



Port of Portland

Permit Number: _____

PERMIT AND RIGHT OF ENTRY

PERMITTEE:

City of Portland Environmental Services
1120 SW 5th Avenue, Room 100
Portland, OR 97204

Contact: Ronda Fast
Environmental Program Coordinator
Phone: (503) 823-4921
Email: ronda.fast@portlandoregon.gov

PORT OF PORTLAND:

Port of Portland
7200 NE Airport Way
Portland, OR 97218

Contact: Patti Freeman
Property Manager
Phone: (503) 415-7048
Email: patti.freeman@portofportland.com

RECITALS

A. The Port of Portland, a port district of the State of Oregon (the "Port") is the owner of the real property located in Multnomah County, Oregon, as further described in Section 3 below.

B. In conjunction with its Watershed Monitoring Program, the City of Portland ("Permittee") will be collecting data and conducting an array of habitat assessments at several sites located on Port property.

NOW, THEREFORE, in consideration of the promises and covenants contained in this Permit and Right of Entry (this "Permit") and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. RECITALS

The Recitals above are true and are incorporated into and are a part of this Permit and Right of Entry.

2. GRANT OF RIGHT TO USE PREMISES

The Port hereby grants to Permittee the nonexclusive right to enter upon and use the Premises (defined below) in accordance with the terms and conditions set forth below.

3. PREMISES

The "Premises" shall consist of several Port sites located in PIC (Panel Site #1089), Vanport (Panel Site #1217) and Buffalo (Panel Site #1473) each as more precisely depicted on the attached **Exhibit A**.

4. PERMITTED USES

This Permit authorizes Permittee and Permittee's employees, agents, contractors, and consultants to enter upon the Premises for the sole purpose of conducting field work to quantitatively assess and survey the water quality, biological communities, macroinvertebrates, avian, physical habitat

and fish within the Premises and as more precisely described in the attached **Exhibit B** ("Permitted Uses").

5. SPECIAL CONDITIONS

5.1 Work Activity and Equipment

Permittee acknowledges that the Premises contain natural resources and may be adjacent to waterways. Therefore, Permittee shall strictly adhere to all terms and conditions of this Permit, including without limitation the conditions described in this Section 4 and in Section 18. In order to protect the water and soil resources and wildlife habitat of the Premises, vehicles shall be driven and parked only on designated roads and as otherwise noted on the attached **Exhibit C**, and shall not be allowed off road for any reason, nor shall any vehicles or equipment be stored on the Premises. No more than six (6) people shall be allowed on the Premises at any given time. Only small hand-held equipment and a backpack shocker shall be used to perform Permitted Uses.

5.2 Access

Access to the Premises will be as noted on the attached Exhibit C. Permittee shall notify Carrie Butler (503-415-6319) 48 hours in advance each time the Permittee needs to access any portion of the Premises to perform the Permitted Uses. When required, Permittee shall also contact Carrie Butler for access gate keys, maps and/or directions to sites and for any site-related questions.

5.3 Subject to Prior Existing Rights

This Permit, and all rights granted to Permittee hereunder, is subject to any easements and other rights of record affecting the Premises and Permittee shall not conduct any activities on the Premises in violation of such previously existing rights. Permittee shall not interfere with (a) the rights or operations of any tenants or other parties authorized by the Port to be present on the Premises, or (b) the use of property adjacent to the Premises.

5.4 Prohibited Activities

No Hazardous Substances may be brought onto, used, handled, treated, recycled, disposed of, transferred, transported, deposited, placed, or stored on the Premises other than small amounts (1000 ml or less) of ethanol for specimen preservation. No washing, fueling, repair, storage, maintenance, or modifications of vehicles or other equipment, or other activities other than the Permitted Uses is permitted on the Premises.

5.5 Survey Reports

Permittee agrees to provide the Port within twelve (12) months of completion and at no cost to the Port, copies of all habitat assessment survey reports and raw data produced in connection with Permittee's activities on the Premises.

6. TERM OF PERMIT

The term of this Permit shall commence on June __, 2013 (the "Commencement Date") and shall terminate on June 30, 2014, unless extended by mutual agreement of the parties.

7. COMPENSATION TO BE PAID BY PERMITTEE

No permit fee is required under the terms of this Permit.

