



**EXEMPTION FROM THE SHORELINE MANAGEMENT PROGRAM
SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENT**

SHX2016-00080

Applicant: Nooksack Indian Tribe
c/o Lindsie Fratus
PO Box 157
Deming, Washington 98244

Project Description: Construction of 16-20 engineered log jam structures in the North Fork of the Nooksack River along a 0.3-mile river segment. The restoration project (Phase 2b) will install a temporary bridge over the Falls Creek side channel, stage logs and construction materials, install temporary bridges to access channel islands, and construct 16-20 engineered log jam structures in a 0.3-mile river segment along the North Fork Nooksack River (RM 48.8 to 48.2). The project is designed to address limiting factors for ESA-listed species in the North Fork Nooksack River and is the second portion of the second Phase (Phase 2b) of a broader five-phase project to restore habitat forming processes in the Farmhouse Reach.

Project Location(s): North Fork Nooksack River – (RM 48.8-48.2)
Section 8, Township 37 North, Range 05 East W.M.
TPN(s): 390501302233

Water Body: North Fork Nooksack River

Shoreline Designation: Conservancy & Aquatic

SEPA: **Determination of Non-significance issued by Whatcom County Planning and Development Services on June 1, 2015 (SEP2015-00032).**

Whatcom County Shoreline Management Program (SMP), Title 23, Section 23.60.02.2.P allows projects of which the primary purpose is to improve fish or wildlife habitat or fish passage, to be reviewed without the need for a substantial development permit when all of the following apply:

1. The project has been approved in writing by the Washington State Department of Fish and Wildlife (WDFW) as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;
2. The project received hydraulic project approval by WDFW pursuant to RCW 77.55; and
3. The Shoreline Administrator (Administrator) has determined that the project is consistent with the SMP.

On July 1, 2014, Whatcom County Planning and Development Services (WDFW) received a letter from Mr. Margen Carlson with WDFW and is consistent with 23.60.02.2.P.1 above. The applicant has obtained and submitted the HPA approval consistent with 23.60.02.2.P.2

An exemption from the substantial development permitting process is not an exemption from compliance with the Washington State Shoreline Management Act (SMA), the SMP, or from any other applicable regulatory requirements. To be authorized, all developments must be consistent with the appropriate policies and regulations of the SMA and SMP.

Restoration means the re-establishment or upgrading of impaired ecological shoreline processes or functions (23.110.R.9). Restoration projects are permitted within the Conservancy, Natural and Aquatic Designations if carried out in accordance with the approved shoreline restoration plan (County Resolution 2007-011 and in accordance with other applicable policies and regulations of the SMP.

According to Section 4.1.3.3 of the Whatcom County Shoreline Restoration Plan (Restoration Plan) identifies limiting factors and potential restoration opportunities within the South Fork Nooksack (SF) River Watershed Management Unit (WMU). The SF WMU is identified as one of the top priority areas for salmon recovery. The loss of stable forested islands and hydraulic roughness has reduced the quality, availability, and diversity of habitat for fish and other aquatic species. The creation of stable islands in appropriate locations by installing log jams to restore lateral and vertical channel stability, increase hydraulic roughness, and promote off-channel habitat development are specific restoration opportunities outlined within the Restoration Plan; and consistent with the project proposal.

The requested Shoreline statement of exemption is approved subject to the attached conditions.

Note that pursuant to Section 23.60.15, the applicant or any opponent of this determination may appeal this administrative permit decision to the office of the Hearing Examiner. The application for appeal from the Shoreline Administrator's decision may be obtained at the Planning and Development Services Office. Such an appeal shall be filed within twenty (20) calendar days of this determination.

Note that obtaining a shoreline statement of exemption for a development or use does not excuse the applicant from complying with any other State, regional or Federal statutes or regulations applicable to such development or use.

Official: Andrew Hicks

Title: Shoreline Administrator



July 20, 2016

CONDITIONS ASSOCIATED WITH SHX2016-00080

1. *The proposed work shall be consistent with the scope and site plans reviewed and approved pursuant to this statement of exemption. Any changes will require additional review by the Whatcom County Shoreline Administrator.*
 2. *All work shall be consistent with the temporary erosion and sedimentation control reviewed and approved as part of this project. Best Management Practices (BMPs) identified within the TESC plan shall be implemented and maintained throughout all phases of development and/or until such work areas are stabilized.*
 3. *All materials utilized below the ordinary high water mark (OHWM) shall be untreated.*
 4. *Ground disturbing activity shall be kept to the minimum necessary to accommodate the approved developments and vegetation clearing shall be kept to a minimum. Removal of existing large woody debris (LWD) or other in-channel material shall be kept to a minimum, and if necessary, replaced upon completion of the work in such areas.*
 5. *The proposed log jams shall be constructed to mimic the appearance of natural jams to the maximum extent feasible.*
 6. *If archaeological materials (bone, shell, midden cobble tools, etc.) are observed during site work, work in the area of discovery shall cease and the Whatcom County SEPA Administrator (676-6907), LNTHPO (384-2280) and Washington State Office of Archaeology and Historic Preservation (360-586-3065) shall be contacted immediately to determine the significance of the discovery. If human remains are observed, the Whatcom County Sheriff (911) and Lummi Sche'lan'en Department (384-2312) shall be contacted immediately. Compliance with all other applicable laws pertaining to archaeological resources is required.*
 7. *The proposed jams and temporary construction access bridges shall be located, constructed, and managed to minimize impacts to navigation and/or other lawful use of the area by the general public. If such structures become navigation hazards in the future, they may require abatement.*
 8. *Construction shall be commenced within two (2) years of the effective date of this shoreline exemption, as defined by 23.60.19.3, and shall be completed in five (5) years. The Shoreline Administrator may grant a single extension for a period of not more than one (1) year based on a showing of good cause. Such request must be filed with the Shoreline Administrator before the expiration date described above.*
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