H DRAULIC PROJECT APPRO L

RCW 77.55.100 & RCW 77.55.200

State of Washington
Department of Fish and Wildlife
Region 5 Office
2108 Southeast Grand Boulevard
Vancouver, Washington 98661

DATE OF ISSUE: June 10, 2004

LOG NUMBER: GH-F3587-01

Modified & reissued as -02 on June 28, 04 to add flexibility to LWD disposal

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Washington Department of Transportation ATTENTION: Gregor Myhr 310 Maple Park Drive SE Olympia, WA 98504 360.705.7487 Fax: 360.705.6833	Not Applicable

PROJECT DESCRIPTION: Channelized Stream Maintenance and Debris/Sediment removal

DATABASE PROJECT DESCRIPTION: Maintenance, Fixed, Permanent, None, Channel Modification, Dredging, Freshwater, On Bed

PROJECT LOCATION: Statewide on WSDOT Rights of Way

#	WRIA	WATER BODY	TRIBUTARY TO	1/4 SEC.	SEC.	TOWNSHIP	RANGE	COUNTY
1	99.0000	Multiple	Multiple	Var		Var	Var	All

NOTE: This Hydraulic Project Approval pertains only to the provisions of the Washington State Fisheries and Wildlife Codes. 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.

NOTE: These activities are proposed in state waters that contain federally threatened or endangered species of fish. Compliance with the provisions of this approval does not ensure compliance with the Endangered Species Act. For further information, contact the National Marine Fisheries Service at (360) 753-9090 and/or the United States Fish and Wildlife Service at (360) 753-9564.

NOTE: This approval supersedes any and all General HPAs for the same type of work. These include the following HPA Control Numbers:

GH-F3266-01, GH-D9416-04 – Bridge Debris

NOTE: In the event that the applicant cannot comply with the provisions of this approval due to site specific or other concerns, separate written approval may be sought from the local Area Habitat Biologist for the project.

DEFINITIONS

- **As-built Condition** – The original design and/or constructed features of the structure or facility including the line, depth, grade, toe of slope and cross-section, or "same as constructed/permitted."
- **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.
- **Culvert** – Conduit or pipe used as an artificial channel under a roadway or embankment to maintain flow from a natural stream, channel or drainage ditch.

- **Debris** – Small woody material and large and small inorganic material including trash, tires and garbage etc. This definition does not include new construction waste or woody debris resulting from beaver activity. Debris does not include woody debris placed in channels for an environmentally beneficial purpose.

- **Ditch** – Man-made (i.e. not a channelized stream) conveyance system that collects, carries, holds, inhibits or diverts the movement of stormwater or groundwater from the facility or adjacent properties. (Determinations for what is a stream, channelized stream, or ditch for HPA purposes will be made by the WDFW Area Habitat Biologist).

- **Embedded** – Condition in which debris or large woody material is buried by bed material exceeding 50 cubic yards.

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

- **Fill Material** – Any material that replaces an aquatic area with dry land or changes the bottom elevation of a water body. Examples of fill that might be used in channel maintenance include gravel, rock, riprap, sand, wood chips, etc.

- **Fish Bearing Stream** – Any state waters (river, creek, stream, channel), fresh, salt or estuarine, that contains any fish will be considered a fish-bearing stream. If there is a question regarding whether a stream is fish bearing or not, the local WDFW Area Habitat Biologist will make the determination.

- **Fishway Facility** – Any facility or device that is designed to enable fish to effectively pass around or through an obstruction without undue stress or delay.

- **Incidental Fallback** - The small amount of material that may fall off of a shovel or excavator bucket back into substantially the same place from which it was lifted. Fallback occurs incidental to excavation and does not include the movement of material during grading activities.

- **Large Woody Material (LWM)** –Trees or tree parts larger than four inches in diameter and longer than six feet in length, including rootwads (WAC 220 -110 –020 (48)). This material is located wholly or partially waterward of the ordinary high water line (OHWL).

- **Maintenance** – Activities that (a) are conducted on currently serviceable structures, facilities, and equipment; and (b) involve no expansion of or change in use of such structures, facilities, and equipment beyond those that existed previously; and (c) do not result in significant negative hydrological impacts.

