

**CLAIM OF  
BENEFICIAL USE  
for Surface Water Permits  
claiming more than 0.1 cfs**



**Oregon Water Resources Department**  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900  
[www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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A fee of \$230 must accompany this form for permits  
with priority dates of July 9, 1987, or later.

This permit has a priority date of 5/3/1971; therefore, no fee is required.

**A separate form shall be completed for each permit.**

*In cases where a permit has been amended through the permit amendment process, a separate claim for the permit amendment is not required. Incorporate the permit amendment into the claim for the permit.*

This form is subject to revision. **Begin each new claim** by checking for a new version of this form at:  
<https://www.oregon.gov/OWRD/Forms/Pages/default.aspx>

Go to "Resources for Water Right Examiners (CWRE)" Page

<https://www.oregon.gov/OWRD/programs/WaterRights/COBU/Pages/default.aspx>

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0110(4).

Please type or print in dark ink. If this form is found to contain errors or omissions, it may be returned to you. **Every item must have a response.** If any requested information does not apply to the claim, insert "NA." **Do not delete or alter any section of this form unless directed by the form.** The Department may require the submittal of additional information from any water user or authorized agent.

"Section 8" of this form is intended to aid in the completion of this form and should not be submitted.

If you have questions regarding the completion of this form, please call 503-979-9103.

The Department has a program that allows it to enter into a voluntary agreement with an applicant for expedited services. Under such an agreement, the applicant pays the cost to hire additional staff that would not otherwise be available. This program means a certificate may be issued in about a month. For more information on this program see

<https://www.oregon.gov/OWRD/programs/WaterRights/RA/Pages/default.aspx>

**SECTION 1**

**GENERAL INFORMATION**

**1. File Information:**

APPLICATION # <b>S-49201</b>	PERMIT # <b>S-54783</b>	PERMIT AMENDMENT # <b>T-11450</b>
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**2. Property Owner (current owner information):**

APPLICANT/BUSINESS NAME <b>Pacific City Joint Water-Sanitary Authority ATTN: John Wesely, Manager</b>		PHONE NO. <b>503-965-6636</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>PO Box 520</b>			
CITY <b>Pacific City</b>	STATE <b>OR</b>	ZIP <b>97135</b>	E-MAIL <b>jwesely@pcjwsa.com</b>

If the current property owner is not the permit holder of record, it is recommended that an assignment be filed with the Department. ***Each permit holder of record must sign this form.***

**3. Permit or holder of record (this may, or may not, be the current property owner):**

PERMIT HOLDER OF RECORD <b>Pacific City Joint Water-Sanitary Authority</b>			
ADDRESS <b>PO Box 520</b>			
CITY <b>Pacific City</b>	STATE <b>OR</b>	ZIP <b>97135</b>	

ADDITIONAL PERMIT HOLDER OF RECORD <b>N/A</b>			
ADDRESS			
CITY	STATE	ZIP	

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**4. Date of Site Inspection:**

**7/14/2015 & 5/11/2023**

**5. Person(s) interviewed and description of their association with the project:**

NAME	DATE	ASSOCIATION WITH THE PROJECT
<b>John Wesely</b>	<b>6/7/2022, 5/11/2023, 6/15/2023</b>	<b>Manager, PCJWSA</b>
<b>Tony Owen</b>	<b>7/14/2015</b>	<b>Former Manager, PCJWSA</b>

**6. County:**

**Tillamook**

**7. If any property described in the place of use of the permit final order is excluded from this report, identify the owner of record for that property (ORS 537.230(5)):**

OWNER OF RECORD <b>N/A</b>			
ADDRESS			
CITY	STATE	ZIP	

Add additional tables for owners of record as needed

**SECTION 2  
SIGNATURES**

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CWRE Statement, Seal and Signature

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.



CWRE NAME <b>Theodore R. Ressler</b>		PHONE NO. <b>503-701-4535</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>Summit Water Resources, LLC; 4784 SE 17th Avenue, Suite 111</b>			
CITY <b>Portland</b>	STATE <b>OR</b>	ZIP <b>97202</b>	E-MAIL <b>tressler@summitwr.com</b>

Permit Holder of Record Signature or Acknowledgement

***Each*** permit holder of record must sign this form in the space provided below.

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.

SIGNATURE	PRINT OR TYPE NAME	TITLE	DATE
	<b>JOHN WEESLY</b>	<b>AUTHORITY MANAGER</b>	<b>10-30-2023</b>

**SECTION 3**

**CLAIM DESCRIPTION**

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**1. Point of diversion name or number:**

POINT OF DIVERSION (POD) NAME OR NUMBER (CORRESPOND TO MAP)
<b>Horn Creek Intake</b>

**2. Point of diversion source and tributary:**

POD NAME OR NUMBER	SOURCE	TRIBUTARY
<b>Horn Creek Intake</b>	<b>Horn Creek</b>	<b>Nestucca River</b>

**3. Developed use(s), period of use, and rate for each use:**

POD NAME OR NUMBER	USES	IF IRRIGATION, LIST CROP TYPE	SEASON OR MONTHS WHEN WATER WAS USED	ACTUAL RATE OR VOLUME USED (CFS, GPM, OR AF)
<b>Horn Creek Intake</b>	<b>Municipal</b>	<b>N/A</b>	<b>Year round</b>	<b>0.58 cfs</b>
<b>Total Quantity of Water Used</b>				<b>0.58 cfs</b>

**4. Provide a general narrative description of the distribution works.** This description must trace the water system from each point of diversion to the place of use:

**Water is diverted from Horn Creek using a bank side diversion. The diversion is equipped with a bar rack and debris screen to minimize debris from entering the intake fault. The 16-inch intake pipe is fitted with a Johnson T-screen (fish screen). The diverted water is conveyed by pipe to PCJWSA's water treatment plant and then delivered to PCJWSA's municipal water distribution system.**

Reminder: The map associated with this claim must identify the location of the point(s) of diversion, Donation Land Claims (DLC), Government Lots (GLot), and Quarter-Quarters (QQ).

