



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Carlson, Barofsky, McRae, Schlossberg, and Brown

FROM: Lisa Krentz, Electric Generation Manager; Mark Zinniker, Generation Engineering Supervisor; Jeremy Somogye, Generation Engineering Planner IV; Adam Spencer, Communications Specialist; and Robin Leighty, Regulatory Compliance Specialist

DATE: August 2, 2023

SUBJECT: Draft Leaburg Decommissioning Action Plan (LDAP)

OBJECTIVE: Informational Briefing

Issue

This memo provides an update on our progress toward achieving the 2023 EWEB organizational goal #6: *“Consistent with the Record of Decision approved via Resolution 2302, complete an initial Leaburg Decommissioning Action Plan (LDAP), including identification of major project milestones through 2033, by coordinating with key public stakeholders, external agencies, and the Board of Commissioners and integrating with our near-term risk reduction measures to comply with FERC dam safety requirements.”*

Background

Decommissioning a hydroelectric project is a complex process with many stages, variables, and interdependencies. The purpose of the LDAP is to provide an overarching internal plan and guidance for progressing toward the decommissioning of the Leaburg Hydroelectric Project. Ultimately, the LDAP will include high level work plans that EWEB will be implementing in the coming years but, importantly, will not provide any details on the outcomes that those work plans will ultimately deliver. As such, the LDAP will not answer many of the specific questions that have arisen in response to the Board's January 2023 decommissioning decision. Rather, it is intended to identify the important issues and provide a framework for how those issues will eventually be resolved in full detail.

The LDAP is still in development, with a final draft due to the Board in December. The current draft does not yet contain timelines and milestones for the various stages, which will be established in the coming months. This draft is intended to give the Board a preview of the content and level of detail included and provide an opportunity for staff to receive feedback on additional information to incorporate into the final draft.

Discussion

In May, staff provided an outline of the key topics that will be addressed in the action plan. Many of the sections are informational only and intended to explain the process. However, we would like to draw the Board's attention to specific sections that staff will be seeking feedback on or that will result in Board direction.

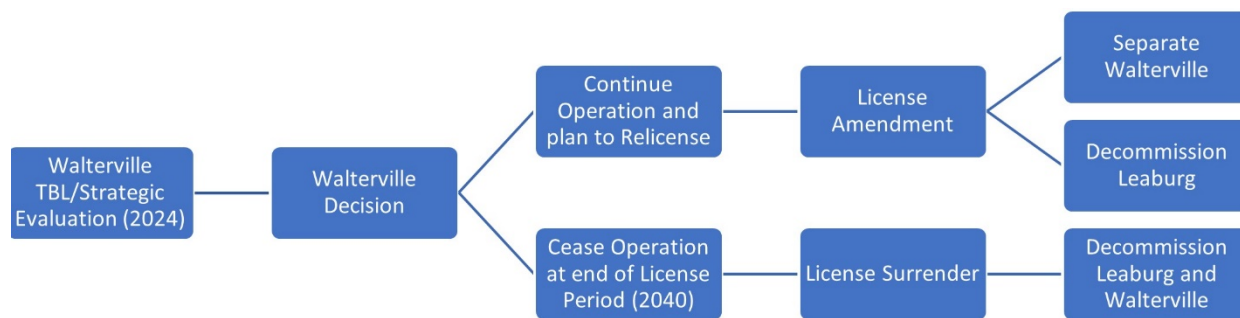
Regulatory Path (Section 4.2)

The Leaburg and Walterville Developments are jointly authorized under a single license from the Federal Energy Regulatory Commission (FERC). Due to this situation, the most appropriate regulatory path forward will also be influenced by the long-term operational plans for Walterville.

There are two potential courses of actions for decommissioning the Leaburg Hydroelectric Project:

- License Amendment: Required to decouple the Leaburg and Walterville Developments, enabling the Leaburg Development to be decommissioned, and the Walterville Development to continue to operate (both through the current license term to 2040 and, presumably, beyond via a relicensing process).
- License Surrender: Both projects would be decommissioned, and the joint license surrendered.

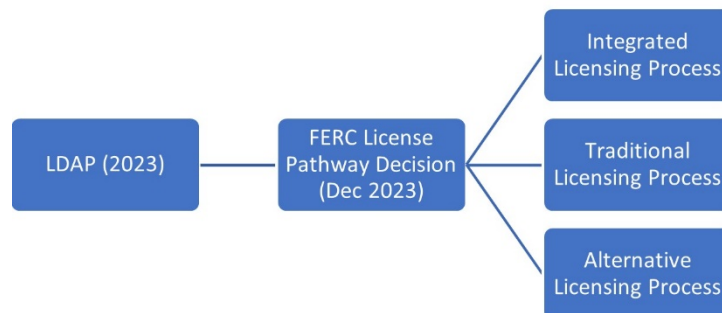
Therefore, to advance regulatory process decisions in a timely manner, it is necessary to understand the likely future disposition of the Walterville Development. A Walterville strategic evaluation will begin in 2024, similar to the 2022 Leaburg evaluation, and will presumably result in a Board Resolution. Although EWEB intends to operate the Walterville Development at least through the current license term (2040), determining the preferred outcome for Walterville upon license expiration will position EWEB to work most efficiently through the regulatory process.



Regardless of the decision to amend or surrender the FERC license, EWEB must follow the same process as that for relicensing or licensing. Because the process is essentially the same regardless of the future disposition of the Walterville Project, identifying a preferred path will enable staff and stakeholders to advance the work concurrent with the Walterville evaluation.

FERC regulations offer three pathways:

- Integrated Licensing Process
- Traditional Licensing Process
- Alternative Licensing Process



Each process has both advantages and disadvantages. Staff will continue to evaluate the trade-offs and bring a recommendation to the Board with the final LDAP in December.

Board of Commissioner involvement (Section 13)

As publicly elected representatives of the community, it is important for the Board to have sufficient information and oversight to effectively perform their duties.

As we develop milestones and key decision points that will trigger Board input or approval, we ask for your feedback on thresholds to define “changes in key baseline assumptions” and “unexpected high impact events” that would initiate additional Board involvement.

Requested Board Action

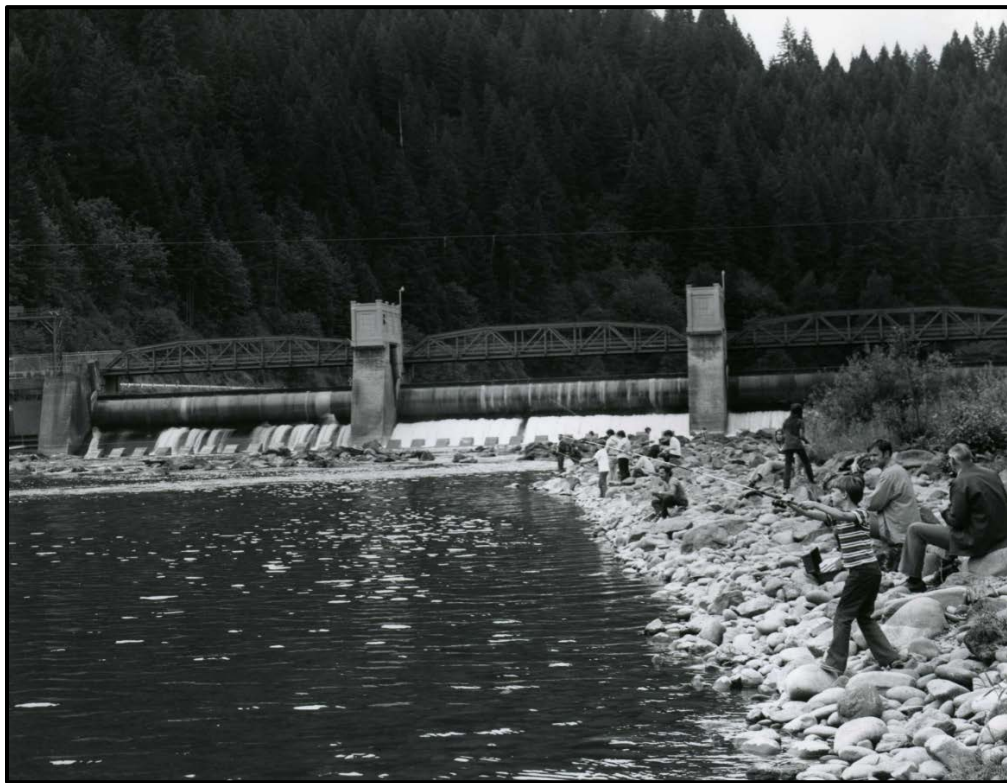
No Board action is requested at this time. Staff seek feedback on the LDAP approach and thresholds for determining future Board directional alterations or decisions.

BOARD REVIEW DRAFT
LEABURG DECOMMISSIONING ACTION PLAN

for

Leaburg–Walterville Hydroelectric Project

FERC Project Number: P-2496-OR



Prepared by

Generation Department

Eugene Water & Electric Board



July 21, 2023

LIST OF ACRONYMS

AACE	American Association of Cost Engineering
ACHP	U.S. Advisory Council on Historic Preservation
BIA	Bureau of Indian Affairs
Board	EWEB Board of Commissioners
CEQ	U.S. Council on Environmental Quality
cfs	cubic feet per second
D2SI	Federal Energy Regulatory Commission, Division of Dam Safety and Inspections
ODEQ	Oregon Department of Environmental Quality
DPP	Drilling Program Plan
DHAC	Federal Energy Regulatory Commission, Division of Hydropower Administration and Compliance
ODSL	Oregon Department of State Lands
EA	Environmental assessment
EIS	Environmental impact statement
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
FERC or Commission	U.S. Department of Energy, Federal Energy Regulatory Commission
LDAP	Leaburg Decommissioning Action Plan
MSA	Magnuson-Stevens Fisheries Conservation and Management Act
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Oceanic and Atmospheric Administration, Fisheries (National Marine Fisheries Service, also known as NOAA Fisheries)
NPS	National Park Service
ODFW	Oregon Department of Fish and Wildlife
OPRD	Oregon Parks and Recreation Department
OWRD	Oregon Water Resources Department
OMB	Oregon State Marine Board
PAD	Pre-Application Document
SHPO	Oregon State Historic Preservation Officer
SWC	Storm Water Conveyance
TBL	Triple Bottom Line
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Department of the Interior, Fish and Wildlife Service

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1 LEABURG DECOMMISSIONING ACTION PLAN OVERVIEW

The Leaburg Development of the Leaburg-Walterville Hydroelectric Project (Project) has been operating as a stormwater conveyance facility since October 2018, when observations of internal erosion of the canal embankments prompted EWEB to dewater the canal and cease power generation until the dam safety issue could be resolved. Following subsequent findings that some canal embankments may also present earthquake safety risks, EWEB initiated a comprehensive risk assessment of the entire Leaburg Development (Development) to better understand the level of investment that would be required to ensure long term safe and reliable operation. This assessment indicated that the necessary level of investment would be considerable and the net present value (NPV, or all-in-costs including capital investments, ongoing operation and maintenance, and power generation values) for the Development would be substantially negative with less than 20 years remaining on the Federal Energy Regulatory Commission (FERC or Commission) operating license.

Based on this understanding, pursuing a rapid return-to-service was not considered appropriate in the short term. Instead, the Board directed staff to perform a triple-bottom-line (TBL – social, environmental, and economic) analysis of long-term options. The resulting strategic evaluation report helped inform EWEB management and the Board of the numerous substantial impacts associated with a long-term decision to either return to service or to decommission the Leaburg Development.

