

ATTACHMENT D:

HYDRAULIC

PROJECT APPROVAL



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - Appeal Pursuant to Chapter 34.05 RCW

South Central
1701 South 24th Avenue
Yakima, WA 98902-5720
(509) 575-2740

Issue Date: November 30, 2009
Project Expiration Date: January 31, 2010

Control Number: 119033-1
FPA/Public Notice #: N/A

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Kittitas Co Conservation District Manager ATTENTION: Anna Lael 607 East Mountain View Avenue Ellensburg, WA 98926 509-925-8585 Fax: 509-925-8591	

Project Name: Decommission Greer Ditch

Project Description: Diversion Structure Removal - Remove the concrete diversion structure for the Greer Ditch. The Greer Ditch is an unscreened and unmetered irrigation diversion from the Fogarty Channel. The project will remove approx 4 cubic Yards of concrete and plug the head of Greer Ditch with approx 20 cy of fill material such that it effectively blocks flow from going from the Fogarty Channel the into Greer Ditch.

PROVISIONS

1.TIMING LIMITATIONS: The project may begin December 2, 2009 and shall be completed by January 31, 2010.

GENERAL

2.Work shall be accomplished per information submitted to Washington Department of Fish and Wildlife with the Hydraulic Project application (JARPA), except as modified by this Approval.

3.Temporary erosion control measures (BMPs) shall be used as needed to minimize discharge of earth and fine sediments from the work area to the flowing water of the Fogarty Channel/Sorenson Creek.

WORKSITE AND EQUIPMENT LIMITATIONS

4.All in-channel work shall be done during a period of low flow. The Fogarty headgate may be closed down to reduce flow in the Fogarty Channel, provided that sufficient flow remains in the Fogarty Channel to prevent stranding of fish.

5.The work area shall be isolated from the flowing water to the greatest extent practicable.

6.Equipment shall work from the bank. Equipment shall be inspected daily and maintained in good working conditions such that hydraulic fluid, lubricants, fuel and other harmful chemicals are not leaked into the Fogarty Channel or its banks or bed.

WORK AREA ISOLATION

7. A barrier of concrete ecology blocks, sand bags or equivalent clean material shall be used to divert the flow of water away from the area of excavation.



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8.If fish are trapped inside of the Greer Ditch, they shall be captured and removed unharmed and released in the Fogarty Channel.

9.Upon completion of the project, all materials used to isolate the work area shall be removed from the channel.

STRUCTURE REMOVAL

10.The existing concrete diversion structure shall be removed in its entirety and the head end of the Greer Ditch filled to prevent future diversion of flow into the abandoned ditch.

11.Material removed from the diversion shall be hauled from the site and disposed of at an approved, upland disposal site.

SITE RESTORATION

12. All earth areas adjacent to the watercourse, which have been disturbed by this project, are to be seeded with a suitable erosion control seed mix and protected from erosion with a commercial erosion control blanket or weed-free straw mulch.

PROJECT LOCATIONS

Location #1 Greer Ditch at Fogarty Channel

WORK START: December 02, 2009				WORK END: January 31, 2010		
WRIA: 39.0958		Waterbody: Fogarty Ditch Outfall		Tributary to: Yakima River		
1/4 SEC: NE 1/4	Section: 15	Township: 17 N	Range: 18 E	Latitude: N 46.969696	Longitude: W 120.561411	County: Kittitas
Location #1 Driving Directions						
From I-90 take the Canyon Road exit heading toward Ellensburg. From the Canyon Road, turn left onto Umptanum Rd, cross the Yakima River then turn right on Riverbottom Rd. the project area is about 1/5 mile down Riverbottom Rd, as you start to go down the hill and before you go around the corner. The project is located on the right side of the road, just as Fogarty Ditch crosses under Riverbottom Rd.						

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 Sprecher (30) P3

Habitat Biologist Brent Renfrow	509-925-1013		for Director WDFW
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CC: Files

Attachments: Three drawings from JARPA (pages 15-17)