Memorandum of Agreement
Between
Washington State Department of Fish and Wildlife and Washington State Department of Transportation
Concerning
CONSTRUCTION OF PROJECTS IN STATE WATERS
(Chapter RCW 77.55. RCW and Chapter 220-110 WAC)
June, 2002

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This Memorandum of Agreement (MOA) is made between the Washington State Department of Fish and Wildlife, hereafter referred to as WDFW and Washington State Department of Transportation, hereafter referred to as WSDOT.

1. Purpose

This MOA establishes and promotes mutual understanding of the needs of the respective agencies and to facilitate a more consistent application of Chapter 220-110 WAC (Hydraulic Code Rules) and other existing interagency agreements (e.g. Alternative Mitigation Policy Guidance Interagency Implementation Agreement, February 2000; Washington State Department of Transportation Wetland Compensation Bank Program Memorandum of Agreement, September 15, 1994). This MOA replaces the Memorandum of Agreement Concerning Work in Watercourses, December 16, 1996 and Memorandum of Understanding between Washington State Department of Transportation and Washington State Department of Fish and Wildlife (1990).

2. Objectives

1. Work cooperatively to ensure that state transportation projects protect fish life, and habitats, and ensure the consistent and uniform application of Chapter 77.55 RCW (Construction Projects in State Waters) and Chapter 220-110 WAC (Hydraulic Code Rules).
2. Provide a venue to discuss other wildlife and habitat related issues related to transportation projects not addressed through Chapter 77.55 RCW.
3. Work cooperatively to ensure that WSDOT can fulfill its mission to safely, effectively, and efficiently build, operate, and maintain state transportation systems and WDFW can fulfill its mission to protect fish life.
4. Work cooperatively to identify and evaluate potential project impacts on fish life and habitat and to reach accord on mitigation measures early in the design process to facilitate project design and construction.
5. Provide a framework within which general Hydraulic Project Approvals (HPAs) can be developed and approved that will provide WSDOT with flexibility in planning and programming maintenance, repair, mitigation and minor improvement projects for state transportation facilities, and structures, while reducing the permit workload with both agencies, and properly protecting fish life and habitat.
6. Increase efficiency, reduce paperwork, and maintain consistency in the application of the Hydraulic Code to state transportation activities.
7. The agencies will work together to develop and provide training to appropriate staff.

3. Background

1. Washington State faces significant challenges in meeting society's need to build and maintain safe and efficient transportation systems while maintaining healthy populations of fish and wildlife species and an ecosystem that provides functions to support the needs of fish life and humans.
2. State law directs WSDOT to construct and maintain a safe and viable transportation system within the state. For example, **RCW 47.01.260** provides that *"the department of transportation shall exercise all the powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways, including bridges and other structures, culverts, and drainage facilities and channel changes necessary for the protection of state highways, and shall examine and allow or disallow bills for any work or services performed or materials, equipment, or supplies furnished."*
3. State law directs WDFW and the commission to preserve, protect, perpetuate, and manage the wildlife and food fish, game fish, and shellfish in state waters and offshore waters. For example, **RCW 77.04.012** identifies the mandate of the department and commission. Wildlife, fish, and shellfish are the property of the state. For example, **RCW 77.55.100** provides that *"in the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any salt or fresh waters of the state, such person or government agency shall before commencing construction or work thereon and to ensure the proper protection of fish life, secure the approval of the department as to the adequacy of the means proposed for the protection of fish life."* Both agencies intend that this agreement should advance their ability to satisfy their obligations.
4. Permit Efficiency and Accountability (TPEAC) **RCW 47.06C** of 2001, an act to improve the efficiency and accountability of environmental permitting and compliance process for transportation projects. It is the intent of the legislature to achieve transportation permit reform that expedites the delivery of transportation projects through a streamlined approach to environmental decision-making.
5. On November 29, 2000 the Blue Ribbon Commission on Transportation issued a recommendation to streamline permitting for transportation projects. The recommendation calls for the development of standards to streamline permit approvals and reduce process review delays.
6. State agencies are directed by the governor to develop and implement plans for the recovery of salmon under: Extinction is Not an Option: A Statewide Strategy to Recover Salmon September 1999.
7. State agencies were also directed by the governor in executive order 97-03 Quality Improvement to streamline and improve government performance and customer service.
8. The State of Washington Transportation Commission issued an Environmental Organization Study in January 1994. The study issued the following recommendations:
    a. WSDOT should encourage and participate in current and future efforts to minimize duplication and overlap of environmental regulations of regulatory agencies
    b. WSDOT should continue to explore ways to enable earlier involvement by state and federal regulatory agencies
    c. WSDOT should explore, with all relevant parties, the development and adoption of environmental standards commensurate with appropriate levels of environmental protection and
    d. The Secretary of the Department of Transportation should work with resource and regulatory agency directors to foster better understanding between both agencies.

4. Definitions

For purposes of the MOA the following definitions apply.

1. AHB: Area Habitat Biologist - the WDFW biologist charged with processing permit applications under the Hydraulic Code.
2. BMP(s): Best Management Practices.
3. Capital project: WSDOT identifies capitol projects as those that fall under the Capitol Budget category which include the following budget programs; Improvement (I), Preservation (P), New Building Construction (D3), Ferry Construction (W4), Highways and Local Programs (Z2), and Rail (Y/V). Capitol project activities are typically bid out to contract. Capitol project activities may involve the construction or acquisition of new assets or work that results in the improvement and/or addition to a highway that increases capacity or utilization, extends the useful life, or changes the function. Maintenance or repair of currently serviceable structure is not a capitol project.
4. Channel: a feature that collects drainage water, can be parallel or perpendicular to the highway facility, and may or may not be a natural stream. Channels may support fish and work within them will fall under HPA authority. WSDOT Maintenance Manual for Water Quality and Habitat Protection, June 2000. WSDOT agrees that WDFW AHBs shall determine what is a stream, channel, or ditch for HPA purposes and to abide by these determinations.
5. Complete Application: See appendix A.
6. Construction Projects in State Waters: Chapter 77.55 of the Revised Code of Washington.
7. Ditch: a drainage feature that is a man-made (i.e. not a modified stream) conveyance system that collects, conveys, channels, holds, inhibits or diverts the movement of stormwater or ground water from the WSDOT facility and adjacent properties. It is not a channelized stream, nor does it support fish. Work within ditches will not require an HPA. WSDOT Maintenance Manual for Water Quality and Habitat Protection, June 2000. Figure 2 provides technical assistance for determining the difference between a ditch and channel. WSDOT agrees that WDFW AHBs shall determine what is a stream, channel, or ditch for HPA purposes and to abide by these determinations.
8. Emergency (WDFW – RCW 77.55.100 (5)): an immediate threat to life, the public, property, or of environmental degradation, arising from weather or stream flow conditions or other natural conditions.
9. Emergency/Disaster Maintenance: activities that are required to alleviate an emergency condition. Work activities are the same or similar to routine maintenance activities except that they are greater in magnitude and scope depending upon the nature and intensity of the emergency.
10. Highway Maintenance: those activities conducted on currently serviceable road structures, facilities and equipment involving no expansion or use beyond that previously existing. Typically, WSDOT maintenance activities are funded from the operating budget.
11. Hydraulic Code Rules: Chapter 220-110 WAC, administrative rules, including procedures and technical provisions to implement Chapter 77.55 RCW.
12. Imminent Danger (RCW 77.55.100(3)): a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a permit application.
13. Mitigation (WAC 220-110-020 (54)): actions, which shall be required as provisions of the HPA to avoid or compensate for impacts to fish life resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, in the following sequential order of preference:

a. Avoiding the impact altogether by not taking a certain action or parts of an action;

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

e. Compensating for the impact by replacing or providing substitute resources or environments; or

f. Monitoring the impact and taking appropriate corrective measures to achieve the identified goal.

For projects with potentially significant impacts, a mitigation agreement may be required prior to approval. Replacement mitigation may be required to be established and functional prior to project construction.

14. PHS: WDFW Priority Habitat and Species List and management guidelines.

15. RHPM: WDFW Regional Habitat Program Manager.

16. Road Structure: components of a road, including: roadway, drainage, sediment containment, retention/detention, utilities permits/franchises (telecommunication, gas, electrical etc.), street lighting, and traffic signals. Figure 1 shows three zones, which may be present in any given location. Routine maintenance activities occur within Zone 2.Routine Maintenance: This category means budgeted work performed routinely on a scheduled basis. It is intended to maintain the highway facility/element so that it retains its original intended use.

17. Unscheduled (non-emergency) Maintenance: unanticipated activities that occur due to unusual weather condition, vandalism, accident, etc. Work activities are conducted similar to routine maintenance activities except that work is unanticipated and poses an imminent danger to the existing structures or traveling public.

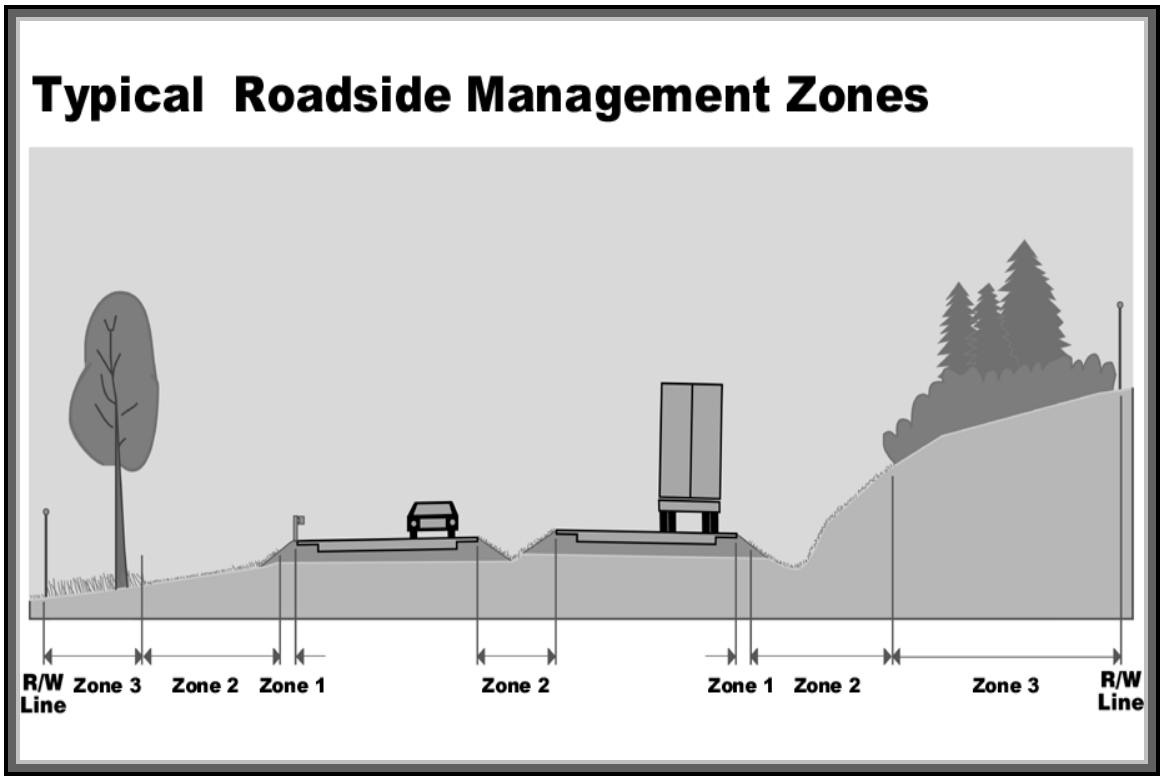

Figure 1. Roadway cross section

5. Roles and Responsibilities

The signatories will work together to:

- Obtain funding to fully implement this MOA.
- Provide active support and guidance within their respective agencies to achieve the objectives of this MOA.

6. Training

WSDOT and WDFW recognize that understanding and communication are essential to develop good working relationships between all levels of our agencies. A training committee comprised of representatives from the WDFW Habitat Program (WSDOT Liaison), WSDOT Environmental & Engineering Service Center (Environmental Affairs & Design Offices), Field Operations Support Service Center (Construction and Maintenance Offices), Rail Office, Highways & Local Programs Service Center, and Washington State Ferries will meet annually to determine training needs and develop training as determined necessary for personnel in each agency and with contractors. The goals of this training are to ensure contractors, staff, and decision makers

- Have basic knowledge of ecological and transportation issues,
- Understand the HPA program, and
- Are aware of their roles and responsibilities, in terms of fieldwork, technical support, permits, and documentation.

Training will be conducted with an adaptive management philosophy with future needs addressed as questions and issues arise during program implementation. Training programs will be integrated into existing programs within both agencies.

7. Project Review Coordination

1. WSDOT Responsibilities
   a. Arrange annual meetings for the following:
      i. ***Capitol Improvement Activities:*** Proposed projects identified in the WSDOT preservation and improvement programs may be reviewed at annual meeting(s), between both agencies, each year between January 15th and March 15th. WSDOT design personnel, environmental personnel, and other WSDOT personnel as necessary shall attend meetings.
         (1) One meeting will be held for each WSDOT region in western Washington at a mutually agreed upon location to discuss capitol construction projects in western Washington.
         (2) One meeting will be held at a mutually agreed upon location in eastern Washington to discuss capitol construction projects in eastern Washington.
      ii. ***Planned Maintenance Activities:*** Each maintenance area superintendent shall arrange one meeting each spring at a mutually agreed upon date and location to review planned maintenance activities with WDFW AHB. The area superintendent shall develop maps and/or aerial photographs and a list identifying potential hydraulic activities. The maps and list shall be

kept up to date with new activities added and completed or abandoned activities removed. A copy of the maps and/or aerial photographs list will be made available to WDFW AHB.

iii. ***Ferry Projects:*** One meeting will be held in Seattle or other mutually agreed upon location to discuss upcoming ferry maintenance, repair, and construction projects.

(1) Apply for and obtain an individual HPA for all projects, and maintenance activities which require an approval, and which are not approved under existing and valid general HPA approvals issued to WSDOT.

Joint Meetings: Capitol Improvement project and planned maintenance activity meetings may be held jointly at the discretion of the regions.

2. WDFW Responsibilities:

   a. WDFW AHB will attend the annual meetings to discuss capitol projects, maintenance projects and ferry projects. AHBs will determine what water bodies are ditches channels, and streams; WSDOT agrees to abide by these determinations. WDFW will identify chronic repair/maintenance problems in which WDFW may have an interest and will require HPA approval

   b. Provide information as available from WDFW databases to WSDOT personnel on fish and wildlife resources that may be affected by a WSDOT project.

   c. Provide information regarding anticipated project conditions and mitigation.

   d. Process complete applications and issue or deny permits within the time lines identified for type of application (e.g. standard, expedited, or emergency) submitted to WDFW following procedures outlined in Section 9 (Hydraulic Project Applications)

   e. Work with WSDOT to develop general HPAs for specific types of WSDOT projects and maintenance activities.

8. Project Review Procedures For Annual Meetings

1. Capitol Improvement Projects

   a. During the project scoping phase WSDOT shall: Review current PHS and Fish Distribution data and contact the AHB for information on resource protection needs, possible conditions, and timing windows for sampling and construction activity.

   b. WSDOT shall update their PHS database from WDFW every six months by contacting, **PRIORITY HABITATS & SPECIES** - Habitat Program, Priority Habitats and Species Division (360) 902-2534.

   c. Consult WSDOT Fish Passage Barrier Database to determine if any identified fish passage problem is identified in the project area.

   d. Use information in existing guidelines (Appendix D) in designing WSDOT projects that potentially affect fish life or fish-bearing water bodies.

   e. At least one month prior to the annual meetings WSDOT regions will supply to WDFW RHPM(s) a list of all projects to be discussed at the annual meeting. This list will include: project name, project description, location, and WSDOT contact person.

f. At least two weeks prior to the annual meetings RHPM(s) will supply to WSDOT the name, address, and phone number of AHB(s) that will be working each project.

g. WSDOT will coordinate annual meetings. Westside regional meetings will be coordinated with WDFW regions 4, 5, and 6 RHPM(s) and WSDOT Northwest, Olympic and Southwest region environmental managers. Eastside meetings will be coordinated with WDFW regions 1,2, and 3 RHPM(s) and WSDOT Northcentral, Southcentral, and Eastern region environmental managers. Region 5 will also be contacted for eastside meetings if any projects are proposed in Klickitat County.

h. At the meetings both agencies will discuss:

   i. Project design and alternatives, including project purpose and need (deficiency and design) and alternatives for avoidance and minimization of impacts.

   ii. Applicability of other agreements (e.g. MOAs, Mitigation Agreements, general HPAs) to project design.

   iii. Potential permit conditions

   iv. Mitigation including opportunities to restore or enhance habitat disturbed by previous projects

   v. Data resource gaps and future data needs

i. Some improvement mobility projects that require an EIS may undergo early inter-agency environmental review through the NEPA/SEPA/404 merger agreement.

j. Follow-up meeting may be held between WSDOT and WDFW staff as necessary to address any changes in project scope and design:

   i. Discuss impacts to fish and wildlife resources including alternatives to avoid impacts either through modifications in project design and/or implementation of best management practices.

   ii. Identify mitigation measures that may be necessary to compensate for impacts to fish life resulting from the proposed project activity.

2. Maintenance Projects

   a. Planned maintenance

      i. At least one month prior to the annual meeting WSDOT maintenance area superintendent will supply to WDFW AHB a list of planned maintenance activities to be discussed at the annual meeting. This list will include: site number, highway, milepost location, description and Best Management Practices (BMPs).

      ii. These maintenance activities will be discussed at the annual meeting with WDFW AHB to:

         (a) Agree on drainage ditch and channel maintenance activities. Ditch maintenance does not require HPAs. Figure 2 provides assistance for determining the difference between a natural watercourse, modified natural watercourse, and artificial drainage ditch.

         (b) Identify and agree on which activities will be covered by general HPAs, can be batched by activity or, that require an individual HPA.

         (c) Identify and agree on potential chronic repair/maintenance problems.

