



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 09, 2009

Control Number: 113116-2

Project Expiration Date: June 19, 2013

FPA/Public Notice #: N/A

PERMITTEE

Washington State Department of Transportation
ATTENTION: Eric Wolin
310 Maple Park Avenue SE
Olympia, WA 98504-7003
360-705-6327

AUTHORIZED AGENT OR CONTRACTOR

Project Name: Statewide Freshwater Geotechnical Survey
Project Description: Statewide Freshwater Sediment Test Boring/Geotechnical Survey to determine sub-surface condition and design parameters for proposed WSDOT projects.

PROVISIONS

1. PROJECT DESCRIPTION: This HPA authorizes only Geotechnical Survey including sediment test sampling as described in the JARPA submitted May 27, 2008. Any additional, related work shall require a separate HPA from WDFW.
2. TIMING LIMITATIONS: The project may begin June 20, 2009 and shall be completed by June 19, 2013 provided: Work shall be conducted only during the time periods specified in the attachment "Allowable In-Water Work Windows for Fresh Water, March, 2009," Attachment 1.
3. Except as modified by this HPA work shall be accomplished per plans and specifications submitted by WSDOT as application and accepted by WDFW (May 27, 2008) for this HPA and:
 - a. WSDOT Environmental Compliance Assurance Procedure (ECAP) procedures in WSDOT's Construction Manual Secion1-2.2K (1).
 - b. Installation of the appropriate Best Management Practices (BMPs) to control erosion, sedimentation, and contain pollutants from entering the water body.
4. These plans (Provision 3 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.
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 the Washington Military Department Emergency Management Division at 1-800-258-5990, and to the WDFW Area Habitat Biologist (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.



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DRILLING ACTIVITIES

7. Woody material embedded in the bank or stream bed shall be left undisturbed and intact.
8. A casing or other water isolation device /BMP shall be used to contain the boring operation and prevent water entry of all associated sediments and other materials, such as the water slurry used for drill lubrication and bentonite used to seal the boring hole after geo-technical data has been recorded and sampled.
9. After geotechnical information has been logged, the borehole and surface shall be restored to pre-project condition.
10. All waste material such as drill spoils and cuttings, construction debris, silt, excess dirt, excess gravel, or overburden resulting from this project shall be deposited above the limits of flood water in an upland disposal site that has appropriate regulatory approval.
11. No other excavation or fill work is authorized under this HPA.

EQUIPMENT

12. Drilling equipment shall be checked daily for leaks, be well-maintained and kept in good repair to prevent the loss of lubricants, grease, and any other deleterious materials from entering the state waters.
13. No geared mechanisms (tires, tracks) shall enter the wetted perimeter. Truck mounted and tracked drilling equipment shall work from a location outside of the wetted perimeter unless working off of a temporary floating work platform.
14. Temporary floating work platforms shall not ground on the bed of state waters.
15. Equipment, except for barges, shall be parked above the Ordinary High Water Line (OHWL) each day after construction activities to prevent leakage or accidental spills into state waters.
16. All containers storing fuel or other deleterious substances on any temporary floating work platform shall be secured to prevent incidental spills.

RIPARIAN PROTECTION

17. Care shall be used when accessing the site to minimize the disturbance of vegetation. Vegetation shall be straddled with heavy equipment and be pruned as necessary, without damaging the roots, or low ground pressure equipment shall be used, when possible.
18. All woody plants that were on the banks or in the bed of state waters and that were 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



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next growing season to achieve and maintain at least 1:1 replacement.

19. Within seven calendar days of project completion, all disturbed areas shall be protected from erosion using vegetation or other means. Erosion control methods may include, but are not limited to filter fabric and immediate mulching of exposed areas.

20. ANNUAL REPORTING: WSDOT shall submit to the Regulatory Services Coordinator, WDFW Habitat Program, address 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:

- a. General: HPA Control Number, permittee, contact person, address, telephone number, date of report, time period.
- b. Summary: Total number of individual projects by region and statewide.
- c. 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, what activity triggered the procedure.
- d. Recommendations for improvement to best management practices and mitigation [optional].
- e. List of individual projects completed: By region including water body name, road number and milepost if applicable, latitude and longitude, date duration of work, description of work.
- f. The information contained in item "e" above (individual projects completed) shall be provided in unlocked Microsoft Excel (.xls) format.

PROJECT LOCATIONS

Location #1

WORK START: June 20, 2009				WORK END: June 19, 2013			
WRIA: 99.0000		Waterbody: Various			Tributary to: Statewide		
1/4 SEC: All	Section: 99	Township: 99	Range: 99	Latitude: N	Longitude:	County: Pacific	
Location #1 Driving Directions							

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



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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.

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



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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.

ENFORCEMENT: Sergeant Rahn (39) P3

Habitat Biologist Craig Olds	360-902-2540		for Director WDFW
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CC: E-Mail with Attachments:

- All Area Habitat Biologists, WDFW
- All Regional Habitat Program Managers, WDFW
- All Assistant Regional Habitat Program Managers, WDFW
- All Regulatory Services, WDFW
- All Regional Enforcement Sergeants, WDFW
- Ken Schlatter, WSDOT, Olympia

Attachments:

- Fresh Water Work Windows
- WDFW Area Habitat Biologist Contact Information