Public Affairs is soliciting feedback from staff, the community and others about a potential shortening of the park's name to "Lloyd Knox Park" from its current name, "Lloyd Knox Water Board Park." The park name was changed in 2000 to honor long-time caretaker, Lloyd Knox. There was some sentiment at the time to keep the "Water Board" in the name for historical purposes (but as we have discovered, "water board" has taken on a negative connotation since 9/11).

Most people currently call the park "Lloyd Knox Park." Public Affairs is asking for your feedback about the potential name change. If positive, we will prepare a resolution for your approval on Aug. 4.

Board Action

No action is requested. However, Public Affairs is soliciting individual commissioner comments regarding the potential park name change. You can e-mail your comments to me at lance.robertson@eweb.org.



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD
PUBLIC AFFAIRS

Rely on us.

TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Jason Heuser, Legislative Representative
DATE: July 14, 2009
SUBJECT: Legislative Update from the Capitol – Conclusion of 2009 Session

The 2009 Legislative Session concluded on June 29th. An ambitious policy agenda was proposed for this historic go-around as the Governorship, House and Senate were all in the control of the same party for the first time in over 30 years. However, plunging state revenues in this economic downturn largely foiled those ambitions, prompting the legislature to refocus instead on enacting a mix of service reductions and revenue-raising measures to balance the state budget. By late March policy-making had ground to an early halt and budgeting seized the full attention of legislators. While most major new policy proposals or significant shifts in existing policy were shelved in this fiscal crisis, the legislature still managed to move the ball forward modestly in addressing climate change, evolving and diversifying Oregon's energy portfolio, and promoting energy conservation and efficiency.

The following overview is by no means an exhaustive account of the legislative measures tracked by EWEB this legislative session, but encapsulates for you the issues that occupied the bulk of EWEB staff attention. A complete summary of legislation EWEB tracked will be available later this summer, including general government issues such as human resources, public contracting, etc.

SB 570 -- Metal Theft Bill

PASSED – Effective January 1, 2010

EWEB was the primary advocate of this bill, coordinating a broad coalition of Oregon utilities, telecommunication providers, and local governments, in support of this legislation. SB 570 was passed into law with key provisions intact: 1) requiring payment from metal recyclers to customers be made by a check mailed out to a valid address 3 business days later; and 2) creating a class of “commercial metals” (i.e. utility gauge copper wire, highway guard rails, cemetery urns, etc.) that can only be brought in for recycling by those holders of “commercial accounts” with the recycler, and not by the general public who are unlikely to have acquired such items by legitimate means. Local Senator Floyd Prozanski was the chief sponsor of this legislation and dedicated hours of advocacy, troubleshooting and negotiating to this bill. Additionally, local Representatives Nancy Nathanson and Chris Edwards provided special support for this legislation. SB 570 was approved unanimously in the House and Senate, despite opposition from the metal recycling industry.

SB 101 – Emissions Performance Standard

PASSED – Effective July 1, 2010

This legislation develops a standard requiring all of Oregon’s new energy production sources or contracts to be at least as clean as natural gas (1100 lbs of CO₂/mW hour). This will effectively wean Oregon’s energy portfolio off of coal, but allow natural gas to be used as a firm resource to displace coal and serve as dispatchable backup to intermittent renewable sources of energy. EWEB supported this legislation. SB 101 exempts resources under 25 megawatts and any resource qualifying as “renewable” under the 2007 Renewable Portfolio Standard Legislation. The bill was approved 17-11 in the Senate, and 37-21 in the House.

SB 38 – Greenhouse Gas Reporting

PASSED – Effective Immediately

Before passage of SB 38, EWEB and other Oregon utilities have been reporting their greenhouse gas emissions to ODOE for several years now **voluntarily**. SB 38 would make this reporting **mandatory** and spell out some of the details and a reasonable and affordable format for what and how utilities are required to report. The bill was crafted with a great deal of input from utilities, including EWEB, and actually dates back to the legislature’s Special Session in February of 2008 where the bill inexplicably stalled. The bill is especially convenient in how it handles reporting of emissions attributed to Bonneville resources utilized by consumer-owned utilities, essentially requiring COU’s only to report information about the type and quantity of a COU’s Bonneville contracts. Bonneville would then supply Oregon DEQ the carbon profile for each contract type in any given year, and DEQ would from there make emission calculations. EWEB supported this legislation. The bill was approved 35-22 in the House, and 21-9 in the Senate.

