

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Washington State Department of Fish and Wildlife (WDFW)
Doug Wiedemeier
600 Capitol Way North
Olympia, WA 98501-1091
- Request:** Shoreline Substantial Development and Conditional Use Permit, PL17-0121
- Location:** 8319 Fish Hatchery Road, Marblemount, within the NE1/4 Sec. 18, T35N, R11E, W.M. Parcel No. P46155
- Shoreline Designation:** Conservancy
- Summary of Proposal:** Improvements to the fish hatchery on Clark Creek near the Cascade River. Project involves replacing the existing intake on Jordan Creek, including weir, and adding a fish ladder adjacent to the creek. The project also includes creating a roughened channel within a portion of Jordan Creek.
- SEPA Compliance:** A Determination of Non Significance (DNS) was issued by WDFW on February 22, 2017. No appeals.
- Public Hearing:** May 24, 2017. Testimony by Planning and Development Services (PDS) Staff and by Doug Wiedemeier, Permitting Biologist, for WDFW. Testimony by two members of the public.
- Decision/Date:** The application is approved, subject to conditions. June 13, 2017.
- IReconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to County Commissioners by filing with PDS within 5 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. The Washington State Department of Fish and Wildlife (WDFW) seeks to replace the Jordan Creek intake, including weir, for its hatchery on Clark Creek near Marblemount.
2. The project includes adding a fish ladder adjacent to Jordan Creek and creating a roughened channel within a portion of Jordan Creek.
3. The site is at 8319 Fish Hatchery Road in Marblemount, within NE ¼ Sec. 18, T35N, R11E., W.M.
4. The existing intake and weir are not in compliance with State and Federal standards for fish screens and fish passage. The project will provide a compliant fish screen and weir. It will also involve channel roughening to promote improved fish passage.
5. The project will be completed in two phases. Year one will involve upland work in an area immediately adjacent to the stream. This work will include construction of much of the new intake and the fish ladder. Year two will involve instream work and tying the intake and stream together. Phase two will include removal and replacement of the existing weir and construction of the roughened channel to allow fish passage at medium and high flows.
6. The site is an existing active fish hatchery which provides recreational opportunities to the public ranging from fishing to bird watching. The hatchery was opened in 1946. It rears Skagit Spring, Summer, and Fall Chinook, Skagit Coho, Skagit Steelhead and Ross Lake Rainbow trout. The hatchery also handles Skagit Chinook, Skagit Coho and Skagit Steelhead that return to the facility.
7. The property contains a surface water diversion and intake from Jordan Creek including a buried pipe to the hatchery. There are on-site buildings and ponds for hatchery operations and residences for staff living onsite. Vegetation within the project area is mostly young (20 years old or less). The project will take place at the southern portion of the parcel in a forested area approximately 350 feet north of Rockport-Cascade Road.
8. The applicant hopes to begin the first phase in July of 2017. The entire project is expected to be complete in September 2018. During construction, a bypass pipe will be installed on the right bank and a cofferdam will be placed upstream and downstream of the work area with the stream diverted through the pipe. This will allow the roughened channel and other instream structures, including the new weir, to be constructed in the dry. The last step will be to remove the cofferdams and bypass pipe allowing the stream to run down the roughened channel.
9. The project site cannot be directly accessed from the county road. A primitive road through the hatchery property will be built for the construction. An existing gravel area adjacent to the project site will be used for staging and parking during construction. Some construction-

related traffic will occur while the project is being built but traffic will return to normal following project completion.

10. The proposed improvements will require the disturbance and removal of some vegetation along the channel of Jordan Creek. Approximately 10 trees will be removed from each side of the channel. The vegetation to be removed is immature. To the extent feasible the affected trees will be kept intact (with root wads if possible) and restored to their original positions as habitat features.

11. The surrounding uses are rural homes and timberland. There are stream-related recreational opportunities in the vicinity. No present uses or activities are expected to be adversely affected by the project. Adverse aesthetic impacts are not anticipated.

12. The Notice of Development Application was published on April 6, 2017 and April 13, 2017. Mailing and posting of notice was carried out as required by law. No comments were received.

13. After environmental review, the WDFW issued a Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) on February 22, 2017. There were no comments and no appeals.

14. The application was routed to various County departments and no negative comments were received. Water Resources noted that the project site is within the Skagit River Instream Flow Rule area (Chapter 173-503 WAC), meaning that the project may not expand water holding volumes or increase the amount of water taken from the stream. Neither of these will occur.

15. The stormwater review technician recommended use of best management practices to prevent sediment from leaving the site and entering the waterway.

16. The Staff reviewed the proposal for consistency with the policies and regulations of the local Shoreline Master Program (SMP), and concluded that, as conditioned, the project will be consistent with the SMP. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

17. The project proposed will not expand current hatchery operations. It will not affect the Conservancy values of the shoreline area. It will not interfere with normal public use of the shoreline and it will be compatible with other permitted uses in the area.

18. The public testimony was from neighbors who did not oppose the project. One complained about the behavior of sportsmen trespassing and littering on her property. She was urged to bring her complaints directly to WDFW.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. SMP 8.07, 9.06(1).
2. The requirements of SEPA have been met.
3. The proposal, as conditioned, meets the criteria for approval of a Shoreline Substantial Development and Shoreline Conditional Use Permit. SMP 9.02, 11.02.
4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

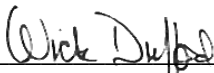
CONDITIONS

1. The project shall be constructed as described in the application materials, except as may be modified by these conditions.
2. The applicants shall obtain all other required permits and abide by the conditions of same.
3. To prevent erosion and/or sedimentation, the project must use best management practices (BMP's) to the extent practical. The BMP's must be updated as site conditions warrant to prevent sediment from leaving the site and entering the waterway. All BMP's must be monitored between construction phases.
4. All areas disturbed during construction will be restored with native vegetation where bare soil remains.
5. The applicant and its contractors shall comply with all applicable State and local regulations, including but not limited to State Water Quality Criteria for Surface Water (Chapter 173-201A WAC), State Standards for Ground Water (Chapter 173-200), and Maximum Environmental Noise Levels (Chapter 173-60 WAC).
6. The project shall be commenced within two years of final shoreline permit approval and completed within five years thereof.
7. If WDFW proposes any modification of the proposal, it shall notify Planning and Development Services prior to the start of construction,
8. Failure to comply with any conditions of approval may result in permit revocation.

DECISION

The subject Shoreline Substantial Development and Conditional Use Permit application (PL17-0121) is approved, subject to the conditions set forth above.

SO ORDERED, this 13th day of June, 2017.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, County staff and Parties of Record, June 13, 2017

See Notice of Decision, page 1, for appeal information.