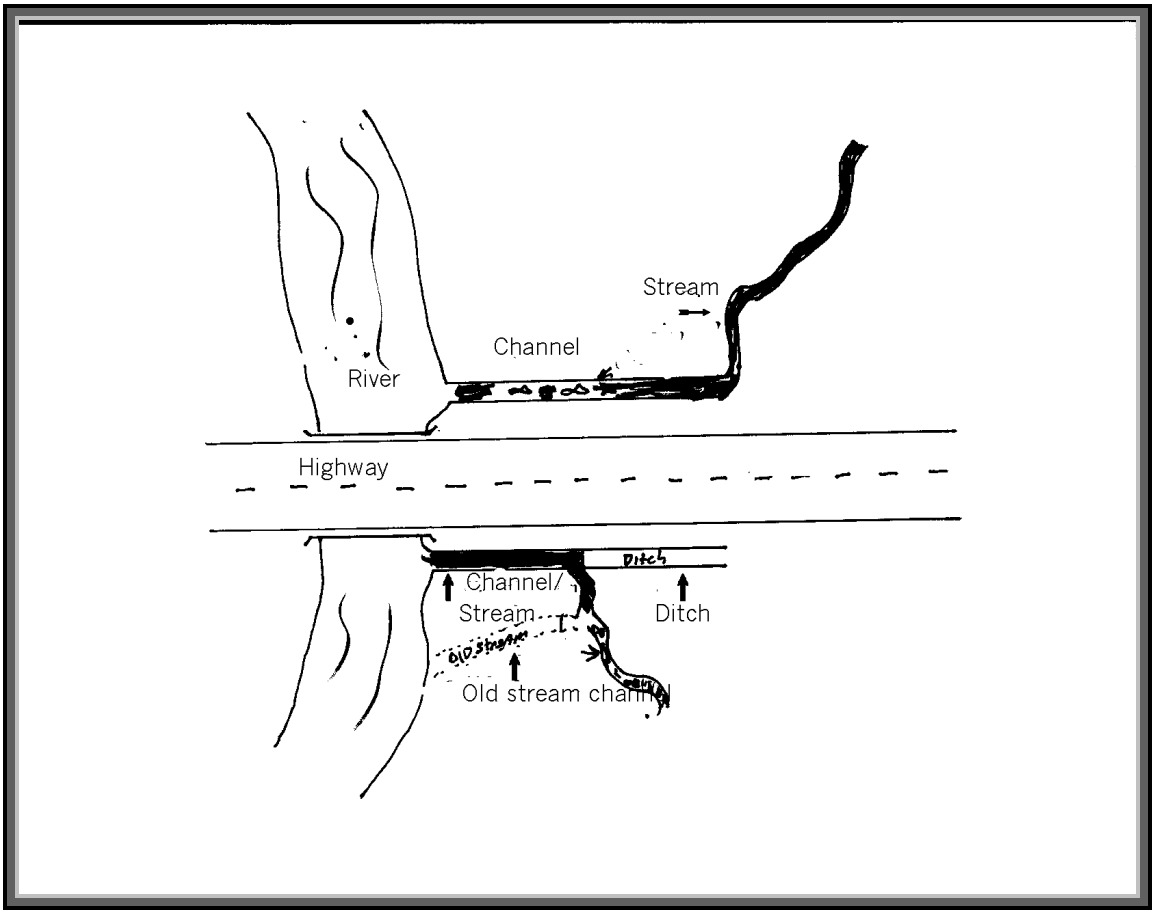

Figure 2. Typical stream, channel, and ditch

iii. WSDOT Maintenance Superintendents within each region, using a definition and criteria developed jointly by WSDOT and WDFW, develops a detailed and accurate list of known chronic environmental deficiencies. WSDOT intends to develop a new funding category that will provide an inventory, scoping, prioritization, and programming process for environmental deficiency removal projects where implementation of maintenance and operations BMPs may not be able to avoid and minimize significant adverse environmental impacts. Chronic environmental deficiencies that are prioritized by this process, that pose the greatest risk to fish life, would be targeted for retrofit construction. Projects would be limited to the amount of funding received by the Washington State Legislature. Until projects are funded WDFW agrees to issue HPAs for maintenance activities to keep the highway operational and WSDOT agrees to provide mitigation through avoidance and minimization of impacts for these projects. If the I-4 retrofit program ceases to function then compensatory mitigation may be required as appropriate on a project-by-project basis.

iv. WSDOT will submit JARPAs for HPAs based on annual meeting discussions.

v. WDFW AHB will review and comment expeditiously on JARPA applications, as described in this MOA under section 9.

vi. WSDOT will not begin work until the HPA is received.

b. Unscheduled maintenance

i. Unscheduled maintenance may be required for any number of reasons or events both natural (e.g. windstorms) and man induced (e.g. accidents).

ii. WSDOT will submit a JARPA application for each unscheduled maintenance activity and arrange for a site review with WDFW AHB.

iii. WDFW will attend the site review if the maintenance activity poses a high likelihood to adversely affect fish life.

iv. WDFW AHB will review and comment expeditiously on JARPA applications, as described in this MOA under Section 9. It is anticipated that most unscheduled maintenance activities will meet the requirements for an expedited application and be processed as an expedited application. In rare circumstances, the danger may escalate to immediately. If this is the case WSDOT will notify WDFW by phone and follow the procedures for emergency/disaster maintenance.

v. WSDOT will not begin work until the HPA is received.

c. Emergency/disaster maintenance and repair

i. While WSDOT is mandated the authority under RCW 47.28.170 and RCW 47.32.130 (1) to protect and restore highways in the event of an emergency, WSDOT emergency response actions that fall under WDFW jurisdiction shall be consistent with RCW 77.55.100 (5)): where emergency means *"an immediate threat to life, the public, property, or of environmental degradation, arising from weather or stream flow conditions or other natural conditions."*

ii. If an emergency condition exists and an HPA has not been issued or there is insufficient time to secure an HPA through normal channels, WSDOT will contact WDFW for verbal approval of HPA per WAC 220-110-030(7), as soon as practicable with respect to the given condition. During normal business hours the AHB (if known) in that area will be contacted directly; if not known the WDFW regional office will be contacted for approval. The after-hours telephone number (360) 902-2537, will be used. Verbal approval shall be granted immediately upon request for emergency work to repair existing structures, move obstructions, restore banks, or protect property that is subject to immediate danger by weather, flow, or other natural conditions.

iii. Whenever possible WDFW will conduct a site visit before issuing an emergency HPA. If it is not possible to conduct a site visit, WDFW will grant verbal permission for emergency work and outline conditions to protect fish life per RCW 77.55.100(5)(a)(b)(c). Conditions will be reduced to writing and supplied to WSDOT within 30 days. The permit for emergency work will be valid for work started within 15 days of the declaration of emergency and only for work to eliminate the emergency condition. Additional repair and mitigation work will require either submittal of a Hydraulic Project Application for a standard or expedited HPA.

iv. WSDOT will conduct its emergency repair work in the most environmentally sensitive manner possible, using the menu of BMPs outlined in WSDOT Maintenance Manual for Water Quality and Habitat Protection, June 2000 and as specified in the HPA.

v. Repairs will be limited to short-term fixes necessary to maintain the safety and serviceability of the facility. Where permanent methods of repair can be used they will be employed with the understanding that for each action WSDOT is required to submit a restoration plan within 30 days. The restoration plan shall be completed within one year of the event, or within the next available work window. A restoration plan will not be necessary for reconstruction of facilities within their original footprint.

vi. Long-term fixes will be secured through standard application and approval processes.

vii. Figure 3 provides technical assistance for determining WSDOT emergency response.

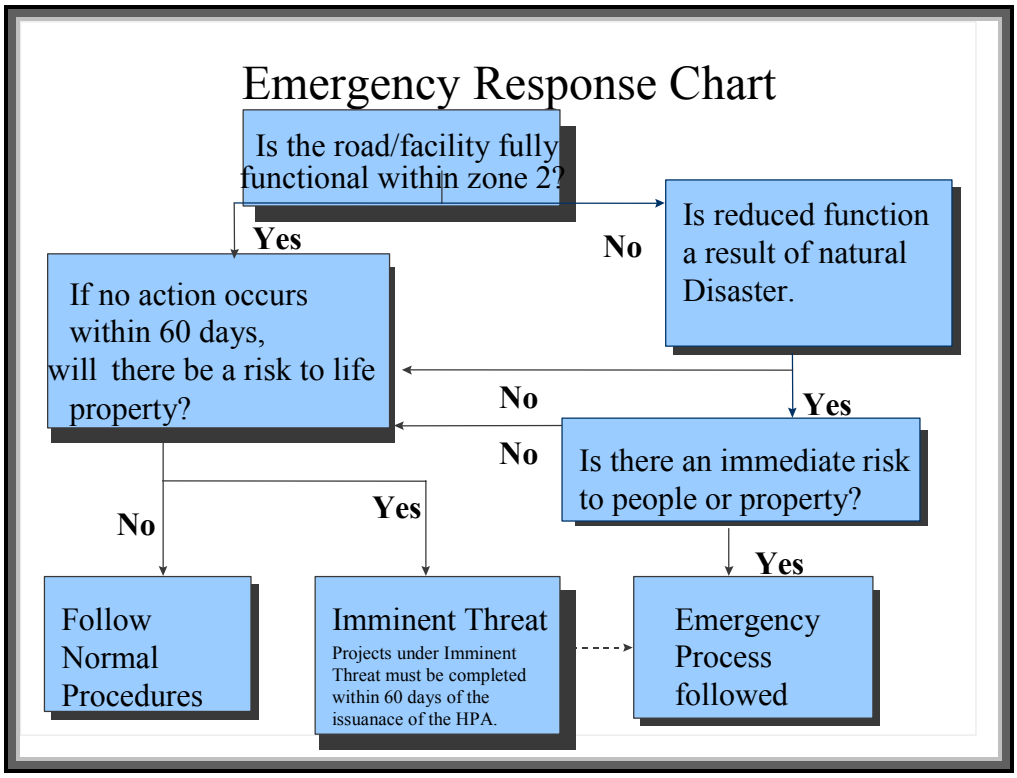

Figure 3. Flow chart for emergency response

9. Hydraulic Project Applications

1. Both agencies should coordinate and establish agreement on design and any necessary mitigation issues prior to final HPA application submittal. This may be accomplished during the annual meetings (See Section 7 and 8) to review capitol improvement projects or by coordinating with the local AHB. For all projects that are anticipated to require mitigation for unavoidable impacts, whether or not they were reviewed at the annual meeting; project information will be sent to WDFW with adequate information regarding project design, method of construction, and mitigation, so that potential design and mitigation issues may be addressed before an application is submitted. An application for the HPA shall be submitted to WDFW when final project plans are near completion and shall contain information required under WAC 220-110-030 (application submittal procedures). See Appendix A for application requirements.
2. WDFW shall process each Hydraulic Project Application as described in WAC 220-110-030 and summarized in the following table.

Application Type	Review time by WDFW	Valid for	Renewable	SEPA Requirements
Standard	decision within 45 days of receipt of complete application	maximum of 5 years	Yes	Yes
Expedited	decision within 15 days of receipt of complete application	maximum of 60 days	No	No
Emergency	immediately, verbal or written	for duration of emergency	Yes	No

3. If an application for a permit is received that is incomplete per WAC 220-110-030(2), which states: "*The application shall contain general plans for the overall project, complete plans and specifications for the proposed construction or work waterward of the mean higher high water line in salt water or waterward of the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life. The application shall be signed and dated by the applicant or their agent,"* then, the AHB shall notify WSDOT, in writing, within 10 working days of receipt of that application, listing what information is needed and return the application to WSDOT. The AHB may hold the application attachments at their office pending re-submittal of the application with the missing information.
4. WAC 220-110-020 (54) "Mitigation" represents the standard for determining when and what type of mitigation is required for a given project. If an application is received by WDFW that is complete for review purposes but does not fully mitigate direct and indirect impacts to fish life, the AHB shall notify WSDOT of the intent to deny a permit at the end of the 45 days review period. WSDOT may request the 45-day clock be suspended pending additional negotiations unless full mitigation measures can be agreed upon within the 45-day review. If approval is denied, WDFW shall provide the WSDOT, in writing, a statement of the specific reason(s) why and how the proposed project would adversely affect fish life (WAC 220-110-035).
5. WSDOT shall incorporate the provisions of the HPA into transportation project contract documents.
6. WDFW shall coordinate site inspections with the WSDOT project engineer for preservation and improvement projects when practicable.
7. WDFW will coordinate site inspections with the WSDOT area region environmental office and maintenance office for maintenance activities when practicable.

10. Oversight and Monitoring

WSDOT will encourage the training of project inspectors on how to monitor projects for compliance with HPA provisions.

If at any time after the HPA is issued project designs change or circumstances arise at the construction site that require modifications to design or construction methods, the AHB will be contacted and a meeting arranged to discuss the changes to design and potential modifications to the HPA.

The AHB will notify WSDOT anytime conditions of the HPA need to be modified to protect fish life and habitat per WAC 220-110-030(17). AHBs may modify or revoke an existing HPA when new biological

or physical information indicates the need for such action. Such changes will be discussed with WSDOT prior to issuing a revised permit, or revoking an existing permit.

11. Conflict Resolution

It is expected that conflicts will be resolved at the field level in a cooperative and professional manner. In the event that issues cannot be resolved at the local level and before an application for an HPA is issued or denied, field personnel from either agency may request that a WDFW/WSDOT Liaison be assigned to mediate the dispute. In the event that mediation fails, the applicant may request an informal appeal per WAC 220-110-340 with WDFW in writing within 30 days of the issuance or denial of an HPA (Appendix G).

In the event that issues cannot be resolved with mediation or informal appeal, a Formal Appeal of Administrative Decisions, WAC 220-110-350 shall be followed (Appendix G).

In the event of an unlawful hydraulic activity project (e.g. violation of provisions of the HPA) then:

- WSDOT and/or the contractor will be held liable for the violation and shall be issued a citation(s) if deemed necessary.
- In the event of violations, corrective actions, appropriate to the circumstances, will be taken by WSDOT. Corrective actions include; stop work, improved maintenance activities BMPs, additional training, providing improved information (i.e. sensitive area maps) to WSDOT personnel, and conducting additional performance assessments. If violations are related to the absence of adequate equipment and/or materials, procurement of needed items will be sought through the normal departmental means. Any personnel corrective actions will be taken in accordance with Chapter 12 of WSDOT Human Resource Desk Manual.

In the event that damages to fish resources occur as a result of work on WSDOT projects, WSDOT will work with WDFW to develop plans to repair damage and provide compensation. WSDOT and/or the contractors shall be held responsible for damages and restoration. WSDOT will be responsible for working with the contractor to repair damage done to fish resources and to prevent future violations.

12. Adaptive Management

This MOA will be reviewed within six months of adoption of revisions to Chapter 220-110 WAC.

The conditions of this MOA may be reassessed at any time when:

- A condition of this MOA is found to be ineffective.
- The workload for either party becomes problematic.

Either agency may propose changes at any time by supplying a copy of the proposed changes to the other agency for review.

No changes become effective until both agencies have signed the new MOA.

13. Duration of MOA

This MOA becomes effective upon signature by both parties and remains in effect unless either party terminates the agreement with 60 days written notice to the other party.

14. Signatures

MOU
WDFW/WSDOT

May, 2002

APPROVED AS TO FORM

_____	_____
Assistant Attorney General	Assistant Attorney General
Department of Fish and Wildlife	Department of Transportation
Date:_____	Date:_____
_____	_____
ASSISTANT DIRECTOR HABITAT PROGRAM	DIRECTOR OF ENVIRONMENTAL AFFAIRS OFFICE
Department of Fish and Wildlife	Department of Transportation
Date:_____	Date:_____

Appendix A: Complete Application

The following will be considered an application for an HPA:

- A Joint Aquatic Resource Permit Application (JARPA) or its successor(s) or,
- A Section 10 or 404 public notice circulated by the United States Army Corps of Engineers or United States Coast Guard.

Complete application procedures are identified in WAC 220-110-030. A complete application will contain the following:

1. A set of near complete drawings for the project; detailed plans for those parts of the project to be constructed within state waters,
2. Upon the request of the AHB, WSDOT will provide a brief summary describing how the proposed project is consistent with stormwater standards in the current Highway Runoff Manual,
3. Detailed plans for construction or installation of mitigation features for identified project impacts ,
4. Discussion of construction techniques which will or may be used,
5. Monitoring and reporting schedule for mitigation or experimental techniques (if required), and
6. Alternative plans should experimental techniques prove unsuccessful.

Application will be sent to (in order of preference) the Area Habitat Biologist, WDFW Regional Office (Appendix 2) where the project will occur, or WDFW Headquarters Habitat Program.

Washington State Department of Fish and Wildlife
Habitat Program
600 Capitol Way North,
Olympia, WA 98501-1091

Appendix B: WDFW regional office addresses and contacts

AREA HABITAT BIOLOGIST=S GEOGRAPHIC COVERAGE AREAS

Last update: May 6, 2002

Please contact Lynette Wickett with any updates or changes: (360) 902-2532 wickelrw@dfw.wa.gov

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
ADAMS **REGION 2**	All tributaries	34,36,41,43	Vacant (contact RHPM)	WDFW, Region 2 1550 Alder ST, NW Ephrata, WA 98823-9651 (509) 754-4624
	Forest Practices		Lynda Hofmann hofmalah@dfw.wa.gov	WDFW, Region 2 P.O. Box 1118 Twisp, WA 98856 (509) 997-9428
ASOTIN **REGION 1**	Mainstem Snake River	35	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave #115 Kennewick WA 99336 (509) 734-7432
	All tributaries EXCEPT mainstem Snake River	35	Tom Schirm schirtbs@dfw.wa.gov	WDFW, Region 1 Post Office Box 142 Dayton, WA 98328 (509) 382-1266
BENTON **REGION 3**	Yakima River and tributaries Mainstem Columbia River and tribs.	31,37,40	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave #115 Kennewick WA 99336 (509) 734-7432
CHELAN **REGION 2**	Only tributaries associated with Forest Practices	40,45,46,47	Lynda Hofmann hofmalah@dfw.wa.gov	WDFW, Region 2 P.O. Box 1118 Twisp, WA 98856 (509) 997-9428

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
CHELAN **REGION 2** (continued)	Mainstem Columbia River and all tributaries (includes Colockum, Stemilt, and Squilchuck Creeks; Wenatchee and Entiat River drainages; Lake Wenatchee, Lake Chelan and all tribs.	40,45,46,47	Bob Steele steelrms@dfw.wa.gov	WDFW, Region 2 3860 Chelan Hwy. N. Wenatchee, WA 98801 (509) 662-0503
CLALLAM **REGION 6**	Marine waters only (includes Strait of Juan de Fuca, Diamond Point in Diamond Bay and Pacific Ocean)	17,18,19,20	Anne Shaffer shaffjas@dfw.wa.gov	WDFW, Region 6 332 East 5th ST, Suite 100 Port Angeles, WA 98362 (360) 457-2634
	Strait of Juan de Fuca watersheds and lakes located in Clallam and Jefferson Counties. Major streams include Dungeness, Elwha, Pysht, Hoko, Lyre, Clallam, and Sekiu Rivers; Snow, Siebert, Morse, and Ennis Creeks.	17,18,19	Chris Byrnes byrnechb@dfw.wa.gov	WDFW, Region 6 332 East 5th ST, Suite 100 Port Angeles, WA 98362 (360) 417-1426
	Ocean watersheds and lakes located primarily in Clallam and Jefferson (west) Counties. Major streams include Big, Bogachiel, Dickey, Hoh, Queets, Salmon, Soleduck, and Sooes Rivers	20	Dan Dafoe dafoedad@dfw.wa.gov	WDFW, Region 6 332 East 5th ST, Suite 220 Port Angeles, WA 98362 (360) 457-2516
CLARK **REGION 5**	All tributaries (WRIA 27 only) including mainstem Columbia River.	27	Vacant (Contact RHPM)	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 906-6731

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
CLARK **REGION 5** (continued)	All tributaries (WRIA 28 only) including mainstem Columbia River	28	Vacant (Contact RHPM)	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 906-6731
COLUMBIA **REGION 1**	Mainstem Snake River	33,35	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave Suite 115 Kennewick WA 99336 (509) 734-7432
	All tributaries EXCEPT mainstem Snake River.	32,33,35	Tom Schirm schirtbs@dfw.wa.gov	WDFW, Region 1 P.O. Box 142 Dayton, WA 99328 (509) 382-1266
COWLITZ **REGION 5**	Chehalis River	23	Vacant (contact RHPM)	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 906-6731
	All tributaries EXCEPT those in WRIA 27 (includes Abernathy, Coal, Germany, Mill, Owl, and Skamokawa Creeks; and Coweeman, Cowlitz, Deep, Elochoman, Grays, Green, and Toutle Rivers). Mainstem Columbia River.	25,26	Bob Bicknell bicknrjb@dfw.wa.gov	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 274-9814
	All tributaries including mainstem Columbia River (WRIA 27 only).	27	Vacant (contact RHPM)	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 906-6731

