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**EDITORIAL: Nailing down water rights |
EWEB confronts use-it-or-lose-it regulation**Posted to Web: **Sunday, Oct 31, 2010 11:26PM**Appeared in print: **Sunday, Oct 31, 2010, page G2**

A dispute between the city of Eugene and the Eugene Water & Electric Board has been decided in the utility's favor. EWEB can, a judge ruled last week, enter into wholesale water sales agreements without the city's approval. While clarity on the scope of the utility board's authority is helpful, it doesn't resolve the question at the heart of the dispute — whether it's a good idea for EWEB to supply water to the city of Veneta. One factor that motivates EWEB's interest in a sale agreement is a shortsighted use-it-or-lose-it rule on water rights.

EWEB is a municipal utility, technically a creature of the city of Eugene. The judge was asked to decide whether the utility needs to obtain city approval before agreeing to sell water outside Eugene. The Eugene City Charter appears to require such approval, but the judge ruled otherwise. EWEB must go to the Eugene City Council for permission to provide extraterritorial water service, but can contract to provide water supplies on its own.

That means EWEB could become the wholesale water source for any water district or municipality willing to meet the utility's terms. Veneta wants water from EWEB because its own groundwater sources are insufficient to meet future demand, and piping water from Eugene would be less expensive than other options. Extending a water line, however, raises land-use questions the judge did not address — an adequate and affordable supply of water would allow growth in Veneta that might not otherwise occur.

EWEB's interest in such an agreement stems from the fact that it faces the prospect of losing the right to meet its own future requirements by drawing water from the McKenzie River. EWEB currently has the right to 76 million gallons per day from the McKenzie. That's plenty for current needs, but peak demand is already approaching that volume. At some date in the future, EWEB will need to exercise a right it holds in reserve to draw an additional 118 million gallons per day from the McKenzie.

That reserve right, however, can't be held in perpetuity. The utility will lose the 118 million gallon claim unless it can prove it needs at least a portion of the water in the next five to 20 years. The Veneta contract, for up to 4 million gallons a day, is one way to prove that need. There may be others. One possibility is a reciprocal agreement with the Springfield Utility Board to provide backup water supplies. Another possibility would be to pipe EWEB water to other cities in central Lane County.

A utility shouldn't have to scramble to keep from losing long-established water rights. The utility ought to be able to ensure its ability to meet customers' demand for water not just for a decade, but for a century. Putting EWEB in a position where it must agree to sell even a small portion of its water entitlement to keep its right from lapsing encourages short-term planning.

Veneta's demands won't make much of a dent in EWEB's inventory of water supplies. Denying Veneta the ability to buy water from EWEB might have no effect on development, resulting only in higher water bills for residents of the city. But EWEB's contract with Veneta should be a result of mutual interest and neighborly concern, not pressure to avoid losing water rights. State water rights rules should recognize that cities such as Eugene will always need water, and utilities such as EWEB should have enduring rights to provide it.

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