  - **Scheduled Maintenance** is budgeted work, performed routinely on a regular basis. It is intended to maintain the roadway facility/element so that it substantially retains its original intended use and function.

  - **Unscheduled 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.

- **Navigable Waters** – (Reference 33 CFR) A list of navigable waters for the state of Washington can be found at the following web site managed by the Corps - http://www.nws.usace.army.mil/reg.html

- **Ordinary High Water Line (OHWL)** – "Ordinary high water line" means 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 (WAC 220-110-020 (57)).

- **Permittee** – The entity to whom the permit is issued.
- **Riprap** – 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(s) also includes settled particulate matter exposed by human activity (e.g., dredging) to the biologically active aquatic zone or to the water column. (WAC 173 -204 –200 (26)).
- **Serviceable Condition** – A structure or element of the structure that can be repaired, maintained, or replaced without the redevelopment of the whole right of way structure.
- **Waters of the State** – Waters of the state or "state waters" means all salt waters and fresh waters waterward of ordinary high water lines and within the territorial boundaries of the state – (WAC 220-110-020 (85)).
- **Wetted Perimeter** – The areas of a watercourse covered with water, flowing or non-flowing (WAC 220-110-020-(88)).

PROVISIONS

1. **TIMING LIMITATIONS:** The project may begin **immediately** and shall be completed by **June 1, 2009**, provided:

   a. scheduled work shall be conducted in the natural dry stream channel during summer months (June 1 - October 15). If work occurs in the wetted perimeter it shall be done during the attached work windows (Attachment 1).

2. NOTIFICATION REQUIREMENT: The permittee or contractor shall notify (verbal, fax, email, etc.) the WDFW Regional Habitat Program Manager (RHPM), listed in Attachment 2, of the project start date. Notification shall be received by the RHPM at least three working days prior to the start of maintenance activities. The notification shall include the permittee's name, project location (Township/Range/Section, Road Name/Milepost, Lat/Long, or comparable location data), starting date for work, and the control number for the Hydraulic Project Approval (HPA).

3. ANNUAL REPORTING: The permittee shall submit to the WDFW Habitat Program, 600 Capital Way N. Olympia, WA 98501, a calendar year annual report of the Drainage Maintenance and Repair projects by March 31 of the following year, or in the final year of the permit prior to the expiration date. An annual report is also required if no work was conducted under the agreement. The report shall include:

   a. General: Reporting agency, address, telephone number, date of the report and time period,

   b. Summary: The control number for the 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 Best Management Practices (BMP's) and mitigation *[Optional]*

   e. List of individual projects completed: By region including water body name, road number and milepost, date of work or other method of identifying specific location.

   f. At any time if problems are experienced with implementation of these conditions, either the permittee or WDFW may request a joint review meeting.

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4. 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 Ecology at 1-800-258-5990.

WATER QUALITY

5. Best Management Practices shall be implemented during all phases of the project to ensure that sediment-laden water does not enter waters of the state.

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

7. 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.

8. Water discharged back to the receiving water shall comply with state surface water quality standards.

9. 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.

10. All material excavated from channelized streams shall be completely removed and disposed of at an upland location. No material shall be side cast into adjacent wetlands, or other waters of the state, unless authorized by WDFW for stream habitat improvement.

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

12. 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 the state.

BYPASS PROVISIONS

13. In the event that only hand tools (come-along, chain saw winch, etc.) are used to conduct the activity, no bypass is necessary.

14. A temporary bypass to divert flow around the work area shall be in place prior to initiation of work in the wetted perimeter except as specified above (Provision #13).

15. Sandbagging and hard pipe flumes or pumping shall be the approved bypass method. Other methods may be utilized if a positive separation can be maintained between the work area and waters of the state.

16. In the event that maintenance work involves the use of equipment other than hand tools, temporary filter fabric, straw bale, or pea gravel-filled burlap bag check dam(s) shall be installed downstream prior to starting work in flowing waters. Accumulated sediments shall be removed during the project and prior to removing the check dam(s) (or temporary sediment trap) after completion of work.

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

18. A sandbag revetment or similar device shall be installed at the downstream end of the bypass to prevent backwater from entering the work area.

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

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

21. 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.

22. 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.

