

WHEN RECORDED RETURN TO:

Port of Skamania County
PO Box 1099
212 SW Cascade Ave
Stevenson WA 98648

DOCUMENT TITLE(S)

Resolution 8-2009
Port District Boundary

REFERENCE NUMBER(S) of Documents assigned or released:

☐ Additional numbers on page _____ of document.

GRANTOR(S):

Board of Commissioners of the
Port of Skamania County

☐ Additional names on page _____ of document.

GRANTEE(S):

Public

☐ Additional names on page _____ of document.

LEGAL DESCRIPTION (Abbreviated: i.e. Lot, Block, Plat or Section, Township, Range, Quarter):

☐ Complete legal on page _____ of document.

TAX PARCEL NUMBER(S):

Sections 19, 20, & 21 T2N R5E
See attached

☐ Additional parcel numbers on page _____ of document.

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information.

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PORT OF SKAMANIA COUNTY

RESOLUTION NO. 8-2009

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF SKAMANIA COUNTY
DECLARING PORT DISTRICT BOUNDARIES

RECITALS

1. The Port of Skamania County is a less than county-wide port district, formed in 1964 when two port districts within the County, the Port of North Bonneville and the Port of Wind River, merged. The Port of North Bonneville was the first port district created in 1938 and later the Port of Wind River was created in 1946.

2. In 1938, the process for forming a port district began, much as it does today (*see* RCW 53.04.023) with a Petition to the County, describing the boundaries of the proposed Port District. In this case, that petition was filed March 4, 1938. The description of the Port Boundaries was unclear about three sections of property in the southwest corner of the district. The ambiguity in the description appears on page 599 of Book 6, Skamania County Commissioners' Minutes of 1938, where the description follows a counter-clockwise rotation around the district. The description proceeds "thence west on the boundary line of Skamania County to the north line of Section 19, Township 2 North of Range 5 East of the Willamette Meridian; thence east on the north line of Sections 19, 20 and 21, Township 2 North of Range 5 East of the Willamette Meridian to the northwest corner of said Section 21, thence south along section lines to the township line between Townships 1 and 2 North of Range 5 East of the Willamette Meridian; thence east..." [emphasis added].

3. The ambiguity in this description lies with the use of the distance "thence east of the north line of Sections 19, 20 and 21" and the call-out to the point on the "northwest" corner of Section 21. Presumably, the distance along all three sections is unnecessary if the referenced point is at the beginning of the third section.

4. Nothing in the 1938 legal description indicates that Sections 1 and 12 of Township 1 North, Range 5 East of the Willamette Meridian are in the Port District. Specifically, the description continues from the end of the description excerpted in paragraph 2, above: "thence east along said township line to the northeast corner of

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Section 1, Township 1 North of Range 5 East of the Willamette Meridian; thence south to the south boundary of Skamania County, Washington, thence easterly along the south boundary of Skamania County to the point of beginning.” [Emphasis added] In this case, the south boundary of the County is the meander line of the Columbia River.

5. The description contained in the Petition was adopted by a special election held April 14, 1938.

6. The Port of Wind River was formed by a similar process in 1946. There are no legal discrepancies in the legal description of the port of Wind River’s district boundary.

7. In 1964, the two port districts were combined to form a single port district, the Port of Skamania County.

8. The County has been assessing Port taxes and holding elections for Port commissioners with the understanding that Sections 21, 28 and 33, of Township 2 North, Range 5 East lie outside the Port District and that Sections 1 and 12 of Township 1 North, Range 5 East lie within the Port District.

9. The Port sought an expert review by a professional surveying firm, Klein and Associates, Inc. (Klein). Klein initially concluded that based on surveying standards and available extrinsic evidence the three sections in Township 2 are in the Port District and the two sections in Township 1 are out.

10. When the Port of Wind River and the Port of North Bonneville were combined in 1964, the legal description defining the Port of Skamania County’s boundary did NOT include Sections 21, 28, and 33 of Township 2 North, Range 5 East, or Sections 1 and 12 of Township 1 North, Range 5 East. The legal description is part of the Joint Resolution of the Ports of Wind River Washington (Resolution No. 17, dated June 2, 1964) and the Port of North Bonneville Washington (Resolution No. 2-64, dated June 4, 1964), and is signed by the Port Commissioners of both districts. This resolution is evidence that the Commissioners at the time understood that the five sections in question were not part of the Port of Skamania County.

