



# HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - Appeal Pursuant to Chapter 34.05 RCW

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

Issue Date: June 02, 2009

Control Number: 117192-1

Project Expiration Date: June 01, 2014

FPA/Public Notice #: N/A

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Washington Department of Transportation ATTENTION: Eric Wolin 310 Maple Park Ave SE Olympia, WA 98501-7331 360-704-6327 Fax: 360-705-6833	

Project Name: Fishway Structures in Freshwaters Statewide

Project Description: Maintenance and repair of fishway structures including repair of weir/pool, pool/chutes, baffle or streambed control, blasted chutes, concrete weir, sill, wall, log or rock controls and stop logs.

## PROVISIONS

1. PROJECT DESCRIPTION: This HPA authorizes maintenance and repair of weir/pool, pool/chute, baffle or streambed control, blasted chute, vertical slot, roughened channel, and steep pass fishways, concrete weirs, sills, walls, log or rock controls and stop logs and guides.

NOTIFICATION PRIOR TO STARTING WORK is not required for this work.

Fishway maintenance and repair shall be limited repositioning of large woody material (LWM) below the ordinary high water line (OHWL), sediment and small woody material removal, and work necessary to return the structure to its originally installed design.

Complete rebuilding of the fishway or sequential repairs amounting to a complete rebuilding of the fishway within the 5 years of this HPA requires an individual HPA. If the applicant cannot comply with the provisions of this HPA due to site-specific or other concerns, a separate written HPA may be sought from the local Area Habitat Biologist (AHB) for the project.

2. TIMING LIMITATIONS: This HPA may begin immediately and is valid through June 1, 2014. TIMING LIMITATIONS: The project may begin immediately and shall be completed by 5 years from issuance. Work may occur year around except: Repair or replacement of damaged log controls, filter fabric, ballast and associated riprap on log control fishways shall only occur during the attached work windows (Allowable Freshwater Work Times, March 2009, Attachment 1).

3. Except as modified by this HPA work shall be accomplished per plans and specifications submitted by Washington State Department of Transportation (WSDOT) as application and accepted by Washington Department of Fish and Wildlife (WDFW) (May 11, 2009) for this HPA entitled:

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

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

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These plans (Provisions 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.

4. 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 (AHB) (Attachment 2).

#### FISH REMOVAL AND SCREENING

5. The permittee shall capture and safely move food fish, game fish, and other fish life from the job site. The permittee shall have fish exclusion, fish capture, and transportation equipment ready and on the job site except for work performed by hand tools or the repositioning of woody material. Captured fish shall be immediately and safely transferred to free-flowing water upstream or downstream of the project site.

6. Any device used for diverting water from a fish-bearing stream shall be equipped with a fish guard to prevent passage of fish into the diversion device pursuant to RCW 77.57.010 and 77.57.070. The pump intake shall be screened as follows:

- a. Perforated Plate: 0.094 inch (maximum opening diameter).
- b. Profile Bar: 0.069 inch (maximum width opening).
- c. Woven Wire: 0.087 inch (maximum opening in the narrow direction).

The minimum open area for all types of fish guards is 27%. The screened intake shall consist of a facility with enough surface area to ensure that the velocity through the screen is less than 0.4 feet per second. Screen maintenance shall be adequate to prevent injury or entrapment to juvenile fish and the screen shall remain in place whenever water is withdrawn from the stream through the pump intake.

7. Fish screens on dewatering pumps within the dry fishway by-passed work area may have screens removed provided: All fish have been removed and excluded from the dry work area, and water level within the bypassed work area has been lowered to stream bed elevation.

8. In the event a hard pipe bypass is used, it shall be of sufficient size to pass all flows, fish, and debris to the waters of origin for the duration of the project.

#### WATER QUALITY

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

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

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the state. There shall be no visible sheen from petroleum products in the receiving water as a result of the activity.

11. Fresh concrete or concrete by-products shall not be allowed to enter the stream at any time during this project. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from getting into the stream.

12. All concrete shall be allowed to cure a minimum of seven days before contact with water. The waters of the state shall not come in contact with the concrete structure while the concrete is curing. Any dewatering required from a contained area with curing concrete shall be discharged to land with no possible entry to waters of the state.

13. A temporary bypass to divert flow around the work area shall be in place prior to initiation of work in the wetted perimeter except: By-pass to divert flow around the work area is not necessary provided fish removal and screening provisions are followed, work is performed only during the attached work windows (Attachment 1) and water quality provisions are met.

14. Sandbagging or similar BMP and hard pipe flumes or pumping shall be the approved bypass method.

15. A sandbag revetment or similar BMP shall be installed at the bypass inlet to divert the entire flow through the bypass.

16. Back water shall not enter the work area from the bypass downstream end. If needed: A sandbag revetment or similar device shall be installed at the downstream end of the bypass to prevent backwater from entering the work area.

17. Water removed from within the work area shall be routed to an area landward of the OHWL to allow removal of fine sediment and other contaminants prior to being discharged to the waters of the state.

18. The de-watering discharge point shall be designed and operated so as not to cause erosion or scour in the stream channel, banks or vegetation.

