



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

Issue Date: May 28, 2014

Control Number: 131349-1

Project Expiration Date: May 27, 2019

FPA/Public Notice #: N/A

PERMITTEE

City of Tukwila
ATTENTION: Ryan Larson
6200 Southcenter Boulevard
Tukwila, WA 98188
206-431-2456

AUTHORIZED AGENT OR CONTRACTOR

JA Brennan Associates
ATTENTION: Jim Brennan
100 S King St Ste 200
Seattle, WA 98104
206-583-0620
Fax: 206-583-0623

Project Name: Duwamish Gardens Habitat Project

Project Description: Create substitute shallow water fish habitat on a 2.25 acre site; create estuarine off channel, riparian, and upland terrestrial habitat.

PROVISIONS

1. The project may begin immediately and shall be completed by May 27, 2019, provided excavation of the temporary berm used to isolate the main area of excavation shall occur only between June 16 and August 31.
2. NOTIFICATION REQUIREMENT: The Area Habitat Biologist (AHB) listed below (e-mail to fishheldf@dfw.wa.gov) and the Enforcement Program Officer (e-mail to richacbr@dfw.wa.gov) shall receive e-mail notification from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) no less than three working days prior to start of work, and again within seven days of completion of work to arrange a compliance inspection for each significant component of the project. The notification shall include the permittee's name, project location, starting date of work or completion date of work, and the control number of this HPA.
3. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife (WDFW) entitled, "DUWAMISH GARDENS", labelled "60% DESIGN NOT FOR CONSTRUCTION", except as modified by this HPA. A copy of these plans shall be available on site during construction.
4. During excavation, the new off channel area shall be isolated from the Duwamish River by leaving a berm in place until necessary to construct the connection to the river.
5. Before removing the temporary berm, other project grading shall be complete.
6. The fish habitat log structures shall be fir, cedar, or other approved coniferous species.
7. Fish habitat components and cobble spit materials shall be installed to withstand 100-year peak flows.

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8. Disturbance of the riverbed and banks and their associated vegetation shall be limited to that necessary to perform the project. Affected streambed and bank areas shall be restored to pre-project or improved habitat configuration. Prior to December 31 of the year of project grading, the approved project planting plan (Provision 3) shall be installed. Plantings shall be maintained as necessary for three years to ensure 80 percent or greater survival of each species or a contingency species approved by the AHB.
9. Equipment used for this project shall be free of external petroleum-based products while working around the river and wetlands associated with the river. 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 ordinary high water line (OHWL). Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities along the river and wetlands associated with the river.
10. Erosion control methods shall be used to prevent silt-laden water from entering the river and wetlands associated with the river. These may include, but are not limited to, straw bales, filter fabric, a temporary berm, a siltation control curtain, and immediate mulching or covering of exposed areas.
11. Prior to starting work, the selected erosion control methods (Provision 10) shall be installed. Accumulated sediments shall be removed during the project and prior to removing the erosion control methods after completion of work.
12. Wastewater from project activities and 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 river or wetlands associated with the river.
13. All waste material such as construction debris, silt, excess dirt or overburden resulting from this project shall be deposited above the limits of floodwater in an approved upland disposal site.
14. If high flow conditions that may cause siltation are encountered during this project, work shall stop until the flow subsides.
15. Extreme care shall be taken to ensure that 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 the river or wetlands associated with the river.



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PROJECT LOCATIONS

Location #1 11269 E Marginal Way S

WORK START: May 28, 2014				WORK END: May 27, 2019			
WRIA: 09.0001		Waterbody: Duwamish River/Green River			Tributary to: Elliott Bay		
1/4 SEC: NW 1/4	Section: 10	Township: 23 N	Range: 04 E	Latitude: N 47.5012	Longitude: W 122.2958	County: King	
<u>Location #1 Driving Directions</u>							
From I-5 either north or south, exit at Boeing Access Road in south Seattle. Proceed west. At the first intersection west of the railroad tracks, turn left (south) onto East Marginal Way S. Proceed past S. 112th St. Turn in to the last driveway on the right (west side of the street) before the bridge over the Duwamish. Street address is 11269 East Marginal Way S. (See Sheet I of 16 - Attachment 1)							

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.

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 under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

MINOR MODIFICATIONS TO THIS HPA: You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA. A minor modification to the required work timing means up to a one-week deviation from the timing window in the HPA when there are no spawning or incubating fish present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of

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the HPA to mitigate the impacts of the modification. Minor modifications do not require you to pay additional application fees or be issued a new HPA. To request a minor modification to your HPA, submit a written request that clearly indicates you are requesting a minor modification to an existing HPA. Include the HPA number and a description of the requested change and send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to HPAapplications@dfw.wa.gov. Do not include payment with your request. You should allow up to 45 days for the department to process your request.

MAJOR MODIFICATIONS TO THIS HPA: You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you paid an application fee for your original HPA you must include payment of \$150 with your written request or request billing to an account previously established with the department. If you did not pay an application fee for the original HPA, no fee is required for a change to it. To request a major modification to your HPA, submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Include the HPA number, check number or billing account number, and a description of the requested change. Send your written request and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. If you are charging the fee to a billing account number or you are not subject to the fee, you may email your request to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-110-340 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-110-350 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to



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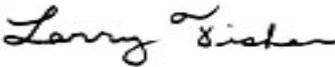
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the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

ENFORCEMENT: Sergeant Chandler (34) P2

Habitat Biologist Larry Fisher	425-313-5683		for Director WDFW
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CC: