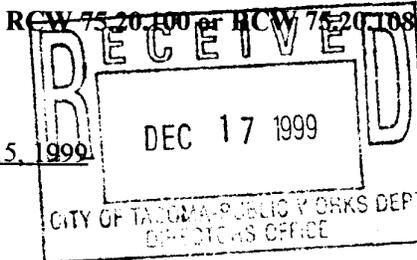




HYDRAULIC PROJECT APPROVAL

State of Washington
Department of Fish and Wildlife
Region 7 Office
600 Capitol Way North, MS 3155
Olympia, Washington 98501-1091



DATE OF ISSUE: December 15, 1999

LOG NUMBER: 00-E3207-01

| <u>PERMITTEE</u> | <u>AUTHORIZED AGENT OR CONTRACTOR</u> |
|--------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| City of Tacoma ATTENTION: William L. Pugh 747 Market Street, Room 420 Tacoma, Washington 98402 (253) 591-5525 Fax: (253) 591-5097 | John F. O'Loughlin 2201 Portland Avenue Tacoma, Washington 98421-2711 (253) 502-2108 Fax: (253) 502-2107 |

PROJECT DESCRIPTION: Construct Stream Connection Channels and Install In-stream Habitat Structures.

PROJECT LOCATION: East side of Pioneer Way, downstream from the Swan Creek crossing.

| # | <u>WRIA</u> | <u>WATER BODY</u> | <u>TRIBUTARY TO</u> | <u>1/4 SEC.</u> | <u>SEC.</u> | <u>TOWNSHIP</u> | <u>RANGE</u> | <u>COUNTY</u> |
|---|-------------|-------------------|---------------------|-----------------|-------------|-----------------|--------------|---------------|
| 1 | 10.0023 | Swan Creek | Clear Creek | SW | 11 | 20 North | 03 East | Pierce |

NOTE: This project is proposed as a fish habitat improvement and fish passage creation effort to restore a Swan Creek connection through a constructed channel to a historical wetland system.

PROVISIONS

1. **TIMING LIMITATIONS:** The project may begin **August 1, 2000** and shall be completed by **November 1, 2000**, provided:
 - a. All in-stream work involving Swan Creek, including, but not limited to; weir installations, habitat structure placement, stream bank disturbance, etc., shall be accomplished and completed prior to September 1, 2000.
2. **NOTIFICATION REQUIREMENT:** The permittee or contractor shall notify the Area Habitat Biologist (AHB) listed below of the project start date. Notification shall be received by the AHB at least three working days prior to the start of construction activities. The notification shall include the permittee's name, project location, starting date for work, and the control number for this Hydraulic Project Approval.
3. Work shall be accomplished per plans and specifications entitled, Swan Creek Stream Restoration, dated November 30, 1999, and the Riparian, Wetland and Upland Habitat Planting Plan, dated November 3, 1999, and submitted to the Washington Department of Fish and Wildlife, except as modified by this Hydraulic Project Approval. These plans reflect design criteria per Chapter 220-110 WAC. These plans reflect mitigation procedures to significantly reduce or eliminate impacts to fish resources. A copy of these plans shall be available on site during construction.
4. A temporary bypass to divert flow around the in-channel work areas in Swan Creek shall be in place prior to initiation of any work in the Swan Creek wetted perimeter. The bypass shall be of sufficient size to pass all flows and debris for the duration of the project.



HYDRAULIC PROJECT APPROVAL RCW 75.20.100 or RCW 75.20.108

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5. Any pumping 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 75.20.040 and 77.16.220. The pump intake shall be screened with 1/8-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.
6. Within the by-pass reaches, the permittee shall capture and safely move food fish, game fish, and other fish life from the job site. The permittee shall have 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 the Washington Department of Fish and Wildlife 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.
7. Prior to releasing the water flow to the project area, all in-stream structural projects (weirs and habitat features), bank protection, and other channel work shall be completed. Weirs, fish habitat features and bank protection material shall be installed to withstand the 100-year peak flows.
8. Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to preproject or improved conditions.
9. The fish habitat log structures shall be of fir, cedar, or other approved coniferous species. The fish habitat structures shall be placed so that they are within the low flow channel.
10. All excavation and grading activities associated with the creation of Channel A and Channel B shall be isolated from Swan Creek until these activities are completed and the bed, banks and adjacent areas are stabilized to prevent delivery of silt and sediment-laden water to Swan Creek. Prudent timing of these activities is crucial for proper erosion control and containment of sediments.
11. Wastewater encountered during excavation and grading activities shall be managed in a manner to settle or filter silt and fine sediments prior to discharge to Swan Creek. Dewatering activities shall also be accomplished in a manner as to prevent delivery of silt or sediment-laden water to Swan Creek.
12. Excavated or graded material shall be disposed either on site or off site to a location where it will not reenter state waters.
13. Disturbance, damage or removal of existing, Swan Creek riparian vegetation shall be confined to that which is necessary to construct the weir and habitat structures. Equipment shall work around and preserve existing trees to the maximum extent practicable to reduce impacts to the existing riparian condition.
14. The weir facilities shall be maintained by the City of Tacoma per RCW 75.20.060 to ensure continued, unimpeded fish passage. If the structure becomes a hindrance to fish passage, the City of Tacoma shall be responsible for obtaining an Hydraulic Project Approval and providing prompt repair. Financial responsibility for maintenance and repairs shall be that of the City of Tacoma.



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- 15. Upon project completion and prior to the expiration of this HPA on November 1, 2000, all stream, wetland and channel bank areas shall be revegetated consistent with the Riparian, Wetland and Upland Habitat Planting Plan. Plantings shall be monitored, maintained and replaced as necessary for a minimum of three years to ensure 80 percent survival.
- 16. Upon project completion and prior to the expiration of this HPA on November 1, 2000, all disturbed areas shall be stabilized with erosion control methods in place to prevent the delivery of any silt or sediment-laden water to the wetlands, the created channels or Swan Creek.

SEPA: DNS by City of Tacoma final on September 7, 1999.

APPLICATION ACCEPTED: December 2, 1999

ENFORCEMENT OFFICER: Dillman 090 [P2]

Don Nauer (253) 863-7979
Area Habitat Biologist

for Director
WDFW

GENERAL PROVISIONS

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (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 75.20.100 or 75.20.160 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 75.20.103 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 75.20.130.

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.



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A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100, 75.20.103, 75.20.106, AND 75.20.160:

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 75.20.100 OR 75.20.106:

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 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 75.20.103 or 75.20.160:

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. 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.