



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - Appeal Pursuant to Chapter 34.05 RCW

Statewide
600 Capitol Way N
Olympia, WA 98501-1091
(360) 902-2200

Issue Date: June 02, 2009

Control Number: 117193-1

Project Expiration Date: June 01, 2014

FPA/Public Notice #: N/A

PERMITTEE

Washington Department of Transportation
ATTENTION: Eric Wolin
310 Maple Park Ave SE
Olympia, WA 98501-7331
360-704-6327
Fax: 360-705-6833

AUTHORIZED AGENT OR CONTRACTOR

Project Name: Debris Removal from WSDOT Bridge Structures

Project Description: Removal of debris and woodey materal that has logged against, or located adjacent to, WSDOT bridge structures.

PROVISIONS

1. PROJECT DESCRIPTION: This HPA is for repositioning of Large Woody Material (LWM) below the OHWL, and removal or repositioning debris, away from Washington State Department of Transportation (WSDOT) bridges. This work does not include new construction, repair, replacement or expansion of the existing bridge. This HPA does not permit channelized stream maintenance work, or excavation of the bed or banks of any watercourse. If the applicant cannot comply with the provisions of this HPA due to site-specific or other concerns, a separate written HPA may be sought from the local Area Habitat Biologist (AHB) for the project.

2. Except as modified by this HPA work shall be accomplished per plans and specifications submitted by WSDOT as application and accepted by Washington Department of Fish and Wildlife (WDFW) (May XX, 2008) for this HPA entitled:

a. WSDOT Environmental Compliance Assurance Procedure (ECAP) for Maintenance Environmental Procedures Manual Section 790 (3).

b. The Best Management Practices Field Guide consistent with the most recent version of the Regional Road Maintenance Endangered Species Act Program Guidelines (RRMP) Part 2 ? Best Management Practices.

These plans (Provisions 2 a. and b.), including this HPA, reflect the requirements of Chapter 220-110 WAC. These plans reflect mitigation procedures to avoid impacts to fish resources. A copy of these plans shall be available on site during work.

3. TIMING LIMITATIONS: This HPA may begin immediately and is valid through 5 years from issuance. Work within the wetted perimeter shall only occur during the attached work windows



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(Allowable Freshwater Work Times, March 2009, Attachment 1) except: LWM repositioning may occur within the wetted perimeter any time year-around. Other work may occur year-around only in portions of the bed below the bridge structure that are outside the wetted perimeter and have not been made dry by project activities.

4. NOTIFICATION PRIOR TO WORK START: The permittee or contractor shall notify the WDFW Regional Habitat Program Manager (RHPM) in the attached list of WDFW regional offices prior to starting work. Notification may be by email, facsimile (FAX), telephone, or in person. If notification is by e-mail, the AHB (if known) should also be notified. Notification shall include:

- a. Agency name, contact person, and telephone number.
- b. Water body name.
- c. Work location including road number and milepost if applicable, or comparable site location information.
- d. Starting date and estimated ending date for work.
- e. Control Number for the HPA.

5. FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION: If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to Washington Military Department Emergency Management Division at 1-800-258-5990, and to the WDFW AHB (Attachment 2).

6. If fish may be adversely impacted as a result of this project, the permittee is required to capture and safely move food fish, game fish or other fish life to the nearest free-flowing water.

7. Woody material repositioning shall be done in a controlled manner to avoid impact to fish life.

8. The use of explosives is not authorized under this HPA.

WATER QUALITY

9. No petroleum products, hydraulic fluid, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into waters of the state.

10. Best management practices shall be implemented during all phases of the project to ensure that sediment-laden water does not enter waters of the state.

11. If flow conditions occur that may cause siltation during a project, work shall stop until the flow

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subsidies.

EQUIPMENT

12. Where appropriate and based upon site conditions and the maintenance activity to be conducted, work shall be accomplished by hand or with hand tools such as chain saws or vehicle winches.

13. All machinery and equipment shall be serviced, fueled, and maintained on uplands to prevent contamination of surface waters. When practicable, this should be done more than 200 feet from waters of the state. Fueling areas shall be provided with enough spill containment materials to prevent a spill from reaching waters of the state.