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
DOUGLAS **REGION 2**	All tributaries EXCEPT mainstem Columbia River downstream from Chief Joseph Dam (S24 T29N R25E)	42,44,50	Vacant (contact RHPM)	WDFW, Region 2 1550 Alder ST NW Ephrata, WA 98823-9699 (509) 754-4624
	Mainstem Columbia River downstream from Chief Joseph Dam (S24 T29N R25E)	41,44,50	Bob Steele steelrms@dfw.wa.gov	WDFW, Region 2 3860 Chelan Hwy. N. Wenatchee, WA 98801 (509) 662-0503
	Forest Practices		Lynda Hofman hofmalah@dfw.wa.gov	WDFW, Region 2 1550 Alder ST, NW Ephrata, WA 98823-9651 (509) 997-9428
FERRY **REGION 1**	All tributaries	53 58,60	Allen Palmanteer palmagap@dfw.wa.gov	WDFW, Region 1 Post Office Box 29 Boyds, WA 99107 (509) 738-2364
FRANKLIN **REGION 3**	All tributaries including mainstem Columbia River and mainstem Snake River	33,34,36	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave Suite 115 Kennewick WA 99336 (509) 734-7432
GARFIELD **REGION 1**	Mainstem Snake River	35	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave Suite 115 Kennewick WA 99336 (509) 734-7432

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
GARFIELD **REGION 1** (continued)	All tributaries EXCEPT mainstem Snake River	35	Tom Schirm schirtbs@dfw.wa.gov	WDFW, Region 1 Post Office Box 142 Dayton, WA 98238 (509) 382-1266
GRANT **REGION 2**	All tributaries EXCEPT mainstem Columbia River	36,41,42,43, 44	Vacant (contact RHPM)	WDFW, Region 2 1550 Alder ST, NW Ephrata, WA 98823-9651 (509) 754-4624
	Mainstem Columbia River upstream from Priest Rapids Dam (SO1 T13N R23E)	36,41	Bob Steele steelrms@dfw.wa.gov	WDFW, Region 2 3860 Chelan Hwy N. Wenatchee, WA 98801 (509) 662-0503
	Mainstem Columbia River downstream from Priest Rapids Dam (SO1 T13N R23E)	41	Paul LaRiviere larivpel@dfw.wa.gov`	WDFW, Region 3 3030 W Clearwater Ave #115 Kennewick WA 99336 (509) 734-7432
	Forest Practices		Lynda Hofmann hofmalah@dfw.wa.gov	WDFW, Region 2 P.O. Box 1118 Twisp, WA 98856 (509) 997-9428
GRAYS HARBOR **REGION 6**	Marine waters only (includes Pacific Ocean, Grays Harbor, and North and South Bays	21,22	Key McMurry mcmurklm@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 249-4628 Ext. 231

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
GRAYS HARBOR **REGION 6** (continued)	The following systems within and tributaries to these systems within Grays Harbor Co: Porter, Gibson, Cedar, Gerrard, David, Williams, Rock, Shelton, Cloquallum, Mox Chehalis. Chehalis River and tribs upstream of the Satsop River. East Satsop River and tribs. Delezene Creek and South Bank Chehalis tribs.	23	Gloria Rogers rogergsr@dfw.wa.gov	WDFW, Region 6 P. O. Box 695 Elma, WA 98541 (360) 495-3068
	North and Little North Rivers	22,24	Key McMurry mcmurklm@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 249-4628 (Ext. 231)
	Copalis, Hoquiam, Humptulips, Moclips, Quinault, Wishkah, Wynoochee, mainstem and West Fork Satsop Rivers; Conner and Joe Creeks. Chehalis River and tribs (downstream of the Satsop River). Independent tribs to Pacific Ocean North of Quinault River. Newskah, Campbell, Indian, Stafford, O=Leary Creeks, Johns and Elk Rivers; all other tribs of Grays Harbor. Independent tribs in Grays Harbor Co north of the Pacific Co line.		Gary Bell bellgwb@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 249-1228

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
GRAYS HARBOR **REGION 6** (continued)	Forest Practices		Dave Kloempken kloemdck@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 249-1218
ISLAND **REGION 4**	All marine and fresh water. Marine waters includes Admiralty Inlet, Possession Sound, Puget Sound, Rosario Strait, Saratoga Passage, Skagit Bay, and Strait of Juan de Fuca. Whidbey Island.	06	Julie Klacan klacajlk@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext.272)
	Forest Practices and mineral prospecting.		Alan Looff looffacl@dfw.wa.gov	WDFW, Region 4 P.O. Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext. 251)
JEFFERSON **REGION 6**	Marine waters only in East county, includes Discovery Bay, Port Townsend, Puget Sound, Oak Bay, Port Ludlow, Bywater Bay, Dabob Bay, and Hood Canal. Pacific Ocean in West County.	16,17, 20	Anne Shaffer shaffjas@dfw.wa.gov	WDFW, Region 6 332 East 5th ST, Suite 100 Port Angeles, WA 98362 (360) 457-2634
	Upper Dungeness	18	Chris Byrnes byrnechb@dfw.wa.gov	WDFW, Region 6 332 East 5th St, Suite 100 Port Angeles, WA 98362 (360) 417-1426

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
JEFFERSON **REGION 6** (continued)	Hood Canal tribs. Freshwater in East county; Quilcene, Little Quilcene, Dosewallips, and Duckabush Rivers. Shine, Chimacum, Ludlow, Leland, Fulton, Thorndyke, Snow, Salmon, and Contractors Creeks. All lakes within these watersheds	16,17	Jeff Davis davisjpd@dfw.wa.gov	WDFW, Region 6 502 High ST, Suite 108 Port Orchard, WA 98366 (360) 895-3965
	West County; Goodman, Hoh, Clearwater, and Queets Rivers. Misc. tributaries	20,21	Daniel Dafoe dafoedad@dfw.wa.gov	WDFW, Region 6 332 East 5th ST, Suite 220 Port Angeles, WA 98362 (360) 457-2516
KING **REGION 4**	All marine waters includes lower Duwamish, Colvos Passage, Elliott Bay, East Passage, Puget Sound, and waters around Maury and Vashon Island (Snohomish River to I-5 bridge)	08,09,15	Pam Erstad erstapke@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2306
	Lake Sammamish, Lake Washington, Lake Union, and Ship Canal to Ballard Locks. Laughing Jacob, Lewis, and Vasa Creeks. Miscellaneous lakes include: Beaver, Boren, Phantom, Kathleen, Pine, Shadow, and Shady Lakes.	07 08 (08.0028;08.0141 thru 08.0221; 08.0224 thru 08.0461	Rich Johnson (**ONLY** Lakes Washington, Sammamish, Union and Ship Canal) johnsrj@dfw.wa.gov **ALL OTHER AREAS** Contact Deborah Cornett	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext 254)

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
KING **REGION 4** (continued)	Lake Washington tribs **north** of 520 bridge. Tribs to Puget Sound (Seattle to Everett). Tribs to Lake Sammamish. Boeing, Pipers, Lyon, Thornton, Denny, Forbes, Mill, Issaquah, McAleer, Juanita, Bear, Little Bear, North, Swamp, and Yarrow Creeks. Sammamish River.	08 (08.0017; 08.0020; 08.0049; 08.0057 thru 08.0142)	Eric Pentico pentiedp@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2305
	Skykomish and Snoqualmie Rivers. Patterson, Woods, and Cherry Creeks. Raging, Sultan, Tolt, and Wallace Rivers. East King County.	07	Mark Wenger wengemnw@dfwlwa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2321
	Lake Washington tribs **south** of 520 bridge (includes Coal, Kelsey, May, Taylor, and Meydenbauer Creeks and the Cedar River system).		Tony Oppermann opperajo@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2309
	White River and all tribs. Hylebos Creek.	10	Vacant (Temporarily Larry Fisher)	WDFW, Region 4 c/o DOE 3190 160th AVE SE Bellevue WA 98008-5452 (425) 649-7042

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
KING **REGION 4** (continued)	All tribs. on Vashon Island. Green/Duwamish River from 14th Avenue bridge to its headwaters. Soos Creek. All tribs. and lakes in WRIA 09.	09,15	Larry Fisher fisheldf@dfw.wa.gov	WDFW, Region 4 c/o DOE 3190 160th AVE SE Bellevue WA 98008-5452 (425) 649-7042
KITSAP **REGION 6**	Kitsap County Marine waters.	15	Randi Thurston thursrlt@dfw.wa.gov	WDFW, Region 6 502 High St., Suite 108 Port Orchard, WA 98366 (360) 895-6123
	Purdy, Burley, Olalla, Judd, Curley, Salmonberry, Beaver, Wilson, Annapolis, Blackjack, Ross, Anderson, Gorst, Chico, Barier, Clear, Steele, Scandia, Dogfish, and Grovers Creeks; Hood Canal tribs.; Gamble, Little Anderson, Big Beef, Seabeck, Stavis, Boyce, and Anderson Creeks. All lakes within these watersheds.	15	Jeff Davis davisjpd@dfw.wa.gov	WDFW, Region 6 502 High ST, Suite 108 Port Orchard, WA 98366 (360) 895-3965
	Bainbridge Island Tribs.	15	Danette Guy guydlg@dfw.wa.gov	WDFW, Region 6 502 High ST, Suite 108 Port Orchard, WA 98366 (360) 895-4757
KITTITAS **REGION 3**	Little Naches River	38	Richard Visser visserhv@dfw.wa.gov	WDFW, Region 3 1701 S 24th Avenue Yakima, WA 98902-5720 (509) 457-9308

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
KITTITAS **REGION 3** (continued)	Only tributaries associated with Forest-Practice	39,40	Ken Bevis beviskrb@dfw.wa.gov	WDFW, Region 3 1701 S 24th AVE Yakima, WA 98902-5720 (509) 457-9309
	Yakima River and tribs.	39,40	Brent Renfrow renfrbr@dfw.wa.gov	WDFW, Region 3 201 N. Pearl ST Ellensburg, WA 98926 (509) 925-1013
KLICKITAT **REGION 5**	All tributaries including mainstem Columbia River, EXCEPT tributaries in WRIA 37	29,30,31	Bill Weiler weilewjw@dfw.wa.gov	WDFW, Region 5 PO Box 213 Lyle, WA 98635 (509) 365-3972
LEWIS **REGION 5**	Cowlitz River and tribs. Nisqually River above Alder Dam	26	Steve Bell bellswb@dfw.wa.gov	WDFW, Region 5 249 Fish Hatchery Rd Mossyrock WA 98564 (360) 983-8326
	All tribs. Chehalis River (includes Bunker, Lincoln, and Stearns Creeks; and Newaukum, all Forks of Newaukum and Skookumchuck Rivers.)	11,13,23,26	Scott Brummer brummsjb@dfw.wa.gov	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 748-2189
	Green River and tribs.	26	Bob Bicknell bicknrjb@dfw.wa.gov	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 274-9814
LINCOLN **REGION 1**	All streams and tributaries	43,53	Karin Divins divinkad@dfw.wa.gov	WDFW, Region 1 8702 N Division ST Spokane, WA 99218-1199 (509) 255-6103