19. Prior to releasing the water flow to the project area, all bank protection or armoring below the OHWL shall be completed.

20. Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to pre-project or improved conditions.

21. Reintroduction of water to the channel shall be done gradually and in stages so as to minimize the mobilization of sediments and fines into downstream waters.

#### EQUIPMENT

22. Where appropriate and based upon site conditions and the maintenance activity to be

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conducted, work shall be accomplished by hand or with hand tools such as chain saws or vehicle winches.

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

24. Equipment may not enter the wetted perimeter.

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

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

#### SEDIMENT

27. Any bedload sediments, small woody material, or debris not conforming to pre-existing fishway design conditions may be removed from the fishway, and within 25 feet of the fishway inlet and outlet.

28. Sediment removal from the fishway shall not result in a head cut in the channel that erodes upstream, or damage to the toe of bank downstream of the site of sediment removal.

29. A Vactor or similar vacuum excavation vehicle may be used to remove sediments. Screening is not required for vactoring provided the fish exclusion and removal protocol has been followed. Jetting of material from within the culvert shall be performed in the dry. Jetted sediments shall be removed from the stream prior to return of stream flows. Jetting of material from within the culvert shall only be performed when the channel within the work site is dry. All sediments jetted or vactored from the structure shall be removed from the channel.

30. Sediment removal shall be limited to restoring the stream to its pre-existing condition with a gradual taper of ground line to meet the native stream bed to minimize the potential of fish entrapment during low flows.

31. At the end of the maintenance activity, the work area shall contain no pits or potholes, or depressions that may trap fish as a result of fluctuation in water levels.

#### WOODY MATERIAL AND DEBRIS

32. LWM not conforming to pre-existing fishway design conditions may be moved within 25 feet of the fishway inlet and outlet, except: LWM embedded in the bank or stream bed shall be left undisturbed and intact. If LWM must be moved it shall be repositioned or floated free below the OHWL immediately downstream of the work site.

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

34. Woody material that is smaller than LWM may be repositioned within the stream, floated downstream, or removed and deposited to an upland area such that it shall not enter state waters.

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

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

#### EROSION

37. Work below OHWL shall not exceed that necessary to restore the site to pre-existing function and condition. Material types not previously authorized for use at the site are not authorized for use under this HPA except: Rock may be used as stabilization only at the toe of the bank for up to a maximum of ten lineal feet along each stream bank.

38. Where rock or other hard materials are used for bank protection, the following shall apply:

- (a) River gravels shall not be used as exterior armor.
- (b) Bank protection material shall be angular rock. Rock shall be sized to withstand peak flows.
- (c) The toe shall be constructed to protect the integrity of bank protection material.

Bank sloping shall be accomplished in a manner that avoids release of overburden material into the water. Overburden material resulting from the project shall be deposited so as not to reenter the water.

#### VEGETATION

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

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

41. All areas disturbed by the work shall be protected against erosion using vegetation or other

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means within seven days of disturbance.

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

#### MAINTENANCE AND REPAIR

43. Hand tools, and equipment may be used to remove inorganic and organic material, repair or replace concrete weirs, wooden stop logs, sills, rock and log controls, fishway guides, walkways, entrance and exit gates, fishway walls and floors.

45. No lumber used to repair the fishway shall contain creosote, pentachlorophenol, or other preservatives or substances that are toxic to fish.

46. No more than one cubic yard of concrete pour may be used below the OHWL per fishway repair project without separate written HPA from WDFW.

#### VEGETATION

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

48. Vegetation outside of the work area shall not be removed or disturbed. All areas disturbed by the work shall be protected against erosion using vegetation or other means within 7 days of disturbance.

49. All woody plants on the banks or in the bed of state waters damaged by the work beyond their capability to regenerate shall be replaced. Replacement shall be by replanting or natural recruitment with plants native to the area. Replacement, or natural recruitment, for lost woody plants shall be at a 1:1 ratio at the end of the first growing season after impact. If replacement plants fail after the end of the growing season, additional planting, or natural recruitment, is required during the next planting season to achieve replacement.

50. ANNUAL REPORTING: A calendar year annual report shall be submitted to the Regulatory Services Coordinator, WDFW Habitat Program, 600 Capitol Way N., Olympia, WA 98501-1091, 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. Reporting is not required for debris removal using only hand-tools or trash rack cleaning. 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

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and water quality from problem.

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 and duration of work, description of work.

f. The information contained in item 'e' (individual projects completed) shall be provided in unlocked Microsoft Excel (.xls) format.

## DEFINITIONS

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

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

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

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

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

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

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

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

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



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**NOTE:** This statewide general HPA replaces and supersedes statewide general HPA F3588-3 and all regionally issued general HPAs for any Fishway maintenance and repair work.

## PROJECT LOCATIONS

### Location #1 Statewide

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

## APPLY TO ALL HYDRAULIC PROJECT APPROVALS

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

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



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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 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.



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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 Chadwick (24) P3

Habitat Biologist Craig Olds	360-902-2540		for Director WDFW
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CC: