E DRAULIC PROJECT APPRO AL

RCW 77.55.100 - appeal pursuant to Chapter 34.05 RCW

State of Washington
Department of Fish and Wildlife
Habitat Program
600 Capitol Way North, MS 3155
Olympia, Washington 98501-1091

DATE OF ISSUE: August 26, 2003

LOG NUMBER: GH-D9450-01

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Washington Department of Transportation (WSDOT) ATTENTION: Steven Yach Environmental Service Center 301 Maple Drive Post Office Box 47331 Olympia, WA 98504-7331 (509) 324-6132	Not Applicable

PROJECT DESCRIPTION: Removal or modification of beaver dams and associated debris from within streams, rivers and WSDOT owned and maintained "manufactured drainage systems".

DATABASE PROJECT DESCRIPTION: Remove temporary, fixed, freshwater, on bed, natural wood, raw, habitat, refuge, pool, in-channel

PROJECT LOCATION: Statewide Fresh Waters

#	WRIA	WATER BODY	TRIBUTARY TO	1/4 SEC.	SEC.	TOWNSHIP	RANGE	COUNTY
	99.0000	All Freshwater	All	Various	var	various	various	All

NOTE: This Hydraulic Project Approval (HPA) only pertains to the provisions of the Washington State Fish and Wildlife Code. It is the permittee's responsibility to apply for and obtain any additional authorization from other public agencies (local, state and /or federal) that may be necessary for this project.

Compliance with this HPA does not ensure compliance with the Federal Endangered Species Act (ESA) or any other local, state or federal laws.

See the most current Memorandum of Agreement (MOA) between Washington Department of Fish and Wildlife (WDFW) and WSDOT for guidance on procedures for emergencies, maintenance, and dispute resolution.

This HPA only authorizes removal or modification of newly constructed beaver dams and associated beaver dam materials. Removal of material/debris that is not associated with a recent beaver dam is covered under a separate HPA.

PROVISIONS

1. **PROJECT DESCRIPTION:** This HPA only authorizes removal or modification of newly constructed beaver dams and associated beaver dam materials from within WSDOT owned and maintained, "manufactured drainage systems" provided:

   a. The beaver dam has been in existence for one year or less, and

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b. A "manufactured drainage system," for the purposes of this HPA, is defined as a culvert, including a maximum of 25 feet immediately up stream of its inlet or down stream of its outlet; bridge piers; or created storm water detention/retention facility that is located within a natural watercourse or a natural watercourse that has been altered by humans, and

c. The continued existence of the beaver dam poses an imminent danger as defined in RCW 77.55.100(3a)(b) to the integrity of WSDOT owned and maintained manufactured drainage systems.

2. **TIMING LIMITATIONS:** This five-year HPA may begin **Immediately** and is valid through **August 25, 2008**, provided:

   a. Whenever possible, projects shall be conducted only during the time periods specified in the attachment Allowable Work Windows for Fresh Water, and

   b. Work shall be conducted during low stream flow conditions.

3. NOTIFICATION: The Regional Habitat Program Manager (RHPM), at the appropriate local regional office in the attached list of WDFW regional offices, shall be notified (letter or fax) at least three (3) working days prior to the start of the project activities. The notification shall include:

   a. The permittee's name, contact person and telephone number.
   b. The control number for this HPA.
   c. Project location, including water body name, local description, latitude, longitude.
   d. Starting date for work and estimated ending date for project activity.

4. ANNUAL REPORTING: WSDOT shall submit to the Habitat Program, 600 Capital Way N, Olympia, WA 98501, a calendar year annual report of Beaver Dam Removal Projects, by January 31 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. At any time if problems are experienced with implementation of this HPA, either the permittee or WDFW may request a joint review meeting. The annual report shall include:

   a. General: Reporting agency, contact person, address, telephone number, date of report, time period.
   b. Summary: The control number for this HPA, total number of individual projects by region and statewide.
   c. Problem(s) encountered: Provision violation, notification, corrective action, impacts to fish life and water quality from problem. If the Environmental Compliance Assurance Procedure (ECAP) was used, what activity triggered the procedure. *[These may be highlighted and specified in this section or included in the full list of projects completed below].*
   d. Recommendations for improvement to BMPs and mitigation [*Optional]*
   e. List of individual projects completed: By region including water body name, bridge name, road number and milepost, latitude and longitude, date of work.

5. HAZARDOUS SPILL AND EROSION CONTROL: As stated in the submitted plan, and agreed to by WSDOT, hazardous spill and erosion control prevention shall comply with the most current version of the Water Quality Implementing Agreement (WQIA) between WSDOT and the Washington Department of Ecology (Ecology).

6. FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION: If at any time, as a result of project activities, fish are observed in distress or a fish kill occurs, or water quality problems develop, immediate notification shall be made to the regional offices of WDFW and Ecology in the attached telephone list of regional offices.

7. The use of explosives is NOT authorized under this HPA.

8. If fish may be adversely impacted as a result of this project, the permittee will be required to capture and safely move food fish, game fish or other fish life to the nearest free-flowing water. The permittee may request the department to assist in the capturing and safely moving fish life from the job site to free-flowing water, and assistance may be granted if personnel are available.

REMOVAL OR MODIFICATION ACTIVITIES:

9. Large woody material embedded in the bank streambed shall be left undisturbed and intact. If unembedded, large woody material (6 feet or longer and 12 inches or greater in diameter) must be repositioned:

   a. Large woody material shall be placed within the Ordinary High Water Line (OHWL) to provide stable, functional fish habitat, and

   b. If anchoring repositioned material is necessary, only non-invasive streambed or stream bank anchoring techniques, such as pinning with rebar, are allowed under this HPA. Streambed or stream bank excavation is **not** authorized and shall require a separate written HPA

10. With prior approval by the AHB, large woody materials may be allowed to float downstream, provided streambed/bank conditions do not obstruct the material passage for a minimum of 200 feet downstream from the removal activity.

11. Large woody material that is not positioned within the channel downstream of the structure (i.e. in back eddies or in areas where bank erosion is occurring) or released to float downstream, shall upon PRIOR consultation with the local AHB, be removed from the channel and be:

    a. Set aside in a secure location for use in future fish habitat/restoration projects by WSDOT or other agencies/groups, or

    b. Disposed of away from the watercourse so that it will not reenter state waters.

12. Where chronic maintenance problems exist, these sites shall be referred to the Chronic Environmental Deficiency program (CED), per MOA between WSDOT and WDFW, dated June 26, 2002. The local AHB shall be provided with a current list of these problem structures either during the annual review or earlier. WSDOT should contact the local AHB to discuss alternative solutions (i.e., trapping and relocation, beaver deceiver devices) that would avoid the need for repeated work in the water.

EQUIPMENT

13. Removal of the beaver dam shall be accomplished by hand or with hand tools, such as chain saws and vehicle winches. Winches may be used to dislodge some of the material, provided siltation to the downstream areas can be held to a minimum and impacts to fish life avoided.

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14. If large equipment is needed to remove the dam:

    a. It must be stationed on the bank, road or bridge, and
    b. The beaver dam shall be removed gradually to provide for a controlled, slow release of impounded water. Slowly, removing portions of the material and allowing the water level to go down slowly, before removing additional portions of the material, may accomplish this.

15. Equipment crossing of the stream are not authorized by this HPA.

RIPARIAN PROTECTION:

16. Measures shall be used to prevent damage to the vegetation in the riparian (streamside or shoreline) area located within 200 feet perpendicular to the water and adjacent to the structure. Existing parking lots and open managed fields and lots located within 200 feet of the riparian areas may be used for staging work.

17. Within seven calendar days of the project completion, all disturbed areas shall be protected from erosion using vegetation or other means. Erosion control methods may include, but are not limited to filter fabric and immediate mulching of exposed areas. The use of riprap or concrete/grout is NOT authorized by this HPA.

18. Disturbance of the streambed and banks and associated wetlands and buffer vegetation shall be limited to that necessary to perform the project. Disturbed streambed and bank and wetland and buffer vegetation areas shall be restored to pre-project or improved habitat configuration. Prior to the beginning of the first growing season (March 1), the disturbed buffer areas shall have been re-vegetated with native species approved by WDFW. Vegetative cuttings shall be planted at a maximum interval of three feet (on center). Plantings shall be maintained as necessary for three years to ensure 80 percent or greater survival.

SEPA: DNS by WSDOT final on March 23, 1996.

WDFW CONTACT NUMBERS:

Region 1 - Spokane	(509) 456-4082
Region 2 – Ephrata	(509) 754-4624
Region 3 – Yakima	(509) 575-2740
Region 4 – Mill Creek	(425) 775-1311
Region 5 – Vancouver	(360) 906-6700
Region 6 – Montesano	(360) 2494628
After hours/weekend statewide	(360) 902-2537

ECOLOGY CONTACT NUMBERS:

Central Region – Yakima	(509) 575-2490
Northwest Region – Bellevue	(425) 649-7000
Eastern Region – Spokane	(509) 456-2926
Southwest Region – Lacey	(360) 407-6300
After hours/weekend – use above numbers also.	
Office of Permit Assistance - Lacey	(360) 407-7037
	(800) 917-0043

APPLICATION ACCEPTED: August 26, 2003 **ENFORCEMENT OFFICER:** All Regional Offices [P3]

Teresa A. Eturaspe (360) 902-2557
Habitat Program

Teresa A. Eturaspe

for Director
WDFW

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Enclosure(s): Allowable In-work Work Windows for Fresh Water

GENERAL PROVISIONS

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (RCW 77.55 - formerly RCW 75.20). Additional authorization from other public agencies may be necessary for this project.

This HPA shall be available on the job site at all times and all its provisions followed by the permittee and operator(s) performing the work.

This HPA does not authorize trespass.

The person(s) to whom this HPA is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this HPA.

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 or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All HPAs issued pursuant to RCW 77.55.100 or 77.55.200 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 permittee has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All HPAs issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the permittee: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

APPEALS - GENERAL INFORMATION

IF YOU WISH TO APPEAL A 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 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290:
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 HPA, or the conditions or provisions made part of a HPA; or
(B) An order imposing civil penalties.
It is recommended that an aggrieved party contact the Area Habitat Biologist and discuss the concerns. Most problems are resolved at this level, but if not, you may elevate your concerns to his/her supervisor. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife, 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 HPA or receipt of an order imposing civil penalties. The 30-day time requirement may be stayed by the Department if negotiations are occurring between the aggrieved party and the Area Habitat Biologist and/or his/her supervisor. The Habitat Protection Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or its 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 77.55.100 OR 77.55.140:
A person who is aggrieved or adversely affected by the following Department actions may request an formal review of:
(A) The denial or issuance of a HPA, or the conditions or provisions made part of a 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.
A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, shall be plainly labeled as "REQUEST FOR FORMAL APPEAL" and shall be RECEIVED DURING OFFICE HOURS by the Department within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.110, 77.55.200, 77.55.230, or 77.55.290:
A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA 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 393, LAWS OF 2003:
A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA may request a formal appeal. The FORMAL APPEAL shall be in accordance with the provisions of Chapter 393. The request for FORMAL APPEAL shall be in WRITING to the Environmental and Land Use Hearings Board.

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.