



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): 11-1032

This Lease is between:

Lessor #1:

Name Port of Portland Attn: Scott Carter
Mailing address P.O. Box 3529
City, State, Zip Code Portland, OR 97208-3529
Telephone number (503) 978-2411
Email address Scott.carter@portofportland.com

Lessor #2, 3, etc.

- NA -

The water right to be leased is located in Multnomah County.

Lessee (if different than Oregon Water Resources Department):

Name - NA -
Mailing address _____
City, State, Zip Code _____
Telephone number _____
Email address _____

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Trustee:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266
(503) 986-0900

~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 2 N, Range 1 E, Section 32 and Tax Lot number 100. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), needs to be included.

1.2 Lessor #2 is the (Check one):

Not applicable

- Official representative of _____, the irrigation district which conveys water to the subject water rights.
 Another party with an interest in the subject water rights representing _____.

1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 85688 subject to this lease – The City of Portland and the Port of Portland both have general municipal use permits that also cover this parcel of land under their broad municipal POU's. These rights include:

City of Portland SW Claims 390, 391, & 392 – MU (not specifically related to this parcel)
Port of Portland Permit S-51547 – MU (not specifically related to this parcel)

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

1.5 Water Rights Proposed to be Leased Instream.

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 85688

Priority date: July 25, 2002 Type of use: Commercial and Industrial Use

Legal Season of Use: year-round (Jan 1st to Dec 31st)

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and ¼ ¼ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T 2 N, R 1 E, Section 32, NE¼ NW¼ - NA acres to be leased
Enter additional places of use here, using format above:

T 2 N, R 1 E, Section 32, NW¼ NW¼

Page _____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: - NA -

Acre-feet of storage, if applicable: - NA -

Maximum rate associated with the right to be leased (cfs): 2.23

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): -----

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: - NA -

If you need to enter another leased right, please use the additional water rights form.

1.6 Validity of rights. Lessor(s) attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or

the water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

Certificate issued July 2009 (within the last 5 years)

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~II~ Instream Water Right Information

2.1 Public use. This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

2.2 Instream use created by lease. The instream use to be created is described as follows:

COLUMBIA River

Tributary to the PACIFIC OCEAN, in the Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified):

at the POD - T2N, R1E, Section 32, NE ¼ NW ¼ 530 Feet South and 1960 Feet East NW corner, Section 32:
Columbia River RM 105

Maximum volume in acre-feet: -----

Rate in cfs: 2.23

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from through .
- Other (describe):

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on December 31, 2014 (5 years).

2.4 Flow protection. The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of

diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

- 3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.
- 3.2 Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
 - Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office.
 - For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 3.6 Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.
- 3.7 Fees.** Pursuant to ORS 536.050, the following fee is included:
- \$400 for an application with four or more landowners or four or more water rights.
 - \$250 for all other applications.