FISH REMOVAL AND SCREENING (FOR WORKING IN WETTED PERIMETER)

23. 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. Captured fish shall be immediately and safely transferred to free-flowing water downstream of the project site. The permittee may request that WDFW assist in capturing and safely moving fish life from the job site to free-flowing water, and assistance may be granted if personnel are available.

24. 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 77.55.320. The pump intake shall be screened with 3/32-inch mesh to prevent fish from entering the system. 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.

EQUIPMENT LIMITATIONS

25. Machinery and equipment used during maintenance work shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters. When practicable, fueling equipment and vehicles should be more than 200 feet away from waters of the state (except small equipment necessary as part of the BMP's for the project e.g., water pumps). Fueling areas shall be provided with adequate spill containment.

26. Equipment used for a project shall be free of external petroleum-based products while working around the channel. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the OHWL. Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities along the channel.

27. Equipment used for a project shall operate stationed on the roadway, shoulder or bank.

28. Equipment used for a project may operate below the OHWL, provided the drive mechanisms (wheels, tracks, tires, etc.) shall not enter or operate below the OHWL unless the channelized stream is dry or a bypass is in place.

29. There shall be no visible sheen from petroleum products in the receiving water as a result of channelized stream maintenance and repair activities.

30. Equipment crossings of the channelized stream shall not be conducted. .

SEDIMENT REMOVAL

31. No more than **50 cubic yards** of material per project per year shall be removed without separate written approval from WDFW.

32. Sediment removal shall not be conducted in fish spawning areas.

33. Sediment removal shall be accomplished by starting at the upstream end of the project boundary and working downstream.

34. Sediment removal shall be limited to restoring the channelized stream to as-built condition with a gradual taper of the ground line to meet the native stream bed.

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

LARGE WOODY MATERIAL (LWM) AND DEBRIS REMOVAL

36. If LWM must be removed, it shall be repositioned below the OHWL downstream of the channelized stream to provide stable, functional fish habitat. If anchoring repositioned LWM is necessary, only non-invasive streambed or stream bank anchoring techniques, such as pinning with rebar, rock drilling and cable, etc., may be used. Streambed or stream bank excavation, or removal of embedded material is not authorized. Streambed or stream bank excavation or removal of embedded LWM shall require separate, written approval from WDFW.

37. If, due to compelling safety or habitat concerns (i.e. in eddies or in areas where bank erosion is occurring), LWM cannot be repositioned within the channelized stream downstream of the structure or released to float downstream, said LWM shall be set aside in a location that ensures availability for use in future fish habitat/restoration projects by agencies or other entities. In this case, prior consultation with the local AHB is required before removing the LWM.

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

39. LWM removal shall be conducted with equipment stationed on the bank, road shoulder, or bridge.

40. Smaller limb and bark debris that is removed from LWM shall be disposed of so it shall not re-enter the waters of the state.

41. LWM removal or repositioning shall be accomplished in a manner that minimizes the release of sediment or debris downstream. This activity shall not exceed the water quality standards for turbidity.

EROSION REPAIR/PROTECTION

42. Encroachment of riprap or other repairs into waters of the state shall be held to an absolute minimum as described in WDFW's Integrated Streambank Protection Guidelines. The work shall not exceed that necessary to stabilize the site and shall in no case exceed as-built conditions.

43. Riprap shall be clean and durable, free from dirt, sand, clay and rock fines and shall be installed to withstand the 100-year flow flood event.

44. Riprap shall be placed using equipment operating from the roadbed, shoulder, bank, or bridge.

45. A toe of rock shall be installed prior to placement of the riprap.

46. Filter fabric shall be installed prior to placement of riprap.

REVEGETATION PROVISIONS

47. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to construct the project. Within seven calendar days of project completion, all disturbed areas shall be protected from erosion using vegetation or other BMP's. Within the first planting season, the banks, including riprap areas, shall be revegetated with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center) and maintained as necessary for three years to ensure 80 percent survival.

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

49. 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.

SEPA: DNS by WSDOT final on May 25, 2004.

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cc w/o att: Gayle Kreitman
RHPMs.
AHBs

Attachments: RHPM List
Freshwater work windows

APPLICATION ACCEPTED: May 27, 2004 **ENFORCEMENT OFFICER:** Captains, R1-R6 [P3]

Robert J. Bicknell (360) 274-9814
Fish and Wildlife Biologist

for Director
WDFW

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.