**5. Variations:**

Was the use developed differently from what was authorized by the permit, or permit amendment final order? If yes, describe below.

**YES**

(e.g. "The permit allowed three points of diversion. The water user only developed one of the points." or "The permit allowed 40.0 acres of irrigation. The water user only developed 10.0 acres.")

**Point of Diversion.** The location of the point of diversion as determined during the site inspection differs slightly from the location listed on the permit. The location of the point of diversion as stated on the COBU map (Attachment 1) has been re-described to more accurately locate the point of diversion and to ensure consistency in the description of this POD with the description of the same POD under PCJWSA's water right certificates 91174 and 91175.

**Place of Use.** The place of use as shown on the COBU map has been limited to only those quarter-quarters within the authorized place of use where beneficial use of water has occurred (i.e., within the permit holders water service area).

**6. Claim Summary:**

POD NAME OR #	MAXIMUM RATE AUTHORIZED	CALCULATED THEORETICAL RATE BASED ON SYSTEM	AMOUNT OF WATER MEASURED	USE	# OF ACRES ALLOWED	# OF ACRES DEVELOPED
Horn Creek WTP Intake	2.0 cfs	2.97 cfs	1.26 cfs*	Municipal	N/A	N/A

\*The measured rate of beneficial use (1.26 cfs) is the cumulative total of 0.19 cfs diverted under Certificate 91174, 0.49 cfs diverted under Certificate 91175, and 0.58 cfs diverted under Permit S-54783.

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**SECTION 4  
SYSTEM DESCRIPTION**

Are there multiple PODs? NO

If "YES" you will need to copy and complete a separate Section 4 for each POD.

POD Name or Number this section describes (only needed if there is more than one):

**A. Place of Use**

1. Is the right for municipal use? YES, the use is for Quasi-Municipal

**B. Diversion and Delivery System Information**

Provide the following information concerning the diversion and delivery system. Information provided must describe the equipment used to transport and apply the water from the point of diversion to the place of use.

1. Is a pump used? YES

*If "NO" items 2 through item 6 may be deleted.*

**2. Pump Information:**

MANUFACTURER	MODEL	SERIAL NUMBER	TYPE (CENTRIFUGAL, TURBINE OR SUBMERSIBLE)	INTAKE SIZE	DISCHARGE SIZE
National Pump Company, LLC	M12HC	344980A-1	Turbine	--	8-inch
National Pump Company, LLC	M12HC	344980A-2	Turbine	--	8-inch

**3. Motor Information:**

MANUFACTURER	HORSEPOWER
US Motors	25
US Motors	25

**4. Theoretical Pump Capacity:**

HORSEPOWER	OPERATING PSI	LIFT FROM SOURCE TO PUMP	LIFT FROM PUMP TO PLACE OF USE	TOTAL PUMP OUTPUT (IN CFS)
25	21 <sup>A</sup>	6 ft	N/A <sup>B</sup>	2.97

<sup>A</sup> Pressure measured on discharge line from pump with a single pump running

<sup>B</sup> The lift downstream of the pump is a component of the pressure measured at the pump discharge.

**5. Provide pump calculations:**

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$$Q_{\text{pump}} = \frac{(\text{Hp})(\text{conversion factor})}{(\text{lift} + \text{pressure}) \text{ total head in feet}} = \text{cfs}$$

Conversion factor: Turbine & Submersible Pumps, 80% eff.  $\frac{(550 \text{ ft lb/sec/Hp})(.80)}{(62.4 \text{ lb/cu ft})} = 7.04 \text{ ft}^4/\text{sec/Hp}$

$$Q_{\text{pump}} = \frac{(25)(7.04)}{[6 + (21 \times 2.54)]} = 2.97 \text{ cfs}$$

Note: minor frictional losses upstream of the pressure gauge (pump column, etc.) accounted for by the 2.45 ft H2O/psi conversion factor (versus 2.31 ft H2O/psi).

**6. Measured Pump Capacity (using meter if meter was present and system was operating):**

INITIAL METER READING	ENDING METER READING	DURATION OF TIME OBSERVED	TOTAL PUMP OUTPUT (IN CFS)
393,720 gallons	572,267 gallons	315 minutes	1.26 cfs (567 gpm)

Reminder: For pump calculations use the reference information at the end of this document.

**7. Is the distribution system piped?**

YES

If "NO" items 8 through item 13 may be deleted.

**8. Mainline Information: (Data Source: PCJWSA 2022 WMCP)**

MAINLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
12-inch	11,689 ft	PVC	Buried
10-inch	1,329 ft	Asbestos cement	Buried
8-inch	25,694 ft	PVC, steel, asbestos cement, ductile iron	Buried
6-inch	31,804 ft	PVC, asbestos cement, ductile iron	Buried
4-inch	13,486 ft	PVC, asbestos cement	Buried
3-inch	1,173 ft	PVC	Buried
2-inch	40,786 ft	PVC, polyethylene, galvanized steel	Buried
1-inch	100 ft	Polyethylene	Buried



**E. Gravity Flow Canal or Ditch**

(THE DEPARTMENT TYPICALLY USES MANNING'S FORMULA FOR CANALS AND DITCHES)

**1. Is a gravity flow canal or ditch used to convey the water as part of the distribution system?**

**NO**

*If "NO", items 2 through 4 relating to this section may be deleted.*

**F. Additional notes or comments related to the system:**

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**SECTION 5  
CONDITIONS**

All conditions contained in the permit, permit amendment, or any extension final order shall be addressed. Reports that do not address all performance related conditions will be returned.

**1. Time Limits:**

Permits and any extension final orders contain any or all of the following dates: the date when the actual construction work was to begin, the date when the construction was to be completed, and the date when the complete application of water to the proposed use was to be completed. These dates may be referred to as ABC dates. Describe how the water user has complied with each of the development timelines established in the permit or permit extension of time:

	DATE FROM PERMIT	DATE ACCOMPLISHED *	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	7/27/1973		
BEGIN CONSTRUCTION (A)	7/27/1974	Prior to 1974	Construction of the original intake for diversion of surface water from Horn Creek.
COMPLETE CONSTRUCTION (B)	10/1/2025	May 2011	Completed construction of the Horn Creek WTP (current built-out).
COMPLETE APPLICATION OF WATER (C)	10/1/2025	6/13/2023	Date of beneficial use of water as documented in this COBU.

\* MUST BE WITHIN PERIOD BETWEEN PERMIT OR ANY EXTENSION FINAL ORDER ISSUANCE AND THE DATE TO COMPLETELY APPLY WATER

**2. Is there an extension final order(s)?**

**YES**

*If "NO", items a and b relating to this section may be deleted.*

a. Did the Extension Final Order require the submittal of Progress Reports?

**NO**

*If "NO", item b relating to this section may be deleted.*



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3. Measurement Conditions:

a. Does the permit, permit amendment, or any extension final order require the installation of a meter or approved measuring device? **NO**

If "NO", items b through f relating to this section may be deleted.

Reminder: If a meter or approved measuring device was required, the COBU map must indicate the location of the device in relation to the point of diversion.

b. Has a meter been installed? **YES**

c. Meter Information

POD NAME OR #	MANUFACTURER	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
Horn Creek WTP Intake	McCrometer	09-09537	Working	Not available	2010

If a meter has been installed, items d through f relating to this section may be deleted.

4. Recording and reporting conditions:

a. Is the water user required to report the water use to the Department? **NO; however, as a governmental entity the permit holder reports water use to the Department**

If "NO", item b relating to this section may be deleted.

b. Have the reports been submitted? **YES (WUR 65379)**

If the reports have not been submitted, attach a copy of the reports if available.

5. Fish Screening:

a. Are any points of diversion required to be screened to prevent fish from entering the point of diversion? **YES**

If "NO", items b through e relating to this section may be deleted.

Reminder: If fish screening devices were required, the COBU map must indicate their location in relation to the point of diversion.

b. Has the fish screening been installed? **YES**

c. When was the fish screening installed?

DATE	BY WHOM
2010	Laskey-Clifton Corporation

Reminder: If the permit was issued on or after February 1, 2011, the fish screen is required to be approved by the Oregon Department of Fish and Wildlife regardless of the rate of diversion.

d. If the diversion **involves a pump** *and* the **total** diversion rate of all rights at the point of diversion is less than 225 gpm (0.5 cfs) and the permit was issued prior to February 1, 2011:

- Has the self-certification form previously been submitted to the Department? **N/A**

If not, go to <https://www.oregon.gov/OWRD/Forms/Pages/default.aspx> complete and attach a copy of the 'ODFW Small Pump Screen Self Certification' form to this claim, and send a copy of it to the Oregon Department of Fish and Wildlife (ODFW).

**Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. The ODFW self certification form needs to have been previously submitted or be attached to this form.**

e. If the diversion does **not involve a pump** *or* the **total** diversion rate of all rights at the point of diversion is 225 gpm (0.5 cfs) or greater:

- Has the ODFW approval been previously submitted?

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If not, contact and work with ODFW to ensure compliance. To demonstrate compliance, provide signed documentation from ODFW. A form is available at: <https://www.oregon.gov/OWRD/Forms/Pages/default.aspx>

**Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. In order to receive a favorable approval, the ODFW/WRD "Fish Screen Inspection" form needs to have been previously submitted or be attached to this form.**

**6. By-pass Devices:**

- a. Are any points of diversion required to have a by-pass device to prevent fish from entering the point of diversion? **NO**

*If "NO", items b and c relating to this section may be deleted.*

**7. Other conditions required by permit, permit amendment final order, or extension final order:**

- a. Was the water user required to restore the riparian area if it was disturbed? **NO**
- b. Was a fishway required? **NO**
- c. Was submittal of a water management and conservation plan required? **YES**
- d. Other conditions? **YES**

If "YES" to any of the above, identify the condition and describe the water user's actions to comply with the condition(s):

(c) Submittal of Water Management and Conservation Plan.  
**IN COMPLIANCE. The permit holder submitted, and OWRD approved, a Water Management and Conservation plan in 2012 (v88 p595) and 2022 (v125 p921). The permit holder has submitted WMCP progress reports as required.**

(d) Conditions of Settlement Agreement for Extension of Time  
**2.a.** Total surface water withdrawals from any of the points of diversion authorized under Certificates 86807 and 86808, under Transfer T-11126 and Permit S-54783 and any subsequent certificates issued thereunder, will be limited to a combined rate of 2.7 cfs.  
**IN COMPLIANCE. Total diversions under the referenced water rights have not exceeded a combined rate of 2.7 cfs.**

2.b. Withdrawal of surface water from Horn Creek will not be allowed when stream flow is less than 2.0 cfs; however, for as long as Condition 3 of the Biological Opinion or the Corps Permit is in effect, the withdrawal of surface water will not be allowed when stream flow is less than 2.5 cfs. Condition 3 of Biological Opinion is copied below:

3. To implement reasonable and prudent #3 (instream flows) the Corps shall ensure that water withdrawals at the Horn Creek intake do not exceed 2.7 cfs, and minimum instream flows do not drop below 2.5 cfs.
  - a. When water withdrawals on Horn Creek reach 2.0 cfs, instream flows shall be measure[d] concurrently at two locations until water withdrawals drop below 2.0 cfs. The first location shall be located approximately 250 feet from the confluence of Horn Creek and the Nestucca River. The second location shall be located approximately 250 feet above the head of tide.

Biological Opinion, Attachment 1, p. 31.

For as long as the Biological Opinion is in effect, stream flow measurements will be taken in accordance with Paragraph 3.a. of Attachment 1 (as shown above), except that if the requirements of Paragraph 3.a. are amended by agreement of NOAA and Pacific City, requirements as amended shall apply. Thereafter, stream flow measurement for purposes of complying with Condition 2.b. shall be taken below the lowest PCJWSA point of diversion on Horn Creek. The permit holder shall be responsible for maintaining and operating a stream gage at such location.

**IN COMPLIANCE.** The biological opinion is in effect and as stated by Condition 3 of the Biological Opinion, "... the Corps shall ensure that water withdrawals at the Horn Creek intake do not exceed 2.7 cfs and instream flows do not drop below 2.5 cfs". PCJWSA combined withdrawals from Horn Creek have not exceeded 2.7 cfs and the Corps has not notified PCJWA that instream flows have dropped below 2.5 cfs.

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2.c. The water right permit holder will provide copies to Oregon Water Resources Department (“OWRD”) of all reports prepared pursuant to Conditions 4(d)-(g) of the Biological Opinion for as long as such reports are required under the Corps Permit. At such time as reports are no longer required under the Corps Permit, the water right permit holder will provide annual reports to the OWRD, or more frequently if requested by OWRD, of daily stream flow measurements and daily surface water withdrawals. Conditions 4(d)-(g) of the Biological Opinion are copied below:

- 4. To implement reasonable and prudent #4 (monitoring) the Corps shall:
  - \*\*\*
  - d. Annually, submit a report that details Pacific City’s operation plan, including peak demand, Horn Creek withdrawals, and duration of peak withdrawals.
  - e. Annually, for a period of 5 years, submit a report to NMFS that summarizes the results of the post-construction instream temperature monitoring, low flow habitat analysis, and the effectiveness of the installation of the large wood debris structures in creating pools and providing habitat and riparian planting survival.
  - f. As required by term and condition #2[3], submit a monitoring report detailing instream flow measures collected during periods of peak withdrawals exceeding 2.0 cfs.

...  
 Biological Opinion, Attachment 1, p. 32

**IN COMPLIANCE.** According to Condition 4 of the Biological Opinion, the required reports shall be prepared by the Corps. The permit holder has corresponded with the Corps regarding the preparation and submittal of the required reports to OWRD (email correspondence with Corps dated 2/23/2021, Attachment 4) and has been informed that the Corps has not completed the required reporting. Per correspondence with OWRD (email correspondence with Gerry Clark dated 9/8/2022, Attachment 4), the permit holder has complied with its responsibilities per the requirements of this condition.

**SECTION 6**  
**ATTACHMENTS**

Provide a list of any additional documents you are attaching to this report:

ATTACHMENT NAME	DESCRIPTION
Attachment 1	Maps
Attachment 2	Water Right Information
Attachment 3	ODFW Correspondence and Approvals
Attachment 4	Corps and OWRD Correspondence

## SECTION 7

### CLAIM OF BENEFICIAL USE MAP

The Claim of Beneficial Use Map must be submitted with this claim. Claims submitted without the Claim of Beneficial Use map will be returned. The map shall be submitted on poly film at a scale of 1" = 1320 feet, 1" = 400 feet, or the original full-size scale of the county assessor map for the location.

Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification number.

**The point of diversion and visible system components were visited during the site inspection. The location of the point of diversion was located using a handheld GPS and a field survey completed during the site inspection. The map was created using Geographic Information System (GIS) software and spatial datasets obtained from United States Bureau of Land Management, Oregon Water Resources Department, and United States Geological Survey. Additional data and information specific to the use water of under the water right described in this Claim of Beneficial Use report were obtained from the water right holder.**

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## Map Checklist

Please be sure that the map you submit includes ALL the items listed below.  
(Reminder: Incomplete maps and/or claims may be returned.)

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- Map on polyester film
- Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- Township, Range, Section, Donation Land Claims, and Government Lots
- NA** If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- Locations of fish screens and/or fish by-pass devices in relationship to point of diversion
- Locations of meters and/or measuring devices in relationship to point of diversion or appropriation
- Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- Point(s) of diversion or appropriation (illustrated and coordinates)
- NA** Tax lot boundaries and numbers [**not required per OAR 690-014-0170(6)**]
- Source illustrated if surface water
- Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- Application and permit number or transfer number
- North arrow
- Legend
- CWRE stamp and signature

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**Attachment 1**  
**Map**

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October 30, 2023

Gerry Clark  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271

**Subject:** Partial Perfection Claim of Beneficial Use for Permit S-54783

Mr. Clark:

On behalf of Pacific City Joint Water-Sanitary Authority (PCJWSA), please find enclosed a Claim of Beneficial Use (COBU) report for a partial perfection of water use permit S-54783 (Application S-49201).

The enclosed COBU documents PCJWSA's development and perfection of 0.58 cubic feet per second (cfs) of the 2.0 cfs rate (29%) authorized by this permit and PCJWSA requests the residual 1.42 cfs to remain in the permit stage for subsequent development by PCJWSA. As required by OAR 690-320-0040, we are providing the Department with the following additional information in support of the requested partial perfection.

**Monthly Quantity of Water Diverted for the Three Preceding Years**

The monthly water production volumes under Permit S-54783 during 2020, 2021, and 2022 are provided in Table 1 below.

**Table 1.** Monthly Production Volumes from Horn Creek, Permit S-54783. Volumes in Acre-Feet.  
(Source –OWRD, Water Use Report 65379).

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
<b>2022</b>	15.82	19.75	21.98	21.23	20.3	18.93	28.72	25.13	23.46	*	*	*
<b>2021</b>	8.6	12.54	21.38	19.78	20.67	21.76	28.56	28.04	19.17	15.47	14.04	12.73
<b>2020</b>	5.98	7.02	15.82	13.49	14.78	17.99	24.82	24.82	15.55	16.46	11.21	9.54

Notes

\* Data not yet reported

**Plan for Development of Successive Increments of the Permit**

The residual 1.42 cfs of Permit S-54783 will be developed by PCJWSA in response to future water demand, which is anticipated to increase in response to population growth and changes in service area size. PCJWSA's 2022 Water Management and Conservation Plan provides a summary of the population growth projections and a proposed plan for meeting the forecasted increase in population and water demand, which includes further development of Permit S-54783. An extension of time for the residual portion of Permit S-54783 is currently under review at the Department.



**Map Showing Where Water Will be Put to Use**

Refer to the maps accompanying the enclosed COBU which show the maximum extent of beneficial use under Permit S-54783. PCJWSA will develop and use the remaining portion of Permit S-54783 within PCJWSA's service area for quasi-municipal water supply in accordance with the permit.

If you have any questions regarding the enclosed COBU, please call me at 503-967-7050 x204.

Respectfully submitted,



Theodore Ressler, RG, CWRE  
Summit Water Resources, LLC

Enclosures:

Claim of Beneficial Use for Permit S-54783

Cc: John Wesely, Manager - PCJWSA

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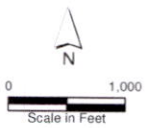
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Parametrix



..... Pressure Zones  
— Potable Water Infrastructure

Figure 2-2  
PCJWSA Water System  
Overview

PCJWSA  
Water Management and Conservation Plan

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**Attachment 2**  
**Water Right Information**

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PERMIT S-54783

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STATE OF OREGON,  
County of Marion, | ss.

This superseding permit is issued to describe an amendment for a change in point of diversion proposed under Permit Amendment Application T-11450 and approved by Special Order Vol. 28, Page 144, entered Nov 19, 2012, and to describe extensions of time for complete application of water approved May 24, 1978, August 27, 1981, March 21, 1986, and May 14, 2012, an assignment to a new permittee approved September 18, 1998, and a Water Management and Conservation Plan approved October 1, 2012. This permit supersedes Permit S-36881.

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 2.0 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Horn Creek.....

The use to which water is to be applied is quasi-municipal.....

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	10 W	WM	20	NE SW	2445 FEET NORTH AND 2514 FEET EAST FROM THE SE CORNER OF SECTION 19
4 S	10 W	WM	20	NE SW	2450 FEET NORTH AND 2575 FEET EAST FROM THE SW CORNER OF SECTION 20

Authorized Place of Use:

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	10 W	WM	18	SE SW
4 S	10 W	WM	18	SW SE
4 S	10 W	WM	19	NW NE
4 S	10 W	WM	19	SW NE
4 S	10 W	WM	19	SE NE
4 S	10 W	WM	19	NE NW
4 S	10 W	WM	19	SW NW
4 S	10 W	WM	19	SE NW
4 S	10 W	WM	19	NE SW
4 S	10 W	WM	19	NW SW
4 S	10 W	WM	19	SW SW
4 S	10 W	WM	19	SE SW
4 S	10 W	WM	19	NE SE
4 S	10 W	WM	19	NW SE
4 S	10 W	WM	19	SW SE
4 S	10 W	WM	19	SE SE
4 S	10 W	WM	30	NE NE

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QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	10 W	WM	30	NW NE
4 S	10 W	WM	30	SW NE
4 S	10 W	WM	30	SE NE
4 S	10 W	WM	30	NE NW
4 S	10 W	WM	30	NW NW
4 S	10 W	WM	30	SW NW
4 S	10 W	WM	30	SE NW
4 S	10 W	WM	30	NE SW
4 S	10 W	WM	30	NW SW
4 S	10 W	WM	30	NE SE
4 S	10 W	WM	30	NW SE
4 S	10 W	WM	30	SW SE
4 S	10 W	WM	30	SE SE
4 S	10 W	WM	31	NW NE
4 S	10 W	WM	31	SW NE
4 S	11 W	WM	13	NE SE
4 S	11 W	WM	13	SW SE
4 S	11 W	WM	13	SE SE
4 S	11 W	WM	24	NE NE
4 S	11 W	WM	24	NW NE
4 S	11 W	WM	24	SW NE
4 S	11 W	WM	24	SE NE
4 S	11 W	WM	24	NE SE
4 S	11 W	WM	24	NW SE
4 S	11 W	WM	24	SE SE
4 S	11 W	WM	25	NE NE
4 S	11 W	WM	25	SE NE
4 S	11 W	WM	25	NE SE

Permit Amendment T-11450 Conditions

The combined quantity of water diverted at the new additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

Water shall be acquired from the same surface water source (Horn Creek) as the original point of diversion.

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SALEM, OREGONExtension of Time Conditions1. Development Limitations

Diversion of any water beyond 1.35 cfs under Permit S-36881 (superseded by Permit S-54783) shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86. The required WMCP shall be submitted to the Department within 3 years of an approved extension of time application. Use of water under Permit S-54783 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department.

The deadline established by the Extension of Time Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of the Extension of Time Final Order may also meet the WMCP requirements of other Department orders.

2. Settlement Conditions

The following three conditions are added pursuant to the Settlement Agreement:

2.a. Total surface water withdrawals from any of the points of diversion authorized under Certificates 86807 and 86808, under Transfer T-11126 and Permit S-54783 and any subsequent certificates issued thereunder, will be limited to a combined rate of 2.7 cfs.

2.b. Withdrawal of surface water from Horn Creek will not be allowed when stream flow is less than 2.0 cfs; however, for as long as Condition 3 of the Biological Opinion or the Corps Permit is in effect, the withdrawal of surface water will not be allowed when stream flow is less than 2.5 cfs. Condition 3 of Biological Opinion is copied below:

3. To implement reasonable and prudent #3 (instream flows) the Corps shall ensure that water withdrawals at the Horn Creek intake do not exceed 2.7 cfs, and minimum instream flows do not drop below 2.5 cfs.

a. When water withdrawals on Horn Creek reach 2.0 cfs, instream flows shall be measure[d] concurrently at two locations until water withdrawals drop below 2.0 cfs. The first location shall be located approximately 250 feet from the confluence of Horn Creek and the Nestucca River. The second location shall be located approximately 250 feet above the head of tide.

Biological Opinion, Attachment 1, p. 31.

For as long as the Biological Opinion is in effect, stream flow measurements will be taken in accordance with Paragraph 3.a. of Attachment 1 (as shown above), except that if the requirements of Paragraph 3.a. are amended by agreement of NOAA and Pacific City, requirements as amended shall apply. Thereafter, stream flow measurement for purposes of complying with Condition 2.b. shall be taken below the lowest PCJSPA point of diversion on Horn Creek. The permit holder shall be responsible for maintaining and operating a stream gage at such location.

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PERMIT S-54783

2.c. The water right permit holder will provide copies to Oregon Water Resources Department ("OWRD") of all reports prepared pursuant to Conditions 4(d)-(g) of the Biological Opinion for as long as such reports are required under the Corps Permit. At such time as reports are no longer required under the Corps Permit, the water right permit holder will provide annual reports to the OWRD, or more frequently if requested by OWRD, of daily stream flow measurements and daily surface water withdrawals. Conditions 4(d)-(g) of the Biological Opinion are copied below:

4. To implement reasonable and prudent #4 (monitoring) the Corps shall:

\*\*\*

- d. Annually, submit a report that details Pacific City's operation plan, including peak demand, Horn Creek withdrawals, and duration of peak withdrawals.
- e. Annually, for a period of 5 years, submit a report to NMFS that summarizes the results of the post-construction instream temperature monitoring, low flow habitat analysis, and the effectiveness of the installation of the large wood debris structures in creating pools and providing habitat and riparian planting survival.
- f. As required by term and condition #2[3], submit a monitoring report detailing instream flow measures collected during periods of peak withdrawals exceeding 2.0 cfs.

...

Biological Opinion, Attachment 1, p. 32

Water Management and Conservation Plan Conditions

The Pacific City Joint Water-Sanitary Authority Water Management and Conservation Plan shall remain in effect until October 1, 2022, unless approval is rescinded pursuant to OAR 690-086-0920.

The limitation of the diversion of water under Permit S-36881 (superseded by Permit S-54783) established in Condition #1 (Developmental Limitations) in the Final Order Incorporating Settlement Agreement (Page 6 of 9) issued by the Oregon Water Resources Department on May 14, 2012, approving an extension of time for Permit S-36881 (superseded by Permit S-54783) is removed.

Subject to other limitations and/or conditions of the permit, as well as the Settlement Conditions set forth in the Extension of Time Final Order Incorporating Settlement Agreement issued by the Oregon Water Resources Department on May 14, 2012, the Pacific City Joint Water-Sanitary Authority is authorized to divert up to 2.0 cfs under Permit S-54783.

The Pacific City Joint Water-Sanitary Authority shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years (of the plan approval date) and no later than April 1, 2022.

The Pacific City Joint Water-Sanitary Authority shall submit a progress report containing the information required under OAR 690-086-0120(4) by October 1, 2017.

The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Pacific City Joint Water-Sanitary Authority from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

*The priority date of this permit is May 3, 1971.....*

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PERMIT S-54783

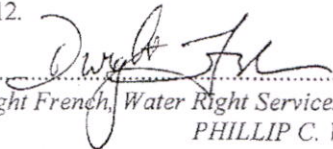
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*Actual construction work shall begin on or before July 27, 1974..... and shall  
thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 2025.....*

*Complete application of the water to the proposed use shall be made on or before October 1, 2025.....*

WITNESS my hand this.....19.....day of November, 2012.



.....  
Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR



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**Attachment 3**  
**ODFW Correspondence and Approvals**

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Kate Brown, Governor

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Department of Fish and Wildlife

Fish Division

4034 Fairview Industrial Drive SE

Salem, OR 97302

(503) 947-6201

FAX (503) 947-6202

www.dfw.state.or.us/

August 11, 2015

Nikki Hendricks, District 1  
Oregon Water Resources Department  
c/o Port of Tillamook Bay  
4000 Blimp Blvd, Suite 400  
Tillamook, OR 97141



Reference: Fish Screening Requirement for Pacific City, S-54783, T-11126

Dear Ms. Hendricks,

The Oregon Department of Fish and Wildlife (ODFW) was requested by the City of Pacific City to inspect a municipal fish screen facility on Horn Creek for transfer T-11126 and water right S-54783. ODFW completed the inspection on Wednesday, July 29, 2015.

ODFW had previously provided a fish passage approval for the fish passage design on March 11, 2009 (see attached). The fish passage portion of the project appeared to be constructed and functioning properly when observed on the July 29, 2015 site visit.

ODFW inspected the fish screen and determined that the fish screen present will meet ODFW fish screening criteria up to 3.6 cfs.

ODFW appreciates Pacific City's interest in protecting fisheries resources on Horn Creek.

If you have any questions, please feel free to contact me (503) 947-6217.

Thank you,

Pete Baki  
Statewide Fish Screening Coordinator

Cc:

Ted Ressler - GSI Water Solutions, Inc.

Tony Owen - PCJWSA Manager

Chris Knutsen, Joel Watts - ODFW

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Tom Nielsen

OWFD  
SALEM, OREGON

**From:** Greg D Apke [Greg.D.Apke@state.or.us]  
**Sent:** Wednesday, March 11, 2009 10:51 AM  
**To:** Colin MacLaren  
**Cc:** Greg D Apke; Ray Hartlerode; Ron Rehn; Keith Braun; Randal N. Reeve  
**Subject:** ODFW Fish Passage Approval for Horn Creek Fish Passage Project (PA-01-0012)

**Importance:** High

Collin,

The Oregon Department of Fish and Wildlife (ODFW) approves (**PA-01-0012**) the fish passage design for the two weirs proposed for construction in Horn Creek, which is a tributary of the Pacific Ocean in Tillamook County, Oregon. As you have described, this project proposes to construct two weirs associated with the Pacific City Joint Water-Sanitary Authority (PCJWSA) municipal water intake facility. PCJWSA is developing a water intake on Horn Creek to maintain stable channel morphology around the water diversion intake. PCJWSA proposes to construct two rock weirs which will be located in the channel and associated with the water intake structure, as depicted in the design plans submitted 1-19-2009. The upstream weir is a full channel spanning weir, while the lower weir does not span the channel. The key rocks associate with proposed weir construction will be installed in the thalweg of Horn Creek and will have elevations comparable to the elevation of the stream channel-bottom in order to accommodate chum salmon passage.

ODFW Fish Passage program staff reviewed the designs for this project and we find that the proposed weir structures meet ODFW fish passage design criteria (OAR 635-412-0035(2)). ODFW fish passage approval, as required by ORS 509.585(4), at the Horn Creek Water Intake structure and associate weir construction project is contingent on specific operational items which include:

1. All in-water work for this project will occur during the ODFW in-water work window. In-water work is defined as all work below the Ordinary High Water Elevations in Horn Creek.
2. The project is designed to accommodate chum salmon passage. Water surface discontinuity that precludes chum salmon passage is not authorized. Chum salmon fish passage criteria (OAR 635-412-0035(7) (c)) require no vertical jump heights entering, within or exiting the proposed weirs.
3. If monitoring, by the Owner/Applicant or Department, indicates that fish passage is questionable or not provided, the Applicant in consultation with the Department shall determine the cause and, during a work period approved by the Department, shall modify the structure to rectify fish passage problems as necessary. Failure to maintain fish passage for the duration of this approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
4. The Department shall be allowed to inspect the project at reasonable times for the duration of this approval. Unless prompted by emergency or other exigent circumstances, inspection shall be limited to regular and usual business hours, including weekends.

Please retain this email correspondence for your records, as this documents ODFW's approval of fish passage at this site. Please pass this information along to the appropriate staff with the Pacific City Joint Water-Sanitary Authority as appropriate.

Thank you for cooperation as we worked through the fish passage issues at this site. If you have any questions, please contact me.

Thanks, Greg

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\*\*\*\*\*

**Greg Apke**

Oregon Department of Fish & Wildlife - Fish Division

Statewide Fish Passage Program Leader

3406 Cherry Ave NE

Salem, Oregon 97303

503-947-6228 office

503-931-4361 cell

<mailto:greg.d.apke@state.or.us>

[Fish Division: Fish Passage - Oregon Department of Fish and Wildlife](#)

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**Attachment 4**  
**Corps and OWRD Correspondence**

---

**Ressler, Ted**

---

**From:** CLARK Gerald E \* WRD <Gerald.E.CLARK@water.oregon.gov>  
**Sent:** Thursday, September 8, 2022 1:58 PM  
**To:** Thane, Lindsay M.  
**Cc:** Langford, Shonee D.  
**Subject:** RE: Permit S-54783 | Follow Up Regarding Permit Condition Discussion [IWOV-PDX.FID4544356]

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

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Lindsay,

I have completed my review of the permit and have the following to report:

1. If Pacific City is a municipality as identified in ORS 537.260, they can partially perfect their permit.
2. As it relates to the condition requiring the submittal of reports, as written, the condition requires the reports to be prepared by the US Army Corp of Engineers (Corp). If the City can document they have inquired to the Corp as to whether the reports have been prepared, they have complied with the condition. I did not see any reference in the permit language that incorporated the entirety of the Biological Opinion into the permit, so the burden of the report would fall to the Corp.

Please let me know if you have any additional questions or need any additional information from me related to this permit.

Gerry

[Gerry Clark](#)

He/Him/His

**Oregon Water Resources Department**

Program Analyst, Certificate Section, Water Right Services Division

725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-979-9103

---

**From:** Thane, Lindsay M. <LThane@SCHWABE.com>  
**Sent:** Wednesday, September 7, 2022 2:17 PM  
**To:** CLARK Gerald E \* WRD <Gerald.E.CLARK@water.oregon.gov>  
**Cc:** Langford, Shonee D. <SLangford@SCHWABE.com>  
**Subject:** Permit S-54783 | Follow Up Regarding Permit Condition Discussion [IWOV-PDX.FID4544356]

Hi Gerry,

I am following up on the voicemail I just left you to see whether you and Dwight have had another chance to connect regarding Permit S-54783 following the conversation you and I had on August 23rd. Can you please let us know when PCJWSA can anticipate hearing back from you? As I expressed in my voicemail, PCJWSA is anxious to hear back from the Department.

Thank you,  
Lindsay

[Lindsay Thane](#)

Associate

Pronouns: she, her, hers

D: 503-796-2059

[lthane@schwabe.com](mailto:lthane@schwabe.com)

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**Ressler, Ted**

---

**From:** Davis, Jaimee W CIV USARMY CENWP (USA) <Jaimee.W.Davis@usace.army.mil>  
**Sent:** Tuesday, February 23, 2021 1:43 PM  
**To:** Thane, Lindsay M.  
**Cc:** Friesen, Kinsey M CIV USARMY CENWP (USA)  
**Subject:** RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Hi Lindsay – My apologies for the delay in getting back to you. Our Office of Counsel is slammed right now. I confirmed with Amanda Lyon that I could copy/paste her assessment in my response to you (see below). I am copying Kinsey Friesen, our current Tillamook Co. PM, for her awareness.

Let me know if you have any more questions.

-Jaimee

Jaimee W. Davis  
Chief, Portland Permits Section  
Regulatory Branch  
U.S. Army Corps of Engineers, Portland District  
333 SW 1st Ave, Portland, OR 97204  
Office: (503) 808-4381

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**From:** Lyon, Amanda A CIV USARMY CENWP (USA) <[Amanda.A.Lyon@usace.army.mil](mailto:Amanda.A.Lyon@usace.army.mil)>  
**Sent:** Tuesday, February 2, 2021 3:42 PM  
**To:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Cc:** Latcu, Misty CIV USARMY CENWP (USA) <[Misty.M.Latcu@usace.army.mil](mailto:Misty.M.Latcu@usace.army.mil)>  
**Subject:** RE: PCJWSA (Tillamook Co.) / Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Jaimee,

After reviewing the permit I do not think we were ever on the hook for the monitoring regardless of the BiOp's use of the term "the Corps shall" because the language in the first paragraph of the Terms and Conditions section of BiOp states:

"The measures described below are non-discretionary, and must be undertaken by the Corps or, if an applicant is involved, must become binding conditions of any permit or grant issued to the applicant, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require an applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse." See page 31 of the BiOp.

So the terms and conditions of the BiOp became binding on them, the applicant, as soon as we included Special Condition 7 of the permit. Which states:

"Horn Creek supports listed species protected under the Endangered Species Act and is designated Essential Fish Habitat for salmon species as designated under the Magnuson-Stevens Fishery Conservation and Management Act. Both of these Acts require the Corps to complete formal consultation with the National Marine Fisheries Service (NMFS). The NMFS has issued a Biological Opinion dated May 20, 2009 (Enclosure 4). The Terms and Conditions and



Reasonable and Prudent Measures contained in the Opinion are Non-Discretionary special conditions of this DA Permit.”

