



Eugene Water & Electric Board

500 East 4th Avenue/Post Office Box 10148
Eugene, Oregon 97440-2148
541-685-7000
www.eweb.org

March 20, 2014

RECEIVED BY OWRD

Dwight French
Oregon Water Resources Department
725 NE Summer Street, Suite A
Salem, OR 97301

MAR 24 2014

SALEM, OR

RE: Surface Water Registration Modification for SWR-354, in the name of Eugene Water & Electric Board

Dear Mr. French:

On December 30, 1992, the City of Eugene, acting through the Eugene Water & Electric Board (EWEB), submitted a surface water registration (SWR-354) to the Oregon Water Resources Department (OWRD). SWR-354 claims a pre-1909 vested water right for the use of 30.9 cfs from two points of diversion on the Willamette River for year-round municipal purposes. The registration indicated that development of this right began no later than November 3, 1886 and that water was first used March 26, 1887. (See copy of SWR-354 in Attachment 1.)

Currently EWEB's sole water source is the McKenzie River. A Willamette River source provides EWEB with a redundant supply and needed operational flexibility. EWEB is now initiating a process to upgrade its Willamette River water supply infrastructure. As part of this significant investment, EWEB is seeking to amend SWR-354 to add a point of diversion (POD #5) at the following location and as shown on the map in Attachment 2.

320 feet North and 160 feet East of the SW corner of Section 2, Township 18 South, Range 3 West, W.M.

OWRD's process for amending a surface water registration requires the applicant to request the change in writing and to state the reason for the requested change. Please consider this letter to be EWEB's written request and explanation. OWRD has indicated that it will also require documentation that water has been used during the past five years in accordance with the terms and conditions of the surface water registration. An Affidavit of Use of Water under a Surface

Water Registration, attesting to the fact that water has been used under SWR-354 during the last five years, is included in Attachment 3.

As part of the surface water registration amendment review process, EWEB understands that OWRD will consider whether the change will cause injury to other water right holders. The requested change is not expected to affect any intervening points of diversion; however, the proposed point of diversion would be located upstream within the reach of the instream water right evidenced by Certificate 59549. According to the local watermaster, this right is not always met. (This instream water right protects flows for supporting aquatic life and minimizing pollution.) Since the proposed change could be considered to have the potential to cause injury to this instream water right, EWEB worked with the Oregon Department of Fish and Wildlife (ODFW) and the Department of Environmental Quality (DEQ) to determine what mitigation would be required to offset any potential injury. As described in ODFW's report (in Attachment 4), ODFW has determined that putting instream a 1.5 cfs portion of SWR-354 would offset any potential mitigation. DEQ has also indicated that EWEB's proposed change and mitigation is acceptable. (See email from DEQ in Attachment 5.)

For the reasons described above, EWEB is requesting that OWRD make the following change to SWR-354:

- **Add an additional point of diversion** to SWR-354 as shown as POD #5 on the attached map. POD #5 is to be located at: 320 feet North and 160 feet East of the SW corner of Section 2, Township 18 South, Range 3 West, W.M.
- **Change the character of use for a 1.5 cfs portion** of SWR-354 to instream use. The reach for the instream use would be from POD #5 to river mile 84 (City of Salem). This request for a character of use change is contingent on OWRD accepting EWEB's request to add an additional upstream point of diversion to SWR-354.
- **Diminish the priority date for the 1.5 cfs portion** of SWR-354 by one minute. EWEB requests that the portion of SWR-354 for which the character of use change is requested have a priority date that is one minute "junior" to the remaining portion of SWR-354. This will ensure that the remaining portion of the right is not regulated in favor of the instream portion of SWR-354.

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- **Assign to the State of Oregon the 1.5 cfs portion of SWR-354 for which the character of use change is requested. (Please find a completed assignment form in Attachment 6.)** EWEB's request for an assignment is to be executed concurrently with OWRD's acceptance of EWEB's surface water registration modification.

Please contact me if you have any questions about EWEB's request or need additional information. My telephone number is 541-685-7385.

Sincerely,



Brad Taylor

Enclosures

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Attachment 1

SWR-354

Application for a Surface Water Registration Modification for SWR-354
Eugene Water & Electric Board

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DEC 30 1992

WATER RESOURCES DEPT.
SALEM, OREGON

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

**SURFACE WATER REGISTRATION STATEMENT
PRE-1909 VESTED WATER RIGHT CLAIM**

The City of Eugene acting by and through the
1. Name of Registrant: Eugene Water & Electric Board
Mailing Address: P.O. Box 10148, Eugene, OR 97440
Telephone No: (503) 484-2411

2. Source of water: Willamette River
Tributary to: Columbia River

3. Purpose(s) for which water is used: Municipal Purposes
(Irrigation, Stockwater, Domestic, Hydroelectric power, Industrial, Etc.)
If irrigation, total number of acres irrigated: N/A

4. Priority Date
a) Date of first use: March 26, 1887
b) Date water use development first initiated: No later than Nov. 3, 1886
c) Name of party who initiated development: T.W. Shelton & Charles Lauer

5. Amount of water claimed: 30.0 in CFS or GPM
(Water put to beneficial use)

6. Location of place of use:
*All Sections, Township 17 N S Range 3 & 4 E W
*All Sections, Township 18 N S Range 3 & 4 E W
(Attach additional pages if necessary)

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7. Usual period of use: Jan. / 1 to Dec. / 31
month day month day

* All sections within the present and future city limits of the City of Eugene including those sections in Township 16S, Range 4W and Township 17S, Range 5W.

8. Remarks: _____

9. Total fees submitted with claim: \$1,700

Notarized Statement Signed by Claimant.

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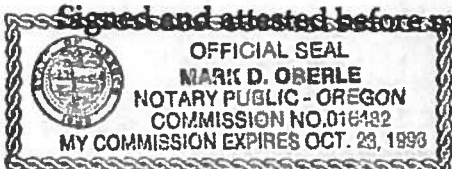
STATE OF OREGON)
: ss
County of Lane)

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I, THOMAS E. BUCKHOUSE, having been duly sworn,
depose and say that I, and being the claimant of the existing surface
water right described herein, have read the contents of this claim and
to the best of my knowledge all of the matters stated herein
are true and correct.

Thomas E. Buckhouse
Signature of Claimant



Signed and attested before me this ³⁰~~29~~ day of December, 19 92

Mark D Oberle
NOTARY PUBLIC for the State of Oregon
My commission expires: 10-23-96

THIS FORM MUST BE ACCOMPANIED BY A MAP PREPARED BY A CERTIFIED WATER RIGHT EXAMINER (CWRE).

Certified Water Right Examiner

Name: Charles W. Guile CWRE#: 166

Address: 52 Centennial Loop, Eugene, OR 97401

Telephone: (503) 343-9855

T. 16, 17 & 18 S., R. 3, 4 & 5 W., W.M.

WATER RIGHT APPLICATION
MAP FOR

EUGENE WATER & ELECTRIC BOARD

LANE COUNTY, OREGON

DECEMBER 29, 1992

CHARLES W. GULE
& ASSOCIATES, CO.
Land Surveying
88 Centennial Loop
Eugene, OR 97401

DEC 30 1992

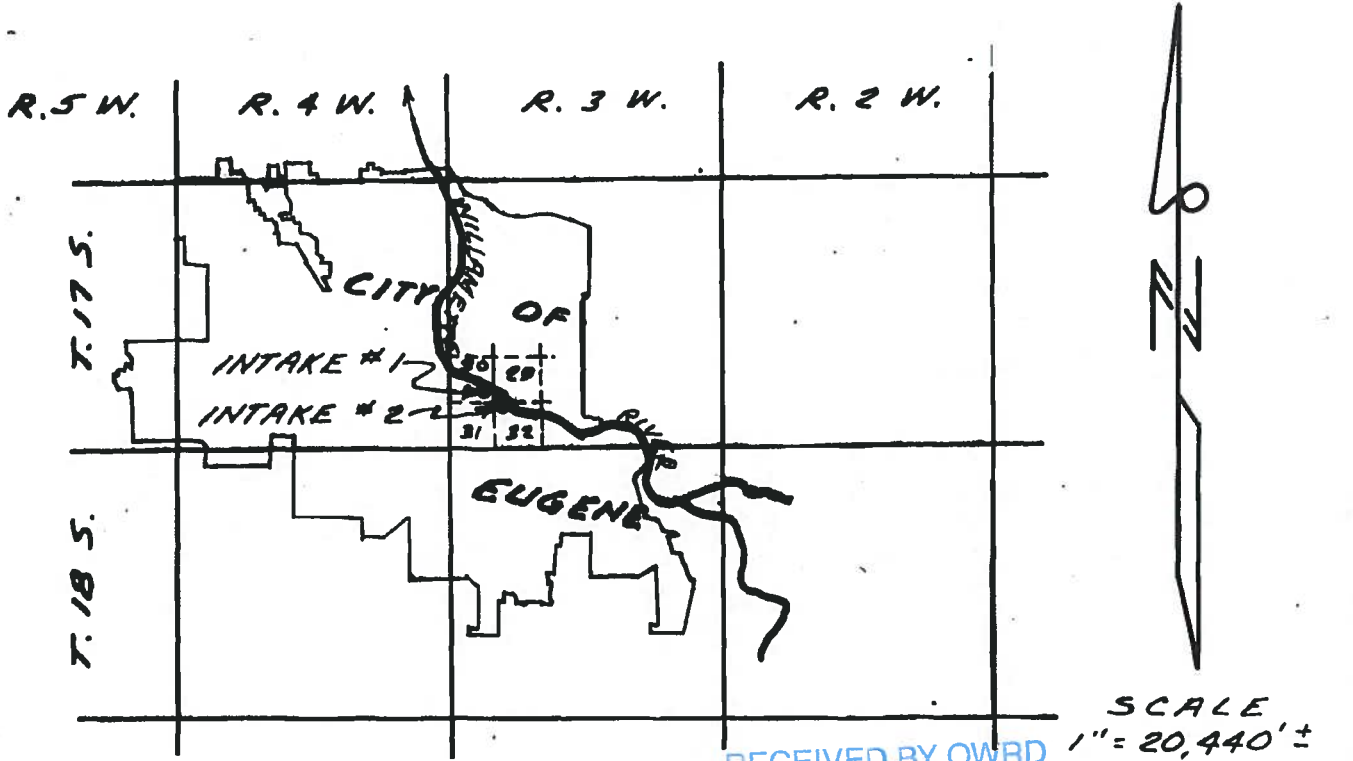
DEPT.
LAND



DIVERSION POINTS:

THIS MAP IS FOR WATER
RIGHT PURPOSES ONLY AND
DOES NOT PROVIDE DATA TO
LOCATE PROPERTY BOUNDARIES.

- INTAKE #1. 1710' NORTH & 555' WEST OF SE COR. SECTION 30, T.17S, R.3W, W.M.
- INTAKE #2. 590' SOUTH & 930' EAST OF NW COR. SECTION 32, T.17S, R.3W, W.M.



SCALE
1" = 20,440' ±

PREPARED FROM RECORDS

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92-89A

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Attachment 2
Map of Proposed Point of Diversion (#5)
Application for a Surface Water Registration Modification for SWR-354
Eugene Water & Electric Board

**Surface Water Registration
Modification (SWR-354)
In the Name of:
Eugene Water & Electric Board**

- Legend**
- Proposed Point of Diversion (POD)
 - City Limits
 - ▭ Hilyard Shaw DLC 56
 - ≡ Major Roads
 - ~ Watercourses

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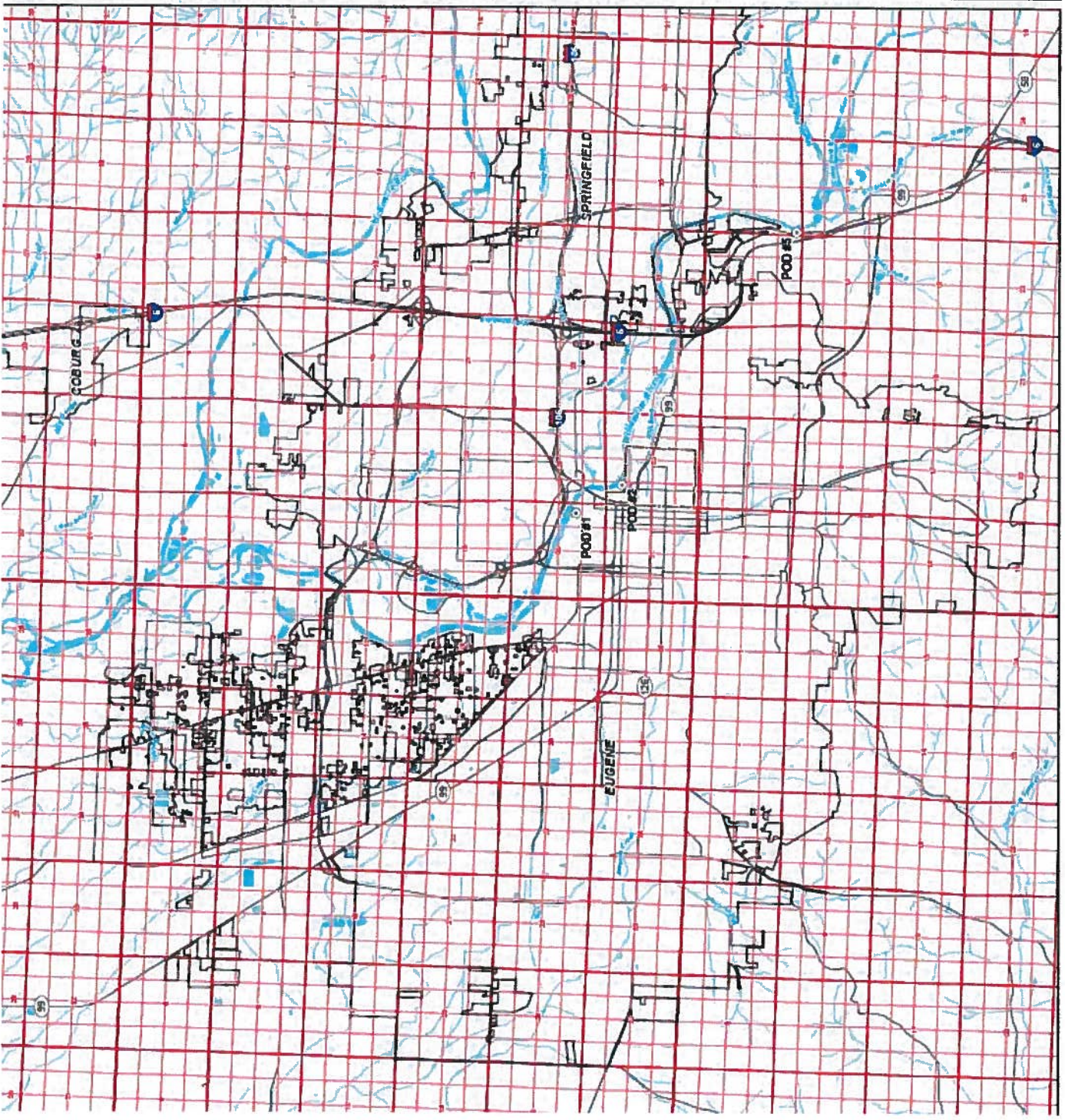
POD Location Descriptions

- POD #1 1710' North and 555' West of SE Cor. Section 30, T.17S., R.3W., W.M.
- POD #2 NW1/4 NW1/4, as projected within Hilyard Shaw DLC 56, Section 32, T.17S., R.3W., W.M., 843 feet South and 1123 feet East from the NW Corner, Hilyard Shaw DLC 56
- POD #5 3207 North and 160' East of SW Cor. of Section 2, T.16S., R.3W., W.M.



Disclaimer
This map was prepared for the purpose of identifying the location of a water right only and it is not intended to provide legal dimensions or location of property ownership lines.

Map Notes
Date: February 24, 2014
Drawn by: GSI
Checked by: GSI
Prepared by: GSI Water Substans, Inc.



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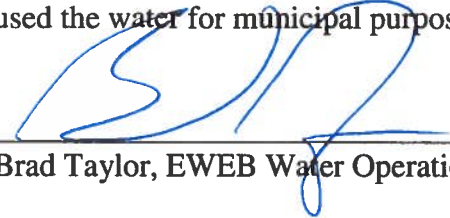
Attachment 3
Affidavit of Use of Water under a Surface Water Registration
Application for a Surface Water Registration Modification for SWR-354
Eugene Water & Electric Board

**AFFIDAVIT OF USE OF WATER UNDER A
SURFACE WATER REGISTRATION**

State of Oregon)
) ss
County of Lane)

I, Brad Taylor, being first duly sworn, depose and say as follows:

1. I am Water Operations Manager for the Eugene Water & Electric Board (EWEB) address P.O. Box 10148, Eugene, OR 97440, telephone 541-685-7385. I am authorized to sign this Affidavit.
2. The City of Eugene, by and through EWEB, is the registrant for Surface Water Registration SWR-354, which is a registration of a pre-1909 vested water right claim. SWR 354 claims the use of up to 30.9 cubic feet per second of water from the Willamette River for municipal purposes year-round. SWR 354 states that use was initiated March 26, 1887, and that water use development was initiated not later than November 3, 1886.
3. The claimed place of use and points of diversion for SWR 354 are described in the attached surface water registration statement.
4. As Water Operations Manager for EWEB, I am aware that within the last five years EWEB has diverted water from the Willamette River at one of the claimed points of diversion and used the water for municipal purposes within the claimed place of use.

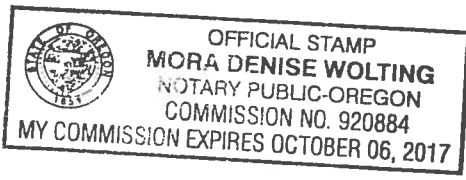


 Brad Taylor, EWEB Water Operations Manager

 Date 11/9/14

Subscribed and Sworn to Before Me this 9TH day of JANUARY, 2014.

Mora Denise Wolting
Notary Public for Oregon



My Commission Expires 10/6/17

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Attachment 4

ODFW Analysis of SWR-354 Additional Point of Diversion
Application for a Surface Water Registration Modification for SWR-354
Eugene Water & Electric Board

Kim Grigsby

From: Danette Faucera <danette.l.faucera@state.or.us>
Sent: Monday, March 03, 2014 11:22 AM
To: Kim Grigsby
Cc: Jeffrey Ziller; Kelly Reis; Rick Kepler
Subject: EWEB's SWR-354 Modification Analysis
Attachments: Final EWEB SWR 354~ISWR to Salem.docx

Attached is the final analysis of EWEB's Surface Water Registration modification. Please let me know if you have any questions.

Danette

Danette Faucera
Water Policy Coordinator
Oregon Department of Fish and Wildlife
(503) 947-6092
****NOTE NEW ADDRESS****
4034 Fairview Industrial Drive SE
Salem, OR 97302

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ODFW's Discussion and Analysis of the Surface Water Registration Amendment for SWR-354

March 3, 2014

Action

This proposal involves amending Surface Water Registration (SWR) 354 by adding an upstream point of diversion (POD) on the Willamette River, an unadjudicated basin. As part of the amendment process, the Oregon Water Resources Department (OWRD) must review each amendment to determine that the change will not result in injury to other water right holders, or a net loss of water available to downstream users or an expansion of the right under the original registration (OAR 690-028-0055). As the new proposed POD is approximately 4.8 miles upstream from the lowest POD listed in the SWR, this amendment has the potential to injure at least one instream water right (ISWR) within the reach if mitigation is not provided. To show that the proposed amendment will not result in injury to the ISWR, the agency that requested the instream water right can determine that proposed mitigation will offset the potential injury. This is the Oregon Department of Fish and Wildlife's (ODFW) analysis of the amendment and associated mitigation.

Background

On December 30, 1992, the City of Eugene, acting through the Eugene Water & Electric Board (EWEB), submitted a surface water registration (SWR-354) to the Oregon Water Resources Department. SWR-354 claims a pre-1909 vested water right for the use of 30.9 cfs from two points of diversion on the Willamette River for year-round municipal purposes. The registration indicated that development of this right began no later than November 3, 1886 and that water was first used March 26, 1887. Since OWRD has indicated that it will not adjudicate the Willamette River in the near future, leaving the SWR claim uncertificated, EWEB obtained a permit (S-54805) for 30.9 cfs from the Willamette River to duplicate its existing unadjudicated pre-1909 water right. According to EWEB's representatives, the new permit does not increase the combined maximum authorized rate under its existing water rights. Use of water under the permit, in combination with SWR-354 is limited to 30.9 cfs, and use of the permit in combination with its existing rights, is limited to the maximum rate currently authorized by EWEB's existing water rights.

EWEB is currently initiating a process to upgrade its Willamette River water supply infrastructure. As part of this significant investment, EWEB is seeking to amend SWR-354 to add an upstream point of diversion, which is shown as POD #5 on the attached map.

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Instream Water Right

The Willamette River basin encompasses 11,478 square miles (29,728 km²) and flows 187 miles (301 km) from the confluence of the Coast Fork and Middle Fork Willamette rivers to where it empties into the Columbia River. The amendment to SWR-354 will add a new point of diversion on the upper Willamette River within a stream reach that has an established instream water right under Certificate 59549 (priority date June 9, 1989). The instream right has a recommended minimum flow for supporting aquatic life and minimizing pollution that varies from 2,000 to 2,500 cfs. According to WRD, stream flows within the reach are frequently below the flows to be protected under the ISWR. Since the new point of diversion would be located further upstream within the reach of the instream water right, and this right is not always met, the proposed change has the potential to cause injury to this instream water right if mitigation to offset the injury is not provided.

Certificate 59549 is a joint water right with the Oregon Department of Environmental Quality (DEQ) that also protects flows for minimizing pollution, so DEQ will also need to analyze whether the proposed mitigation offsets the potential injury associated with EWEB's proposed point of diversion. The following is ODFW's analysis and evaluation of whether the amendment and associated mitigation will injure the ISWR for supporting aquatic life. The Oregon Department of Environmental Quality will provide their recommendations separately.

Injury to Aquatic Life

The upper Willamette River supports populations of spring Chinook salmon, Oregon chub, resident rainbow and cutthroat trout, Pacific and western brook lamprey and other native fish, as well as summer steelhead, a non-native but important game fish. Spring Chinook salmon are listed as Threatened under the federal Endangered Species Act and Oregon chub are listed as a State Sensitive species.

Potential injury to aquatic life protected under Certificate 59549 would most likely occur during low flow periods, such as during late summer, but the Water Availability Tables show a deficiency in net water available for all months except January and December. Additional analysis of stream gage data (the combination of the gage at Goshen on the Coast Fork Willamette River and the gage at Jasper on the Middle Fork Willamette River) show that the instream right has not been met approximately 11% of the time over the past ten years (2000 – 2013).

Habitat within the affected reach is utilized by both juvenile and adult salmonids during the period of expected impact to the ISWR. The greatest potential for negative impact to the instream water right would be on migrating adult Chinook salmon and summer steelhead, resident cutthroat and rainbow trout, and rearing Chinook salmon. Other than adult Chinook,

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any of the above could be expected to be in the river at any time of year. Adult Chinook are most likely to be present from April through October.

Potential impacts include reduced water depth and migration ability, availability of foraging habitat, edge habitat (hiding cover offered by stream bank), and any effects that less water in the channel would have on water quality, such as increased water temperature. The existing habitat in this section can be described as riffles, glides and short rapids of moderate habitat quality. Substrate is a mix of bedrock, some boulders, sand/silt, and gravel, with limited large woody debris along river margins and on islands and bridge pilings. Although this type of habitat is limited in the mainstem Willamette River, it is found in areas outside of the impacted reach. Therefore, ODFW has determined that under ODFW's Mitigation Policy (OAR 635-415), the habitat is classified as Category 3. Category 3 habitat is essential habitat for fish and wildlife or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population. If impacts are unavoidable, ODFW requires in-kind and in-proximity mitigation to achieve no net loss of habitat quantity or quality for the affected species, population or unique assemblage. Mitigation under Category 3 must benefit the same population affected by the action.

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Mitigating Measures

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With appropriate mitigation, ODFW would not object to the proposed addition of an upstream POD on the Willamette River. Although exact details for the new proposed POD are unknown, it will likely be a pump station located near the shore in a slow, deep water section of the river and will likely not appreciably interfere with salmonid migration, spawning, or rearing.

ODFW has met with representatives from EWEB to discuss possible mitigation opportunities, including converting a portion of SWR-354 to an instream water right. ODFW analyzed gage data and several different flow targets in the Willamette River to determine how far downstream the proposed mitigation benefit would be actualized. Gage data at Salem was analyzed to determine if fish persistence flows at Salem (developed under ORS 537.230(2)(c)) are being met, and gage data at Albany, Newberg, and Portland, were analyzed to determine if minimum perennial streamflows MF 184, MF 182, and MF 181 (as described in the Willamette Basin Program (OAR 690-502-0050(2))) are being met. Stream gage analysis shows that ODFW's recommended fish persistence flows are not being met at Salem but minimum perennial streamflows are met most of the time downstream of Salem. Benefit below Salem is diminished because, most of the time, flows are currently providing the minimum habitat necessary to support the fish species present. Therefore, there is no current benefit to fish species from providing additional flow to the Willamette River downstream of Salem. As a result of this analysis, EWEB is proposing to provide the maximum possible net benefit by means of an approach ODFW has used in upstream point of diversion transfers. Using this approach (attached), EWEB has calculated an offset to the potential injury if 1.5 cfs is placed instream from the uppermost proposed POD down to Salem at RM 84 on the Willamette River. EWEB is

proposing to assign a 1.5 cfs portion of SWR-354 to the State of Oregon for instream use, and would modify SWR-354 accordingly. This assignment of a 1.5 cfs portion of EWEB's claim for a water right with an 1887 priority date to the State of Oregon for instream use would mitigate any concerns regarding injury. This will give the potential long-term benefit of a more senior priority date for the instream water right if and when the pre-1909 claims are approved in the future as part of a general stream adjudication for the Willamette Basin. The addition of an instream water right from the uppermost POD to Salem will benefit all of the species and life history components present in the affected reach, with an added benefit to federally-threatened winter steelhead located below the Calapooia River.

Therefore, ODFW proposes the following option to address the potential injury to the aquatic resource from the proposed amendment of SWR-354:

- 1) EWEB would modify SWR-354 to assign a 1.5 cfs portion of the claim to the State of Oregon for conversion into an instream water right to support aquatic life, which will offset the potential for injury. This total amount would need to be put instream from the new POD # 5 at approximately RM 186.7 down to Salem at RM 84 on the Willamette River.

Conclusion

Amending SWR-354 by adding an additional upstream POD has the potential to injure the instream water right established in Certificate 59549, if mitigation is not provided, by reducing flows by a maximum of 30.9 cfs within the affected reach (from the current points of diversion to the proposed point of diversion). This has the potential to limit fish migration, make escape cover and forage opportunities less accessible, and diminish water quality. In considering this SWR amendment, ODFW concludes that the proposed mitigation will offset the potential injury with these conditions:

- 1) EWEB will abide by the above mitigating measure, request modification of 1.5 cfs of SWR-354 to an instream water right to support aquatic life, and assign the 1.5 cfs portion to the State of Oregon. This total amount would need to be put instream from the new POD # 5 at approximately RM 186.7 down to Salem at RM 84 on the Willamette River. EWEB will file for a change in character of use for this portion of the SWR during the amendment process.
- 2) The new POD is required to have an ODFW-approved fish screen prior to diversion of water.
- 3) The new POD will be constructed during the appropriate in-water work period and/or under an approved variance to the in-water work period.

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- 4) During the future adjudication of the Willamette Basin, EWEB will support approval of the assigned portions of SWR-354 as a permanent instream water right.

Net Benefit Calculation

The furthest downstream authorized POD (POD #1) is at approximately river mile 181.9.

The furthest upstream proposed POD (POD #5) is at approximately river mile 186.7.

The difference between these points, showing the maximum length of potential injury, is 4.8 miles or 25,344 feet.

$$186.7 - 181.9 = 4.8 \text{ miles}$$

$$4.8 \text{ mi} \times 5,280 \text{ ft/mi} = 25,344 \text{ ft}$$

The distance downstream from POD #5 (approximately RM 186.7) to Salem (RM 84) is 541,200 feet.

$$186.7 - 84 = 102.7 \text{ miles}$$

$$102.7 \text{ mi} \times 5,280 \text{ ft/mi} = 542,256 \text{ feet}$$

The potential length of benefit by putting water instream from POD #5 to Salem is 516,912 feet.

$$542,256 \text{ ft} - 25,344 \text{ ft} = 516,912 \text{ feet}$$

The units of benefit from putting water instream from POD #5 to Salem are 20.4.

$$516,912 \text{ ft} / 25,344 \text{ ft} = 20.4 \text{ units of benefit}$$

The amount of water needed to offset the maximum potential injury of 30.9 cfs is 1.5 cfs.

$$30.9 \text{ cfs} / 20.4 \text{ units of benefit} = 1.5 \text{ cfs}$$

EWEB is proposing to assign 1.5 cfs from SWR-354 to an instream water right from POD #5 to Salem to offset the potential injury.

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Attachment 6
Assignment of a 1.5 cfs Portion of SWR-354 to the State of Oregon
Application for a Surface Water Registration Modification for SWR-354
Eugene Water & Electric Board



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301
 (503) 986-0900
 www.wrd.state.or.us

Request for Assignment

If for multiple rights, a separate form and fee for each right will be required.

I, Roger Gray on behalf of Eugene Water & Electric Board

(Name of Applicant / Permit / Transfer Holder / License Holder/GR Certificate of Registration)

500 E. 4th Ave. Eugene OR 97401 541-685-7000
 (Mailing Address) (City) (State) (Zip) (Phone #)

- hereby assign all my interest in and to application/permit/transfer/license/GR Certificate of Registration;
- hereby assign all my interest in and to a portion of application/permit/transfer/license/GR Certificate of Registration; (You must include a map showing the portion of the application/permit/transfer/license/GR Certificate of Registration to be assigned.)
- hereby assign a portion of my interest in and to the entire application/permit/transfer/license/GR Certificate of Registration:

Application # _____; Permit # _____; Transfer # _____
 -OR-
 License # _____; GR Statement # GR354 (1.5 cfs); GR Certificate of Registration # _____

As filed in the office of the Water Resources Director, to:

The Oregon Water Resources Department on behalf of the State of Oregon
 (Name of New Owner)

725 NE Summer Street, Suite A Salem OR 97301 503-986-0900
 (Mailing Address) (City) (State) (Zip) (Phone #)

Note: If there are other owners of the property described in the Application, Permit, Transfer, License, or GR Certificate of Registration, you must provide a list of all other owners' names and mailing addresses and attach it to this form.

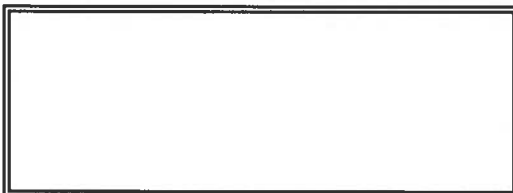
I hereby certify that I have notified all other owners of the property described in this Application, Permit, Transfer, License, or GR Certificate of Registration of this Request for Assignment

Witness my hand this 20th day of MARCH, 2014.