Lessor #1: Scott Carter Date: 02/24/2010

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

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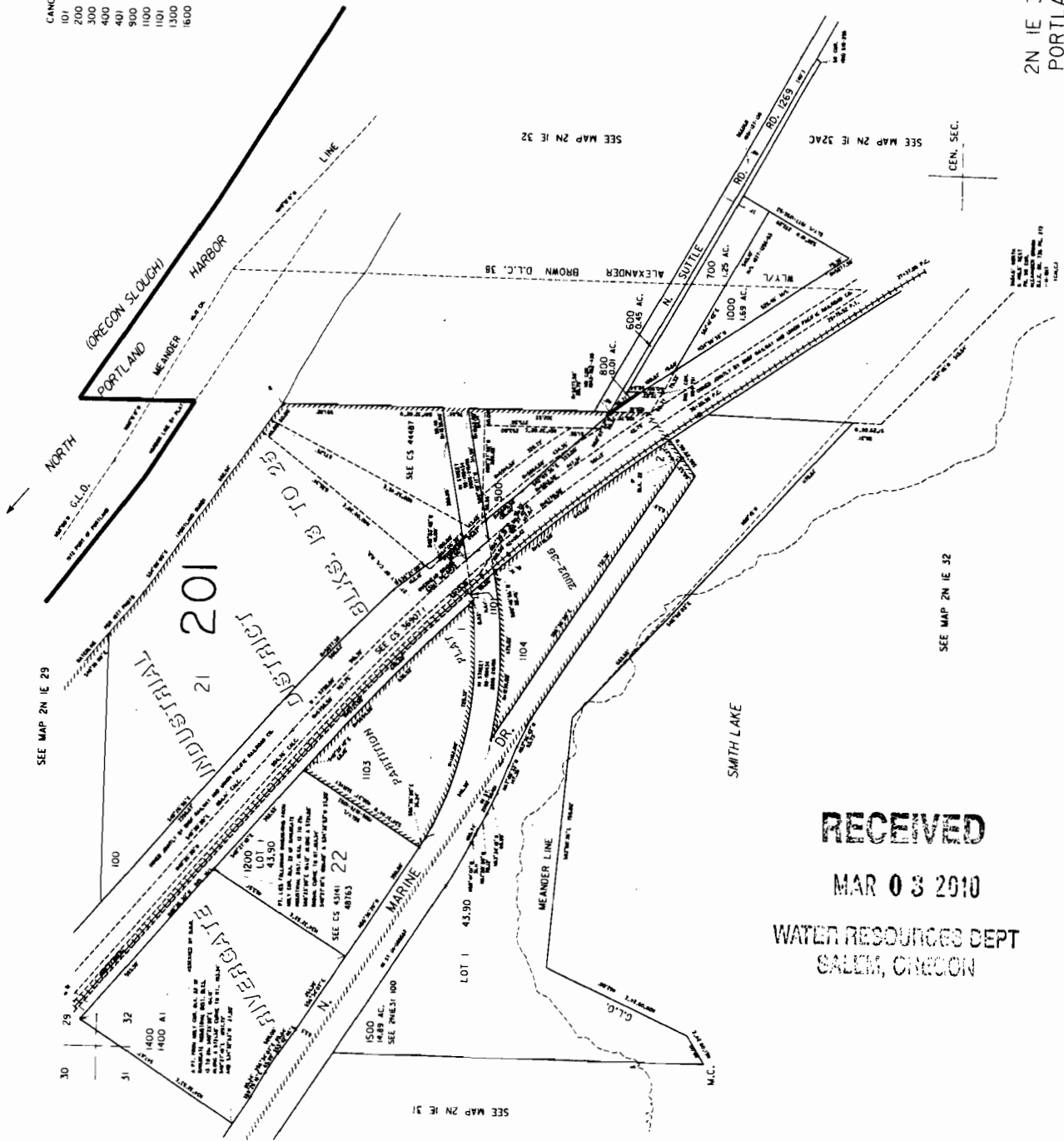
**Attachment
In-Stream Lease Application
Port of Portland**

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

NW1/4 SEC. 32 T.2N. R.1E. W.M.
MULTNOMAH COUNTY
1" = 200'

2N 1E 32B
PORTLAND

CANCELLED NO.
101
200
300
400
401
900
1000
1101
1300
1600



2N 1E 32B
PORTLAND

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WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON
 COUNTY OF MULTNOMAH
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

PORT OF PORTLAND
 PO BOX 3529
 PORTLAND OR 97208

confirms the right to use the waters of COLUMBIA RIVER, A TRIBUTARY OF THE PACIFIC OCEAN for COMMERCIAL AND INDUSTRIAL USE.

This right was perfected under Permit S-53884. The date of priority is JULY 25, 2002. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 2.23 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 N	1 E	WM	32	NE NW	8	530 FEET SOUTH AND 1960 FEET EAST FROM THE NW CORNER, SECTION 32

A description of the place of use to which this right is appurtenant is as follows:

Twp	Rng	Mer	Sec	Q-Q	GlOt
2 N	1 E	WM	32	NE NW	8
2N	1 E	WM	32	NW NW	1

Measurement, recording and reporting conditions:

- A. The water user shall maintain the totalizing flow meter. The totalizing flow meter must be maintained as identified in OAR 690-507645. The water user shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The water user shall maintain and operate fish screening as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

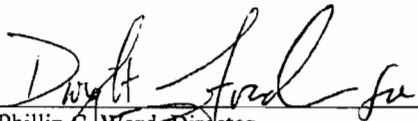
Failure to comply with any of the provisions of this right may result in action including, but not limited to restrictions on the use, civil penalties, or cancellation of the right.

This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Issued JUL 17 2009


Phillip C. Ward, Director
Water Resources Department

STATE OF OREGON
 COUNTY OF MULTNOMAH
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

PORT OF PORTLAND
 PO BOX 3529
 PORTLAND OR 97208

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2 N	1 E	WM	32	NE NW	8
2N	1 E	WM	32	NW NW	1

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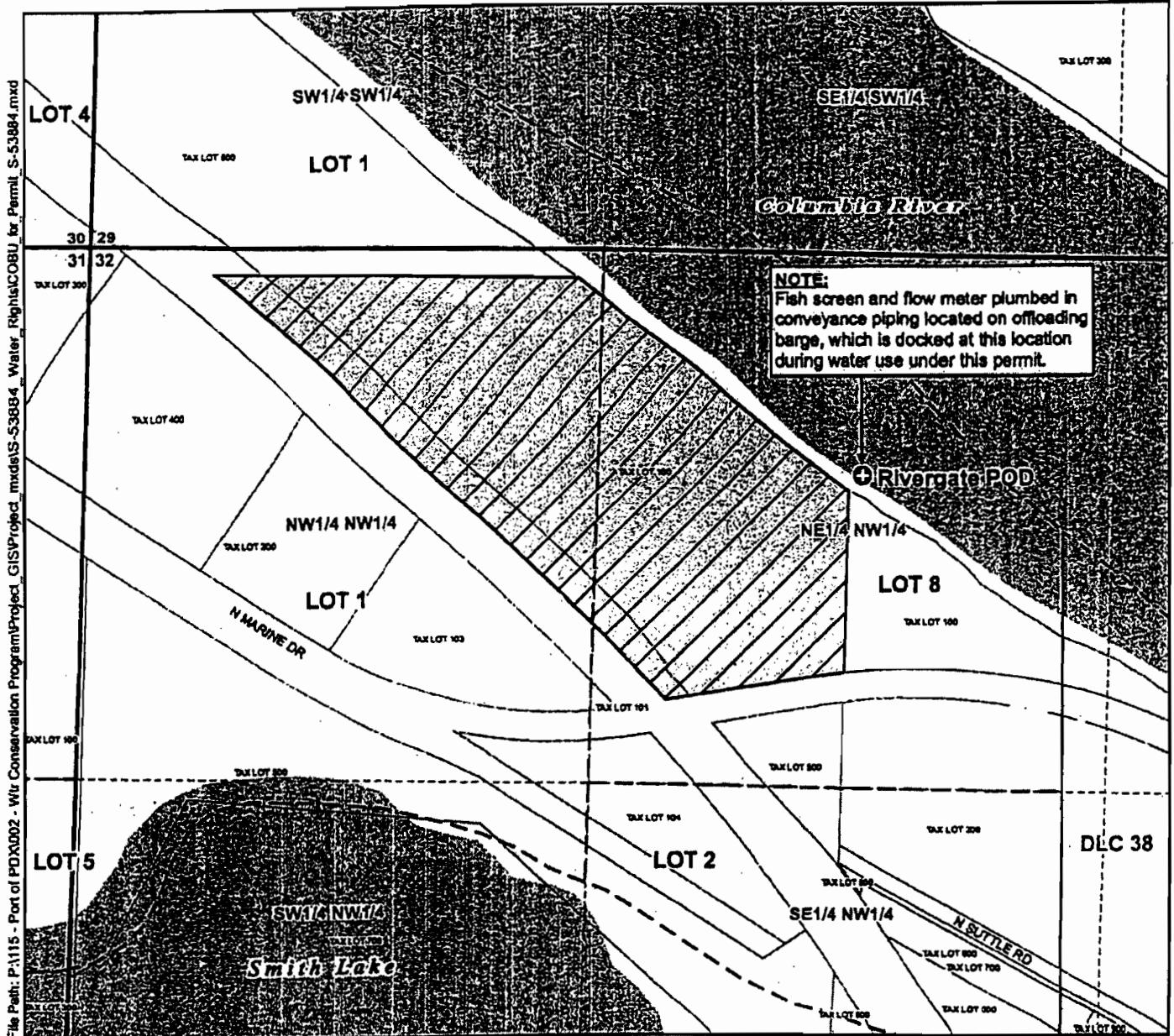
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**Claim of Beneficial Use for
Permit S-53884, Application S-85248
Port of Portland
Section 32, Township 2 North, Range 1 East (W.M.)**

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WATER RIGHTS DIVISION
SALE & OREGON



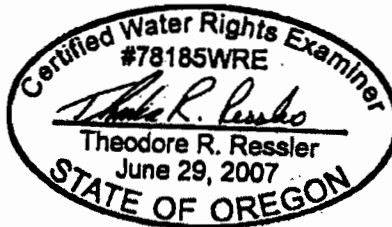
File Path: P:\1115 - Port of PD\A002 - Wtr Conservation Program\Project_GIS\Projected_mxd\15-S3884 - Water_Rights\COBU_for_Permit_S-53884.mxd

Legend

- Place of Use (POU)
- Point of Diversion (POD)
- Tax Lots
- Donation Land Claim (DLC)
- Government Lots
- Waterbodies

POD Legal Description

Rivergate POD
Located 530 feet South and 1,960 feet East
from the NW corner of Section 32, Township
2 North, Range 1 East (W.M.)



EXPIRES: 12-31-2010

Map Information

Projection: Oregon State Plane North Zone
Datum: North American Datum of 1983
Date: June 24, 2009
Prepared By: GSI Water Solutions, Inc.

Data Sources

Port of Portland, Oregon Geospatial Data Clearinghouse,
Government lots digitized from official survey maps located on
<http://www.blm.gov/or/landrecords/survey/srvy1.php>

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.



Scale
0 200 400
1 inch equals 400 feet

