



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - Appeal Pursuant to Chapter 34.05

17.9090
Coastal
48 Devonshire Road
Montesano, WA 98563
(360) 249-4628

Issue Date: November 06, 2008
Project Expiration Date: February 14, 2010

Control Number: 112850-1
FPA/Public Notice #: N/A

| PERMITTEE | AUTHORIZED AGENT OR CONTRACTOR |
|--|--------------------------------|
| Port Ludlow Associates, LLC ATTENTION: Miriam Villiard 70 Breaker Lane Port Ludlow, WA 98365 360-437-2101 Fax: 360-437-2522 | |

Project Name: Ludlow Cove II
 Project Description: Construct storm drainage outfall at the edge of the shoreline and stream buffer.

PROVISIONS

1. Work below the ordinary high water line at the marine site shall not occur from February 15 through July 14 of any year for the protection of migrating juvenile salmonids.
2. Work below the ordinary high water line at the freshwater site shall only occur between July 1 and October 1 of any year for the protection of juvenile salmonids.
3. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled Ludlow Cove II, Storm Drainage Outfall Exhibit and dated November 3, 2008, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.
4. All manmade debris on the beach shall be removed and disposed of upland such that it does not enter waters of the state.
5. All catch basins, culverts, biofiltration swales, and energy dissipation devices shall be free of obstructions for the life of the project to ensure proper functioning of the stormwater management system.
6. Rock shall be composed of clean, angular material of a sufficient durability and size to prevent its being broken up or washed away by high water or wave action.
7. Wet concrete shall be prevented from entering waters of the state. Forms for any concrete structure shall be constructed to prevent leaching of wet concrete. Impervious materials shall be placed over any exposed concrete not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete is cured.
8. Use of equipment on the beach shall not occur when the project area is inundated by tidal waters.



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9. Use of equipment on the beach shall be held to a minimum, confined to a single access point, and limited to a 25-foot work corridor parallel to the pipeline. Construction materials shall not touch the beach outside this work corridor.

10. If excavated material is to be temporarily placed where it will come into contact with tidal waters, this material shall be covered with filter fabric and adequately secured to prevent erosion and/or potential entrainment of fish.

11. All exposed slopes shall be covered with natural fiber mesh, shall be hydroseeded, and shall be re-vegetated with natural vegetation immediately following installation of the pipeline conveyance.

12. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following construction. These habitat features may be moved during construction if necessary.

13. Project activities shall be conducted to minimize siltation of the beach area and bed.

14. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to the Washington Military Department's Emergency Management Division at 1-800-258-5990, and to the Area Habitat Biologist listed below.

15. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.

16. No petroleum products or other deleterious materials shall enter surface waters.

17. Project activities shall not degrade water quality to the detriment of fish life.

PROJECT LOCATIONS

Location #1 Ludlow Cove II

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|--------------------------------|----------------|------------------------------|----------------|-----------------------------|------------------------------|----------------------|--|
| WORK START: November 07, 2008 | | | | WORK END: February 14, 2010 | | | |
| WRIA: 17.9090 | | Waterbody: Wria 17 Marine | | | Tributary to: Puget Sound | | |
| 1/4 SEC: N 1/2 | Section: 17 | Township: 28 N | Range: 01 E | Latitude: N 47.91953 | Longitude: W 122.69832 | County: Jefferson | |
| Location #1 Driving Directions | | | | | | | |



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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 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



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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.

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 Henry (28) P2

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| Habitat Biologist Margie Schirato | 360-427-2179 | <i>Margie Schirato</i> | for Director WDFW |
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CC:



State of Washington
Department of Fish and Wildlife
Mailing Address: 600 Capitol Way North, Olympia, WA 98501

112850

May 2, 2008

Port Ludlow Associates, LLC
Attention: Mariam Villiard
70 Breaker Lane
Port Ludlow, WA 98365

Dear Ms. Villiard:

SUBJECT: Additional Information Required: Hydraulic Project Application; Port Ludlow Bay; Tributary to Puget Sound; Section 17, Township 28 North, Range 01 East, Jefferson County; WRIA 13.9130; WDFW Log No. 112850-01.

The Washington Department of Fish and Wildlife (WDFW) received the above-referenced Hydraulic Project Application on April 22, 2008. Before we can issue a Hydraulic Project Approval (HPA) for the proposed project, we request that you provide the following additional or clarifying information.

Written notice of compliance with the State Environmental Policy Act (SEPA), including exemption or type of determination, date of exemption or final determination date, and lead agency is required. From the information received it appears you have already submitted all the necessary information to Jefferson County. Please submit the final determination to me once you receive it.

If you have any questions regarding this request for additional or clarifying HPA application information, please contact me at 360-427-2179.

Sincerely,
Margie Schirato

Margie Schirato
Habitat Program

cc: WRIA File, Olympia