Thanks,

Amanda A. Lyon  
Assistant District Counsel  
Phone: (503) 808-4518  
Cell: (971) 347-4163  
Email: [Amanda.A.Lyon@usace.army.mil](mailto:Amanda.A.Lyon@usace.army.mil)

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**From:** Thane, Lindsay M.  
**Sent:** Friday, February 5, 2021 4:57 PM  
**To:** Davis, Jaimee W CIV USARMY CENWP (USA)  
**Subject:** [Non-DoD Source] RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Thanks for the update, Jaimee. We'll look forward to hearing from you once you have your answer.

Have a good weekend,  
Lindsay

**Lindsay M. Thane**  
Associate  
Direct: 503-796-2059  
[lthane@schwabe.com](mailto:lthane@schwabe.com)  
*Pronouns: she, her, hers*

**Schwabe Williamson & Wyatt**  
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**From:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Sent:** Thursday, February 4, 2021 4:11 PM  
**To:** Thane, Lindsay M. <[LThane@SCHWABE.com](mailto:LThane@SCHWABE.com)>  
**Subject:** RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Hi Lindsay – I wanted to get back to you to let you know our Office of Counsel reviewed the permit documents and weighed in on this, but I had a follow-up question to them on how best to convey this info. back to you and the Permittee. I will let you know what they say once I hear back.

Thanks,

-Jaimee

Jaimee W. Davis  
Chief, Portland Permits Section  
Regulatory Branch  
U.S. Army Corps of Engineers, Portland District  
333 SW 1st Ave, Portland, OR 97204

Office: (503) 808-4381

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**From:** Thane, Lindsay M. <[LThane@SCHWABE.com](mailto:LThane@SCHWABE.com)>  
**Sent:** Wednesday, January 27, 2021 7:34 AM  
**To:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Subject:** [Non-DoD Source] RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

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Hi Jamiee,

I hope you had a good holiday. I wanted to check in to see if you can give me an update regarding when we might expect to receive a response regarding the reports discussed in Pacific City Joint Sewer and Water Authority's water right permit?

Thanks,  
Lindsay

**Lindsay M. Thane**

Associate

Direct: 503-796-2059

[lthane@schwabe.com](mailto:lthane@schwabe.com)

*Pronouns: she, her, hers*

**Schwabe Williamson & Wyatt**

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**From:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Sent:** Tuesday, December 15, 2020 11:10 AM  
**To:** Thane, Lindsay M. <[LThane@SCHWABE.com](mailto:LThane@SCHWABE.com)>  
**Subject:** RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Yes, she says early Jan would be good!

---

**From:** Thane, Lindsay M. <[LThane@SCHWABE.com](mailto:LThane@SCHWABE.com)>  
**Sent:** Tuesday, December 15, 2020 8:53 AM  
**To:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Subject:** [Non-DoD Source] RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Hi Jamie,

Thanks for the follow up. We can be flexible and work with your Office of Counsel's schedule. PCJWSA does not have a pressing deadline, but needs to ensure that it has clarity about the portion of its water right permit conditions that are in effect currently. Would it be reasonable with your Office of Counsel's schedule to aim to be in touch again in early January?

Thanks,

Lindsay

**Lindsay M. Thane**

Associate

Direct: 503-796-2059

[lthane@schwabe.com](mailto:lthane@schwabe.com)

Pronouns: she, her, hers

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**From:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Sent:** Tuesday, December 15, 2020 8:35 AM  
**To:** Thane, Lindsay M. <[LThane@SCHWABE.com](mailto:LThane@SCHWABE.com)>  
**Subject:** RE: Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Hi Lindsay – Our Office of Counsel POC got back to me yesterday and asked for a suspense as she is dealing with some deadlines. When do you need an answer by?

Thanks,

-Jaimee

Jaimee W. Davis  
Chief, Portland Permits Section  
Regulatory Branch  
U.S. Army Corps of Engineers, Portland District  
333 SW 1st Ave, Portland, OR 97204  
Office: (503) 808-4381

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**From:** Thane, Lindsay M. <[LThane@SCHWABE.com](mailto:LThane@SCHWABE.com)>  
**Sent:** Thursday, December 10, 2020 2:34 PM  
**To:** Davis, Jaimee W CIV USARMY CENWP (USA) <[Jaimee.W.Davis@usace.army.mil](mailto:Jaimee.W.Davis@usace.army.mil)>  
**Subject:** [Non-DoD Source] Corps No. NWP-2008-161 [IWOV-pdx.FID4544356]

Hi Jamie,

Thanks again for speaking with me. Attached is Oregon Water Resources Department's water right Permit S-54783.

I have highlighted condition 2.c. Condition 2.c. incorporated conditions 4(d)-(g) of the Biological Opinion into Permit S-54783. Conditions 4(d)-(g) required the Corps to prepare annual reports as detailed in the conditions. The water right holder, Pacific City Joint Water-Sanitary Authority was then supposed to provide those reports to the Water Resources Department. As we discussed, it is unlikely the Corps prepared those reports.

We would like to request that the Corps provide PCJWSA or the Water Resources Department with an email or letter acknowledging that it did not prepare such reports – as you discussed, NMFS required those reports and they were not something the Corps necessarily agreed to. As the water right permit holder, PCJWSA must provide the Water Resources Department with documentation demonstrating whether or not its permit conditions have been complied with, and we would like to have the appropriate documentation for condition 2.c. prior to those deadlines arriving in the next few years.

I'll look forward to hearing from you once you have had a chance to review the permit and discuss. And feel free to call or email me if you have any questions about Permit S-54783.

Thank you,  
Lindsay

[Lindsay M. Thane](#)  
Associate  
Direct: 503-796-2059  
[lthane@schwabe.com](mailto:lthane@schwabe.com)  
*Pronouns: she, her, hers*

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