

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Washington State Department of Transportation
c/o Angela Angove/Alan Soicher
15700 Dayton Avenue North
P. O. Box 330310, MS 138
Seattle, WA 98133-9710
- Request/File No:** Shoreline Substantial Development and Conditional Use Permit
PL12-0050
- Location:** Shoreline of Skagit River along State Route 20 from milepost
100.6 to milepost 101, east of Rockport, within Secs. 20, 21 & 29,
T35N, R10E, W.M.
- Shoreline Designation:** Conservancy.
- Summary of Proposal:** To install engineered log jams and log-based revetments in the
Skagit River adjacent to the highway at a site that has required
repeated emergency bank stabilization. The project is aimed at
providing more lasting protection from streambank erosion.
- SEPA Compliance:** Checklist dated 10/31/11. Determination of Non-Significance
issued by WSDOT on 11/1/11. No appeals.
- Public Hearing:** September 19, 2012. No public testimony. Planning and
Development Services (PDS) recommended approval.
- Decision:** The application is approved, subject to conditions.
- Reconsideration/Appeal:** A Request for Reconsideration may be filed with PDS within 5
days of this decision. The decision may be appealed to the Board
of County Commissioners by filing an Appeal with PDS within 5
days of the date of decision or decision on reconsideration, if
applicable.
- Online Test:** The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. The Washington State Department of Transportation (WSDOT) seeks authority for an installation along the Skagit River about four miles east of Rockport, designed to provide permanent restoration of a site where active streambank erosion has threatened State Route 20 for many years.
2. The project will take place on the river shore between milepost 100.6 and milepost 101 of the highway. The location is within Sections 20, 21 and 29, T35N, R10E, W.M.
3. The river along this stretch is a part of the National Wild and Scenic Rivers System. Under state law, the river and its banks are Shorelines of Statewide Significance. The shoreline environment designation is Conservancy.
4. Proposed in-water work is constrained by deep water, high flow velocities, winter and summer flooding regimes and the presence of historical spawning grounds for listed Chinook salmon and steelhead trout.
5. There is an active farm on the north side of SR 20. The project construction schedule will minimize impacts to the farm and the project will not affect its long term operations. Other adjacent properties are private timberlands and natural areas.
6. The highway (SR 20) through this area is the main route to the east County and across the North Cascades. The work will require closing a portion of the roadway for at least four months. During construction highway traffic will be diverted onto a one-lane paved detour around the project. Traffic control will be used in the operation of the detour.
7. The WSDOT proposes to develop staging areas and construct the bypass road between November 2013 and February 2014. Along the affected highway stretch, the shore stabilization work will be installed between February and April 2014. The bypass road should be removed in May of 2014, thus keeping the highway open during the heavy-travel tourist season of summer.
8. An additional feature of the project will be stabilization work on a mid-channel island. This part of the project is scheduled to take place in August of 2014. Access to this work area will be via a temporary access road across a side channel of the Skagit. This access will be removed following completion of construction.
9. Numerous flood events have triggered ongoing active streambank erosion at the project site. Emergency bank stabilization was performed in 1993, 1994, 2004, 2006 and 2007. These stabilization efforts involved the successive installation of a riprap revetment to protect the roadway and ensure safety. This history led to listing the site under the Chronic Environmental Deficiency program and resulted in the design of the subject permanent restoration project.

10. The project will remove existing riprap and riparian vegetation and excavate portions of the streambank. Approximately 1,300 feet of continuous revetments and four engineered log jams (ELJs) will then be installed. The revetments will be made of dolotimbers and large woody material. In addition, about 200 feet of continuous revetment and a fifth ELJ will be installed along the shoreline of a nearby mid-channel island. Dolotimbers are concrete jack-like structures with bark texturing and natural color to simulate large woody materials.

11. Excavation of the stream channel and dewatering may be necessary for installation of the project. Efforts will be made to minimize impacts during construction. In the river bank area, approximately 12,000 cubic yards of dolos and woody material will be placed below the Ordinary High Water Mark (OHWM) and approximately 3,900 cubic yards of dolos and woody material will be added above the OHWM. Approximately 2,200 cubic yard of excavated riverbed gravel will used for backfill behind ELJ #5.

12. The design follows the Integrated Stream Bank Protection Guidelines issued by the Washington Department of Fish and Wildlife in 2003. The object is for structures embedded in the bank to deflect flow away from the highway and to create natural stream bank roughness that will provide complex habitat for adult and juvenile salmonids. After insertion of the structures, riparian habitat will be restored.

13. Extensive review of the plans has been conducted by federal agencies. A Biological Assessment was prepared, showing that the project area contains documented spawning grounds for Chinook salmon and steelhead trout. The Assessment found that the project is likely to have direct effects on these species. However, the dolotimber design is intended to mimic natural stable jams of large woody material. Once the river has responded to the structures and sediment has reached a dynamic equilibrium, long term effects are expected to be beneficial.

14. The project will require approximately two acres of clearing and grubbing of which 1.4 acres is young riparian forest. Forested areas south of SR 20 will be cleared, but minimally grubbed to permit young shoots to sprout following construction. Temporary best management practices will be implemented for sediment and erosion control during construction.

15. The project was reviewed for compliance with the Skagit County Critical Areas Ordinance. A number of wetland-related reports were prepared, culminating in a Wetland and Stream Mitigation report by WSDOT dated February 2012. The placement of the ELJs and proposed revetments was determined to be in compliance with the County's critical areas regulations. Added protections for stream and wetland impacts are provided by federal regulations.

16. The project will impact a small wetland until eventually replanted buffer vegetation develops. This impact will be mitigated by replacement at a mitigation bank within the watershed. The bypass road was determined to meet the Ordinance because that area will immediately be replanted with native vegetation and quickly restored to its previous function and value. In addition 1.33 acres of riparian area will be enhanced with native trees and shrubs.

17. The project will to some degree change the flood characteristics of the river. A revision in the relevant FEMA map will be needed and is being sought.

18. WSDOT conducted review under the State Environmental Policy Act (SEPA) and issued a Determination of Non-Significance (DNS) for the project on November 1, 2011. The DNS was not appealed.

19. Notice of the development was provided as required by law and proper notice of the public hearing was also given. Only one member of the public commented by letter, raising issues concerning the scope of the right-of-way and questions of title. These matters are not within the jurisdiction of the Hearing Examiner in this permit proceeding. There was no public testimony at the hearing.

20. The Staff Report reviewed the proposal under the SMP chapters on landfills, transportation, and shoreline stabilization and flood protection and determined that the project will be consistent with the local shoreline master program (SMP). In addition, the criteria for conditional use permit approval were analyzed and deemed to be satisfied. The Hearing Examiner concurs with these analyses and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

21. The project meets the criteria for bank stabilization when high water and erosion threaten public works. The project has been professionally designed and exhaustively reviewed from both the engineering standpoint and the environmental effects standpoint. The end result should be both an improvement in protection for the highway and ultimately improvement in the habitat for fish. The project is in the public interest.

22. The proposal is consistent with the statutory policies for Shorelines of Statewide Significance, by virtue of recognizing the statewide interest, embodying long term over short term benefit, and protecting the resources of the shoreline.

23. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SMP 9.06.

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, is consistent with the Critical Areas Ordinance.

4. The proposal is consistent with the preferences for Shorelines of Statewide Significance set forth in RCW 90.58.020.

5. The project is a substantial development requiring a Shoreline Substantial Development Permit. Because it involves channel modification in a Conservancy environment, Shoreline Conditional Use Permit approval is also needed. SMP 7.16(2)(A)(4)(c).

6. In that the proposal, as conditioned, meets SMP 9.02 (Substantial Development Permit criteria) and SMP 11.03 (Conditional Use Permit criteria), the application should be approved.

7. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall obtain all other required permits and approvals and shall abide by the conditions of same.

3. The applicant shall comply with all applicable local, state and federal regulations.

4. Boater warning signs shall be installed directing boaters away from the ELJs and revetments.

5. The project shall be commenced within two years of the final approval of the Shoreline Conditional Use Permit and shall be completed within five years thereof.

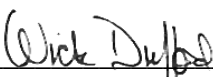
6. If the applicant proposes any modification of the project as hereby approved, a permit revision must be approved by PDS.

7. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development and Conditional Use Permit (PL12-0050) is approved, subject to the conditions set forth above.

DONE, this 28th day of September, 2012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on September 28, 2012
See Notice of Decision, Page 1, for Reconsideration and Appeal information.