14. Equipment shall only be stationed on and operate from the WSDOT Right of WAY (ROW) including portions of the watercourse only if dry. Minor grading of the bank to allow temporary access for equipment is allowed provided no materials are brought in from off-site and the site is revegetated as required below upon project completion. Access construction outside the ROW for equipment is not authorized.

15. Equipment may not enter the wetted perimeter.

16. Equipment shall be free of external petroleum-based products while working around the stream. Soil and debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the OHWL.

17. Equipment shall be checked daily for leaks and any necessary repairs shall be completed before working around the stream.

18. Any temporary floating platform shall not ground on the bed of state waters.

19. Temporary floating platform anchoring and temporary work platform construction shall not disturb fish spawning areas or wetland vascular plants.

20. Except for minor grading of the site to allow temporary access for equipment, streambed or stream bank excavation is not authorized and shall require a separate written HPA.

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WOODY MATERIAL AND DEBRIS

21. LWM not conforming to pre-existing stream conditions may be moved except: LWM embedded in the bank or stream bed shall be left undisturbed and intact.

22. If LWM must be moved it shall be repositioned or floated free below the OHWL immediately downstream of the work site, but shall not be removed from the stream.

23. LWM shall not be destroyed or reduced in value as fish habitat. Reduction of LWM size shall only be as required to allow floating or repositioning the LWM away from the culvert. Root wads shall not be removed from the LWM trunk (bole). LWM boles shall not be reduced in girth.

24. Whenever possible, material impacting the bridge shall be floated free or lifted with full suspension to avoid bed and bank disturbance. Material shall not be dragged across the bed or bank. When materials cannot be floated free or suspended above the bed and banks, skid logs, other temporary work platforms, or similar methods shall be used to avoid bank damage. Upon completion of the yarding operation, these bank protection measures shall be removed in a manner that avoids damage to bed or bank, and the bank shall be restored to previously existing, or enhanced, vegetated condition.

25. If LWM must be moved it shall be repositioned or floated free below the OHWL.

26. LWM shall be repositioned gradually and in a controlled manner to prevent a sudden release of any impounded water, bed, logs, other material or sediments which may result in downstream bed and bank degradation, sedimentation or flooding. Slowly moving portions of the LWM and allowing the water level to go down slowly, before moving additional portions of the LWM, may accomplish this.

VEGETATION

27. Existing riparian vegetation outside of the work area shall not be removed or disturbed.

28. Care shall be used when accessing the site to minimize the disturbance of riparian vegetation. Riparian vegetation shall be straddled with heavy equipment or be pruned as necessary without damaging the roots, to allow the operation of heavy equipment.

29. All areas disturbed by the work shall be protected against erosion using vegetation or other means within seven days of disturbance.

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30. All woody plants on the banks or in the bed of state waters removed or damaged by the work beyond their capability to regenerate shall be replaced. Replacement shall be by replanting or natural recruitment with woody plants native to the area. Woody plants shall be replaced and maintained at a ratio of at least 1:1 by the end of the first growing season after impact. If replacement plants fail, additional plantings, or natural recruitment is required prior to the next growing season to achieve and maintain at least 1:1 replacement.

31. ANNUAL REPORTING: WSDOT shall submit to the Regulatory Services Coordinator, WDFW Habitat Program, 600 Capitol Way N., Olympia, WA 98501-1091, a calendar year annual report of work by February 28 of the following year, or in the final year of the HPA, prior to the expiration date. An annual report is also required if no work was conducted. The annual report shall include:

- General: HPA Control Number, permittee, contact person, address, telephone number, date of report, time period.
- Summary: Total number of individual projects by region and statewide.
- Problem(s) encountered: Provision violation, notification, corrective action, impacts to fish life and water quality from problem. If the Environmental Compliance Assurance Procedure (ECAP) or similar procedure was used describe what activity triggered the procedure.
- Recommendations for improvement to best management practices and mitigation [optional].
- List of individual projects completed: By region including water body name, road number and milepost if applicable, latitude and longitude, date and duration of work, description of work.
- The information contained in item ?e? above (individual projects completed) shall be provided in unlocked Microsoft Excel (.xls) format.

DEFINITIONS

Channelized stream: A man-made feature that intercepts and conveys a natural stream parallel or perpendicular to the roadway structure. If a ditch conveys water through a jurisdictional wetland it will be considered a channelized stream.

Debris: Inorganic material including trash, tires and garbage etc. This definition does not include Large Woody Material (LWM), woody material smaller than LWM, woody material resulting from beaver activity, or woody material placed in channels for an environmentally beneficial purpose.

Environmental Compliance Assurance Procedure: WSDOT communication protocol to monitor and measure compliance performance.

Large Woody Material (LWM): Trees or tree parts larger than four inches in diameter and longer than six feet in length, including rootwads. This material is located wholly or partially waterward of the Ordinary High Water Line (OHWL).

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Ordinary High Water Line (OHWL): The mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland provided that in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood.

Riprap: Rock material used for bank protection that does not include waste concrete or asphalt material.

Sediment(s): Settled particulate matter located in the predominant biologically active aquatic zone, or exposed to the water column. Sediment also includes settled particulate matter exposed by human activity (e.g., dredging) to the biologically active aquatic zone or to the water column.

Toe of Bank: The distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged below the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure, where it meets the stream bed or marine beach or bed.

Wetted Perimeter: The areas of a watercourse covered with water, flowing or non-flowing.

NOTE: This statewide general HPA replaces and supersedes statewide general HPA F3591-2 and all regionally issued general HPAs for any LWM relocation from Bridges work.



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PROJECT LOCATIONS

Location #1 Statewide

WORK START: June 02, 2009				WORK END: June 01, 2014		
WRIA: 99.0000		Waterbody: Various		Tributary to: Statewide		
1/4 SEC: All	Section: 99	Township: 99	Range: 99	Latitude: N	Longitude:	County: Multiple
<u>Location #1 Driving Directions</u>						

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW (formerly RCW 77.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued pursuant to RCW 77.55.021 (EXCEPT agricultural irrigation, stock watering or bank stabilization projects) or 77.55.141 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The person(s) to whom this Hydraulic Project Approval is issued has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All agricultural irrigation, stock watering or bank stabilization Hydraulic Project Approvals issued pursuant to RCW 77.55.021 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the person(s) to whom this Hydraulic Project Approval is issued: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.301.

APPEALS INFORMATION

If you wish to appeal the issuance or denial of, or conditions provided in a Hydraulic Project Approval, there are informal and formal appeal processes available.



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A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.021, 77.55.141, 77.55.181, and 77.55.291: A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval; or

(B) An order imposing civil penalties. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30 days of the denial or issuance of a Hydraulic Project Approval or receipt of an order imposing civil penalties. If agreed to by the aggrieved party, and the aggrieved party is the Hydraulic Project Approval applicant, resolution of the concerns will be facilitated through discussions with the Area Habitat Biologist and his/her supervisor. If resolution is not reached, or the aggrieved party is not the Hydraulic Project Approval applicant, the Habitat Technical Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or his/her designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.021 (EXCEPT agricultural irrigation, stock watering or bank stabilization projects) or 77.55.291:

A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval;

(B) An order imposing civil penalties; or

(C) Any other 'agency action' for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, shall be plainly labeled as 'REQUEST FOR FORMAL APPEAL' and shall be RECEIVED DURING OFFICE HOURS by the Department at 600 Capitol Way North, Olympia, Washington 98501-1091, within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.021 (agricultural irrigation, stock watering or bank stabilization only), 77.55.141, 77.55.181, or 77.55.241: A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

D. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO CHAPTER 43.21L RCW: A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The FORMAL APPEAL shall be in accordance with the provisions of Chapter 43.21L RCW and Chapter 199-08 WAC. The request for FORMAL APPEAL shall be in WRITING to the Environmental and Land Use Hearings Board at Environmental Hearings Office, Environmental and Land Use Hearings Board, 4224 Sixth Avenue SE, Building Two - Rowe Six, P.O. Box 40903, Lacey, Washington 98504; telephone 360/459-6327.

E. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS results in forfeiture of all appeal rights. If there is no timely request for an appeal, the department action shall be final and unappealable.



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ENFORCEMENT: Sergeant Mullins (33) P3

Habitat Biologist

Craig Olds

360-902-2540

for Director
WDFW

CC: CC: E-Mail

All Area Habitat Biologists, WDFW

All Regional Habitat Program Managers, WDFW

All Assistant Regional Habitat Program Managers, WDFW

All Regulatory Services, Habitat Program, WDFW

ATTACHMENTS (2)

Allowable Freshwater Work Windows

Area Habitat Coverage

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