



HYDRAULIC PROJECT APPROVAL

Washington Department of
Fish & Wildlife
PO Box 43234
Olympia, WA 98504-3234
(360) 902-2200

Issued Date: January 24, 2020
Project End Date: May 22, 2020

Permit Number: 2020-3-7+01
FPA/Public Notice Number: N/A
Application ID: 20409

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
SSHI, LLC dba D.R. Horton ATTENTION: Tia Heim 12910 Totem Lake Blvd NE Kirkland, WA 98034	Anchor QEA, LLC ATTENTION: Joshua Jensen 1201 3rd Avenue, Ste 2600 Seattle, WA 98101

Project Name: TRANSFER APP 2590 Black Horse at Whiskey Creek Development

Project Description: TRANSFER APP# 2590 Modification Request (attached as "Modification Request 5" document): DR Horton proposes to remove the existing arch culvert over Whiskey Creek and implement work to restore the new channel that will flow through the new box culvert that has been previously installed over Whiskey Creek. The arch culvert removal and associated work to restore the Whiskey Creek channel through the culvert is proposed to be conducted outside of the in-water work window.

DR Horton has coordinated with USACE and WDFW and determined that the removal of the existing culvert and installation of the flow restrictor plate at the soonest possible timing would be more beneficial to fish and aquatic habitat compared to allowing the old arch culvert to remain in place over the winter months. Per the pictures included in the attached plan, the existing flows within Whiskey Creek may not be entirely contained within the old channel and old arch culvert under some higher flow conditions.

Fish impacts will be mitigated by implementing the culvert removal work according to the detailed dewatering work plan provided in the attached supplemental Whiskey Creek dewatering and culvert removal construction documentation plan.

Original application: Replace the existing Whiskey Creek culvert under Bender Road with a new 18-ft wide bottomless concrete box culvert, install a new stormwater outfall to Whiskey Creek and restore streambank areas disturbed by construction.

PROVISIONS

1. **WORK TIMING LIMITATIONS:** Work on this project affecting the shoreline, channel or waters of Whiskey Creek may begin immediately and must be completed by May 22, 2020, provided that all work associated with installing the new Bender Road crossing of Whiskey Creek is performed within the time period of July 16th through November 15th of a given year.

EXCEPTION: Work which involves the removal of the existing arch culvert over Whiskey Creek (over which the new box culvert was built), associated channel restoration work, and the installation of the flow restriction plate may be performed during the work window of January 24, 2020 through February 15, 2020. This work must be performed as explicitly outlined in the document titled "WDFW HPA Modification 01-06 Revised Dewatering Plan(1).pdf", dated January 3, 2020 and received in APPs on 1/14/2020.



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GENERAL REQUIREMENTS

2. Work must be accomplished per the plans and proposals submitted under APPs, and supporting information submitted to Washington Department of Fish and Wildlife (WDFW) for Hydraulic Project Approval (HPA), EXCEPT as modified by this HPA.
3. Temporary erosion and sediment control measures must be put in place to prevent the discharge of earth, fine sediment and sediment-laden water to Whiskey Creek and associated wetlands in the project area. Temporary site stabilization and erosion control measures (BMPs) must be maintained until final site restoration is completed and vegetation established to ensure stability of the site.
4. Prior to the start of work, Permittee DR Horton must provide WDFW with a copy of the work schedule and one copy of the construction plans and specifications for the project. Copies may be in paper or electronic (PDF file) format.

WORK SITE LIMITATIONS

5. Except as noted in provision 6 below, all excavation and construction must be isolated from the water of the creek and adjacent wetland (i.e. work must not occur in the wetted perimeter). Construction must be done in the dry. A temporary stream bypass must be installed to route stream flow around the work site.
6. Temporary work area isolation dams and temporary stream flow diversion and bypass facilities may be installed in water as necessary.

EQUIPMENT LIMITATIONS

7. Equipment must work from the bank, from the roadway or from within the work area containment dams.
8. Excavation and shaping of the channel and the installation of streambed boulders must be done with a trackhoe equipped with a thumb, or an equivalent machine, capable of precise excavation and grapping and individually placing boulders.
9. Equipment must be maintained in good working condition and inspected daily to ensure that fuel, lubricants, hydraulic fluid and other materials harmful to fish or other aquatic life are not leaked or spilled to the bed or shoreline. Spill prevention, containment and clean-up materials must be available on the site.
10. Equipment must be stored, serviced and parked at end of the work day at locations at least 50-feet from the stream and wetlands.