Applicant/Permit Holder _____

Applicant/Permit Holder _____

DO NOT WRITE IN THIS BOX



The completed "Request for Assignment" form *must* be submitted to the Department along with the recording fee of \$85.

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Eugene Water & Electric Board

500 East 4th Avenue/Post Office Box 10148
Eugene, Oregon 97440-2148
541-685-7000
www.eweb.org

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Dwight French
Oregon Water Resources Department
725 NE Summer Street, Suite A
Salem, OR 97301

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RE: Assignment for SWR-354, in the name of Eugene Water & Electric Board

Dear Mr. French:

On December 30, 1992, the City of Eugene, acting through the Eugene Water & Electric Board (EWEB), submitted a surface water registration (SWR-354) to the Oregon Water Resources Department (OWRD). SWR-354 claims a pre-1909 vested water right for the use of 30.9 cfs from two points of diversion on the Willamette River for year-round municipal purposes. The registration indicated that development of this right began no later than November 3, 1886 and that water was first used March 26, 1887.

EWEB is requesting a surface water registration modification for SWR-354 to add a point of diversion on the Willamette River. The new point of diversion would be located upstream within the reach of the instream water right evidenced by Certificate 59549 and, according to the local watermaster, this right is not always met. Since the proposed change could be considered to have the potential to cause injury to this instream water right, EWEB worked with the Oregon Department of Fish and Wildlife (ODFW) and the Department of Environmental Quality (DEQ) to determine what mitigation would be required to offset any potential injury. ODFW has determined that if a 1.5 cfs portion of SWR-354 was placed instream, it would offset any potential injury to the instream water right. EWEB has, therefore, also requested that a 1.5 cfs portion of SWR-354 be modified to change the character of use to instream purposes, provided that OWRD accepts EWEB's request to add an upstream point of diversion to SWR-354.

To this end, EWEB is submitting the enclosed request for an assignment to the State of Oregon for the 1.5 cfs portion of SWR-354 for which the character of use change is requested. EWEB is also enclosing the required assignment fee. This request for an assignment is contingent on OWRD accepting EWEB's surface water registration modification and is to be executed concurrently with OWRD accepting that surface water registration modification.

Please contact me if you have any questions. My telephone number is 541-685-7000.

Sincerely,



Roger Gray
General Manager



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Enclosures

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Attachment 5
DEQ Confirmation of SWR-354 Additional Point of Diversion
Application for a Surface Water Registration Modification for SWR-354
Eugene Water & Electric Board

Kim Grigsby

From: WRIGHT Pamela <WRIGHT.Pamela@deq.state.or.us>
Sent: Thursday, February 27, 2014 4:35 PM
To: Kim Grigsby
Subject: RE: EWEB surface water registration modification

Kim,
I don't see a problem with moving it such a short distance upstream in terms of temperature change or pollution dilution.
Have you contacted Springfield Utility District about this? I think they get their drinking water from about the same place, right?

Pamela Wright
ODEQ Basin Coordinator
541-686-7719

From: Kim Grigsby [<mailto:KGrigsby@gsiws.com>]
Sent: Monday, February 24, 2014 11:12 AM
To: pamela.wright@state.or.us
Subject: EWEB surface water registration modification

Hi Pamela,

I appreciated your time this morning. As we discussed, EWEB is going to be requesting to add an upstream point of diversion to its surface water registration (SWR 354) on the Willamette River. This change could have the potential to "injure" the instream water right in that reach (Certificate 59549) during times when river flows are insufficient to meet the instream water right. So EWEB is proposing to provide mitigation to offset any potential injury. (OWRD considers "injury" to be reducing the amount of water to which a water right is entitled.) I will send you ODFW's report on the amount of mitigation that agency is requiring as soon as it is finalized. In the meantime, I am sending you a map showing the current points of diversion (PODs 1 & 2) and the proposed point of diversion (POD 5), as well as the instream water right.

We are hoping that the mitigation required by ODFW to offset the potential injury will also satisfy DEQ's needs, especially since the TMDL appears to be less than the instream water right. (I believe the TMDL ranges from 1310-1340 cfs and the instream water right ranges from 2,000 – 2,500 cfs.)

Please let me know if you have any question or would like any further information. Again, I will send ODFW's report as soon as it is completed. I will look forward to talking with you further as we work our way through this process.

Regards,
Kim

Kimberly Grigsby
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