



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD
PROPERTY MANAGEMENT SECTION

Rely on us.

TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Ken Wedin, EWEB Property Management
DATE: 12/29/2009
SUBJECT: Mr. Mike Miller Property and Easement Update

Issue Statement:

Mr. Mike Miller currently owns the property between the Walterville Power Canal Tailrace, its fish barrier, and the McKenzie River. The appropriate use of a Contract, Easement and Agreement that EWEB has with Mr. Miller is under review. This is in response to concerns expressed by Mr. Miller during the December 1, 2009 Board Meeting.

Background:

The Contract, Easement and Agreement was granted to EWEB by Floyd and Frances Green, and was recorded on March 11, 1968, at Lane County Official Records, and binds and benefits the successors and assigns of both parties. In short, the document grants EWEB an easement to erect and maintain an electric distribution line, access to the Walterville Power Canal Tailrace fish barrier across existing roadways, and the right to excavate, construct and reconstruct the fish return channel between the Walterville Power Canal Tailrace and the McKenzie River. The easement states that EWEB agrees to construct and maintain a culvert crossing and shall be granted access to both sides of the channel. The easement releases EWEB of claims from the property owner due to the effect that the work in the fish return channel may have upon the McKenzie River.

Discussion: The existing easement is being reviewed. Past modifications to the fish return channel, and ongoing maintenance requirements since implementation of the current license for Walterville/Leaburg are being studied. According to Articles 417 and 418 of the FERC license, EWEB is required to conduct an upstream fish passage study to assess spring chinook delay associated with project facilities. Due to low forecasted spring chinook runs, the study was postponed in 2008 and 2009. However, the spring chinook forecast is expected to increase in 2010 and 2011. When the forecast reaches 69,000 or more, EWEB will be required to conduct the upstream passage study. Construction at the fish return channel must take place during the 2010 construction season if EWEB is to accomplish the study goals of assessing spring chinook delay through what will be the long term conditions at the site.

Based on this review of the easement on his property, EWEB has entered into initial discussions with Mr. Miller, and is planning to meet with him to resolve any issues during January, 2010.

Recommendation: This is an update only.

Requested Action: None.