SB 80 – Carbon Cap

FAILED

The fate of SB 80 can in one part be attributed to the dire economic times, and in another part be attributed to signs of progress at the preferred federal level to enact cap-and-trade legislation. The bill was originally a massive grant of administrative authority to Oregon’s Department of Environmental Quality (DEQ) for making by rule a cap-and-trade program for Oregon to synchronize with the other Western Climate Initiative partners in a regional cap-and-trade. Subsequently, the bill was substituted with a more traditional legislatively enacted program. However, in this case it was a “cap-with-no-trade,” requiring a utility to offset 60% of its carbon footprint. It was more akin to traditional “command and control” regulatory strategies than the new breed of so-called “market based” strategies like a cap-and-trade. Neither the original SB 80 nor its successor reached the level of support needed for passage in the legislature and the bill was stalled in committee. In the final weeks of session a conversation emerged between stakeholders and legislative leadership on yet another successor amendment to SB 80, more like a comprehensive statewide carbon reduction planning process to be completed for the 2011 Legislative Session to review and implement should no satisfactory carbon reduction mechanism be completed at the federal level by then. In any event, through all these successive alterations of SB 80, the approach for all of Oregon’s consumer owned utilities like EWEB remained the same: COU’s would have been required to dedicated a carbon-reduction charge, 2% of retail revenues, to finance eligible

activities such as conservation, energy efficiency, smart grid, renewable deployment, etc. EWEB supported the COU carbon-reduction charge in all legislative vehicles it was attached to. Ultimately though, neither SB 80, nor any legislative vehicle containing the COU carbon-reduction charge, ever reached a vote on the Senate floor.

HB 3039 – Solar Feed-In Tariff

PASSED – Effective April 10, 2010

This legislation directs the PUC to establish a feed-in tariff for solar generated electricity that would integrate 20 megawatts in the combined territory of PGE and PacifiCorp. This type of feed in tariff, which resembles Germany’s model, will require investor-owned utilities to purchase solar energy at a pre-established rate or set of rates. EWEB has been voluntarily operating our own solar incentive program similar to a feed-in tariff. EWEB staff evaluated the possibility of asking for an amendment that would allow any consumer-owned utility to “opt-in” to the mandate because of some incentives for participants, but determined that overall there would be no net benefit/advantage to EWEB or our customers in doing so, and that the best course of action was to continue utilizing our own custom-made program to support solar generation unfettered by the conditions of the state mandate. Approved in the House 40-19 and 18-12 in the Senate.

HB 3153 – Transmission Siting

PASSED – Effective January 1, 2010

In response to a contentious transmission line proposed in Eastern Oregon by Idaho Power with underwhelming public process, this bill was offered as a remedy by a legislator from Ontario to curb what was perceived as insufficient standards and/or process for the siting of transmission lines, especially in high value agricultural lands and scenic areas. The initial version of this bill was an unfortunate example of the unintended consequences of an attempt to write statewide policy on the basis of a single local experience. Overall, it would have put colossal obstacles in place when siting transmission in EFU land. Although a subsequent amendment replacing the entire bill was a substantial improvement, focusing on an improved process for public and landowner involvement/consultation, the amendment introduced terms not otherwise used in Oregon law, created a great deal of uncertainty that only a future lawsuit would likely clarify what was full compliance. A 3rd and final iteration of this bill was negotiated that specifically spells out reasonable steps to engage property owners that EWEB estimates to be achievable. EWEB opposed this bill until the final amendments were made. The bill was approved in the House 51-0, and 26-0 in the Senate.

HB 2186 – Low Carbon Fuel Standard

PASSED – Effective Immediately (initiating study for program implemented in 2011)

This legislation would authorize the Environmental Quality Commission (EQC) to utilize the Department of Environmental Equality (DEQ) to develop a comprehensive program to reduce greenhouse gas emissions via measures such as a potential low-carbon transportation fuel standard, restrictions on unnecessary idling (with a carve-out for utility vehicles) of trucks and commercial vehicles, and other similar energy-saving required upgrades (i.e. tires) to vehicles. EWEB has

tracked this legislation for the possibility of any unintended consequences for the utility. This bill was approved 35-25 in the House and 16-14 in the Senate.