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
MASON **REGION 6**	All marine waters in Mason County, except north of Skokomish River and west side of Hood Canal. Case, Totten, Skookum, and Hammersley Inlets. Pickering and Peale Passages, and Hartstene Island. East side of Hood Canal.	14	Margie Schirato schirmms@dfw.wa.gov	WDFW, Region 6 600 Capitol Way N Olympia WA 98501-1091 (360) 427-2179
	Skokomish mainstem and South Fork downstream of Forest Service Boundary in valley.	14	Jim Fraser frasejlf@dfw.wa.gov	WDFW, Region 6 600 Capitol Way N Olympia WA 98501-109 (360) 902-8302
	Freshwater in Mason County except mainstem Skokomish River and SF Skokomish up to Forest Service boundary and Kitsap Peninsula Union River and west. Hood Canal tribs; Lake Cushman; Vance, Weaver, Hunter, Finch, Eagle, Hill, Clark, Miller, Sund, Jorsted, Waketickeh, Schaffer, Alderbrook, and Twanoh Creeks. Lilliwap and Hamma Hamma Rivers. South Puget Sound tribs; Kennedy, Skookum, Little, Mill, Shelton, Johns, Cranberry, Deer, Malaney, Uncle John, Campbell, and Sherwood Creeks. All lakes within these watersheds, including Mason Lake.	16	Gloria Rogers rogergsr@dfw.wa.gov	WDFW, Region 6 P. O. Box 695 Elma, WA 98541 (360) 495-3068

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
MASON **REGION 6** (continued)	(Kitsap Peninsula) Dewatto, Tahuya, and Union Rivers. Also includes Big Mission, Little Mission, Rendsland, Caldervin, Coulter, and Shoofly Creeks. All lakes within these watersheds.	15	Danette Guy guydlg@dfw.wa.gov	WDFW, Region 6 502 High ST, Suite 108 Port Orchard, WA 98366 (360) 895-4757
	East Fork Satsop River. All lakes within these watersheds.	22	Gloria Rogers rogergsr@dfw.wa.gov	WDFW, Region 6 P. O. Box 695 Elma, WA 98541 (360) 495-3068
	Hood Canal Marine waters north of the Skokomish River on west side of Hood Canal.	16	Bob Burkle burklblb@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano WA 98563-9618 (360) 249-1217
OKANOGAN **REGION 2**	All tributaries EXCEPT mainstem Columbia River downstream from Chief Joseph Dam (S24 T29N R25E)	48,49,50,51, 52, 53,60	Connie Iten itencri@dfw.wa.gov	WDFW, Region 2 P.O. Box 753 Omak, WA 98841 (509) 826-3123
	Mainstem Columbia River downstream from Chief Joseph Dam (S24 T29N R25E)	48,49,50	Bob Steele steelrms@dfw.wa.gov	WDFW, Region 2 3860 Chelan Hwy. N Wenatchee, WA 98801 (509) 662-0503
	Forest Practices		Lynda Hofmann hofmalah@dfw.wa.gov	WDFW, Region 2 P.O. Box 1118 Twisp, WA 98856 (509) 997-9428
PACIFIC **REGION 6**	Upper Chehalis River & tribs.	23	Vacant (contact Jim Fraser)	WDFW, Region 6 (360) 902-8302
	Forest Practices		Dave Kloempken kloemdck@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 249-1218

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
PACIFIC **REGION 6** (continued)	Marine waters (includes Pacific Ocean, Grays Harbor, and North and South Bays)	24	Key McMurry mcmurklm@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano WA 98563-9618 (360) 249-4628 (Ext. 231)
	North River Willapa Drainages, Willapa, Palix, and Bone River	24	Key McMurry mcmurklm@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano WA 98563-9618 (360) 249-4628 Ext. 231
PEND OREILLE **REGION 1**	All streams and tributaries	55,57,59,61, 62	Jeff Lawlor lawlojjl@dfw.wa.gov	WDFW, Region 1 8702 N Division St. Spokane, WA 99218-1199 (509) 467-4085
PIERCE **REGION 6**	All marine waters (Puget Sound, Commencement Bay, Carr Inlet, Case Inlet, Gig Harbor, Colvos Passage, the Narrows)	10,11,12,15	David Molenaar molendcm@dfw.wa.gov	WDFW, Region 6 600 Capitol Way N Olympia, WA 98501-1091 (360) 902-8303
	Freshwater in west county (west of Narrows) [Kitsap Peninsula] (Rocky, Dutcher, Artondale, Lackey, Minter, Purdy, McCormick, North, and Cresent Creeks. Rocky, Minter, and Huge Creeks. All lakes within these watersheds.	15	Danette Guy guydlg@dfw.wa.gov	WDFW, Region 6 502 High ST, Suite 108 Port Orchard, WA 98366 (360) 895-4757

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
PIERCE **REGION 6** (continued)	Freshwater in east county (east of Narrows), Entire Puyallup watershed, includes Hylebos, Wapato, Lake Tapps. All lakes within these watersheds. Nisqually River and tribs up to Alder Dam, Chambers, Clover, and Sequalichew Creeks; all lakes within these watersheds.	10,11,12	Travis Nelson nelsotwn@dfw.wa.gov	WDFW Voights Creek Hatchery 19112 Pioneer Way Orting, WA 98360 (360) 893-1721
	Nisqually River Basin. Freshwater above LaGrande Dam in WRIA 11.	11	Debbie Carnevali carneddc@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 264-5148
SAN JUAN **REGION 4**	Marine waters, includes Boundary Pass, East Sound, Haro Strait, Lopez Sound, Rosario Strait, San Juan Channel, Strait of Juan De Fuca, Upright Channel and West Sound. All freshwater, except Forest Practices.	02	Brian Williams willibww@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext.250)
	Forest Practices		Alan Looff looffacl@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext.251)

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
SKAGIT **REGION 4**	All marine waters includes: Bellingham Channel, Burrows Bay, Fidalgo Bay, Guemes Channel, Padilla Bay, Rosario Strait, and Samish Bay. Skagit River (WRIA 03) downstream of Fir Island Road.	01, 03, 04	Julie Klacan klacajlk@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext. 272)
	Skagit River and tribs; Samish River and tribs; Baker, Cascade, and Sauk Rivers; Colony, Finney, Grandy, and Oyster Creeks. Day Creek and Lake.	01,03,04	Brendan Brokes brokebjb@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext 253)
	Stillaguamish River; Pilchuck Creek	05,07	David Brock brockdwb@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2302
	Forest Practices		Alan Looff looffacl@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext.251)
SKAMANIA **REGION 5**	All tributaries (WRIA 28 and 29 only) including mainstem Columbia River	28,29	Bill Weiler weilewjw@dfw.wa.gov	WDFW, Region 5 PO Box 213 Lyle, WA 98635 (509) 365-3972
	Cowlitz River tributaries	26	Bill Weiler weilewjw@dfw.wa.gov	WDFW, Region 5 PO Box 213 Lyle, WA 98635 (509) 365-3972

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
SNOHOMISH **REGION 4**	Marine waters south of Priest Point. Snohomish River downstream of I-5. Port Gardner, Possession Sound, Snohomish River Estuary.	07,08	Pam Erstad erstapke@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2306
	Marine waters north of Priest Point.	07	Julie Klacan klacajlk@dfw.wa.gov	WDFW, Region 4 PO Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext 272)
	Stillaquamish and Snohomish Rivers; Quilceda, Allen, Pilchuck, Canyon, Church, French, Jim, Portage, and Squire Creeks. Ebey and Steamboat Sloughs.	05	David Brock brockdwb@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2302
	Skagit, Sauk, Carpenter, and Suiattle Rivers.	04	Brendan Brokes brokebjb@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext 253)
	Tribs to Puget Sound (Seattle to Everett). Sammamish River tribs. (Includes Bear, Little Bear, North, and Swamp Creeks)	07,08, (07.1722) (08.0006; 08.0009; 08.0057 thru 08.0142)	Eric Pentico pentiedp@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2305
	Skykomish River; Woods Creek; Sultan and Wallace Rivers.	07	Mark Wenger wengemnw@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 379-2321

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
SPOKANE **REGION 1**	All tributaries south of the line dividing T25N and T26N. Spokane River and all tribs west of Spokane River.	34,43,54,56, 57	Karin Divins divinkad@dfw.wa.gov	WDFW, Region 1 8702 N Division ST Spokane, WA 99218-1199 (509) 255-6103
	All tributaries north of the line dividing T25N and T26N. All tribs east of Spokane River. Spokane Co Public Works projects.	54,55,57	Jeff Lawlor lawlojjl@dfw.wa.gov	WDFW, Region 1 8702 N Division ST Spokane, WA 99218-1199 (509) 467-4085
STEVENS **REGION 1**	All streams and tributaries	54,55,58,59, 60, 61,62	Allen Palmanteer palmagap@dfw.wa.gov	WDFW, Region 1 Post Office Box 29 Boyds, WA 99107 (509) 738-2364
THURSTON **REGION 6**	All marine waters (includes Nisqually Reach, Budd Inlet, Totten Inlet, Eld Inlet, and Henderson Inlet)	13	Margie Schirato schirmms@dfw.wa.gov	WDFW, Region 6 600 Capitol Way N Olympia WA 98501-1091 (360) 427-2179
	Freshwater in Thurston County. Nisqually, Deschutes Rivers, Woodland, Woodard, Green Cove, Schneider, and Perry Creeks.	parts of: 11,13,14	Debbie Carnevali carneddc@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 264-5148
	Chehalis River Basin and its tribs. South Thurston County. Black, and Skookumchuck Rivers. Blooms Ditch, Salmon, Beaver, Sherman, Waddell, Dempsey, Stoney, and Scatter Creeks. Lands owned by DNR and Weyerhaeuser throughout Thurston Co.	parts of: 23	Debbie Carnevali carneddc@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 264-5148
WAHKIAKUM **REGION 5**	All tributaries including mainstem Columbia River.	25	Bob Bicknell bicknrjb@dfw.wa.gov	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 274-9814

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
WALLA WALLA **REGION 1**	Mainstem Snake River & Columbia River	32,33	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave Suite 115 Kennewick WA 99336 (509) 734-7432
	All other streams and tributaries	32,33	Mark Grandstaff grandmhg@dfw.wa.gov	WDFW, Region 1 Post Office Box 456 Walla Walla, WA 99362 (509) 529-0260
WHATCOM **REGION 4**	All fresh water **EXCEPT** areas covered by Looff, Brokes, and Williams. Includes Nooksack and Sumas Rivers; California, Dakota, and Chuckanut Creeks. Lake Whatcom.	00,01	Robert Warinner warinrjw@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext.252)
	Forest Practices		Alan Looff looffacl@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext.251)
	Colony Creek, Samish River, Samish Lake.Upper Friday and Oyster Creeks. Samish and Skagit River headwaters.	01,03,04	Brendan Brokes brokebjb@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext 253)

COUNTY/ REGION	STREAMS	WRIAS	BIOLOGIST	ADDRESS/ PHONE #
WHATCOM **REGION 4** (continued)	Marine waters (includes Bellingham Bay, Birch Bay, Burrows Bay, Fidalgo Bay, Guemes Channel, Padilla Bay, Rosario Strait and Samish Bay; Freshwater within the City of Bellingham **EXCEPT** Whatcom Lake. Whatcom Creek.	01,03	Brian Williams willibww@dfw.wa.gov	WDFW, Region 4 Post Office Box 1100 La Conner, WA 98257 (360) 466-4345 (Ext. 250)
WHITMAN **REGION 1**	Mainstem Snake River	34,35	Paul LaRiviere larivpel@dfw.wa.gov	WDFW, Region 3 3030 W Clearwater Ave Suite 115 Kennewick WA 99336 (509) 734-7432
	All other tributaries	34,35	Karin Divins divinkad@dfw.wa.gov	WDFW, Region 1 8702 N Division ST Spokane, WA 99218-1199 (509) 255-6103
YAKIMA **REGION 3**	Upper Klickitat River (in Yakima County) Yakima River, Little Naches, Naches, and Tieton Rivers, and Ahtanum and Wenas Creeks; Mainstem Columbia River and its tributaries downstream to Priest Rapids Dam	30,37,38,39	Richard Visser visserhv@dfw.wa.gov	WDFW, Region 3 1701 S 24th Avenue Yakima, WA 98902-5720 (509) 457-9308
	Only streams and tributaries associated with Forest Practices	37,38	Ken Bevis beviskrb@dfw.wa.gov	WDFW, Region 3 1701 S 24th Avenue Yakima, WA 98902-5720 (509) 457-9309

REGIONAL HABITAT PROGRAM MANAGERS			
Region 1	Spokane	Kevin Robinette robinkwr@dfw.wa.gov	WDFW, Region 1 8702 N Division ST Spokane, WA 99218-1199 (509) 625-5545
Region 2	Ephrata	Tracy Lloyd lloydtml@dfw.wa.gov	WDFW, Region 2 1550 Alder ST NW Ephrata, WA 98823-9651 (509) 754-4624
Region 3	Yakima	Ted Clausing claustac@dfw.wa.tov	WDFW, Region 3 1701 S 24th Avenue Yakima, WA 98902-5720 (509) 457-9314
Region 4	Mill Creek	Deborah Cornett cornedmc@dfw.wa.gov	WDFW, Region 4 16018 Mill Creek Blvd. Mill Creek, WA 98012-1296 (425) 775-1311 Ext 114
Region 5	Vancouver	Steve Manlow manloswm@dfw.wa.gov	WDFW, Region 5 2108 Grand Blvd. Vancouver, WA 98661 (360) 906-6731
Region 6	Montesano	Steve Kalinowski kalinsak@dfw.wa.gov	WDFW, Region 6 48 Devonshire RD Montesano, WA 98563-9618 (360) 249-1227 Ext 223

Appendix C: Fish Passage

Include, in the project definition (scoping), a recommended conceptual design approach to remove a barrier to fish passage for projects scheduled for construction where a fish passage barrier has been inventoried, evaluated and prioritized. The barrier must be identified on the Subprogram I4 deficiency list six-year plan. The recommended conceptual design approach will be a joint effort between the WDFW SSHEAR Program and WSDOT region environmental/hydraulics offices. Barrier correction may be included in the project as per the following, which is derived from the subprogram I4 programming instructions:

Paving project (subprogram P1): The purpose of these projects is to preserve the roadway, and fish barriers are typically not fixed in these projects. The program does allow for minor, spot safety improvements, with a dollar limit of $25,000. Low cost barriers could be fixed under this allowance, at the discretion of WSDOT.

Safety (subprogram I2) and Mobility (I1) projects: The purpose of these projects is to eliminate safety deficiencies, primarily high accident corridors and locations (HACs & HALs), and increase capacity, respectively. Fish barriers can be fixed in I2 and I1 projects in one of two ways:

If the safety or mobility project requires work on a culvert that is a barrier and the culvert work necessitates an HPA, then WSDOT is required to fix the barrier.

If there is a barrier culvert within the limits of the safety or mobility project, but the project does not require work on the culvert, WSDOT may fix the barrier on a case-by-case exception basis.

When using its discretion in these cases, WSDOT will consider the priority of the barrier and the relative cost of the fix. WSDOT does not want to divert large sums of funding away from the intended purpose of these subprograms, which necessitates the case-by-case review.

The above does not address all funding subprograms, only the common ones.

The highest priority fish passage barriers are fixed as stand-alone projects funded by subprogram I4 (environmental retrofit).

WSDOT will install and maintain all culverts, fishways, and bridges to provide unrestricted fish access, per RCW 77.55.060. Design will be based on the latest version of the Fish **Passage Design at Road Culverts** manual or its successor. In addition to fish passage, passage for other aquatic and terrestrial species will be considered and addressed to the extent possible when designing crossing structures.

WSDOT will not be required to maintain fish passage facilities off their right-of-ways which they do not own. However, WSDOT will provide funding to apply corrective measures and maintenance where it has been shown, that the barrier resulted from a WSDOT action or facility.

WSDOT/WDFW will continue to participate in the statewide inventory of fish passage barriers in WSDOT right-of-ways. The inventory will include a recommended course of action to correct fish passage problems on high priority projects. Additionally, personnel will note instances where other wildlife species movement is disrupted by WSDOT crossing structures. Passage problems related to other wildlife species will be discussed with the local AHB when maintenance or replacement projects occur. This inventory will be reviewed and upgraded annually .

The participating agencies agree to establish priorities for correcting identified fish passage barriers using WDFW priority index as a guideline using the following criteria:

- Fish Species Presence and Stock Condition as documented in federal threatened or endangered species listings and Washington State Salmon and Steelhead Stock Inventory (SASSI) reports).
- Fish production increase as a result of the project.

- Habitat or potential habitat opened up to fish access.
- Cost to correct.

The priority for barrier removal shall be established on a statewide basis.

The goal is for removal of all identified barriers shall be done by 2021.

WSDOT/WDFW shall jointly decide which agency will remove each barrier on a case by case basis.

List barriers by priority in the WSDOT/WDFW Fish Passage Barrier Database

Where it has been determined that WDFW will conduct corrective work for WSDOT, an interagency agreement will be developed for each project to identify agency responsibilities and budgetary commitment, and scope of work of on a project by project basis.

Appendix D: GUIDELINES

The latest edition of the following sources will be used in designing transportation projects to eliminate or minimize impacts to fish life.

1. The most recent final version of the Integrated Streambank Protection Guidelines
2. Fish Passage at Road Culverts Manual
3. Fish Barrier Assessment and Prioritization Manual
4. WSDOT Maintenance Manual for Water Quality and Habitat Protection, June 2000.
5. Additional documents will be added as they become available.

Appendix E: Conditions for issuance of Standard, Expedited, and Emergency HPAs

STANDARD	EXPEDITED	EMERGENCY
Circumstances under which HPA shall be issued		
When WSDOT desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state per RCW 77.55.100 (1).	When normal permit processing would result in significant hardship for WSDOT or unacceptable damage to the state highway facility or environment. In cases of imminent danger, WDFW shall issue an expedited written permit, upon request, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources per RCW 77.55.100 (3). "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of submission of a permit application. ,	When WDFW determines or the county legislative authority issues a written declaration that an emergency exists and is an immediate threat to life, the public, property, or of environmental degradation, arising from weather or stream flow conditions or other natural conditions. (RCW 77.55.100 (5)).
Requirements for issuance		
Complete written application, and Notice of compliance with SEPA	Complete **written** application SEPA compliance is **not** required	No application required — request may be verbal or written SEPA compliance is **not** required
How issued		
Written only	Written only	In writing or verbally and if verbally then: **Must** be reduced to writing within 30 days of a verbal approval
Within 45 days of receipt of a complete application and compliance with SEPA	Within 15 days of receipt of a complete **written** application	Immediately upon request

Appendix F: Maintenance Guidelines

Highway Maintenance: Repair and maintenance includes activities conducted on currently serviceable road structures, facilities and equipment involving no expansion or use beyond that previously existing and resulting in no significant hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems and includes replacement of improperly functioning facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure is not changed. (An example would be replacing a collapsed, fish-blocking, round culvert, with a new box culvert under the same span, or width, of highway.) Highway maintenance will fall into one of three general categories:

Routine maintenance

This category means budgeted work, performed on a scheduled basis. It is intended to maintain the highway facility/element so that it retains its original intended use and function. Examples include: Sweeping and debris removal; Cleaning ditches, culverts, and catch basins; Correcting moderate slides and slope failures; Vegetation management and litter pickup; Routine bridge maintenance; Rest Area operation and maintenance; Pavement patching, crack sealing, and routine surface treatment; Bridge maintenance such as debris removal, scour; Restoration/replacement of traffic control devices; Maintaining access control; Drainage restoration; Placing riprap; Snow and ice control; Traffic control. WSDOT Maintenance Manual for Water Quality and Habitat Protection, June 2000.
In marine waters the following are examples of maintenance; cleaning ferry docks and approaches, replacing cable on counter weights, refacing sacrifice structures, minor dredging (#50 cubic yards), replacing 18 or fewer pilings in dolphins, wingwalls, and docks that do not result in an increase in the number of pilings or the square footage of pilings and which do not contain creosote.