8. CONDITION OF PREMISES

The Port makes no warranty, guarantee or representation concerning the physical condition of the Premises or the suitability of the Premises for any of City's intended uses, and it is agreed that the Port will not be responsible for any loss, damage or costs which may be incurred by Permittee by reason of any such physical condition.

9. WASTE, REMOVAL AND DEMOLITION

City shall not cause or permit any waste or damage to the Premises or the improvements thereon and shall not remove or demolish, in whole or part, any existing improvements, trees or vegetation on the Premises, except for small sampling cuttings of those plants required for purposes of the Permitted Uses, without the prior written approval of the Port.

10. UTILITIES

Permittee may not access, connect to or use any of the utilities, including but not limited to water, sanitary sewers, storm drains, power, telephone and natural gas, located at or in the vicinity of the Premises. Permittee shall supply its own water and its own electricity from sources outside the Premises. Permittee shall not draw any water from any location on or adjacent to the Premises.

11. INDEMNITY

To the extent allowed under Oregon law, City agrees to indemnify, hold harmless and defend the Port, its commissioners, directors, officers, and employees from and against, and to reimburse the Port for all claims, actions, damages, injuries, costs, loss, or expenses incidental to the investigation and defense thereof, arising out of the acts or omissions of, or use or occupancy of the Premises by the City, its agents, contractors, or employees. To the extent allowed under Oregon law, the Port agrees to indemnify, hold harmless and defend the City, its commissioners, officers, and employees from and against and to reimburse the City for all claims, actions, damages, injuries, costs, loss, or expenses incidental to the investigation and defense thereof, arising out of the acts or omissions of, or use or occupancy of the Premises by the Port, its agents, contractors, or employees.

11.1 Damage to Property

City shall compensate the Port for damage to the Premises, including without limitation any improvements thereon, caused by access to and use thereof by City, its agents, contractors, or employees.

12. INSURANCE

The Port acknowledges that the City is self-insured.

13. COMPLIANCE WITH LAW

City shall conduct its activities under this Permit in compliance with all applicable state, federal, and local laws, regulations, agency guidance documents, Port rules and regulations, and terms of any permits applicable to the Premises, the Permitted Uses, or the Port's property, as each of the foregoing may be amended from time to time. City shall obtain all necessary federal, state and local permits necessary for the Permitted Uses.

14. ENVIRONMENTAL MANAGEMENT AND COMPLIANCE

14.1 Definitions

For the purposes of this Permit, the following definitions shall apply:

14.1.1 Environmental Law

"Environmental Law" shall mean applicable federal, state and local laws, now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way govern materials, substances, regulated wastes, emissions, pollutants, animals or plants, noise, or products and relate to the protection of health, natural resources, safety or the environment.

14.1.2 Hazardous Substance

"Hazardous Substance" shall mean any and all substances, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any Environmental Law, and shall also mean fuels, petroleum and petroleum-derived products.

14.1.3 Hazardous Substance Release

"Hazardous Substance Release" shall mean the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or on any land or waters, except as authorized by a then-current and valid permit issued under applicable Environmental Law.

14.1.4 Use of Hazardous Substances

City shall not use, handle or store any Hazardous Substances on or about the Premises, except for petroleum-derived products fully contained within motor vehicles.

14.2 Treated Soil or Waste or Soil Containing Industry Byproducts

City shall not store, treat, deposit, place or dispose of on the Premises, without the prior written consent of the Port, which consent may be granted or denied in the Port's sole discretion: (a) soil or waste treated to remove or reduce its Hazardous Substance content, including soil or waste treated on the Premises; (b) contaminated soil or waste; or (c) soil containing industry byproducts, including, without limitation, slag.

14.3 Environmental Remediation

14.3.1 Response

In the event of a violation of Environmental Law, a violation of an environmental provision of this Permit, a Hazardous Substance Release, or the threat of or reasonable suspicion of the same for which City is responsible under this Permit, City shall immediately undertake and diligently pursue all acts necessary or appropriate to (a) cure or correct the violation, (b) investigate, contain, stop and remediate and remove the Hazardous Substance Release, and (c) restore the Premises and other affected property or water.

14.3.2 Port's Right to Review and Comment; Notice to the Port

Prior to the commencement of any investigatory, containment, remediation or removal procedures required by this Permit or by Environmental Law on the Premises or on any

affected property or water, the Port shall have, except in the case of an emergency or an agency order requiring immediate action, the right to (a) review and comment on such procedures and (b) require revisions to any procedures not in compliance with Environmental Law. City shall promptly notify the Port upon becoming aware of (i) a violation or alleged violation of any Environmental Law related to the Premises or to City's occupation or use of the Premises or any environmental provision of this Permit; and (ii) any Hazardous Substance Release on, under or adjacent to the Premises or threat of or reasonable suspicion of any of the same. If notice must be given on the weekend or after 5:00 p.m. on any day, City shall notify the Port by calling the Port's emergency telephone number. That number currently is: (503) 240-2230.

14.3.3 Report to the Port

Within thirty (30) days following completion of any investigatory, containment, remediation and/or removal action required by this Permit, City shall provide the Port with a written report outlining, in detail, what has been done and the results thereof.

15. INSPECTION

The Port reserves the right, at any time and from time to time, after notice to City, to inspect the Premises and City's operations on and use of the Premises: (a) for compliance with applicable law and with the provisions of this Permit, (b) for presence of and/or City's management of Hazardous Substances; and (c) to facilitate the Port's environmental management, permitting, sampling and analysis related to the Premises or any other property of the Port.

16. DUTIES UPON TERMINATION

Upon termination of this Permit, City shall repair any damage to the Premises caused by City's use or activities, shall restore the Premises to its condition at the commencement of this Permit, except for changes made necessary by the Permitted Uses, and shall remove from the Premises all of City's property including equipment, materials and debris.

17. SURVIVAL

City's obligations, including without limitation indemnification obligations, under this Permit shall survive termination.

18. GOVERNING LAW

This Permit shall be governed and construed according to the laws of the State of Oregon, without regard to its choice of law provisions. Venue shall be in Multnomah County.

19. NOTICES

All notices required under this Permit shall be sent by certified mail, return receipt requested, or hand delivered, to the addresses set forth below unless changed by the parties by notice in writing:

City of Portland – Environmental Services
1120 SW 5th Avenue, Room 100
Portland, OR 97204
Attn: Ronda Fast

The Port of Portland
Property and Development Services
7200 NE Airport Way
Portland, OR 97218
Attn: Patti Freeman

With a copy to:

The Port of Portland
Legal Department
P.O. Box 3529
Portland, OR 97208

The date of service of such notice by mail is agreed to be three (3) calendar days after the date such notice is deposited in a post office of the United States Post Office Department, postage prepaid, return receipt requested, certified mail or, if delivered by hand, then the actual date of hand delivery.

20. MEDIATION

If any dispute should arise between City and the Port concerning this Permit or the parties' obligations or activities under this Permit, the dispute shall be submitted to mediation before a mediator agreed to and compensated equally by both parties, prior to commencement of arbitration or litigation. If the parties fail to agree on a mediator, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court.

21. COUNTERPART

This Permit may be executed in counterpart, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

22. EXHIBITS

All Exhibits attached to this Permit are incorporated herein by this reference.

23. WARRANTY OF AUTHORITY

The individuals executing this Permit on behalf of the Permittee warrant that they have full authority to execute this Permit on behalf of the Permittee.

24. ENTIRE AGREEMENT

This Permit represents the entire agreement between the parties with respect to the subject matter of this Permit, and supersedes all prior agreements, written or oral. No amendment to this Permit shall be effective unless in writing and signed by the parties hereto.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS HEREOF, the parties have subscribed their names hereto effective as of the year and date first written above.

CITY OF PORTLAND ENVIRONMENTAL
SERVICES

THE PORT OF PORTLAND

By: _____
Print Name: _____
As Its: _____
Date: _____

By: _____
Print Name: _____
As Its: _____
Date: _____

APPROVED AS TO LEGAL SUFFICIENCY
FOR THE PORT

By: _____
Counsel for Port of Portland

010081

186019

EXHIBIT A

Premises

186019

186019

EXHIBIT B

Work Scope

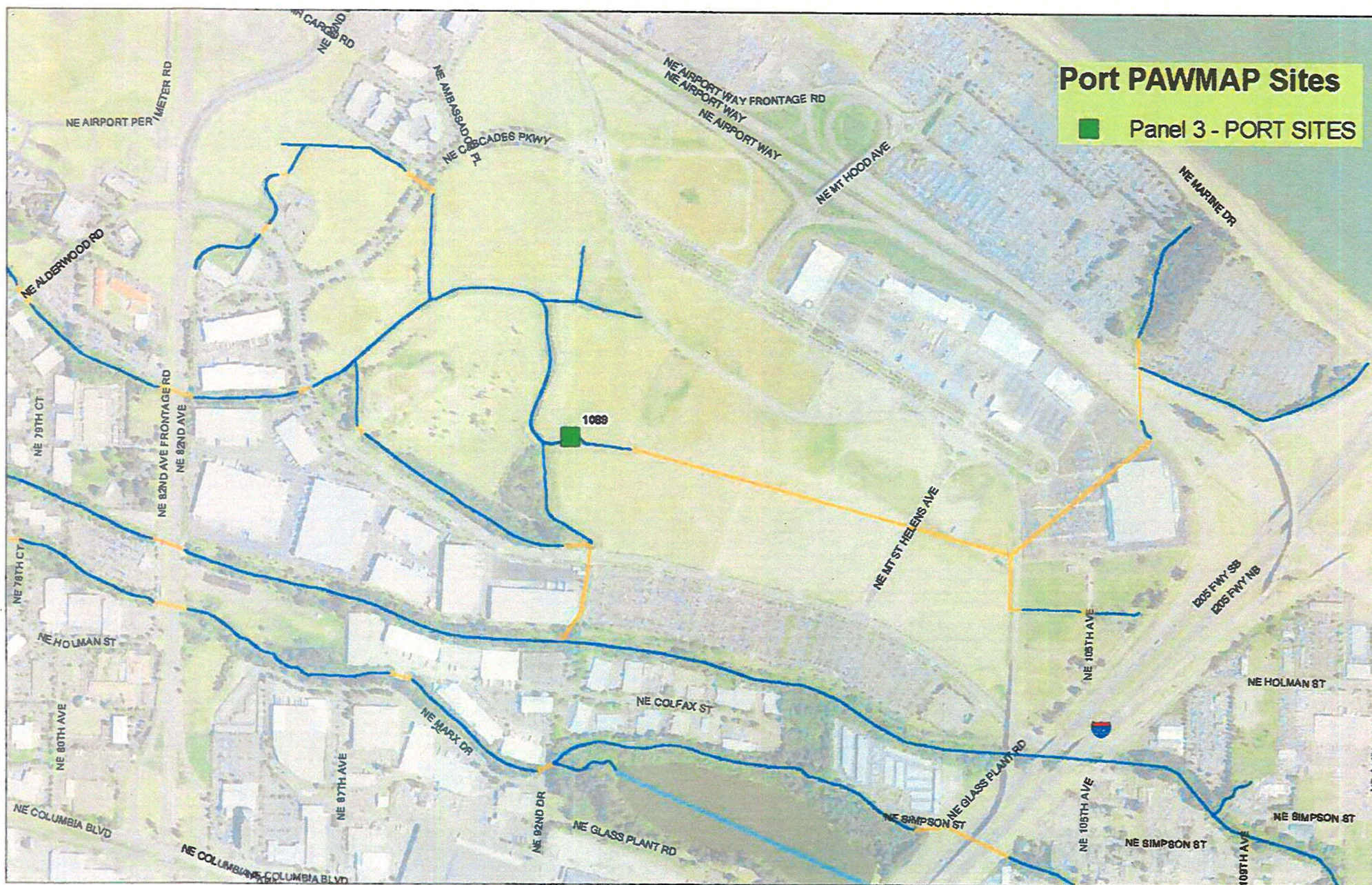
EXHIBIT C

Site Access Information and Requirements

Vanport Wetlands: Located south of the Expo Center; enter through north gate on N. Expo Rd. using combination lock (1130); pull hard to open; always marry lock back into chain so that unlocking any lock will open gate (in other words, please do not lock others out). Park near the outhouse and walk from there.

Buffalo: Access through keyed gates on NE Buffalo St. off of NE 42nd Ave from NE Columbia Blvd. Park in angled parking at end of Buffalo Street then walk through site. Contact Carrie Butler for access key at 503-415-6319.

PIC: Site accessible by foot off of Alderwood Road.



Port PAWMAP Sites

■ PANEL 3 - Avian access



Exhibit B

Bureau of Environmental Services (BES) is working to improve watershed conditions and is conducting standardized assessments of streams and rivers across Portland through a monitoring effort called PAWMAP (Portland Area Watershed Monitoring and Assessment Program). The program is designed to assess and track watershed conditions over time. Currently in year three, in years 1-4 different stations are sampled each year. In years 5-8 and thereafter, the initial four panels of stations are re-sampled. Standardized surveys measure:

- Water quality – including temperature, dissolved oxygen, nutrients, pathogens
- Physical habitat – including vegetation, stream bed composition, channel hydrology, and bank condition
- Biological communities – including fish, insects, and birds

In addition to monitoring watershed health, the monitoring program also measures the effectiveness of watershed protection actions, demonstrates city compliance with state and federal environmental regulations, and enables the city to compare watershed health data locally and nationally.

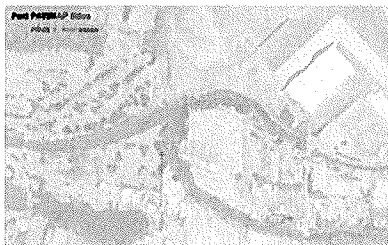
For each site:

Monitoring Activities	General Schedule
Temperature Logger Installation	June
Fish	4x- Quarterly (Su, F, W, Sp)
Physical Habitat (Phab)	1x- Summer Quarter
Macroinvertebrates (Bugs)	1x- Summer Quarter
Water Quality (H2O)	4x- Quarterly (Su, F, W, Sp)
Water Quality (H2O-wet)	1x - Wet weather sample
Avian	3x - Spring Quarter only

Detailed Schedule	June	Summer (July-Sept)	Fall (Oct-Dec)	Winter (Jan-Mar)	Spring (Apr-Jun)
	Temp Logger Installation	H2O, Phab, Bugs, Fish	H2O + Temp Logger removal	H2O	H2O
			Fish	H2O-wet*	Fish
				Fish	Avian
					Avian
					Avian
Visits per Quarter	1	1	2	3	5

*H2O-wet could be sampled in Fall, Winter, or Spring depending on weather and site

#1473 – Panel 3 site (will be revisited in 2017, 2021, etc.)



Land owner permissions for access required only for avian surveys, the rest administered by boat

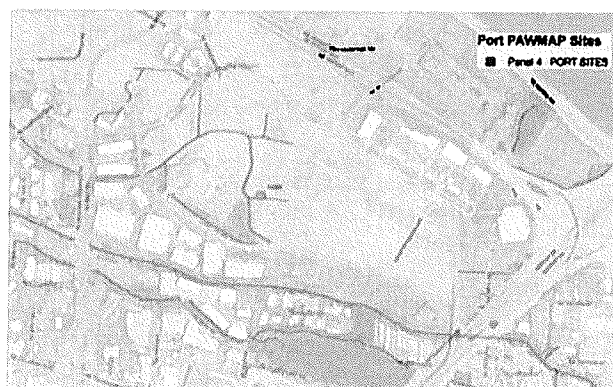
Start date: May 1, 2013

End date: June 30, 2013

*re-survey in 2017, 2021, etc.

Exhibit B

#1089 – Panel 4 site (to be revisited 2017-18, 2021-22, etc.)



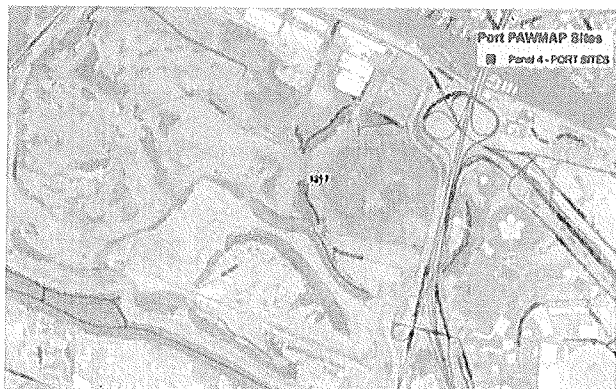
Land owner permissions for access required for all surveys

Start date: June 2013 (specific date negotiable)

End date: June 30, 2014

*re-survey in 2017-8, 2021-2, etc.

#1217 – Panel 4 site



Land owner permissions for access required for all surveys

Start date: June 2013 (specific date negotiable)

End date: June 30, 2014

*re-survey in 2017-8, 2021-2, etc.