HB 2626 – Energy Efficiency and Sustainable Technology Act (EEAST)

PASSED – Effective Immediately (Pilot Project)

This legislation would create a fund overseen by the State Treasurer integrating new state bonding authority melded with private capital to finance energy efficiency improvements statewide by low-interest loans paid back by property owners through their electricity bill (a pass through back to the statewide fund). Although EWEB has an esteemed **zero-interest** loan program in place locally, also paid back on a property owner’s electricity bill, the EEAST financing tool is of interest to EWEB staff because it could be attractive to those property owners who prefer a longer-term low-interest loan (compared to a 5 year term for EWEB’s loan program) because repayment would have less impact on their monthly household discretionary income. This bill has some logistical problems to be ironed out in rulemaking, primarily the securitization of the loans, which currently has brought concerns from the financial sector (banks and mortgage companies) regarding lien prioritization. It is possible that utilizing the system of property tax assessments in lieu of the placing of liens might be an acceptable alternative in the task of securitizing loans of this type. EWEB staff acted as a resource to the Financing Subcommittee of an EEAST Work Group troubleshooting this legislation and EWEB has supported HB 2626 in the belief that the logistical obstacles can be properly addressed. The bill has had a public hearing and awaits further action. Approved 57-0 in the House and 27-3 in the Senate.

SB 79 – Energy Performance Certificates (EPCs) and Building Standards

PASSED – Effective January 1, 2010

This bill would direct the Department of Consumer and Business Services (DCBS) to create a system via rulemaking for required Energy Performance certificates (scores) for homes and buildings, analogous to the miles-per-gallon metric for vehicles. Additionally, SB 79 would initiate the adoption of energy codes that achieve net-zero emission residential and commercial buildings by 2030, utilizing a “step-code” where builders will be presented with a series of periodic code upgrades known to them years in advance of the effective date of each “step.” The legislation has been passed out of the House Sustainability Committee, and awaits further action in the Joint Ways and Means committee. The Oregon Realtors Associating has lingering concerns with the bill that may still need to be addressed. Approved 20-9 in the Senate and 38-20 in the House.

HB 2940 – Renewable Energy Credit (REC) Eligibility

PASSED – Awaiting Governor’s signature/Veto Possibility

This bill would allow pre-1995 biomass generated electricity to be eligible for RECs for purposes of compliance with the 2007 Renewable Portfolio Standard (RPS), which when enacted had only allowed eligibility for post-1995 facilities. Operators of these post-1995 facilities claim they are unfairly and arbitrarily put at a competitive disadvantage. The bill was amended so that pre-1995 facilities would be eligible only in the later compliance years when the RPS goals are more aggressive. The bill was approved 54-6 in the House and 25-3 in the Senate. The Governor has not signed this bill and possibly may veto it.

HB 2472 – Decrease in BETC for larger projects

PASSED – Awaiting Governor’s signature/Veto possibility

HB 2472 was a response to an increase in BETC applications statewide and concerns about the level of revenue being foregone by the state, especially for larger projects. This legislation would lower the project cost cap to \$10 million (from \$20 million) and for projects over 10 megawatts the credit percentage would be reduced to 35% (down from 50%). This bill was approved 39-21 in the House, and 28-2 in the Senate. The projected revenue this bill would raise in the next biennium was utilized to balance the state’s budget for that same period. The Governor has not signed this bill and possibly may veto it.

Fluoride Bills

NO LEGISLATION INTRODUCED

A first since 2001, there was no appearance or mention of legislation mandating the fluoridation of drinking water, or otherwise preempting in any fashion local control/decision-making on this matter, of which there is a lengthy record in Eugene (there have been 6 local elections on the matter since 1977).

SB 598 – Prescription Drug Take-Back Program

FAILED

This legislation would have required pharmaceutical companies to develop and be responsible for a drug-take-back program as an alternative to flushing or disposing into trash unused/expired prescription drugs. The legislation was silent on the method, only specifying that the industry develop a program. However, an intense and concerted lobbying effort by the industry raised a number of concerns about the viability of any program, some reasoning valid, while other reasoning was questionable. It would have seemed a work group could have been appointed and been successful in finding remedies. However, the scope of uncertainty about the legality of the endeavor, for example the handling of controlled substances, tempered the legislature’s enthusiasm for moving forward at this time. EWEB supported this bill. The bill had a lengthy public hearing spanning two days and was then shelved without any further action.

HB 2999 – Pesticide Use Reporting System (PURS) Reauthorization

PASSED – Effective Immediately (Extends Sunset Date)

The Oregon Pesticide Use Reporting System was set to sunset in 2009, and this legislation now extends the sunset to 2019. Additionally, the reporting hydrologic unit has been zoomed in to a watershed level (instead of current basin level) making data much more useful for analysis. Unfortunately, there will likely be little or no program funding, essentially putting the program on near hiatus. However, the reauthorization of the program for a substantial time period was paramount, ensuring the program will be jump started immediately back to operation when funds are available, hopefully in the next biennium. EWEB supported this bill. The bill was approved 51-3 in the House and 25-3 in the Senate.

HB 2633 and HB 2831 – Collective Bargaining Bills

FAILED

These were just 2 of a bevy of bills dealing with collective bargaining that could have been challenging to EWEB operationally and financially. HB 2831 would place “temporary workers” in the definition of “appropriate bargaining unit” for collective bargaining as well as roll back the option of expedited bargaining process within collective bargaining, an essential tool when the finances of local governments are volatile and/or in contraction. HB 2633 would change the definition of “supervisory employee” for the purposes of who is in the bargaining unit in collective bargaining such that perhaps the EWEB General Manager would be the only person still fitting the definition. HB 2633 was amended to apply only to public safety employees, addressing a unique situation that Sergeants in law enforcement agencies find themselves in, but still did not reach final passage into law. Both bills the House but were narrowly defeated in the Senate. EWEB opposed these bills and cooperated with Lane County and the City of Eugene to jointly oppose them. HB 2831 was approved in the House 35-21, but failed in the Senate 14-16.



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD
Electric Division

Rely on us.

TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Cheri Wilson, Associate Civil Engineer
Catrin van Donkelaar, P.E., Acting Generation Manager
Mark Zinniker, P.E., Senior Civil Engineer
DATE: July 15, 2009
RE: Leaburg Canal: Closure of Johnson Creek Irrigation Withdrawal System

Issue Statement: This memo provides information regarding the closure of the Johnson Creek irrigation withdrawal System (Station 202+60) along the Leaburg Canal. The Leaburg Canal intercepts southward flowing Johnson Creek just over a mile upstream from the Leaburg Powerplant forebay.

Background: EWEB Generation Engineering is committed to the safe and reliable operation of our power canals and is mandated by the Federal Energy Regulatory Commission (FERC), as a condition of our operation license, to conduct regular reviews and inspections of embankment safety. Generation Engineering is in the process systematically reviewing water withdrawal systems along the canals in the interest of dam safety and compliance with improved EWEB standards. Penetrations through earthen dams below the water line are a well documented dam failure mechanism.

During the April 2008 and April 2009 inspections, a thorough assessment of the Johnson Creek irrigation water withdrawal system and the Leaburg Canal embankment was completed. Based on these inspections and review of original construction drawings, it was determined that the system poses a risk to embankment safety. This installation shares several critical characteristics with the three other intake vaults on the canal that contribute to safety concerns: 1) the intake pipes are well below normal high water, 2) the installations are over 80 years old, 3) the penetrations are through non-engineered earthen materials, and 4) the gate assemblies are corroded and not well located. The three other installations on the Leaburg Canal are slated for review or have been reviewed by engineering. Adding to the criticality of the Johnson Creek system is the height of the embankment, the exit point of the pipe high on the downstream slope so that water can erode the embankment and the frequency of unregulated flushing by users.

Although inspections did not reveal indications of urgent embankment instability, the potential failure of certain water withdrawal system components could lead to embankment deterioration. Therefore, the system will be decommissioned within the next year.

Discussion:

Water Rights Technical Independent Review

In 2008, EWEB hired an independent consultant to examine the water rights and agreements in the Johnson Creek area. The consultant's investigation determined that EWEB holds a water right (Certificate 27661) that entitles EWEB to divert the waters of Johnson Creek. EWEB is not required to divert water from the Leaburg Canal into the Johnson Creek channel below the canal. During the

consultant's investigation, no agreements or requirements were found to exist between EWEB and the Oregon Water Resource Department (OWRD) that would require EWEB to divert water to the weir box or maintain the irrigation system at the Johnson Creek intake. In the absence of such agreements it is possible that EWEB is not complying with OWRD requirements. The consultant's investigation also determined that previous land owners in the Johnson Creek area had non-transferable agreements with EWEB to withdraw water from the Leaburg Canal. The ongoing independent review of water withdrawal systems is helping EWEB inventory existing agreements along the canal, develop new agreements and decommission unsafe installations.