Unscheduled (non-emergency) Maintenance

This category consists of unanticipated activities that occur due to unusual weather condition, vandalism, accident, and so on, but do not pose an immediate danger to the highway or structure. Work activities are conducted similar to routine maintenance activities except that work is unanticipated and the condition poses an imminent danger to the existing structures or traveling public. In cases of imminent danger, WSDOT shall complete and submit a JARPA requesting an expedited written HPA permit, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fishlife resources. It only retains the existing functionality of its original design. Maintenance does not include construction of new roadway elements. Examples include: Streambank protection; Bridge maintenance such as debris removal, scour (approaches, abutments & piers); Repair slides and slope failures; Repair of culverts. BMPs from WSDOT Maintenance Manual for Water Quality and Habitat Protection, June 2000 shall be used during maintenance activities.

Emergency/Disaster Maintenance

This category is activities required to alleviate an emergency condition. Work activities are the same or similar to routine maintenance activities except that they are greater in magnitude and scope depending upon the nature and intensity of the emergency. This work is not budgeted and/or scheduled and the situation creates an immediate threat to life, the public, property, or environmental degradation. This includes work accomplished on a damaged highway facility/element that has substantially retained the intended functionality of it original design. It does not include construction of new roadway elements. Examples include: Erection, dismantling, and maintenance of a Bailey bridge; Establishment of detours and temporary minor structures; Emergency traffic control; Any work needed to protect and maintain the area affected by the emergency. WSDOT Maintenance Manual for Water Quality and Habitat Protection,

June 2000.
Chronic Repair/Maintenance: When the AHB determines and WSDOT agrees to the frequency of the maintenance activity exceeds an acceptable threshold. The thresholds for chronic repair/maintenance varies with types of maintenance activities being performed on road structures and may include the following consideration:

- Extensive and frequent repairs are not normally a part of the initial road structure and might be an indicator of inadequate design. Damage from large flood events would not be considered as chronic repair/maintenance.
- The original project design criteria should be considered; if it was under-designed, or changes in the watershed have occurred, retrofit should be considered.

A chronic Repair/Maintenance Retrofit category is being created in the I-4 - Environmental Retrofit Improvement subprogram that will be administered through WSDOT Environmental Affairs Office. Projects identified as chronic repair/maintenance problems will be prioritized using an environmental retrofit index. Chronic repair/maintenance problems which, have been prioritized by this index, pose the highest risk to fish life, would be targeted for retrofit construction using I-4 category funding. Projects would be limited to the amount of funding received by the Washington State Legislature. Until projects are funded WDFW agrees to issues HPAs for maintenance activities to keep the highway operational.

Appendix G: Informal and Formal Appeals WACs

WAC 220-110-340 Informal appeal of adverse administrative decisions. It is recommended that an aggrieved party contact the local habitat biologist responsible for the hydraulic permit decision of concern prior to initiating an informal or formal appeal. Discussion of concerns with the habitat biologist often results in resolution of the problem without the need for an informal or formal appeal. The habitat biologist may request review of your concerns by his or her supervisor.

All parties are encouraged to take advantage of this informal appeal process prior to initiating a formal appeal. However, this informal appeal process is not mandatory, and a person may proceed directly to a formal appeal.

(1) The following procedures shall govern informal appeals of department actions taken pursuant to RCW 75.20.100, 75.20.103, 75.20.106, and 75.20.160. This rule does not apply to any provisions or conditions in pamphlets or supplemental approvals as defined in WAC 220-110-020 (44)(c). A person who disagrees with a provision or condition in a pamphlet HPA or its supplemental approval may apply for an individual written HPA. A person who is aggrieved or adversely affected by the following department actions may request an informal review:

(a) The denial or issuance of an HPA, or the conditions or provisions made part of an HPA; or

(b) An order imposing civil penalties.

(2) A request for an informal review shall be in writing and shall be received by the department within thirty days of the denial or issuance of an HPA or receipt of an order imposing civil penalties. The thirty-day time requirement may be stayed by the department if negotiations are occurring between the aggrieved party and the habitat biologist and/or their supervisor. Requests for informal review shall be mailed to Department of Fish and Wildlife, Habitat and Lands Services Program, 600 Capitol Way N., Olympia, Washington 98501-1091, or hand delivered to 1111 Washington Street S.E., Habitat and Lands Services Program, Fifth floor.

(3) Upon receipt of a written request for informal agency review, the department shall initiate a review of the agency decision. This review shall be conducted by the regulatory services division manager or the division manager's designee. Upon completion of the comprehensive review, the division manager, or designee shall recommend a decision to the director or the director's designee. This recommended decision shall be approved or disapproved by the director or the director's designee within sixty days of the date the informal appeal was received by the department. The department shall notify the appellant in writing of the decision of the director or the director's designee.

(4) If, following this informal agency review process, the appellant still wishes to contest the agency action, a formal appeal may be initiated pursuant to WAC 220-110-350. Formal review must be requested within the time periods specified in WAC 220-110-350.

[Statutory Authority: RCW 75.08.080, 75.20.100 and 75.20.330. 99-01-088 (Order 98-252), § 220-110-340, filed 12/16/98, effective 1/16/99. Statutory Authority: RCW 75.08.080. 94-23-058 (Order 94-160), § 220-110-340, filed 11/14/94, effective 12/15/94; 87-15-086 (Order 87-48), § 220-110-340, filed 7/20/87. Statutory Authority: RCW 75.08.012, 75.08.080 and 75.20.100. 84-04-047 (Order 84-04), § 220-110-340, filed 1/30/84. Statutory Authority: RCW 75.20.100 and 75.08.080. 83-09-019 (Order 83-25), § 220-110-340, filed 4/13/83.]

WAC 220-110-350 Formal appeal of administrative decisions. (1) The following procedures shall govern formal appeals of department actions taken pursuant to RCW 75.20.100 or 75.20.106. This rule does not apply to any provisions or conditions in pamphlets or supplemental approvals as defined in WAC 220-110-020 (44)(c). A person who disagrees with a provision or condition in a pamphlet HPA or its supplemental approval may apply for an individual written HPA. This rule does not apply to an appeal in which a person contests the denial, conditioning or issuance of an HPA issued pursuant to RCW 75.20.103 or 75.20.160, which shall be heard by the hydraulic appeals board. A person who is aggrieved or adversely affected by the following department actions may request a formal appeal:

(a) The denial or issuance of an HPA, or the conditions or provisions made part of an HPA;

(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.

(2) As required by the Administrative Procedure Act, the department shall inform the permittee, or person subject to civil penalty or order of the department, of the opportunity for appeal, the time within which to file a written request for an appeal, and the place to file it.

(3) A request for an appeal shall be in writing and shall be received during office hours by the department within thirty days of the agency action that is being challenged. Requests for appeal shall be mailed to Department of Fish and Wildlife, Habitat and Lands Services Program, 600 Capitol Way N., Olympia, Washington 98501-1091, or hand delivered to 1111 Washington Street SE, Habitat and Lands Services Program, Fifth floor. If there is no timely request for an appeal, the agency action shall be final and unappealable.

(4) 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 thirty days of the date of the department's written decision in response to the informal appeal.

(5) The written request for an appeal shall be plainly labeled as "Request for Formal Appeal" and shall contain the following:

(a) The name, address, and phone number of the person requesting the appeal;

(b) The specific agency action that the person contests; for example, denial of an HPA, a particular condition in an HPA, order imposing civil penalties, etc.;

(c) Whether the person is the permittee, landowner, resident, or other basis for the person's interest in the agency action in question;

(d) The date of denial, issuance, or condition of an HPA, if the person is contesting denial, issuance, or conditioning of an HPA;

(e) Specific relief requested; and

(f) The attorney's name, address, and phone number, if the person is represented by legal counsel.

(6) The appeal may be conducted by the director, the director's designee, or by an administrative law judge (ALJ) appointed by the office of administrative hearings. If conducted by an ALJ, the ALJ shall issue an initial order pursuant to RCW 34.05.461. The director or the director's designee shall review the initial order and enter a final order as provided by RCW 34.05.464.

(7) All hearings conducted by the director, the director's designee, or an ALJ pursuant to subsection (6) of this section, shall comply with the Administrative Procedure Act and the model rules of procedure, chapter 10-08 WAC.

[Statutory Authority: RCW 75.08.080, 75.20.100 and 75.20.330. 99-01-088 (Order 98-252), § 220-110-350, filed 12/16/98, effective 1/16/99. Statutory Authority: RCW 75.08.080. 94-23-058 (Order 94-160), § 220-110-350, filed 11/14/94, effective 12/15/94; 87-15-086 (Order 87-48), § 220-110-350, filed 7/20/87. Statutory Authority: RCW 75.08.012, 75.08.080 and 75.20.100. 84-04-047 (Order 84-04), § 220-110-350, filed 1/30/84. Statutory Authority: RCW 75.20.100 and 75.08.080. 83-09-019 (Order 83-25), § 220-110-350, filed 4/13/83.]