The following questions have been posed by Commissioners prior to the scheduled Board Meeting on April 1, 2025. Staff responses are included below and are sorted by Agenda topic.

Jacobs dba CH2M Hill Engineers, Inc. - for additional funds for Engineering Services at Carmen-Smith Upstream Fish Passage Project - (KRENTZ) Is it going to cost EWEB $18.28M to design the trap and haul? Regardless, if it is later determined that EWEB has to build a fish ladder, will any of the money spent on this design be able to be recaptured in a ladder design process?

RESPONSE: *The contract with Jacobs will cost $18.28M to design the following:*

1. Upstream Passage - Attraction Water Supply route selection
2. Upstream Passage - Trap and Haul Facility design
3. Spawning Channel Improvements design
4. Tailrace Barrier Demolition design
5. Downstream Passage - Spillway Gate Modification Alternative Evaluation
6. Downstream Passage - Spillway Gate and Hoist Design
7. Downstream Passage - Spillway Surface Modification Design

Upstream passage design cost for trap and haul is $3.8M if the board approves this amendment request.

The answer to if we can recapture design costs for upstream passage should we have to move to a volitional design depends on that design, but I would assume substantial loss in investment and possible impacts to other designs listed above.

Consent Calendar

MINUTES

March 18, 2025 Work Session In the minutes it states, "Commissioner Carlson inquired about the level of control customers have over residential conservation measures." I don't think this was my point at all. My question related to EWEB pooling resources to give more opportunities for residential and business customers that then might broaden the range of projects that fall into the beneficial group of projects to pursue.

RESPONSE: *Management suggests the minutes be pulled from the April consent calendar pending further review. Potential amendments could be submitted to the Board for consideration at the May Board meeting.*

CONTRACTS

Peterson Power Systems – for the use of a cooperative contract for the purchase of a Caterpillar XQ330 - 264kW Generator – (KELLEY/MASTERS) What happens to the old generator if this contract is approved?

RESPONSE: *The old generator would be declared surplus, and turned over to EWEB's Fleet department to be disposed of per the terms of EWEB's Transfer or Disposal of EWEB Surplus Property Policy. The generator would likely be made available for sale via public auction to recover its remaining financial value. In some cases, depending on the value and applicable use, EWEB has donated a fully depreciated surplus asset to an agency service a community interest.*

<u>Wildish Building Company - for a Construction Task Order for installation of a debris boom – (KRENTZ)</u> It looks as though we initially budgeted $3.5m for the project, and when we bid it in 2024 the bid came back just above $3.5m. EWEB pushed back saying this was too much and we re-bid it in 2025, and the results was a bid for the same project for $1,820,754 less, a reduction of over 50%. This looks as though it is a result of value engineering. Why don't we take that approach to other projects? This seems troubling as to why such significant savings when we essentially bid the same project. What is being done to make sure we are not overspending on similar projects?

RESPONSE: *It is common organization-wide practice for EWEB to conduct value engineering assessments at the 30% and 60% design completion stages, well before requests for proposals or bids, and the resulting Board approval request.*

In the case referenced above, the significant savings are a result of value engineering that were identified in the late design phase of the original plan. Ideally, a design is completed well enough in advance to allow for thorough constructability/value engineering reviews by Wildish, our Construction Management/General Contractor, and others. In this instance, the debris boom, a FERC dam safety (D2SI) requirement, was fast tracked through design because it was identified as a critical path item for license required habitat enhancements in Trail Bridge reservoir that were due in 2024. Essentially, D2SI was concerned that habitat structures may mobilize during a flood event and compromise the integrity of the dam or spillway. In order to complete the Trail Bridge reservoir habitat work by the license deadline of 2024, D2SI indicated the debris boom needed to be constructed ahead of that. Ultimately, due to staffing constraints, D2SI was unable to complete their review and approval of the original debris boom design in time for the 2024 construction season. Given the low safety risk, D2SI approved completion of the Trail Bridge reservoir habitat structures prior to debris boom construction, thus giving us time to conduct value engineering analysis and incorporate that into the design.
The original design included considerable below-water construction work, which is a common approach but requires specialized construction experience and associated risks that contractors factored into their 2024 bids. Two design changes resulted in significant cost savings:

- *Converting the lead anchor from a concrete structure poured underwater to a terrestrial rock anchor system.*
- *Converting the planned access ramp (for removing debris from the boom) from an all-new structure to a repurposed construction era road.*

The importance of identifying value-engineering savings early in the design process has been highlighted by this project and we plan to conduct more intense value-engineering reviews at the 30% and 60% design phases on upcoming project work. That said, it's important to note that upcoming below-water construction work required to build fish passage facilities is not as likely to have terrestrial design alternatives, so the potential for applying this particular value-engineering approach on future designs is likely to be limited.

<u>McKenzie River Trust (MRT) – for the use of additional grant funding under the Memorandum of Agreement (MOA) to support the MRT in the Acquisition and Management of approximately 174-Acres of Land in the Gate Creek Watershed near Vida, Oregon – (FRICKE)</u> The request is for $600,000 for what I assume is acquisition. In the Purchasing Process section, it shows EWEB's portion as $7,500. Help me understand the basics. What is the total acquisition cost, and how much is EWEB paying?

RESPONSE: *EWEB is receiving a 1 million dollar grant for conservation acquisition within the Holiday Farm Fire area from OWEB. This was some of the legislative pass through money from a few years back. We will receive 1 million dollars from OWEB for the acquisition which will be a pass through to McKenzie River Trust. The funding needed to go through a local agency, so EWEB agreed to receive and transfer the money. The $7,500 is EWEB's contribution of in-kind wages for working on this agreement.*

CORRESPONDENCE

Addressing Customer Concerns Re: Higher Bills – (MCGAUGHEY) When meters can't be read due to weather events, does that mean that if it wasn't possible on a particular day then the bill is estimated, or do we try to go out another time?

RESPONSE: This largely depends on how many services are affected. If the volume of skipped readings is manageable enough for Meter Reading to absorb into the next day's schedule, they will make a second attempt. Meter Reading is scheduled to collect reads in the next billing cycle the following business day; so in order to make a second attempt, they have to push work out and then play catch up to get back on schedule. Due to the schedule of the billing and collection cycle, Meter Reading has limited flexibility to make a second attempt to collect readings. When the number of services they are unable to read reaches an unmanageable number, EWEB relies on estimations.

Is there a way to flag an estimated bill if there was an anomaly the prior year? It seems like there should have been some flag in our system since the bills from the previous December and January were unusually low.

RESPONSE: *In alignment with an EWEB's IS guiding principle of maintaining standard, non-custom applications, the standard SAP estimation formula has been implemented. It creates an estimate using the same month, one year prior and does not flag for any weather anomalies.*

As we currently estimate a very small number of bills (the most recent round involved 22% of upriver customers in December and 18% of upriver customers in January - with 6.5% of customers receiving back-to-back estimations), we are focusing resources to address the source of the estimations – primarily the installation of AMI meters upriver, while also considering adjustments to the manual meter reading processes.

What type of resource constraints prevented meter reads in January?

RESPONSE: *In response to smart meter deployment and a reduction in the staffing required to read in-town routes, Meter Reading reduced its staffing level from 16 meter readers to seven. However, since the McKenzie River service territory does not have AMI infrastructure, the service territory requires pre-deployment staffing numbers to read. The team has been relying on three former meter reading staff who have moved into other areas of the utility to assist with reading upriver routes each month.*

In January, there were two staff out on extended leaves, further stressing the upriver meter reading schedule. While the team was able to absorb the majority of routes into the schedule, there were a few routes that required estimations.

EWEB's Collection Process and Late Fees – (MCGAUGHEY) Regarding disconnections; what is the average time for a reconnection when a customer is disconnected due to non-payment?

RESPONSE: *On average, approximately 50% of customers pay and get reconnected the same day, and the majority are reconnected in the same week. The customers that take multiple days to reconnect do so for various reasons. Some cannot pay and need to secure funds before they can get reconnected, some have already moved out and roommates were using the electricity in their name, and other customers are out of town and call us when they return.*

With the new automated process of disconnect/reconnect, the time it takes for a customer to be reconnected after payment is very quick. After the payment is made, the account is reconnected within minutes which is a huge improvement over our previous practice where a tech would need to go back to the address to turn it back on which could take hours.

Do we have customers that get caught in a cycle of disconnect/reconnect over and over?

RESPONSE: *We do have customers who are disconnected for non-payment multiple times per year. Although we don't have detailed information on this segment of customers, we know from previous research that there is not a heavy correlation between limited income customers (receiving some kind of assistance) and the customers who get disconnected multiple times per year.*

<u>Pentachlorophenol Plume Report Document - (FRICKE)</u> On page 2, it indicates that the July monitoring samples were somehow compromised. It implies someone used "estimated value flags" and that the data was determined to be acceptable for consideration. Why didn't they just go take new samples instead of estimating values? Who made the determination that the data was acceptable, and based on what standards?

RESPONSE: *Estimated values are not uncommon in lab reports. An estimated value just means that the level was between method detection limit and report limit and simply means that the result is not zero. But since the result is below the reporting limit, a number cannot be assigned to it. As far as flags from cooler temps and holding times, the lab was still confident in the results but (per the lab protocols) had to assign a flag (also known as a qualifier) to the data.*

<u>State Legislative Update – (HEUSER)</u> If SB 427 and/or 1153 pass, what does that mean for our Willamette water treatment plant? The backgrounder says there is uncertainty, but what does that mean exactly? Is there any indication how much support or opposition there is?

RESPONSE: Legislation Changing Water Right Transfer Law (SB 427/SB 1153) Impacts and Outlook

EWEB has been working for years to obtain access to water from the Willamette River to provide water supply redundancy. This effort has included investments in planning and engineering work, as well as acquiring a water use permit authorizing water use from the Willamette River, and securing the land required for a new intake and water treatment plant. SB 427 and SB 1153 make changes to the state law governing water right transfers, which is the only way a municipal drinking water provider can make changes to existing water rights, including changing a point of diversion to match a new intake for a water treatment plant. SB 427 is a clearer obstacle to EWEB's efforts as it would almost certainly prohibit a needed change to EWEB's Willamette water right. SB 1153 has more uncertainty as to its exact impact due to broad and vague language in the bill but would very likely lead to new hurdles and delays in needed modifications to EWEB's Willamette water right.

Outlook

These bills are supported by a large coalition of conservation groups supportive of efforts to address overallocation of Oregon's limited water supply and sufficient fish flows and water quality in Oregon's rivers – efforts EWEB is also generally supportive of. SB 1153 has been brought forward by Oregon Governor Tina Kotek. It's also important that as we head into a future where new water supplies are limited and water rights are increasingly more difficult to acquire, the water right transfer process be available as a critical administrative tool for municipal water right holders to manage their existing water rights efficiently and allow for some flexibility. Municipal water providers need certainty in the provision of drinking water to our citizens, businesses, hospitals, schools, etc.

This is a critical juncture for both these bills and it is too soon to say what will happen next. There seems to be a growing sense that legislators are acknowledging that the needs of public drinking water providers, our use of the water right transfer process, and our drinking water infrastructure is different than that of other water users (i.e. agriculture). Many municipal infrastructure projects involving transfers already go through a great deal of environmental review. Amendments that would exempt municipal and quasi-municipal (public water districts) water suppliers have been drafted. However, there is no clear signal at this time that an amendment exempting municipal water rights outright will be adopted.

SB 427 Impacts

The provisions of SB 427 as introduced would jeopardize EWEB's efforts to begin obtaining water from the Willamette River under its existing permit. EWEB's permit currently authorizes diversion of water from the Willamette River at a location downstream from the location that EWEB's engineers determined it should construct the new intake. Accordingly, EWEB will need to have the Oregon Water Resources Department (OWRD) approve a permit amendment that moves the authorized point of diversion upstream to the planned intake location. Under current OWRD requirements, EWEB should be able to amend its permit to move the authorized point of diversion upstream because

OWRD would be expected to find that the change would not cause injury to existing water rights. The State of Oregon does hold an instream water right in this reach of the river, but EWEB's permit is junior in priority to the instream right. So, the change could not injure the instream right because EWEB's water use permit would be subject to regulation (water use reduced or terminated by OWRD) if the flows required by the instream right were not met. SB 427 would be expected to preclude OWRD from approving EWEB's needed permit amendment application based on a finding that the requested change would "diminish streamflows" between the authorized point of diversion on the permit and the proposed new point of diversion to be constructed. This would result in EWEB being unable to appropriate water under its permit. Although EWEB also holds a surface water registration for the use of water from the Willamette River (a claim of a water right that was established prior to the 1909 Water Code), EWEB needs a redundant water right given the uncertain status of the claim. The surface water registration must be "adjudicated" before the right is confirmed and OWRD can issue a water right certificate for the right. The Klamath Adjudication has been ongoing for approximately 50 years and it is not clear that OWRD will adjudicate the Willamette Basin within the next century. On this basis, it is critical that EWEB have the surface water registration AND the water use permit to provide needed certainty to continue to pursue development of the planned Willamette River intake and water treatment plant. As currently drafted, SB 427 is expected to cause EWEB to be unable to modify its Willamette River water use permit leaving EWEB without the needed redundant water supply source.

SB 1153 Impacts

The provisions of SB 1153 could jeopardize EWEB's efforts to begin obtaining water from the Willamette River under its existing permit. EWEB's permit currently authorizes diversion of water from the Willamette River at a location downstream from the location that EWEB's engineers determined it should construct the new intake. Accordingly, EWEB will need the Oregon Water Resources Department (OWRD) to approve a permit amendment that moves the authorized point of diversion upstream to the planned intake location. Under the current permit amendment statutes and OWRD requirements, EWEB should be able to amend its permit to move the authorized point of diversion upstream because OWRD would be expected to find that the change would not cause injury to existing water rights. SB 1153 could, however, preclude OWRD from approving EWEB's permit amendment application. SB 1153 would add two additional review criteria to OWRD's current review process for permit amendment applications and other processes allowing changes to existing rights. In addition to the existing criteria, the bill would allow OWRD to approve a permit amendment only after determining that the change would not result in a loss of in-stream habitat for sensitive, threatened or endangered aquatic species in stream reaches not protected by an existing water right; or contribute to water quality impairment in water quality limited streams. These criteria are vague and create significant uncertainty as to their impact on EWEB's needed permit amendment. As an example, SB 1153 is unclear as to what constitutes "protection by an existing water right." At a minimum, the bill should be amended to clarify that the existence of an instream water right in the affected reach is sufficient to eliminate the need for OWRD to review this additional criterion. In addition to having vague review criteria, the bill would likely exacerbate OWRD's already slow processing timelines. Although not specified, it appears likely that the determinations for the new criteria would be completed by the Oregon Department of Fish and Wildlife (ODFW) and the Department of Environmental Quality (DEQ). Currently, OWRD's processing time for transfer applications can exceed two years. Referring transfer applications to ODFW and DEQ for additional analysis will only create further delays. It is important to understand that ODFW is currently required to provide input on certain municipal permit extension applications by recommending "fish persistence" conditions. Many municipal water providers have been waiting well over a decade to receive these reviews from ODFW. EWEB cannot wait more than a decade for ODFW to provide feedback on its permit amendment application. Further, the proposed review criteria are generally unnecessary for large-scale municipal water provider projects to construct new diversion facilities such as EWEB's because these types of evaluations will be completed through the U.S. Army Corps of Engineers and Department of State Lands joint removal/fill permit process. Accordingly, this bill would only result in redundant efforts and unnecessary delays and uncertainty. EWEB and other water providers should not be required to expend additional public funds for an unclear process that provides no additional benefit to our water resources. Finally, SB 1153 adds a process by which federally recognized Indian tribes in the state can review transfer applications "in specific counties." However, the bill does not identify these counties. The bill should be amended to specify the affected counties. As currently drafted, SB 1153 adds substantial uncertainty to water right modification processes, and could prevent EWEB from modifying its Willamette River water use permit leaving EWEB without the needed redundant water supply source.