Upon completion of the strategic evaluation, staff presented the Board with a management recommendation entitled *Future Disposition of the Leaburg Hydroelectric Project* at the Board meeting on December 6, 2022. Subsequently, the Board unanimously approved the management recommendation put forth as a Record of Decision per Resolution 2302 on January 3, 2023. The resolution directs the General Manager or delegee to develop a Leaburg Decommissioning Plan, consistent with the recommendation. The resolution highlighted the following primary components of the management recommendation:

- a. Permanently discontinue electricity generation at Leaburg; Leaburg ceased generating electricity in 2018.
- b. With the decommissioning of Leaburg, Leaburg Dam should, and will likely be required to, be removed, returning the McKenzie River to unobstructed flow in the bypass reach impacted by the hydroelectric facilities.
- c. The dam's removal warrants alternative access development at the east end of the project boundary, south of the river.
- d. Initially, canal infrastructure should be repaired and used to channel tributary stream flows, including storm water, for conveyance to the river as the most practical alternative, still preserving the option to incrementally return a portion or the entire project, including the canal, to pre-project conditions. Where practical in the near term,

portions of the canal should be decommissioned to pre-project conditions by arranging for tributary streams to flow directly to the river.

- e. EWEB should work specifically to mitigate water rights and water access issues where legally obligated and facilitate water access where possible, specifically for fish hatcheries.
- f. Before 2030, a similar triple-bottom-line analysis should be completed to inform potential directional decisions (relicense or decommission) associated with the Walterville Development.

This document fulfills the direction to prepare a decommissioning plan in accordance with Resolution 2302. The purpose of the Leaburg Decommissioning Action Plan (LDAP) is to provide an overarching internal plan and guidance for progressing toward decommissioning. The LDAP summarizes important background information and describes high level work plans that EWEB will be implementing in the coming years but, importantly, the LDAP does not provide any results or decision-making outcomes that those work plans will ultimately deliver. As such, the LDAP will not answer many of the specific questions that have arisen in response to the Board's January 2023 decommissioning decision. Rather, it is intended to identify the important issues and provide a framework for how those issues will eventually be resolved in full detail.

The LDAP will present important context and framework for the upcoming decommissioning effort, but it will not include the following:

- Confirmed regulatory path.
- Detailed planning and scoping documents.
- Detailed risk identification and mitigation planning.
- Detailed schedule information.
- Detailed budget information.

2 BASIS FOR DECISION MAKING

EWEB staff and the Board invested substantial time considering social, environmental, and economic complexities during the 2022 TBL analysis and decision-making process. The many internal and public discussions that took place during the strategic evaluation presented an opportunity for EWEB staff and the Board to identify important issues that will remain relevant throughout the upcoming decommissioning planning process. This section of the LDAP summarizes considerations that will remain central to decision-making during the decommissioning process.

2.1 Decision-Making Criteria

Use of the TBL analysis tool during the Leaburg strategic evaluation demonstrated that the technique is very effective for comprehensively identifying issues that decision makers need to weigh when considering a complex question. As such, EWEB will continue to use the TBL approach to inventory and characterize impacts associated with decommissioning alternatives.

Along with the important TBL factors that need to be evaluated during ongoing decision-making processes, the management recommendation regarding the Leaburg strategic evaluation highlighted additional valuable perspectives that helped in weighing the challenging trade-offs that result from such an impactful decision. Some of these additional perspectives will likely continue to be helpful when weighing the next rounds of challenging trade-offs associated with complex decisions on decommissioning details. The perspectives are identified below along with commentary on how they may factor into upcoming decommissioning decisions.

- **Consistency with EWEB's Mission and Organizational Values:** In the absence of power generation operations at Leaburg, the mission-based rationale for an ongoing EWEB presence at the site will be significantly reduced. As such, decommissioning solutions that minimize the need for ongoing operation and maintenance activities will generally be preferred relative to solutions requiring more ongoing EWEB support.
- **Alignment with EWEB Customer-Owner Priorities:** Surveys consistently rank water quality, reliability of electric/water delivery, and affordability as the top three priorities for EWEB from a utility-wide customer perspective. From an upriver customer perspective, recent surveys during the Leaburg strategic evaluation process indicated that there is a high value on recreational and local economic considerations. This range of priorities between general and upriver customers will continue to increase the complexity of upcoming decommissioning decisions when there are localized effects and require judgement in determining reasonable levels of local impact.
- **Mitigating Risks and Uncertainties:** Climate change related impacts and regulatory requirements are expected to become increasingly challenging in the future. Decommissioning solutions with lower exposure to climate change and regulatory risks/uncertainties will generally be preferred.
- **Mitigating Long Term Impacts and Obligations:** Ongoing operation, maintenance, and capital investment costs will continue to escalate in the future and increase the funding obligations of EWEB ratepayers. These ongoing activities also create liabilities for unplanned spending in the event of operational incidents or natural disasters. Decommissioning solutions that minimize the need for ongoing spending and liabilities will generally be preferred.

In the course of performing upcoming TBL assessments, EWEB staff intend to refer back to these decision-making criteria from the Leaburg strategic evaluation process for helpful perspective in weighing complex trade-offs associated with decommissioning details.

2.2 Planned Mechanisms for Adapting to New Information or Updated Guidance

EWEB expects that the current understanding of issues related to decommissioning Leaburg facilities will evolve significantly as multiple complex matters are resolved during the preparation of a decommissioning application to the FERC. For example, as new information or guidance is available, the understanding of impacts, timelines, and economics may change. Changes will be compared to what was presented to the Board at the end of 2022. Staff will provide the Board with a summary of significant differences in TBL understandings and an opportunity to update guidance in response to any consequential changes.

3 LEABURG-WALTERVILLE LICENSE OVERVIEW

The Leaburg-Waltermville Hydroelectric Project, as defined in the license granted to EWEB by the FERC, consists of two independently operating hydroelectric developments, the Leaburg Development and the Waltermville Development. The Waltermville Development is the oldest with construction beginning in 1909 and initial operation started in 1911. Construction of the Leaburg Development began in 1928 and initial operation started in 1930.

Both Waltermville and Leaburg started operation prior to the existence of Federal regulation for hydroelectric power production. In response to regulatory developments under the 1935 Federal Power Act, EWEB eventually applied for Federal licenses for both facilities and acquired separate licenses for Leaburg and Waltermville in 1967. The terms for both original Federal licenses expired on December 31, 1993. In its relicensing application, EWEB proposed to combine the separate licenses into a single license known as the Leaburg-Waltermville Hydroelectric Project (Project). Both facilities continued to operate well beyond their 1993 license expiration while complicated relicensing process dynamics played out over many years. The FERC eventually issued a new joint license for the Project with a 40-year term and effective date of April 1, 2000. As such, the Project's current license expires on April 1, 2040.

Additional details on the history of the Project are included in Appendix A.

3.1 Leaburg Development

The current FERC license authorizes the Leaburg Development, consisting of the following: (1) a 345-acre-foot reservoir at a normal elevation of 742.5 feet mean sea level; (2) a reinforced concrete diversion dam, 400-feet-long and 22-feet-high, including intake gates, a sluiceway, three 100-foot-long, 9-foot-high spillway roll gates, and fish ladders; (3) a 5-mile long, 15-foot-deep cut and fill unlined canal with a fish screening system at the upper end; (4) a forebay with two reinforced concrete pipe penstocks, 260-feet-long and 12-feet in diameter; (5) a reinforced concrete powerhouse, 32-feet-wide, 82-feet-long, and 40-feet-high, housing two vertical Francis turbine-generator units with a combined installed capacity of 15.9 megawatts (MW); (6) an 1,100-foot-long, 80-foot-wide tailrace (7) the Leaburg station; (8) the Holden Creek

substation; (9) an 11.5-kilovolt (kV), 0.43-mile generation line connecting the Leaburg station to the Holden Creek substation; and (10) appurtenant facilities.

The FERC license boundary of the Leaburg Development encompasses approximately 284 acres.

3.1.1 Current Conditions

The Leaburg Development is not generating hydropower due to the FERC mandate to dewater the Leaburg Canal to limit risk associated with the structural canal embankment deficiencies. Although EWEB is no longer diverting McKenzie River flow into the canal, the facilities otherwise continue to be operated and maintained in accordance with the FERC license. Leaburg Dam continues to impound water and maintains a lake level consistent with normal operations to ensure safe and reliable operation of EWEB recreation and fish passage facilities as well as the Leaburg Hatchery water supply system. EWEB provides semi-annual status updates to the FERC Division of Dam Safety and Inspections (D2SI) regarding near-term risk reduction progress and the long-term plan for the Leaburg Development.

3.1.2 Investigative Studies in Progress

There have been ongoing dam safety investigative studies since the FERC mandated the Leaburg Canal dewatering, though the prioritization and focus of the investigations has shifted to align with the Board decision to decommission. These studies will ultimately inform both the near-term risk reduction measures and the decommissioning process and, therefore, are interrelated. For example, a Drilling Program Plan (DPP) has been submitted to the FERC for review and approval, and the associated field work will provide initial subsurface data needed for analysis to support both the near-term risk reduction measures and the decommissioning planning effort. The field work for the DPP will be implemented in priority phases with the initial phase focusing on the following locations that present near-term risk reduction priorities:

- Luffman Spillway
- Cogswell Creek
- Johnson Creek
- Ames Reach

3.1.3 Near-Term Risk Reduction Measures

Although ceasing operation for power generation at the Leaburg Project has greatly reduced canal safety risks, potential failure modes (PFMs) remain while the canal operates as a stormwater conveyance facility during periods of heavy rainfall. Due to these ongoing dam safety concerns, near term risk reduction concepts have been developed to reduce hydraulic loading on the canal embankments from tributary creek inflows during the wet weather season and storm events. For example, measures that re-direct high flows from the larger tributary creeks, such as Johnson Creek and Cogswell Creek, are of particular interest.

In order to address the hydraulic risk associated with the tributary flows, the following concepts are being explored to mitigate risk:

- Isolating Cogswell Creek by installing a canal plug and directing the flow upstream to discharge into the McKenzie River at the Luffman Spillway.
- Isolating Johnson Creek by installing a canal plug and repatriating the flow to the McKenzie River via the approximate historic channel and/or installing a controlled outfall structure that will activate in the event of a high flow event.

An additional effort is currently underway to create a high-capacity low-level outlet at the canal's downstream forebay to pass flow through the powerhouse for discharge into the tailrace.

3.2 Walterville Development

The FERC license authorized the Walterville Development consisting of: (1) a 4-mile-long, 14-foot-deep canal with headworks equipped with two 13-foot-high, 20-foot-wide Tainter gates; (2) a forebay with a 16.5-foot-high, 16.5-foot wide, and 100-foot-long concrete penstock; (3) a structural steel powerhouse 37 feet wide by 88 feet long and 44.5 feet high, housing a single 8.0 MW Kaplan turbine-generator unit; (4) a 2-mile-long, 80-foot-wide tailrace; (5) the Walterville substation; (6) a 6.57-mile segment of 69-kV transmission line between the Walterville substation and the Hayden Bridge substation and a 115-kV segment of the B-1 transmission line extending 0.29 mile between the Hayden Bridge substation and Hayden Bridge Switching Station; and (7) appurtenant facilities.

The FERC license boundary for the Walterville Development encompasses approximately 345 acres.

3.2.1 Current Conditions

The Walterville Development continues normal operation in compliance with its operating license. The periodic 5-year inspection by an independent consultant was performed in 2022 and their resulting report was recently submitted to the FERC. The consultants identified several Potential Failure Modes (PFMs) that need further evaluation and EWEB has submitted a plan and schedule to the FERC for performing the recommended work.

3.2.2 Investigative Studies in Progress

The field work phase for the Walterville DPP was completed earlier this year and EWEB is reviewing the geotechnical summary report in preparation for submittal to the FERC. The DPP gathered in-situ subsurface data and installed instruments that will collect data for future analysis of the following areas of interest:

- Walterville Pond embankment
- Walterville Forebay reach

While the majority of the Waltherville Canal is categorized as low hazard, the two reaches noted above are categorized as high hazard due to potential impacts to neighboring development in the event of an embankment failure.

In addition to the high hazard reaches of the canal, there is some scour and undermining of the Waltherville spillway that is under investigation. The best approach for addressing the spillway deficiencies is dependent on the long-term plan for Waltherville, which is expected to be clarified during the forthcoming Waltherville Triple Bottom Line analysis that is scheduled for 2024.

4 REGULATORY PROCESS OVERVIEW

The Federal Power Act¹, enacted in 1935, is the statute that establishes the regulation of hydroelectric power, and the wholesale transmission and trade of electric power. It established the Federal Power Commission's authority to regulate the development and operation of non-Federal hydroelectric generation and to regulate electric utility companies engaged in interstate commerce.

4.1 Federal Energy Regulatory Commission

Initially established as the Federal Power Commission, FERC is an independent regulatory authority under the U.S. Department of Energy. They also have regulatory authority over natural gas, and the interstate transmission of electricity, natural gas, and oil.

The Commission is comprised of five presidential appointees, one of which is the appointed chairman of FERC. The Office of Energy Projects is one of 12 offices of the Commission. It is made up of five divisions. Three of these divisions are responsible for processing applications for hydropower licenses and exemptions, for ensuring compliance with terms and conditions of licenses and exemptions, and for ensuring the safety of water retaining features of hydropower projects (interstate natural gas pipelines and liquefied natural gas terminals are also under their authority). The regulatory authority is detailed under 18 CFR §§ 1-399.

4.1.1 Division of Licensing

The FERC Division of Licensing is responsible for the review, evaluation, and management of applications for license, relicense, license surrender of constructed projects, and exemptions. They prepare National Environmental Policy Act (NEPA) documents (environmental assessments and environmental impact statements) and make recommendations to the Commission in response to applications, i.e., approval, approval with modifications, or denial, and recommend conditions for authorization. Oregon is in the Northwest Branch of the Division of Licensing.

¹ 16 U.S.C. §§ 791 – 823g

4.1.2 Division of Hydropower Administration and Compliance

Once an authorization is issued by the Commission, the Division of Hydropower Administration and Compliance (DHAC) ensures compliance with license terms and conditions, and with Commission rules and regulations. They track and administer license requirements and conduct site inspections. DHAC also evaluates requests for license surrender and for license amendments. DHAC is made up of four branches: Land Resources, Engineering Resources, Environmental and Project Review, and Aquatic Resources.

4.1.3 Division of Dam Safety and Inspections

The FERC D2SI develops and implements Commission policies, programs, and standards for dam safety, public safety, and hydropower security. They ensure that projects are inspected, and that the construction, operation, and maintenance of hydropower projects protects life, health, property, and the environment. The regulations pertinent to the safety of projects are detailed in 18 CFR Part 12. Five northwest states are overseen by the Portland Regional Office of the D2SI.

4.1.4 FERC License Amendment or License Surrender Process

Two courses of actions are discussed in the LDAP:

- License Amendment: Required to decouple the Leaburg and Waltherville Developments currently licensed together. The Leaburg Development would then be decommissioned. The Waltherville Development would continue to operate for the remaining duration of the FERC license and, presumably, a relicensing application would be submitted to continue to operate beyond 2040.
- License Surrender: Both developments would be decommissioned, and the joint license surrendered.

To amend or surrender a FERC license, the licensee must follow the same process as that for relicensing or licensing. FERC regulations offer three licensing pathways or processes:

- Integrated Licensing Process
- Traditional Licensing Process
- Alternative Licensing Process

The default is the Integrated Licensing Process. A licensee or applicant must request and receive approval from the Commission to use the other processes. The three licensing pathways are described and compared below. The steps for each process are detailed in Appendix B.

All three pathways include a three-stage consultation process, and require a Pre-Application Document (PAD), study plan development and implementation, an Application for License Amendment or Surrender, and FERC review in accordance with NEPA. Each pathway also

includes the requirement that FERC comply with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108), Section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531 et. seq.), the Magnuson-Stevens Fisheries Conservation and Management Act (MSA). NEPA, NHPA, ESA, and MSA are described in further detail below.

4.1.4.1 Consultation Requirements

The First Stage Consultation in any licensing process involves the filing of a formal notification of intent (e.g., to surrender), a PAD, consultation with certain parties, and, if applicable, a request to use Traditional Licensing Process or Alternative Licensing Process.

During the Second Stage Consultation, studies are conducted, and the application and decommissioning plan are prepared. This stage concludes when the final Application for License Amendment or Application for License Surrender is filed with the Commission.

Filing the application with the Commission begins the Third Stage of Consultation. The Commission reviews the application to determine that it complies with the regulatory requirements for content and consultation. The application may then be accepted, or Commission staff may request additional information or documents.

In addition to consultation with FERC, the license processes require EWEB to “*consult with the relevant Federal, State, and interstate resource agencies, including the National Marine Fisheries Service, the United States Fish and Wildlife Service, the National Park Service, the United States Environmental Protection Agency, the Federal agency administering any federal lands or facilities utilized or occupied by the project, the appropriate State fish and wildlife agencies, the appropriate State water resource management agencies, the certifying agency under section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. § 1341(c)(1), and any Indian tribe that may be affected by the proposed project*”² and to “*contact or consult with members of the public.*”³

During the licensing process, information regarding the proposal is required to be made readily accessible for public inspection and reproduction. The information includes the applications and all exhibits, appendices, and any amendments; as well as “*comments, pleadings, supplementary or additional information, or correspondence filed*” by EWEB in connection with the application.⁴ Certain information such as locational detail of archaeological or Native American cultural resources, and endangered or threatened species, are excluded.

² 18 CFR § 4.38(a)(1)

³ 18 CFR § 4.38(a)(2)

⁴ 18 CFR § 4.32(b)(3)(i)

At this time, we know that consultation would need to include communication with the following parties:

- National Marine Fisheries Service (NMFS, also known as NOAA Fisheries)
- United States Fish and Wildlife Service (USFWS)
- Bureau of Indian Affairs (BIA)
- National Park Service (NPS)
- United States Environmental Protection Agency (EPA)
- Oregon Department of Fish and Wildlife (ODFW)
- Oregon Water Resources Department (OWRD)
- Oregon Department of State Lands (ODSL)
- Oregon Department of Environmental Quality (ODEQ)
- Oregon Parks and Recreation Department (OPRD)
- OPRD State Historic Preservation Officer
- Oregon Department of Agriculture
- Confederated Tribes of the Grand Ronde Community of Oregon
- Confederated Tribes of Warm Springs
- Confederated Tribes of Siletz Indians
- Lane County Parks
- Lane County Land Use Planning and Zoning
- Lane County Engineering and Construction Services
- Lane County Planning Commission
- Lane County Transportation Advisory Committee
- Members of the public

4.1.4.2 Pre-Application Document

The purpose of the PAD is to:

- provide the Commission and the consulting parties listed above, with existing and reasonably available information that is relevant to the project proposal.
- enable interested parties to identify issues and related information needs.
- develop study requests and study plans.
- prepare documents analyzing the application to be filed.

The PAD is required to identify existing engineering, environmental, and economic information relevant to the proposal. It must include existing information relevant to the project, and information that could reasonably be obtained. The requirements of the PAD are detailed in 18 CFR § 5.6. and include the following:

- A detailed description of the current project facilities and operation, a description of license requirements and compliance history, dam and public safety issues, a summary of generation and outflow records for the previous five years, and current net investment.
- A detailed description of the proposed project, including changes to existing facilities and features, and conceptual designs and plans for decommissioning and rehabilitation, enhancement, and mitigation.
- A description of the existing environment and any known and potential project effects on specific resources including:
 - geology and soils.
 - water resources.
 - fish and aquatic resources.
 - wildlife and botanical resources.
 - wetlands, riparian, and littoral habitats.
 - rare, threatened, and endangered species.
 - recreation and land use.
 - aesthetic resources.
 - cultural resources.
 - socioeconomic resources.
 - tribal resources.
 - description of the river basin.
- A list of preliminary issues pertaining to the identified resources.
- A list of anticipated studies and information gathering associated with the identified issues, including methods.
- A list of relevant comprehensive waterway plans and resource management plans.
- A summary of contacts with stakeholders, at a detail sufficient to enable the Commission to determine if due diligence has been exercised in obtaining relevant information.

- A process plan and schedule, with time frames for the following: consulting with stakeholders, gathering information, developing study plans, conducting studies, completing all pre-filing licensing activities, and obtaining permits.

EWEB is not required to conduct studies and generate information for inclusion in the PAD. However, EWEB will be required to exercise due diligence (including contacting appropriate stakeholders that may have relevant information) to identify, obtain, and summarize existing information, and to describe the existing environment and potential impacts of the project.

4.1.4.3 Study Plan

The information in the PAD provides the basis for the development of a study plan, the implementation of which will generate additional information that will be needed to determine potential effects of the licensing proposal to environmental resources.

The applicant's proposed study plan must:

- Describe existing information and need for additional information.
- Identify study goals, objectives, methods, information to be obtained, and schedule.
- Explain the relevance of the study to the direct, indirect, and/or cumulative effects to the resource, and to resource management goals.
- Describe how the proposed methods for data collection and analysis are consistent with generally accepted practices.
- Describe considerations for the study level of effort and cost.
- Outline provisions for periodic progress reports, technical review, updates, and meetings.

Resource agencies, Tribes, and other stakeholders can comment and request information or studies in response to the PAD. Their requests for studies, must:

- Describe existing information and need for additional information.
- Identify study goals, objectives, and the information to be obtained.
- Explain the relevant resource management goals of the agencies or Tribes with jurisdiction over the resource.
- If the requestor is not a resource agency, explain any relevant public interest considerations.
- Describe how the proposed methods for data collection and analysis are consistent with generally accepted practices.
- Describe considerations for the study level of effort and cost.

Each of the license process pathways provides for review and comment on study plans, but pathways for resolution of disputes on studies vary.

4.1.4.4 Application for License Amendment or License Surrender

The license application requirements are detailed in 18 CFR § 4.51. In addition to an initial statement detailing what is requested and the reasons for the request, an application must include the following Exhibits:

Exhibit A: Project Description

- Current project description
- Proposed Decommissioning Plan

Exhibit B: Statement of Project Operation and Resource Utilization

- Licensed operations (including all license articles and compliance status)
- Role of Leaburg-Waltermville Hydroelectric Project in EWEB’s power portfolio
- Proposed replacement power

Exhibit C: Proposed Construction Schedule

- License Surrender Process, if applicable
- Decommissioning Schedule

Exhibit D: Statement of Project Costs and Financing

- Estimated Project Decommissioning Costs
- Estimated Annual Average Cost of the Project
- Sources of Financing

Exhibit E: Environmental Report (similar to a NEPA environmental assessment)

- Background and Rationale for License Surrender or Amendment
- Purpose and Need
- Action Alternatives
- Description of Preferred Alternative
- Affected Environment
- General Description of the Locale
- Report on Water Use and Quality
- Report on Fish, Wildlife, and Botanical Resources
 - Fish and Aquatic Habitat
 - Terrestrial Resources
 - Protected Species
- Report on Historic and Archaeological Resources
- Report on Socio-Economic Impacts
- Report on Geological and Soil Resources
- Report on Recreational Resources
- Report on Aesthetic Resources
- Report on Land Use
- Consultation and Coordination
- References

Exhibit F: Project Drawings

Exhibit G: Project Site Map and Project Boundary

Appendices to Application

- Biological Assessment (ESA)
- National Historic Preservation Act Report
- Consultation Record
- Current Project License and Amendments
- Settlement Agreement, if applicable
- Technical Study Reports and Assessments (examples)
 - Hydrologic Analysis
 - Habitat Survey Report
 - Water Quality Monitoring Report and/or Data
 - Bathymetry and Sediment Evaluation Study

4.2 National Environmental Policy Act

The NEPA of 1969 (42 U.S.C. § 4321 et seq.) became effective on January 1, 1970, and requires that all Federal agencies consider environmental values alongside technical and economic considerations prior to undertaking any major Federal action. NEPA is a procedural law, which describes the process necessary for agencies to fulfill their responsibilities under the act. It does not mandate specific results or the selection of an environmentally preferable alternative, nor does it prohibit adverse environmental effects. NEPA does, however, require that agencies be informed of the environmental consequences of their decisions and the process they must follow before making any irreversible and irretrievable commitment of resources.

The NEPA also established the Council on Environmental Quality (CEQ) which oversees agency implementation of NEPA’s procedural requirements, detailed under 40 CFR Parts 1500 – 1508. These implementing regulations were revised in 2020.

FERC will be the Federal agency with primary jurisdiction over the Leaburg decommissioning, whether via license amendment or surrender, and thus will lead implementation of the NEPA process. Many Federal agencies, including the FERC, have developed their own procedural regulations to supplement the NEPA regulations. FERC’s procedural provisions are detailed in 18 CFR Part 380.

The level of NEPA review falls into one of the following three classifications:

Categorical exclusion: typically does not have significant effects.

Environmental assessment: is not likely to have significant effects OR the significance of the effects is unknown.

Environmental impact statement: is likely to have significant effects.

In determining whether effects are significant, agencies are to analyze the potentially affected environment appropriate to the specific action, setting (i.e., local, regional, national), scope, and resources (e.g., listed species and designated critical habitat).

4.3 Endangered Species Act

The ESA (16 U.S.C. 1531 et seq.) outlines the Federal policy for protecting and conserving threatened and endangered fish, wildlife, and plant species and the habitats on which they depend. The lead Federal agencies for implementing ESA are the USFWS and NMFS.

The law requires Federal agencies, in consultation with the USFWS and/or the NMFS, to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species. The law also prohibits any action that causes a "taking" of any listed species of endangered fish or wildlife. Likewise, import, export, interstate, and foreign commerce of listed species are all generally prohibited.

The FERC will be required to consult with the USFWS and the NMFS in accordance with Section 7(c) of the act.

4.4 National Historic Preservation Act

Section 106 of the NHPA (54 U.S.C. 306108) requires all Federal agencies to evaluate the impact of all Federally funded or permitted projects on historic properties or sites, and to consider the effects of their actions on any resource listed on, or eligible for listing on, the National Register of Historic Places. Federal agencies are to consult with the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) and provide the Advisory Council on Historic Preservation (ACHP) with the opportunity to comment with respect to the undertaking before an agency's decision. Where adverse effects are identified, Federal agencies must take steps to avoid, minimize, and mitigate those effects.

Article 433 of our FERC license required EWEB file with the Commission for approval, within one year of license issuance, the following items (a) Leaburg dam documentation, (b) Historic Resource and Protection Enhancement Plan, and (c) recreation facility plans for the Goodpasture Bridge area to protect historic resources in the project area. The article also required that we consult with the NPS and the SHPO during the development of these documents.

Through these license compliance activities, it was determined that a portion of the development was eligible for the National Register of Historic Places, an official registration, administered by the NPS, of properties recognized for their significance in American history, architecture, archaeology, engineering, and culture. The Commission, ACHP, Oregon SHPO, and EWEB developed and executed a Memorandum of Agreement (MOA) which was subsequently incorporated into the FERC license. It required EWEB to complete a National Register of

Historic Places Nomination Form for the Leaburg Development Historic District to define the components of the district. It also required EWEB to prepare Historic American Engineering Record (HAER) documentation of Leaburg Dam, and to develop a Cultural Resources Management Plan (CRMP) to avoid or mitigate any effects of continued project operation on the historical integrity of the district, Goodpasture Bridge, and on any as yet unknown archaeological sites in the project area. The CRMP contains procedures for SHPO consultation.

4.5 Clean Water Act Section 401 Water Quality Certification

Under Section 401 of the Clean Water Act (33 U.S.C. 1251 et seq.), Federal agencies may not issue a license or permit any discharge of pollutants into Waters of the U.S. unless the applicable State or authorized Tribe issues a certification that the action would meet water quality standards. The ODEQ is the implementing authority for issuing Water Quality Certifications in the State. Please note that ODEQ did not require a 401 Water Quality Certification for the Project during the last re-license period.

4.6 Potential Pathways

As indicated earlier, FERC regulations offer three pathways or processes through licensing: Integrated Licensing Process, Traditional Licensing Process, and Alternative Licensing Process. The default is the Integrated Licensing Process. An applicant or licensee must request and obtain approval from the Commission to use one of the other processes.

The three processes differ in the level of FERC staff involvement, study plan development, study dispute resolution, requests for additional information, timing of resource agency terms and conditions, and deadlines. Table 1 presents the differences between the three processes.

Factors to be considered in selecting a pathway other than the default process are:

- Complexity of the resource issues and availability of data for decision-making.
- Level of anticipated controversy,
- Likelihood of timely license issuance.
- Relative cost compared to the Integrated Licensing Process.
- Amount of available information and potential for significant disputes over studies.⁵

Other considerations include staff availability, knowledge, and experience.

Staff are currently assessing the advantages and disadvantages of each pathway relative to EWEB's specific decommissioning situation at Leaburg. The results of this assessment will be presented to the Board and integrated into the LDAP later this year.

⁵ 18 CFR § 5.3(c)(2)(ii)

Table 1. Comparison of FERC’s Three Licensing Processes.

	Integrated Licensing Process (default)	Traditional Licensing Process	Alternative Licensing Process
	<p>Default process.</p> <p>Projects with complex issues and study needs.</p>	<p>Available on request. Requires Commission approval.</p> <p>Projects with less complex issues and study needs, and little controversy.</p>	<p>Available on request. Requires consensus of stakeholders and Commission approval.</p> <p>Projects with contentious issues</p>
Consultation with Resource Agencies and Indian Tribes	Requires early engagement with Federal and State agencies, Indian Tribes, and the public.	Applicant directs the pre-filing process, including engaging Federal and State agencies, Indian Tribes, and the public in the development of the study plan.	<p>Collaborative and consensus-based-approach.</p> <p>Used for the cooperative development of a settlement agreement.</p>
FERC Staff Involvement	Early and throughout the process. Initiated in pre-filing with the filing of the Notice of Intent.	Typically, no FERC involvement in the pre-filing process unless requested, e.g., for study disputes, to attend meetings and to provide advice, education, guidance.	Early and throughout the process, as requested. Initiated in pre-filing with the filing of the Notice of Intent.
Deadlines	Defined for all participants (including FERC, licensee, Indian Tribes, agencies, and the public) throughout the process for preparing and reviewing licensing documents.	<p>Does not set deadlines for pre-filing activities including study plan development, project review, public meetings, stakeholder comments.</p> <p>Post-filing deadlines for participants are FERC/Process defined.</p>	<p>Pre-filing deadlines for participants are collaboratively defined.</p> <p>Post-filing deadlines for participants are FERC/Process defined.</p>

	Integrated Licensing Process (default)	Traditional Licensing Process	Alternative Licensing Process
Study Plan Development	<p>Developed through meetings and consultation with Federal and State agencies, Indian Tribes, and the public. FERC involved in the development.</p> <p>Plan approved by FERC.</p>	<p>Developed by applicant based on early agency, Tribal, and public recommendations.</p> <p>No FERC involvement.</p> <p>Risk of stakeholder requests for additional studies.</p>	<p>Developed collaboratively through workgroup meetings.</p> <p>FERC staff can provide assistance (advisory).</p>
Study Dispute Resolution	<p>Informal study dispute resolution is available to all participants.</p> <p>Formal study dispute resolution is available to agencies with mandatory conditioning authority⁶.</p> <p>Three-member panel provides technical recommendation on study dispute.</p> <p>The opinion of the Director of the Office of Energy Projects is binding on applicant.</p>	<p>FERC study dispute resolution (non-binding) is available upon request to agencies and affected Tribes.</p> <p>Director of the Office of Energy Projects issues an advisory opinion.</p>	<p>FERC study dispute resolution (non-binding) is available upon request to agencies and affected Tribes.</p> <p>Director of the Office of Energy Projects issues an advisory opinion.</p>

⁶ Authority under the Federal Power Act Sections 4(e), Section 18, and authority issuing a Clean Water Act Section 401 Water Quality Certification. Includes the U.S. Department of Commerce, U.S. Department of the Interior, and ODEQ.

	Integrated Licensing Process (default)	Traditional Licensing Process	Alternative Licensing Process
Application	Preliminary license proposal or draft application, and final application include Exhibit E, which has the form and contents of an EA.	Draft and final application include Exhibit E.	Draft and final application includes an applicant-prepared environmental assessment or third-party environmental impact statement.
Post-filing Additional Information Requests	No formal avenue to request additional information after the application has been filed. The application is provided to participants for review and comment prior to filing.	Available to participants after filing of application. Risk of stakeholder requests for additional studies.	Available to participants primarily before application filing. Requests can be made post-filing but should be limited due to collaborative approach.
Timing of Resource Agency Terms and Conditions	Preliminary terms and conditions filed 60 days after FERC issues Ready for Environmental Analysis notice. Modified terms and conditions filed 60 days after due date for comments on EA or draft NEPA document.	Preliminary terms and conditions filed 60 days after FERC issues Ready for Environmental Analysis notice.	Preliminary terms and conditions filed 60 days after FERC issues Ready for Environmental Analysis notice.
Consultation and NEPA Process Scheduling	Pre-filing consultation is concurrent with FERC's NEPA scoping process. Helps to ensure consistency between the study plan and FERC's environmental review.	Pre-filing consultation and NEPA process are sequential. Provides an opportunity for participating stakeholders to request additional information and studies.	Pre-filing consultation is concurrent with FERC's NEPA scoping process.

4.6.1 Case Studies, Research, Lessons Learned

Staff are continuing to review available information that will be considered when proposing a licensing pathway recommendation to the Board. The recommendation, rationale, and references will be provided to the Board in the final LDAP document.

4.7 Permitting and Pre-Construction Requirements

Before decommissioning activities can commence, a number of Federal, State, and County permits, approvals, and reviews will be required.

FERC D2SI requires the following:

- Review and acceptance of plans, specifications, supporting design reports.
- Independent professional engineer review and approval of designs for coffer dams and deep excavations.
- Temporary Construction Emergency Action Plan.
- Quality Control and Inspection Program.
- Erosion and Sediment Control Plan.
- Revised drawings of project features as-built.

U.S. Army Corps of Engineers (USACE)⁷

- Permit under Section 404 of the CWA (33 U.S.C. 1344) for the discharge of dredged or fill material into waters of the U.S., including wetlands. The USACE must apply the environmental criteria established under the EPA 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR § 230). The USACE must also apply the Sediment Evaluation Framework for the Pacific Northwest.⁸ A permit under Section 404 requires a Water Quality Certification issued (or waived) by the ODEQ under Section 401 of the CWA.
- Permit under Section 10 of the Rivers and Harbors Act (33 U.S.C. 403) for work, or for the construction of any structure, in, over, or under, and affecting course, location, condition, or capacity of navigable waters of the U.S.

⁷ The USACE must comply with NEPA and the CEQ implementing regulations under 18 CFR § 380. The USACE supplemental procedural guidance is found under 33 CFR part 325, Appendix B.

⁸ Northwest Regional Sediment Evaluation Team (RSET). 2018. Sediment Evaluation Framework for the Pacific Northwest. Prepared by the RSET Agencies, May 2018, 183 pp plus appendices.

Oregon Department of Environmental Quality

- National Pollutant Discharge Elimination System (NPDES) Permits
- Clean Water Act Section 401 Water Quality Certification (required for FERC license surrender or amendment, and for USACE authorization).

Oregon Department of State Lands

- Permit to remove or place fill material in waters of the State.

Oregon Department of Fish and Wildlife

- Oregon Guidelines for the Timing of In-Water Work to Protect Fish and Wildlife Resources⁹ (July 1 to August 15 above Leaburg Dam, and “*by specific arrangements with ODFW*” below Leaburg Dam).

Lane County

- Permit for floodplain developments within the 1% (100-year) flood hazard areas.
- Grading, Right-of-Way, Facility, Utility, and Building Permits.

Oregon Department of Transportation

- Right-of-Way permits.

In addition to the permits noted above, additional permits may be required depending on the specific details of the decommissioning plan.

5 PARTICIPANT ENGAGEMENT STRATEGIES

Clear and effective communication is vital to facilitate progress towards achieving the decommissioning of the Leaburg Development. Managing participant expectations is key to productive working relationships, especially when participants have various conflicting interests and motivations.

In working toward the decommissioning of the Leaburg Development, EWEB will continue its commitment to transparency as a public utility, guiding our customers to the best, public, up-to-date information about the process, while also engaging our agency partners with strategic outreach to optimize the studies, assessments, and negotiations ahead.

⁹ January 2022

Public participation is necessary to achieve the following goals:

- Maintain customer trust and confidence in EWEB, including EWEB Commissioners, Executive Team, LDAP team members, Leaburg-Walterville Hydropower Operators, and other EWEB staff.
- Maintain customer support for the decision to decommission the facility, continue to provide clarity for customers and community members who may not yet support the decision to decommission the facility.
- Provide public understanding of timelines, anticipated sequence of events, regulations, and opportunities for public involvement.
- Communicate updates and EWEB perspectives to seek alignment with partner agencies.
- Manage public safety during construction phases.
- Seek financial support for the planned work.
- Comply with applicable Federal, State, and local regulations.
- Implement work within the spirit of EWEB's Community/Culture core value: "We value a culture of intentional actions and outcomes, continuous improvement, diverse perspectives, that is trustworthy, respectful, equitable, and inclusive to employees and community members. We are dedicated to our public service, professions, local governance, and commitment to serve our community honestly and with integrity."
- Facilitate EWEB's work with project neighbors.
- Listen to community members for pain points, challenges, and opportunities to mitigate impacts of the project.
- Incorporate community feedback and opinions, where appropriate, to allow community buy-in and pride for the future decommissioned configuration of the facilities.
- Create multi-agency and public cohesion to avoid future roadblocks and optimize the efficiency of project implementation, serving EWEB's affordability core value: "*We value and respect our customer-owners' financial resources by making wise investments and controlling costs and rates.*"
- Other needs as the project enters new phases.

EWEB and the Leaburg Decommissioning Action Team will strive to create a culture of transparency and trust with our partners, members of the public, and internally. Throughout the long road ahead, this communication plan will employ the principles of adaptive management and continuous improvement to ensure all participants' voices are heard through each stage of the process.

5.1 Participant Management Plan

Throughout the decommissioning process, EWEB will engage five main participant groups:

- Internal
- Public: Local community, customers, interest groups
- Non-Governmental Organizations (NGOs)
- Tribes
- Federal, State, and Local Agencies

Each of these groups will have multiple needs, interests, and levels of involvement and management strategies. Throughout the process, EWEB will strive to engage with each group in accordance with the International Association for Public Participation's Public Participation Spectrum.

Levels of participation for each group will vary throughout the decommissioning process. The Leaburg team will define decision points that could incorporate varying levels of involvement, depending on the topic. For example, public participation in considering the future disposition of recreation facilities could call for increased feedback from the local community. Decisions on historic preservation could involve the entire customer base. As such opportunities arise, the team will be sure to incorporate public feedback when appropriate, and otherwise continue to clearly define decisions reliant upon expert assessment.

5.1.1 Internal Participants: EWEB Commissioners and Staff

As with the Strategic Evaluation phase, the Leaburg Decommissioning Action Team will first seek to serve the needs of EWEB Commissioners and staff. The team will serve EWEB interests with the goals of internal participants being aware of major milestones first, before sending external notifications. We greatly value the work of the operations staff and will seek to continue to support their situational awareness – as well as their sense of job satisfaction, as much as possible.

We value the work of our fellow employees from across the utility, and will seek to provide customer service agents, and collaborators in the finance, energy planning, source protection, environmental, and other departments, with the information they need to efficiently accomplish their work and to contribute to ours.

With internal participants and stakeholders, we will use the following methods of communication to share information and updates:

- EWEB Employee News
- Email communication & Teams messages and collaborations
- Board memos, presentations, and correspondences

- Meetings and direct communication
- Personal relationships
- Employee news articles
- Lunchtime Question and Answer sessions

Communication will occur on a daily, weekly, monthly, and quarterly basis, depending on project needs.

5.1.2 Public

Decommissioning the Leaburg Hydroelectric Project will have significant rate impacts to all EWEB Customers. EWEB's upriver customers will not only face rate increases but will also be impacted by altered recreational opportunities and potential economic changes associated with modifications to the existing project facilities. Proximity to the project also correlates with greater impacts including construction noise, air pollution, and traffic delays associated with construction activities. Transportation access for residents and businesses on the south side of the river will be impacted, and lakeside residents will experience significant change as the lake is restored to riverine habitat.

Similar to the strategic evaluation phase, EWEB intends to prioritize targeted outreach to the McKenzie community to keep them updated about the process and feedback loops open, so their concerns are understood and considered during the planning and implementation processes. Prioritized outreach to the community is likely to include:

- Annual upriver Board meetings
- Monthly Board meetings
- Upriver listening sessions
- Online listening sessions
- Flyers and posters
- Direct mailers
- Local media engagement
- Project website and videos
- Community events
- Community and civic group meetings

Moving forward through each upcoming phase of work, EWEB will use the above outreach strategies for both the Eugene-based and upriver customers to provide information and obtain feedback on mitigating impacts. As the path to decommissioning is determined, the outreach

strategy will be updated as needed to capture the appropriate message and ensure the correct stakeholders are informed.

5.1.3 Non-Governmental Organizations

EWEB has established working relationships with many of the local Non-Governmental Organizations (NGOs) whose participation will likely continue throughout the decommissioning process. These NGOs include, but are not limited to:

- Environmental groups
- Community development organizations
- Community partners
- Project consultants and contractors

EWEB will keep these groups informed, especially as to how they can participate in formal public comment opportunities. Many of these groups will require information to assess how decommissioning will impact their work in the fields of watershed health, local economic impacts, labor force availability, and community well-being. Strong relations with these groups will facilitate license surrender negotiations.

Communication with these groups will primarily occur through formal channels, including emails to appropriate collaborators and newsletters to groups of contacts. Informational meetings will be held periodically to provide project updates.

5.1.4 Tribes

EWEB's service territory is on the traditional homelands of the Tribes and Bands of the Kalapuyan peoples, who were dispossessed of their lands and forcibly removed by the United States government. Today, many of the descendants of the Kalapuyan people are members of the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians, and members of other Tribes and Bands that may not have Federal recognition. EWEB also recognizes the traditional territories of the Confederated Tribes of Warm Springs. EWEB recognizes the status of these Tribes as sovereign governments and is committed to formal Tribal engagement protocols, aiming to establish and improve relationships with local Tribal communities.

Regarding the decommissioning of Leaburg, EWEB will align and coordinate with FERC with the respect of government-to-government relationships. EWEB will seek to engage Tribal leaders in high-level meetings at the outset of the decommissioning process, then establish working relationships and communication between the Leaburg project team and corresponding Tribal staff members. The project team will create procedures to educate EWEB staff about Tribal governments and cultures, and commit to informing Tribal members about decommissioning impacts, updates, and comment opportunities.

5.1.5 Federal, State, and Local Agencies

Following the Board decision, EWEB began informal dialog with some Local, State and Federal agencies. EWEB will continue working with these agencies to meet regulatory compliance guidelines. Clear, frequent, and amenable communication is crucial for overall success.

Please refer to Section 4.1.4.1, Consultation Requirements, for a list of the key agencies that EWEB will be interfacing with during the decommissioning effort. Involvement with these agencies is not only required but will also improve results for all parties.

EWEB will communicate with the above agencies by providing regular status updates through official channels, periodic formal reviews and submissions, and work group meetings as needed.

As the participant management plan aims to build and maintain a healthy relationship with all participants throughout the project's lifespan, the plan will be reviewed and updated as the project progresses and new issues or participants emerge.

6 CONCEPTUAL DESIGN

Four high level conceptual design alternatives with American Association of Cost Engineering (AACE) level 4 cost estimates were developed as part of the Leaburg TBL analysis, including the decommissioning to stormwater conveyance (SWC) alternative that was ultimately selected. AACE Level 4 cost estimates are based on a conceptual design development of approximately 5% and, therefore, have an accuracy range of approximately -30% to +50%. The SWC concept is currently at a very high level and will need significant refinement prior to presentation to the FERC and stakeholders as part of the regulatory processes for decommissioning.

6.1 Alternative Decommissioning Configuration and Feasibility Assessments

Although the SWC alternative developed for the TBL is feasible, the concept was based on limited information and many assumptions. Continued development of the conceptual design is necessary and will be an iterative process that includes studies to fill information gaps and confirm initial assumptions. As an example, the SWC alternative was based on the assumption that it would not be feasible to re-develop a channel for Cogswell Creek to flow directly to the river but would rather be necessary to continue relying on a portion of the canal to convey Cogswell water to the river. These types of assumptions that currently underlie the SWC concept will need to be validated by more detailed investigations and feasibility studies.

Decommissioning and modifying portions of the canal is highly complex and EWEB wants to ensure that the conceptual plans presented in the pre-application submittal are truly viable. Refining the existing high-level concepts into solid plans will require the involvement of subject matter experts from many technical disciplines to perform alternatives analyses on various issues such as transportation access. Concept refinements will rely on the expertise of both

internal staff and external consultants and stakeholders. Subject matter experts that are expected to be needed for various design issues include:

- Project Management
- Regulatory and Compliance
- Legal
- Land Use and Water Rights
- Cultural Resource and Historical Preservation
- Engineering
- Geotechnical
- Survey
- Hydraulic/hydrologic
- Transportation
- Structural
- Mechanical
- Construction
- Environmental
- Aquatic Biological
- Terrestrial Biological
- Water quality
- Water resources

6.2 Cost Refinements

Estimated project costs will continue to be refined throughout design development based on, but not limited to, the following:

- Results and information gathered from the studies used to inform designs.
- Alternatives analyses for specific project aspects (e.g. dam removal, access improvements, stream repatriation, embankment modifications, etc.).
- Regulatory requirements.
- Negotiations with key stakeholders.
- Board feedback.

7 STUDIES AND DATA COLLECTION

As identified in section 4.1.4.3, above, regardless of the licensing process and licensing action that will be pursued, after submittal of the PAD, EWEB is required to develop a study plan, in consultation with stakeholders, to gather the necessary data for the application to FERC. The PAD will include a list of anticipated studies and information gathering which will then be refined through consultation with stakeholders.

In addition to the studies for the FERC licensing surrender or amendment process, studies will be needed to help inform near-term risk reduction planning and project development. This information can also be used for decommissioning planning, alternatives development, and implementation effort (e.g., geotechnical).

At this time, studies and data collection are expected to address the following subjects to inform near-term risk reduction measures and develop a decommissioning plan and alternatives.

7.1 Transportation

Decommissioning is expected to have impacts to the local transportation system because current infrastructure is in close proximity to residential, commercial, and agricultural developments that are served by a mix of public and private roadways and bridges. The majority of public roadways serving the impacted properties are under the jurisdiction of Lane County Public Works. Oregon State Highway 126 also parallels the infrastructure with various facilities bordering its right-of-way in many locations. Highway 126 crosses over the canal via a bridge maintained by the Oregon Department of Transportation and crosses over the penstocks/siphon spillways near the powerhouse.

In addition to the highway 126 bridge, the project footprint contains five vehicle bridges and one pedestrian bridge spanning the canal, and one bridge spanning the McKenzie River that provides access to developed properties located on the south side of the river via Leaburg Dam Road.

Potential studies to assist the agencies with jurisdiction over transportation in their decision-making may include:

- An alternatives analysis to determine options for providing access to the south side of the river due to the likely removal of the Leaburg Dam Road Bridge.
- A traffic count and corridor study that will inform the alternatives analysis, design criteria development, construction traffic management planning, and potential reconfiguration of roadways or bridges.
- Load rating studies of impacted bridge structures
- Subsurface explorations to inform engineering design and plan development.

7.2 Water Rights

EWEB has already performed research to understand our water supply obligations and potential remedies for the various water right stakeholders. With the decision to decommission in place, a more focused water right study is now possible for identifying potential options for all stakeholders and determining EWEB's preferred solutions for any obligated water right holders that need to be developed as part of the decommissioning process.

7.3 Water Quality

EWEB has begun preliminary data collection to develop a baseline understanding of how Leaburg and Walterville operations affect water quality in the McKenzie River. Though the specific parameters desired by regulatory stakeholders have not been confirmed at this early stage in the process, the preliminary water quality study data collection program includes the most likely parameters of interest. The study scope will be updated as necessary if additional requirements are determined.

Routine water quality analysis performed by EWEB for drinking water source protection is ongoing and relevant data can supplement the Leaburg/Walterville-specific water quality studies as needed. EWEB will also continue to monitor the Leaburg Canal for algal toxins and other water quality impacts that may be posed by the current operational status.

7.4 Lake Sediments

EWEB will need to understand the quantity and properties of the sediment deposits in Leaburg Lake in order to develop a work plan for how the sediment is managed. It is assumed this study will be used in tandem with the water quality and hydraulic studies.

7.5 Hydraulic Analysis

The removal of Leaburg Dam, restoring the McKenzie River to its pre-project channel in the area of the existing lake, conveying stormwater, and repatriating tributary creeks to the river that are currently intercepted by the Leaburg Canal will cause changes to the existing water flow regimes. These will need to be understood as part of the planning process, and studies of the mainstem river and tributary creeks will complement the water quality and lake sediment transport studies.

7.6 Aquatic Species

The Leaburg Dam is a low-height barrier that has operated with effective fish ladders since it was constructed nearly 100 years ago. Upstream and downstream fish passage improvements have been retrofitted into the dam and canal intake facilities over the years. The existing infrastructure also provides the Leaburg and McKenzie Fish Hatcheries with a gravity-flow supply for their primary water sources. In addition, the fish passage facilities at Leaburg Dam provide a valuable location for fish sorting and counting operations.

Decommissioning the Leaburg facilities to stormwater conveyance will trigger a variety of short-term and long-term impacts and benefits to aquatic species through the removal and alteration of infrastructure. Understanding the impacts to aquatic species will be necessary for mitigating negative impacts to the aquatic system, including migratory and local aquatic species. In addition, EWEB will need to comply with the ESA described above in Section 4.1.4. It is assumed these studies will be used in tandem with the water quality, lake sediment and hydraulic studies.

7.7 Cultural Resource and Historical Preservation

As discussed earlier, comprehensive cultural and historical survey work for the Leaburg facilities were completed in accordance with license requirements. Decommissioning of the Leaburg Development will affect these established cultural and historical resources, triggering the need to determine how those decommissioning impacts can be most appropriately mitigated. Additional small-scale cultural resource surveys may be necessary for sites outside the Project Boundary where ground-disturbing activities would be necessary for implementation of a decommissioning plan. They may also be necessary for implementation of near-term risk-reduction measures that extend beyond the boundary. Since these areas have not been surveyed previously, EWEB would need to perform additional archaeological surveys and consultation with SHPO in accordance with Section 106 of the NHPA.

8 PROPERTY MANAGEMENT STRATEGIES

The Leaburg Development extends over five miles and borders residential, commercial, and agricultural properties, as well as portions of the McKenzie River. The Project Boundary also encompasses tributary creeks, transportation facilities, irrigation infrastructure, and recreational assets. According to Lane County mapping data, EWEB's Leaburg-related ownership is comprised of 10 parcels totaling approximately 542 acres of land.

Upcoming work for both near term risk reduction measures and decommissioning to stormwater conveyance will impact many property owners directly and indirectly and will trigger EWEB to acquire real property to accomplish the work. A detailed understanding of the impacts and disposition to real property will need to be included as part of the license application submittal.

Property management strategies will address key short-term and long-term issues during the planning, implementation, and post-implementation phases of the decommissioning effort. These strategies will need to be revisited and updated at various milestones in response to information obtained through studies, selected alternatives, approval of design concepts, or potential agreements with partners for jurisdictional or land transfers.

8.1 Property and Property Easement Acquisition

Due to varying terrain and access constraints, proximity to private land, and the complexity of the risk reduction and decommissioning work, the following real property acquisitions will be required:

- Temporary Construction Easements
- Permanent Easements
- Partial parcel acquisitions
- Full parcel acquisitions

8.2 Property Retention

EWEB will need to retain lands within the Project Boundary until a license amendment or license surrender is granted by the FERC. EWEB will also likely need to retain possession of land with actively managed stormwater conveyance infrastructure to ensure proper ongoing operations and maintenance, whether the land is currently in EWEB's control or will be acquired in support converting to stormwater conveyance.

As part of the decommissioning effort, EWEB intends to restore the project area to natural conditions where practical. Additionally, in the longer term EWEB will continue to look for opportunities to naturalize the remaining stormwater conveyance infrastructure to reduce risk and ongoing operational obligations after the license surrender is granted.

8.3 Property Release

As described below in Section 9, EWEB will look for opportunities to partner with other agencies and organizations that have mutual interests related to the post-decommissioning status of Leaburg Facilities. In some cases, these partnerships could result in transferring land and associated assets that are currently under EWEB's control to other agencies or organizations via the coordination, collaboration, and negotiations associated with the decommissioning.

EWEB will need to consider many issues when deciding to release property, including, but not limited to:

- Public safety
- Source protection
- Water quality
- Financial obligations
- Operational obligations
- Maintenance obligations

- Recreational obligations
- Historical preservation or cultural obligations

In general, determining the long-term disposition of land that remains in EWEB's control after the decommissioning is outside of the scope the LDAP.

9 PARTNERSHIP AND FUNDING OPPORTUNITIES

EWEB will look for opportunities to create partnerships that help achieve mutual goals through coordination and collaboration. Partnerships may include, but not limited to:

- Cost sharing to achieve shared interests.
- Joint grant applications.
- Information and data sharing.
- Collaboration on technical and alternatives analysis.
- Property ownership transfers.

At this stage, EWEB has identified the following stakeholders with whom to actively seek partnership opportunities to achieve shared goals. Additional partners will be identified as part of the planning process.

- National Marine Fisheries Service
- United States Fish and Wildlife Service
- Oregon Department of Fish and Wildlife
- Lane County Public Works
- Oregon Department of Transportation
- Oregon Marine Board
- Oregon Department of State Lands
- McKenzie Watershed Council
- McKenzie Community Partnership

EWEB intends to explore funding and cost saving options through solo or joint-grant applications, cost sharing with external stakeholders, and other mutually beneficial funding strategies.

Obtaining grant funding is competitive, with specific qualification requirements. Most grant opportunities require the applicant to provide sufficient scoping details to ensure eligibility and feasibility. Although some programs may provide funding for studies and research for project

development and conceptual design development, most programs require that proposed projects be nearing an advanced development stage or close to shovel ready.

Because decommissioning has positive long-term environmental benefits for the local watershed, EWEB is likely to be competitive for programs that provide funding for water quality and habitat restoration projects.

10 FINANCIAL PLANNING

Spending projections for the Leaburg decommissioning effort will be updated annually to account for progress made with project planning and execution. The current spending projection assumes a significant portion of the decommissioning work will be completed by 2041. However, the decommissioning requirements are not entirely in EWEB's control, which could impact the assumed timeline and budget.

Current financial projections are based on the baseline capital cost developed for the TBL, with refinements to incorporate new information. As described above in Section 6, the current forecast costs have a range of accuracy of -30% to +50% of the baseline estimate because the plans are conceptual and only developed to approximately 5%.

Costs include both non-utility capital assets and operational and maintenance (O&M) budget classifications. The current Leaburg project budget categories and their classifications are as follows:

- Near-Term Risk Reduction: Non-utility property classification (Capital).
- Water Rights: Non-utility property classification (Capital).
- Real Property: Non-utility property classification (Capital).
- Decommissioning to include all related planning, project development and implementation cost: O&M.

10.1 Spending Projection Refinements

Spending projection refinements will be provided at least annually, coinciding with the following:

- Evaluation of consultant and contractor progress (percent completion) relative to estimate.
- Iterative project and design development process, as described in Section 6.2.
- Status of real property and water rights.
- Internal and external resource requirements.

- Inflation and material escalation.
- Potential external funding sources, including partnerships and grants.

10.2 Funding Approaches

Given the significant cost associated with both near term risk reduction measures and decommissioning, EWEB will need to take a diversified approach to funding the project, including, but not be limited to:

- Electric rate increases.
- Bonding/Financing.
- Partnerships, as described Section 9.0.
- External funding opportunities, as described in Section 9.1.
- Sale of excess non-utility capital assets, as described in Section 8.3.

The most likely sources of project funding will be rate increases and financing. Other options will be explored but are not guaranteed and should not be relied upon.

10.2.1 Capital Work

The ongoing and forthcoming near-term risk reduction work qualifies as capital since it involves changes to land. The land and stormwater conveyance facilities that will remain in EWEB's operational control upon completion of the decommissioning effort will be classified as non-utility capital assets for the Electric Utility because they are not used in the production of electricity.

Based on the current projections, capital expenditures are expected to be approximately 29% of the overall Leaburg spending.

10.2.2 Operations and Maintenance Work

Decommissioning the project facilities will be expensed as incurred or deferred with regulatory accounting to match the rate-making process. The work involves dismantling and relinquishing facilities.

Based on the current projections, O&M expenditures are expected to be approximately 71% of the overall Leaburg spending.

11 STAFFING AND RESOURCE PLANNING STRATEGIES

Planning and implementing the near-term risk reduction and decommissioning work will require extensive resources, including internal staff and consultant support. Ultimate resource needs are dependent on a number of factors, including the selected licensing pathway and

decommissioning program management strategy. A high-level resource strategy will be provided in the final LDAP report.

12 TIMELINE PROJECTIONS AND KEY MILESTONES

Updated timeline projections and key milestones remain under development and will be provided in the final LDAP report.

13 BOARD OF COMMISSIONER INVOLVEMENT

The Record of Decision per Resolution 2302 approved by the Board directs that the LDAP include detailed information on future Board oversight, milestones, and opportunities for directional alterations and decisions. Regular Board involvement and knowledgeable support will be important to the overall success of the near-term risk reduction and decommissioning efforts.

13.1 Progress Monitoring

EWEB staff are currently submitting updates on Strategic Goal No. 6 and LDAP progress in the Strategic and Operational Quarterly Report, as well as through periodic Board updates. Staff expects that progress on the overall risk reduction and decommissioning effort will remain a strategic goal with quarterly updates provided throughout the entire process. In addition to quarterly updates, staff will also provide progress updates per the following:

- Semi-annual Board presentations, including the Upriver Board Meeting.
- Additional Board updates, workshops, and correspondence as needed to advance progress on specific decommissioning issues.
- Annual Capital Improvement Plan and O&M budget updates

13.2 Key Decision Points.

A key objective of the LDAP is to ensure that the Board of Commissioners are well informed of project status details and progress so they are positioned to offer input, ask questions, and provide guidance at important milestones. In addition to routine updates, staff will seek Board input on issues including, but not limited to:

- Regulatory process determination.
- Walterville disposition at license expiration (relicense or surrender).
- Changes in key baseline assumptions.
- Any unexpected, high-impact events.

13.2.1 Regulatory Process Determination

As described in greater detail in Section 4.1.4, FERC regulations include three potential pathways through the licensing process:

- Integrated Licensing Process
- Traditional Licensing Process
- Alternative Licensing Process

Staff are currently assessing the advantages and disadvantages of each pathway relative to EWEB's specific decommissioning situation at Leaburg. The results of this assessment will be presented to the Board and integrated into the LDAP later this year.

13.2.2 Walterville Disposition at License Expiration (re-license or surrender)

The Leaburg and Walterville Developments are jointly authorized under a single license from the FERC. Due to this situation, the most appropriate regulatory path forward will be influenced by the long-term operational plans for Walterville.

To advance regulatory process decisions in a timely manner, it will be necessary to understand the likely future disposition of the Walterville Development. Although Board Resolution 2302 indicated that a strategic evaluation of Walterville could be completed any time prior to 2030, conducting the evaluation in 2024 will inform the regulatory process related to the decommissioning of Leaburg. Although EWEB intends to operate the Walterville Development at least through the current license term (2040), determining the preferred outcome for Walterville upon license expiration will position EWEB to work most efficiently through the regulatory process.

13.2.3 Changes in Key Baseline Assumptions and Unexpected High Impact Events

The Management Recommendation entitled the Future Disposition of the Leaburg Hydroelectric Project, dated November 30, 2022, details the importance of directional resiliency and flexibility. It also acknowledges that the long duration of the decommissioning effort creates the potential to experience changes in staff and Board members, thus making directional resiliency and flexibility valuable during implementation of the LDAP.

The TBL that supported the decommissioning decision was based on various assumptions and stated uncertainties related to the economic, social, environmental, and regulatory climate. In the event of a significant change in a baseline assumption(s) or if an unforeseen high impact event occurs, staff will inform the Board of the potential risk, threats, and opportunities so that the Board can provide direction on how to proceed.

14 INTERDEPENDENCIES

Development of the LDAP has revealed many intricacies and interdependencies of various decision points, as well as dependencies between the processes associated with implementing near-term risk reduction measures and planning out the longer-term decommissioning effort. It is likely that additional process dependencies will be realized as the LDAP is further developed and implemented. As such, the LDAP will serve as a roadmap that will require regular updates as new information becomes available, assumptions are verified, and uncertainties are resolved.

A challenging aspect of the LDAP is that some objectives can come into conflict with others. For example, efforts to minimize cost may not be aligned with desires to maximize the extent of restoration to pre-project conditions. Resolution of these tensions will factor into the details of appropriate study plans and clarify necessary timelines as well as key stakeholders. Recognizing these interdependencies will be important managing expectations among both internal and external stakeholders and will enable EWEB highlight inherent complexities with consistent and transparent messaging during outreach and negotiation processes. The project team will identify the important interdependencies and conflicts as part of the final iteration of the LDAP.

APPENDIX A

HISTORY OF THE LEABURG-WALTERVILLE HYDROELECTRIC PROJECT

Construction of the Leaburg Development began in 1928 and was completed in 1930. The Development consisted of the 450-foot-long Leaburg Dam, a 5-mile-long canal, and a 7,500 KVA power plant with provision for a second generator at a later date. Improvements were eventually made to the Leaburg Canal to provide additional flows up to 2,500 cubic feet per second (cfs) for the second unit, which was rated at 9,375 KVA. It was placed in service in January 1950. The initial project was constructed for a cost of \$2,067,212¹⁰. Following purchase and installation of the second unit, the total cost for the facility was placed at \$2,896,495 in 1963.

The Walterville Development of the Project pre-dates Leaburg by nearly 20 years. Construction of the Walterville Development began in 1909 and was completed in 1911. It consisted of a 4-mile-long canal carrying 600 cfs, and operating two Francis-type horizontal shaft turbines producing approx. 1,500 KVA. A third unit was added in 1924, increasing capacity to 3,050 KVA. In 1949, the facility underwent a significant upgrade. The canal was widened and deepened, and a new powerhouse was constructed. At completion, the canal was able to carry 2,575 cfs, and a single Kaplan unit, rated at 11,000 HP, could generate 9,430 KVA. By 1949, the Walterville development was completed at a cost of \$1,885,482. A 65-acre pump storage pond, with a storage capacity of 345-acre-feet was constructed in 1951 and 1952 approximately 3 miles below the intake. This increased the dependable capability of the Walterville Plant to 8460 KVA for a three-hour period. As of December 31, 1963, the total cost of the Walterville facilities was placed at \$2,194,741.

The Federal Power Act¹¹ was enacted in 1935 and codified in 16 U.S.C. §§ 791 to 823(d). It established the Federal Power Commission with the authority to regulate the development and operation of non-Federal hydroelectric generation. The Federal Power Act made it *“unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States ... except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this Act.”*¹²

¹⁰ Eugene Water & Electric Board. 1964. Application to the Federal Power Commission to authorize the operation and maintenance of the Leaburg Hydroelectric Project. Exhibit N.

¹¹ 16 U.S.C. §§ 791 – 823g

¹² 16 U.S.C. 817(1)

On April 25, 1962, the Federal Power Commission issued Opinion No. 357¹³ which describes Commission and court decisions establishing the transportation of logs as a basis for concluding that certain waters were navigable waters of the United States. In a May 4, 1962 letter to the City of Eugene, the Federal Power Commission enclosed this opinion and related information advising that *“if you are operating and maintaining a water power development without a valid federal permit issued therefore prior to June 10, 1920, and without a license issued under the Federal Power Act, it is requested that you advise the Commission whether you propose to file application for license.”*¹⁴

Citing the two developments on the lower McKenzie River, the Eugene Water & Electric Board stated, these projects *“are unlicensed in that no Federal land was involved and the river was not considered navigable at the time they were built. ... It is our intention to file application for license for both of these projects.”*¹⁵ At that time, the Carmen-Smith Hydroelectric Project was under construction, and EWEB anticipated it would *“take several months”* to prepare the applications.

EWEB applied for the first Federal Power Commission license of the Leaburg Hydroelectric Project on November 17, 1964. The Federal Power Commission issued the license, Project No. 2496, on May 23, 1967, effective January 1, 1950, and terminating December 31, 1993. The license authorized the following: *“(1) a reinforced concrete and steel dam, approximately 450 feet long and 20 feet high, equipped with three 100- by 90-foot roller gates with sluiceway and intake gates partially diverting the McKenzie River; into (2) Leaburg canal which extends 5 miles; to (3) a small forebay; (4) two penstocks of reinforced concrete pipe 8 feet in diameter and 250 feet long; (5) Leaburg powerhouse of reinforced concrete which contains two generating units of 6,000 and 7,500 kilowatts capacity, respectively; (6) Leaburg substation containing six 2,500 kva 12/66 kv transformers, and (7) appurtenant facilities.”*

EWEB applied for its first license for the Walterville Hydroelectric Project on March 22, 1965. The license was issued by the Federal Power Commission on May 23, 1967, Project No. 2510, effective January 1, 1949, and terminating on December 31, 1993. The license authorized the following: (1) a 4-mile-long cut and fill unlined canal (2575 cfs capacity, controlled by a headworks structure containing two 14- x 20-foot tainter gates, terminating at the plant forebay, (2) a pump storage pond on the right bank at the canal, 3 miles below the headworks structure, with a capacity of 345 acre-feet and a surface area of 65 acres, filled by use of four 33,000 gpm (300 cfs total) pumps and drawn down through two 4- x 20-foot radial gates, (3) a forebay, forebay headworks containing a 20- x 22-foot radial gate controlling flow to the powerhouse through a 16.5- x 16.5- foot penstock 130 feet long, and a siphon bypass, (4) an

¹³ United States of America Federal Power Commission. 1962. Opinion 357, Opinion and Order Issuing License (Major), issued April 25, 1962, to the Public Service Company of New Hampshire (Project No. 2288).

¹⁴ Federal Power Commission. 1962. Letter to City of Eugene, May 4, 1962. Docket No. IT-5501.

¹⁵ Eugene Water & Electric Board. 1962. Letter to Federal Power Commission, June 1, 1962.

automated powerhouse containing an 8000 kilowatt generating unit, (5) a 12/66 kv substation and 12 kv bus connected to the generator via an underground cable, and two taps to the Leaburg-Currin line, (6) and appurtenant facilities.

Prior to the expiration of the original license, on December 31, 1991, EWEB filed an application to the Federal Energy Regulatory Commission (Commission or FERC) for a new license authorizing the continued operation and maintenance of the 14.5-megawatt (MW) Leaburg Hydroelectric Project (P-2496) and the 8-MW Walterville Hydroelectric Project (P-2510). The application included increasing generating capacity by raising the level of Leaburg Lake, placing new dams at the Walterville diversion, replacing the turbine runners in both powerhouses, and by excavating the Walterville powerhouse tailrace. New mitigative measures were proposed, including a fish screen at the Walterville diversion and a fish ladder at Leaburg Dam. EWEB proposed to combine the two previously independently licensed developments into one licensed facility known as the Leaburg-Walterville Hydroelectric Project No. 2496.

FERC issued a Draft Environmental Impact Statement (EIS) in October 1995 to evaluate the probable impacts of EWEB's proposal and alternatives, as required under the National Environmental Policy Act (NEPA). Following receipt and consideration of comments from the U.S. Department of the Interior (Interior), the U.S. Department of Commerce (Commerce), the U.S. Environmental Protection Agency (EPA), the Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Environmental Quality (ODEQ), McKenzie River Chamber of Commerce, McKenzie River Trust, Oregon Natural Resource Council (now Oregon Wild), American Rivers, and others, the Commission issued a final EIS in December 1996. They concluded that the continued operation and maintenance of the Project, as modified by agency and Commission staff recommendations, would result in minor adverse impacts on the environment.

On March 24, 1997, the Commission issued its Order Issuing New License¹⁶ to EWEB, for a term of 40 years¹⁷. The license included approximately 65 terms and conditions (i.e., license articles). It did not include, however, certain conditions submitted by the Department of the Interior and Department of Commerce pursuant to Section 18 of the Federal Power Act (i.e., Fishway Prescriptions) and subsequently denied rehearing at the requests of these agencies. The Court of Appeals vacated the Commission's license and rehearing orders and remanded the proceeding to the Commission. In compliance with the court order, the Commission reinstated the license order, incorporated the terms of the Section 18 Fishway Prescriptions as conditions of the license through its Order on

¹⁶ 78 FERC ¶ 62,207. Order Issuing New License. Issued March 24, 1997. Accession No. 19970331-0035.

¹⁷ "... because this new license authorizes new development and capacity and moderate mitigative and enhancement measures, the license will have a term of 40 years." 78 FERC ¶ 62,207. Order Issuing New License. Issued March 24, 1997. Page 29.

Remand and Lifting Stays¹⁸, Issued April 27, 2000. The 40-year term of the license became effective April 1, 2000¹⁹.

Under the license, the Project consists of both the Leaburg Development and Walterville Development. Both developments operate on a base load, run-of-river basis. Under normal conditions, the Project can divert up to 2,500 cfs into the Leaburg Canal, and up to 2,577 into the Walterville Canal.

The Project boundary encompasses the hydroelectric facilities and all lands necessary for operation and maintenance and other project purposes (e.g., public recreation, protection of environmental resources)²⁰. The boundary encompasses approximately 692 acres. Of this area, approximately 64 acres are for the primary transmission lines.

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¹⁸ 91 FERC 61,111. Order on Remand and Lifting Stays. Issued April 27, 2000.

¹⁹ 97 FERC 62,248, Order Amending License Articles 410, 416, 417, 418, 419, 420, and 421, Approving Construction Schedule (Article 403), and Deleting Ordering Paragraphs B through I, paragraph (A).

²⁰ 18 CFR § 4.41(h)(2)

APPENDIX B

FERC LICENSING PROCESSES

Integrated Licensing Process

Step 1: Decision to File and Initial Actions

- Applicant files Notice of Intent and Pre-Application Document (PAD).
- Applicant distributes same to Federal and State resource agencies, Tribes, and members of the public likely to be interested in the proceeding.
- Applicant asks Commission for designation as non-Federal representative for Endangered Species Act (ESA), National Historic Preservation Act (NHPA), and Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Step 2: Consultation, Scoping, and Study Plan Development

- Commission initiates informal consultation for ESA, NHPA, and MSA and designates applicant as non-Federal representative.
- Commission issues Scoping Document 1.
- Commission conducts government-to-government meetings with each Indian tribe likely to be affected by the action.
- Written comments received on PAD and Scoping Document 1, with information needs, study requests.
- If necessary, Commission issues Scoping Document 2 that addresses comments on the scope of issues and analysis.
- Applicant develops and files a proposed study plan.
- Applicant conducts study plan meetings with interested agencies, Indian Tribes, or members of the public, for comments on proposed study plan.
- Applicant files a revised study plan for Commission approval.
- Formal study dispute resolution, if necessary.

Step 3: Studies and Preliminary Licensing Proposal Preparation

- Applicant conducts studies as identified in the approved final study plan.
- Applicant prepares and files a preliminary proposal for license amendment or surrender, which would include:
- Existing and proposed project facilities;

- Existing and proposed project operation and maintenance plan;
- Measures for protection, mitigation, and enhancement for each resource affected by the proposal; and
- Draft environmental analysis by resource area of continuing and incremental impacts of the proposal, including results of studies conducted under the approved study plan.

Step 4: Application Filing

- Applicant files completed application, with all required exhibits.
- Applicant concurrently provides same to all resource agencies, Tribes, and consulted members of the public.
- Applicant publishes public notices locally.
- Commission issues tendering notice of the application.
- Application Reviewed for Adequacy.
- Commission may request additional information.

Step 5: Application Processing and NEPA Compliance

- Commission issues Notice of Acceptance and Ready for Environmental Analysis (which “solicits comments, protests, and interventions; recommendations; preliminary terms and conditions; and preliminary fishway prescriptions”).
- Applicant files copy of either the Water Quality Certification, request for certification, or evidence of waiver of Water Quality Certification.
- Commission prepares EA or EIS and completes NEPA process.

Step 6: Completion of the Section 10(J) Process

- Commission receives recommendations from NMFS, USFWS, and ODFW re. protection, mitigation, enhancement measures.

Step 7: License Issuance and Monitoring

- Commission issues decision.
- Commission monitors compliance with terms and conditions.

Traditional Licensing Process

The Traditional Licensing Process was developed in 1985. It was modified over time and subsequently superseded by the Integrated Licensing Process. It is still available, but applicants must request FERC authorization to use this process and concurrently notify Indian Tribes, Federal and State resource agencies, and the public of the request. FERC plays a limited role in the pre-application phase of this process. Instead, the applicant leads this phase and must provide project information to

Step 1: Decision to File and Initial Actions

- Applicant file Notice of Intent, PAD, and request to use Traditional Licensing Process.
- Applicant publishes public notice locally of the filing in newspapers and solicits comments.
- Commission approves use of the Traditional Licensing Process and issues notice of commencement of proceeding.
- Applicant schedules and holds a joint meeting with stakeholders to:
 - Develop a common understanding of the proposed project.
 - Discuss current and potential resource needs and management objectives for the project area.
 - Decide the information needed and what studies are to be done.
 - Agree on a timeframe and format for discussion of study results.
- Applicant consults on studies needed for developing application.
- Interested resource agencies, Indian Tribes, and members of the public provide applicant with written comments (study requests).
- Commission conducts dispute resolution on study requests, if necessary.
- Applicant modifies and provides revised study plans to relevant agencies.

Step 2: Conduct Studies and Prepare Draft Application

- Applicant proceeds with studies and data collection.
- Applicant prepares draft application that must:
 - Respond to comments and recommendations made by resource agency and Indian Tribes.
 - Contain and include a discussion of the results of studies.
 - Identify any proposed protection, mitigation, and enhancement measures.

Step 3: Completion of Second Stage of Consultation

- Applicant distributes draft application to resource agencies, Indian Tribes, and other interested parties for review and comment.
- Applicant schedules and holds joint meeting if there are substantive disagreements.
- Applicant finalizes and files application.

Step 4: Application Filing and Acceptance by Commission

- Commission reviews application adequacy.
- Commission may request additional information or documents.
- Commission issues Notice of Filing.

Step 5: Application Processing and NEPA Compliance

- Commission publishes Scoping Document and conducts scoping meeting.
- Commission issues Public Notice in Federal Register and other outlets.
- Commission issues Notice of Acceptance and Ready for Environmental Analysis (which “solicits comments, protests, and interventions; recommendations; preliminary terms and conditions; and preliminary fishway prescriptions”).
- Applicant files copy of either the Water Quality Certification, request for certification, or evidence of waiver of Water Quality Certification.
- Commission prepares EA or EIS and completes NEPA process.

Step 6: Completion of the Section 10(J) Process

- Commission receives recommendations from NMFS, USFWS, and ODFW re. protection, mitigation, enhancement measures.

Step 7: License Issuance and Monitoring

- Commission issues decision.
- Commission monitors compliance with terms and conditions.

The Traditional Licensing Process is good for less complex issues and study needs, and have few impacts and little controversy.

Alternative Licensing Process

The Alternative Licensing Process is most suitable for projects with contentious issues where settlement agreements are to be developed. The primary goals of this procedure are to:

- combine pre-filing consultation, NEPA review, and administrative processes;
- provide for an applicant-prepared draft environmental assessment or a draft environmental impact statement by a third-party consultant;
- provide flexible pre-filing consultation suited to the proposal, and improve communication and information sharing to promote greater participation and cooperation among the applicant, resource agencies, Indian Tribes, the public, and Commission staff; and
- facilitate agreement or settlement on resource impacts, and mitigation and enhancement proposals.²¹

Step 1: Decision to File and Formation of Stakeholder Workgroup and Communications Protocol

- Applicant forms a stakeholder work group.
- Applicant develops, with support of interested entities, a communications protocol describing how they will communicate with each other, and with Commission staff.

Step 2: Applicant Requests Permission to Use the Alternative Process

- Applicant files Notice of Intent, PAD, requests permission to use Alternative Licensing Process, and the written communications protocol.
- Applicant distributes same to Federal and State resource agencies, Tribes, and members of the public likely to be interested in the proceeding.
- Applicant publishes public notice locally of the Notice of Intent and the request to use the Alternative Licensing Process.
- On approval of use of the Alternative Licensing Process, Commission gives notice in the Federal Register of initial information and scoping of environmental issues.
- Applicant publishes public notice locally of initial information meeting and scoping of environmental issues.

Step 3: Pre-Filing Consultation Process and Scoping of Environmental Issues

- Applicant distributes PAD.

²¹ 18 CFR § 4.34(i)(2)

- Applicant publishes public notice locally of information meeting.
- Applicant conducts informational meeting open to the public, and scoping for the Environmental Review under NEPA.
- Applicant solicits comments from agencies, Indian Tribes, and interested parties on topics including resource values, goals, management objectives, and study needs.

Step 4: Studies and Draft Application Preparation

- Applicant and stakeholders work toward agreement on key issues to be addressed during the license amendment or surrender process, as well as scope and level of effort necessary.
- Applicant completes studies.
- Applicant proceeds with preparation of a preliminary draft EA, or EIS prepared by a third-party contractor, and preparation of application.

Step 5: NEPA Document and Application Filed with FERC and sent to Agencies

- Applicant files complete application, and preliminary draft EA, or EIS prepared by a third-party contractor.
- Applicant concurrently provides same to all resource agencies, Indian Tribes, and other entities involved in the collaborative process.

Step 6: Application Processing

- Commission reviews application adequacy.
- Commission may request additional information or documents.
- If application accepted, Commission issues public notice in Federal Register, local newspapers, and directly to resource agencies and Indian Tribes.
- Applicant files copy of either the Water Quality Certification, request for certification, or evidence of waiver of Water Quality Certification.
- Commission reviews preliminary draft EA or EIS for consistency with requirements.
- Commission prepares environmental and engineering analysis of the proposal and alternatives.
- Commission makes environmental documents available to public.

Step 7: Completion of the Section 10(J) Process

- Commission receives recommendations from NMFS, USFWS, and ODFW re. protection, mitigation, enhancement measures.

Step 8: License Issuance and Monitoring

- Commission issues decision.
- Commission monitors compliance with terms and conditions.

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