



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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November 29, 2011

Bob Zeigler, SEPA/NEPA Coordinator
WA State Department of Fish & Wildlife
Regulatory Services Section
600 Capitol Way North
Olympia, WA 98501-1091



Your address
is in the
Lewis
watershed

Dear Mr. Zeigler:

Thank you for the opportunity to comment on the determination of nonsignificance for the Kalama Falls Hatchery Modrow Trap Upgrade & Repair project located at 161 Modrow Trap Road in Kalama as proposed by Michael DeLaCruz, WA State Department of Fish & Wildlife (WDFW). The Department of Ecology (Ecology) reviewed the environmental checklist and has the following comment(s):

FLOODPLAIN MANAGEMENT: Donovan Gray (360) 407-7253

The cumulative effect of the project with all other existing and anticipated development may not increase the base flood elevation more than one foot. An encroachment analysis may be needed to ensure the project will not obstruct flood flows and cause increased flooding on nearby properties.

**SHORELANDS & ENVIRONMENTAL ASSISTANCE:
Rebecca Schroeder (360) 407-7273**

Fish habitat enhancement projects are not exempt from shoreline permits, per se. They must, instead, meet the criteria listed in RCW 77.55.181.

RCW 77.55.181(1) states, in part: "In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (a) and (b) of this subsection.

- a) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:
 - (i) Elimination of human-made fish passage barriers, including culvert repair and replacement;
 - (ii) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.”

This project does not appear to meet any of these three criteria in subsection (a), and therefore is not eligible for permit review and approval via RCW 77.55.181.

Further, RCW 77.55.181 is not specifically an exemption from Shoreline Management Act permitting, and there is no blanket exemption for a fish habitat enhancement project outside of RCW 77.55.181. WAC 173-27-040, however, describes developments exempt from the Shoreline Substantial Development Permit requirement. One such project is described in WAC 173-27-040(o)(i)(C): A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream. Such a project must also be authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan, per WAC 173-27-040(o)(i).

Even if this proposal were to meet the criteria for exemption from a Shoreline Substantial Development Permit under WAC 173-27-040, this would not exempt the project from any other permitting requirements, such as a Conditional Use Permit or Variance Permit, if required.

SEPA REVIEWER: Sonia Mendoza

WATER QUALITY CONTACT: Sheila Pendleton-Orme (360) 690-4787

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.

Proper disposal of construction debris must be on land in such a manner that debris cannot enter water of the state (e.g., Kalama River) and stormdrains draining to waters of the state or cause water quality degradation of state waters.

During construction, all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills should take precedence over other work on the site.

Clearing limits and/or any easements or required buffers should be identified and marked in the field, prior to the start of any clearing, grading, or construction. Some suggested methods are staking and flagging or high visibility fencing.

A permanent vegetative cover should be established on denuded areas at final grade if they are not otherwise permanently stabilized.

Properties adjacent to the site of a land disturbance should be protected from sediment deposition through the use of buffers or other perimeter controls, such as filter fence or sediment basins.

Cut and/or fill slopes should be designed to minimize erosion. Methods such as slope roughening, terraces, or pipe slope drains may be used.

All temporary erosion control systems should be designed to contain the runoff from the developed two year, 24-hour design storm without eroding.

Provision should be made to minimize the tracking of sediment by construction vehicles onto paved public roads. If sediment is deposited, it should be cleaned every day by shoveling or sweeping. Water cleaning should only be done after the area has been shoveled out or swept.

Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

Department of Ecology
Southwest Regional Office

(SM:11-5458)

cc: Donovan Gray, SEA
Sheila Pendleton-Orme, VFO/WQ
Rebecca Schroeder, SEA
Michael DeLaCruz, WDFW (Proponent)