Decommissioning

The Johnson Creek vault will be decommissioned using best practices described in the Federal Emergency Management Agency Technical Manual: Conduits through Embankment Dams by FEMA¹. Abandonment methodology and specifications call for the vault and exiting orifices to be permanently filled with concrete. Construction specification shall be according to the American Concrete Institute (ACI), Specification, American Society for Testing Materials (ASTM), American National Standards Institute (ANSI), and Occupational Safety and Health Administration (OSHA).

Plans for replacement of water intakes

A new standard has been developed for irrigation water withdrawal systems that requires the use of galvanized steel pipe or other EWEB-approved materials to draw water over the crest of the embankment at a shallow burial depth, above the normal high water level. Interested residents may request a copy of the water withdrawal drawings and an updated agreement with EWEB for withdrawal of water from the Leaburg or Walterville Canal. Construction costs for legal water withdrawal systems are the responsibility of property owners.

Prior to construction of necessary upgrades, a signed copy of the new EWEB agreement (which includes a copy of applicable water rights), and a drawing of the planned irrigation improvements need to be submitted to EWEB for approval. Construction may commence upon EWEB approval, with EWEB reserving the right to inspect the work during and after construction.

Due to the number of properties using the Johnson Creek vault for irrigation supply, there may be opportunity for cooperation amongst neighbors in the development of a new water withdrawal system.

Recommendation: Residents with a legal water right will be notified by mail that the irrigation withdrawal system will be decommissioned within a year. Staff recommends the irrigation withdrawal system be permanently closed after the 2009 irrigation season has ended.

EWEB Public Affairs (Lance Robertson) will be available to provide general information to the public and if warranted organize an informational meeting in Leaburg to answer questions and address resident concerns. Technical questions regarding the consultant's report or the decommissioning of the vault will be answered by engineering (Cheri Wilson).

Suggested Motions: No motion necessary, for information only.

¹ Conduits through Embankment Dams-Best Practices for Design, Construction, Problem Identification and Evaluation, Inspection, Maintenance, Renovation and Repair, FEMA 484, Federal Emergency Management Agency, Washington, D.C. September 2005.



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD
ELECTRIC DIVISION, GENERATION ENGINEERING

Rely on us.

TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Marc Anderson, PE
DATE: July 21, 2009
SUBJECT: Delay of Leaburg Boat Landing Project

ISSUE STATEMENT

The Federal Energy Regulatory Commission (FERC) recently retained the services of an environmental consultant to perform an Environmental Assessment (EA) of the new Leaburg Lake boat landing. The EA will take approximately three months to complete and will delay the construction of the new boat landing until July 2010.

BACKGROUND

In November of 2006, EWEB submitted a request to FERC to withdraw plans to construct a new boat landing on Leaburg Lake. EWEB's assertion was that the new boat landing was unnecessary because EWEB was planning to raise the water level of Leaburg Lake by just six inches. In March of 2007, FERC denied EWEB's request and in December 2007, issued an order directing EWEB to complete the new boat landing by September 2009.

Since then, EWEB has worked diligently toward meeting that deadline. At this writing, EWEB lacks only the removal/fill (404) permit from the Army Corp on Engineers (ACOE) and FERC approval of the boat landing design. Issuance of the 404 permit is being held up by the National Marine Fisheries Service (NMFS). NMFS has yet to complete their review of the 404 permit application EWEB submitted in September 2008. Without that permit, EWEB cannot legally perform any construction work below the ordinary high water line.

In the process of obtaining the permits needed for the landing, EWEB completed several environmental studies. EWEB enlisted the services of environmental consultant firms to complete them. R2 Resource Consultants of Portland completed a Biological Assessment (BA) of the project in 2008. R2 concluded in the BA that the project is not likely to adversely affect any listed species. Another consultant, Environmental Solutions, provided expertise on wetlands, riparian zone, and inwater construction work issues. Their expertise provided the basis for the design of the boat landing and allowed the design to meet Nationwide Permit criteria for construction in a waterway.

In addition, EWEB also commissioned two archeological surveys of the Goodpasture Boat landing site. EWEB contracted with Heritage Research Associates to complete the surveys. Heritage completed a survey in February of 2008 and a second in April of 2009 after non-native plants were removed from the site. They found no prehistoric or historical artifacts, features or sites on the property.

EWEB staff also worked with Oregon's State Historic Preservation Office (SHPO) on the project. EWEB staff provided maps, drawings and photos of the site to SHPO. In an April 2009 letter, SHPO stated that they concurred with EWEB's opinion that construction of the boat landing will not have any adverse affect on the historical significance of the Goodpasture Covered Bridge listed on the National Register of Historic Places. As such SHPO would not have any new requirements for the design of the boat landing.

DISCUSSION

On July 10, 2009, EWEB staff was contacted by Jim Holeman of The Louis Berger Group in San Francisco. FERC had apparently contracted with The Louis Berger Group to perform an EA of the pending boat landing site approval application. Mr. Holeman's phone call to EWEB was EWEB's first indication that FERC had decided that an EA was required.

EWEB staff was and remains perplexed by this FERC action. FERC has not required a separate EA for any of the recent license implementation projects for the Leaburg-Waltermville Project. In fact, previous correspondence with FERC gave no hint whatsoever that FERC was contemplating the need for a separate EA.

Staff phoned Chris Yeakel at FERC on the July 10th and asked for further explanation. He provided three reasons for the decision to complete the EA: (1) it is an action for development of an undeveloped property; (2) the potential for environmental impacts; (3) the length of time it has taken to secure a site and the amount of public resistance to the location. Staff reminded Mr. Yeakel that it was FERC that had dictated the 2009 construction schedule and that the delay caused by the EA will delay construction until 2010. August 31st is the end of the inwater work period for 2009. Mr. Yeakel indicated that he understood, but said that FERC felt it was important to perform the EA even if it meant delaying the construction schedule.

Further, on a July 10th, EWEB wrote Mr. Yeakel and asked why FERC was requiring the EA when it appears that the proposed boat landing is covered in the 1996 relicensing project Environmental Impact Statement (EIS). On July 17, 2009, Mr. Yeakel wrote: *"The EIS (for Leaburg-Waltermville Relicensing Project) did not analyze the environmental impacts of constructing a new boat launch at any particular site. Selection of the final location for the launch, just downstream of Goodpasture Bridge, did not occur until April 2008. Since the selected launch location is an undeveloped site with wetlands present and is in the vicinity of a popular fishing riffle, the environmental effects of the proposal need to be considered. Construction of the boat launch is a distinct action under your license and has not been reviewed pursuant to the National Environmental Policy Act, which requires federal agencies to consider the effects of their actions on the environment."*

It is EWEB staff's consensus that little can be done to prevent the EA from proceeding. Based on Mr. Yeakel's email, it appears that FERC's rationale for requiring the EA is defensible, and, quite possibly, justifiable. Beyond that, Mr. Holeman has already begun the EA. Last week on Wednesday July 15th, he

flew in from San Francisco, and met with EWEB staff at the landing site. Mr. Holeman said that he had already reviewed the project file and he anticipated completing the EA by November 2009.

EWEB staff has considered a strategy to challenge FERC on the need for the EA. The basis of the challenge would be that multiple environmental studies have already been completed for the Goodpasture site and an EA is unnecessary. Staff would not recommend such a challenge, however. As stated above, FERC's rationale for commissioning the EA is defensible and, as such, any challenge would likely not succeed. Even if a challenge were successful, the end of the inwater work period is just six weeks away. Although it is possible that Oregon Fish & Wildlife could issue a waiver for the inwater work period requirement, FERC would likely not approve the boat landing design before the end of the construction season in October.

Finally, it should be noted that while the delay of the boat landing construction until 2010 will be a major disappointment to some, the EA does provide some benefits. One of them is the EA provides additional validation for the selection of the Goodpasture site. The EA will likely confirm that the landing at the site will have little or no adverse effects to all aspects of the environment there and, thus, will eliminate any doubt that Goodpasture site is an excellent choice for the new landing. Also, a favorable EA may assist with the approval of the 404 permit. A favorable EA could possibly eliminate any basis for the ACOE and NMFS to delay or deny the 404 permit application.

BOARD OPTIONS

This memo is provided for Board information only. No Board action is requested.

RECOMMENDATIONS

This memo is provided for Board information only. No Board action is requested.

SUGGESTED MOTIONS

This memo is provided for Board information only. No Board action is requested.