11. In 1967, the now combined Port of Skamania County petitioned the voters in the November election to expand the Port District’s boundaries to be coterminous with

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the boundaries of Skamania County excluding a described area of land in the southwest corner of the County. The legal description of the land the Port intended NOT to be coterminous with the County's boundary included both the ambiguous Sections 21, 28, and 33 of Township 2 North, Range 5 East as well as Sections 1 and 12 of Township 1 North, Range 5 East. While the petition to expand the Port District's boundaries was voted down, it reveals the Port Commission understood that the ambiguous sections were not part of the Port District.

12. A map of the Port District prepared in 1973 also shows Sections 21, 28, and 33 of Township 2 North, Range 5 East outside the Port District boundaries.

13. The Port investigated the taxing history of the area in question, but found no evidence that the property owners in Sections 21, 28, and 33 of Township 2 North, Range 5 East have ever been subject to a Port District property tax levy.

14. The Port considered Klein's report, and held a public meeting on May 11, 2009 in the American Legion Hall on Washougal River Road in Section 33 of Township 2 North, Range 5 East, one of the sections subject to the ambiguous description from 1938. The Port found the public resisted (and some vehemently) being made part of the Port District. The public expressed satisfaction with the status quo leaving Sections 21, 28, and 33 of Township 2 North, Range 5 East out of the Port District.

15. At the public meeting, an elected official from Skamania County suggested proposing state legislation to allow the Port to correct the ambiguity of its boundary. The Port Attorney prepared draft legislation and staff asked the Washington Public Ports Association (WPPA) to introduce the bill. WPPA brought the draft legislation to its legislative committee, which declined to proffer the legislation, citing concern over any legislation that might be used to change any other port's boundaries.

16. The Port considered seeking a judicial determination of the Port boundary through a declaratory judgment action. The Port Attorney researched the process for obtaining a court ruling, and concluded it would be necessary to make all affected property owners party to the lawsuit, resulting in considerable taxpayer cost for process service. Also, in view of the input from the public meeting, members of the public would likely oppose the action; substantial cost of discovery and trial would further burden the

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Port's finances with an uncertain result.

17. Upon further review of the Port's records, staff discovered the evidence described in paragraphs 10 and 11, above. The Port transmitted this new evidence to Klein for review since they had not previously considered it. Klein reconsidered its conclusion in light of the additional evidence and concluded the three sections in Township 2 and the two sections in Township 1 are out of the Port District.

18. Based on the foregoing, the Commissioners of the Port of Skamania County conclude it is in the best interests of the Port of Skamania County to preserve the status quo regarding the location of the Port Boundary in Sections 21, 28, and 33 of Township 2 North, Range 5 East and to declare the Port District boundaries to exclude these three ambiguous sections in its description and map. Also, due to the absence of Sections 1 and 12 of Township 1 North, Range 5 East of the Willamette Meridian, in any Port boundary description, the Port shall further exclude those sections in its legal description and map.


NOW, THEREFORE BE IT RESOLVED that the Board of Commissioners of the Port of Skamania County hereby declares its boundaries to be as follows:


The Port of Skamania hereby adopts the Legal Description dated September 11, 2009 attached as **Exhibit A**

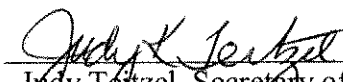
The Port of Skamania Boundary hereby adopts the Map dated September 2009 attached as **Exhibit B**

PASSED IN SESSION THIS 22nd DAY OF September, 2009.

PORT OF SKAMANIA COUNTY COMMISSIONERS


Tony Bolstad, President of the Commission


WD Truitt, Vice-President of the Commission


Judy Teitzel, Secretary of the Commission

ATTEST:



John McSherry, Port Manager

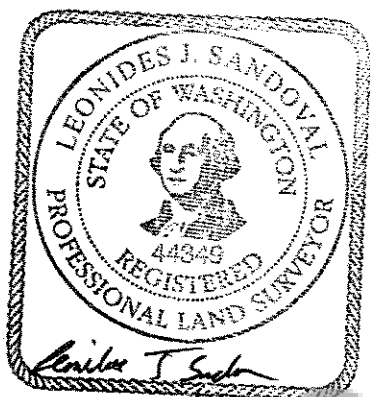
EXHIBIT A

PORT OF SKAMANIA LEGAL DESCRIPTION SEPTEMBER 11, 2009

ALL OF THAT LAND DESCRIBED WITHIN THE FOLLOWING DESCRIPTION:

BEGINNING AT A POINT WHICH IS LOCATED AT THE INTERSECTION OF THE SOUTHERLY PROJECTION OF THE RANGE LINE BETWEEN RANGE 5 EAST AND RANGE 6 EAST OF THE WILLAMETTE MERIDIAN AND THE SOUTH BOUNDARY OF SKAMANIA COUNTY, WASHINGTON; THENCE NORTHERLY ALONG THE SAID RANGE LINE BETWEEN RANGE 5 EAST AND RANGE 6 EAST TO THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 5 EAST; THENCE WESTERLY ALONG THE NORTH LINE OF SAID TOWNSHIP 1 NORTH TO THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 2 NORTH, RANGE 5 EAST; THENCE NORTHERLY ALONG THE EAST LINE OF SECTIONS 33, 28 AND 21 TO THE NORTHEAST CORNER OF SAID SECTION 21, TOWNSHIP 2 NORTH, RANGE 5 EAST; THENCE WESTERLY ALONG NORTH LINE OF SECTIONS 21, 20 AND 19 TO THE NORTHWEST CORNER OF SAID SECTION 19, TOWNSHIP 2 NORTH, RANGE 5 EAST AND THE WEST BOUNDARY OF SKAMANIA COUNTY, WASHINGTON; THENCE NORTHERLY ALONG THE WEST BOUNDARY LINE OF SAID SKAMANIA COUNTY AND THE RANGE LINE BETWEEN RANGE 4 EAST AND RANGE 5 EAST TO THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 6 NORTH, RANGE 5 EAST; THENCE EASTERLY ALONG THE NORTH LINE OF SAID TOWNSHIP 6 NORTH TO THE RANGE LINE BETWEEN RANGE 6 EAST AND RANGE 7 EAST; THENCE SOUTHERLY ALONG SAID RANGE LINE BETWEEN RANGE 6 EAST AND RANGE 7 EAST TO THE NORTHWEST CORNER OF SECTION 7, TOWNSHIP 3 NORTH, RANGE 7 EAST; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 7, TOWNSHIP 3 NORTH, RANGE 7 EAST TO THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE SOUTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 7 TO THE SOUTH QUARTER CORNER OF SAID SECTION 7 AND THE NORTH LINE OF SECTION 18; THENCE EASTERLY ALONG THE NORTH LINE OF SECTION 18 AND SECTION 17 TO THE NORTHEAST CORNER OF SAID SECTION 17; THENCE NORTHERLY ALONG THE SECTION LINES TO THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 7 EAST; THENCE EASTERLY ALONG THE NORTH LINE OF SECTIONS 9, 10, 11 AND 12 OF TOWNSHIP 4 NORTH, RANGE 7 EAST AND ALONG THE NORTH LINE OF SECTION 12, TOWNSHIP 4 NORTH, RANGE 7 ½ EAST TO THE EAST LINE OF RANGE 7 ½ EAST; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID RANGE 7 ½ EAST TO THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 3 NORTH, RANGE 8 EAST;

THENCE EASTERLY ALONG THE NORTH LINES OF SECTION 6 AND SECTION 5, TOWNSHIP 3 NORTH, RANGE 8 EAST TO THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 8 EAST; THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 5 AND SECTION 8, TOWNSHIP 3 NORTH, RANGE 8 EAST TO THE NORTHWEST CORNER OF SECTION 16 OF SAID TOWNSHIP 3 NORTH, RANGE 8 EAST; THENCE EASTERLY ALONG THE NORTH LINES OF SECTIONS 16, 15, 14 AND 13 TO THE RANGE LINE BETWEEN RANGE 8 EAST AND RANGE 9 EAST; THENCE SOUTHERLY ALONG THE RANGE LINE BETWEEN RANGE 8 EAST AND RANGE 9 EAST TO THE SOUTH BOUNDARY OF SKAMANIA COUNTY, WASHINGTON; THENCE WESTERLY ALONG THE SOUTH BOUNDARY OF SKAMANIA COUNTY TO THE POINT OF BEGINNING.



Expires 8/3/2010

PORT OF SKAMANIA COUNTY COMMISSIONERS

Tony Bolstad
Tony Bolstad, President of the Commission

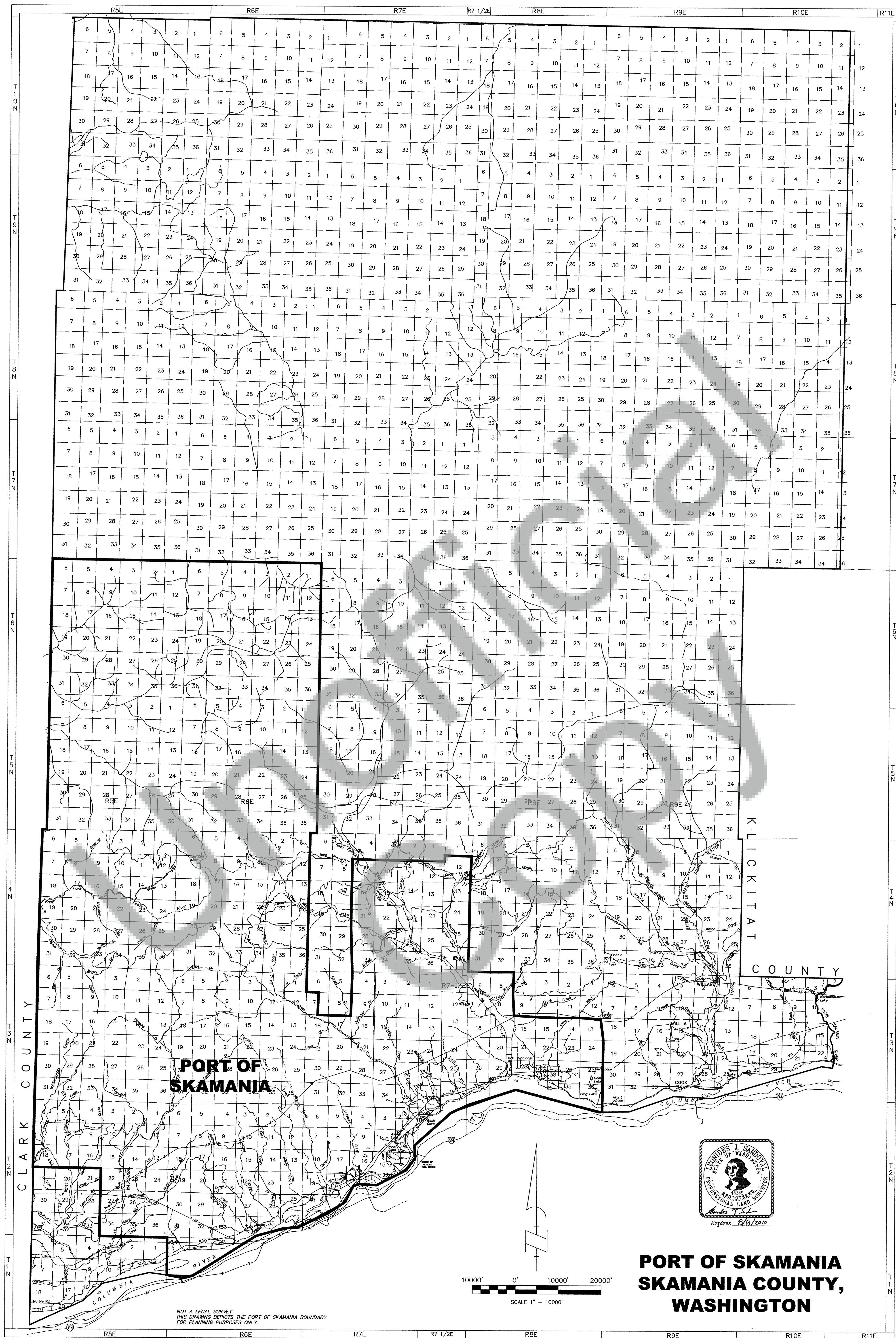
WD Truitt
WD Truitt, Vice-President of the Commission

Judy K Teitzel
Judy Teitzel, Secretary of the Commission

ATTEST:

John McSherry
John McSherry, Port Manager

EXHIBIT B



PORT OF SKAMANIA COUNTY COMMISSIONERS

Tony B. Bledsoe
Tony Bledsoe, President of the Commission
WD Truitt
WD Truitt, Vice-President of the Commission
Judy Feitel
Judy Feitel, Secretary of the Commission

ATTEST:
John McSherry
John McSherry, Port Manager

Klein & Associates, Inc.
LAND SURVEYING
1308 12th Street
Hood River, Oregon 97031
Tel: (541) 386-3322

SURVEY PERFORMED FOR:
JOHN MCSHERRY
DATE: SEPTEMBER 2009
PROJECT: 08-02-11
FILE: 080211.DWG
DRAFT: LJS, GDH.

Signing Port District Boundary Declaration

Commissioners: WD Truitt
Judy Teitzel
Tony Bolstad

Port Manager: John McSherry

Port Attorney: Ken Woodrich

September 22, 2009