REQUIRED NOTIFICATIONS

11. The permittee or contractor must notify the Department field office by phone (509) 607-6711 or email to elizabeth.torrey@dfw.wa.gov at least 72 hours prior to starting construction of this project. The notification must include the permittee's name, project name and location, starting date for work, and the control number for this Hydraulic Project Approval.
12. To allow opportunity for inspection of work, WDFW must be notified at least 48-hours prior to the removal of the temporary flow bypass. Note contact information in provision 11 above.
13. **CONSTRUCTION COMPLETION NOTIFICATION:** The permittee or contractor must notify WDFW headquarters office of the completion of construction within seven days of completing the work. Notification can be by e-mail to



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HPAapplications@dfw.wa.gov , fax to (360) 902-2946 or by mail to Post Office Box 43234, Olympia, Washington 98501-1091. The notification must include the permittee's name, project location, completion date for the work, and the control number for this Hydraulic Project Approval.

WATER MANAGEMENT

14. Construction must be done in isolation from the flowing stream. Temporary work area containment (sandbag dams, etc.) and a temporary stream flow bypass must be used. The work area must be contained (isolated from the flowing stream) to prevent discharge of earth, fine sediment or contaminated water to the stream channel and associated wetlands.

TEMPORARY WORK AREA CONTAINMENT

15. Temporary work area containment must be in place prior to initiating excavation or ground-disturbing work.

16. Work area containment must be made of clean materials such as sandbags, precast concrete ecology blocks, plastic sheeting, bulk bags filled with washed gravel, etc.. Containment must effectively isolate the work areas from water and must prevent fallback, sloughing or wasting of earth and fine sediment to the stream or discharge of harmful materials such as raw concrete, to the water of the stream or associated wetlands.

TEMPORARY BYPASS OF STREAMFLOW

17. A temporary flow bypass must be installed prior to initiating work in the channel. The flow bypass must effectively isolate the work area from the flowing water and pass all stream flow to the channel immediately downstream of the work area. The bypass must be only as long as necessary to isolate the work and prevent seepage or backwatering of the work area. The bypass may include a temporary pump bypass system, temporary culvert, flume or temporary channel. The bypass must be of sufficient size to pass flows and debris likely to occur during the period of in-channel work.

18. If a pump bypass is used, the inlet must be screened to prevent entrainment of fish and the outlet must be equipped with a diffuser or positioned so as to ensure discharge cannot scour/erode the bank or bed. (For WDFW/NMFS screening criteria, refer to the publication entitled Anadromous Salmonid Passage Facility Design by the National Marine Fisheries Service, Northwest Region, Portland, Oregon, 2011. A copy is available at Internet Link: <http://www.nwr.noaa.gov/Publications/Reference-Documents/Passage-Refs.cfm>). Once started, the pump bypass must be run continuously until the work is completed to the extent it is no longer necessary to bypass flows. Back-up pumps on-site and twenty-four-hour monitoring for overnight operation are required.

19. If a temporary bypass channel is constructed, the channel must be lined with plastic membrane or other clean, suitable material.

20. A diversion dam of sandbags and plastic sheeting, or an equivalent clean structure, must be placed immediately above the work area to divert the entire flow of the stream through the bypass. If necessary to prevent backwater from entering the work area, an equivalent, clean structure must be installed at the downstream end of the bypass. There must be no in-water use of earth or clay.

21. Diversion of flow through the bypass must be done incrementally to allow capture and safe removal of any fish remaining in the work area. Any fish trapped inside of the work area after the flow has been diverted must be captured and released unharmed downstream of the project. Fish removal must be as per the guidance in the US Army Corps of Engineers Programmatic Biological Assessment for Restoration Actions in Washington, 2008, Appendix D (copy available at this link:



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<http://www.nws.usace.army.mil/Portals/27/docs/regulatory/ESA%20forms%20and%20templates/2008%20Restoration%20BA.pdf>) or other suitable protocol approved by WDFW. (Note: Permittee may request assistance from the Department for this task. Assistance will be provided if the Department has personnel available. Please provide as much advanced notice as possible.)

22. Upon completion of the project, the temporary bypass must be removed incrementally so as to prevent a temporary dewatering of the channel below the project. The stream bypass diversion dam must be opened sufficiently to wet the channel through the new culvert while still retaining at least one half of the flow in the bypass channel. Once the new channel is fully wetted, the remaining flow can be gradually diverted into the new channel. Any fish stranded in the temporary bypass channel must be safely relocated to the flowing stream. The bypass diversion and all remaining materials used for the temporary bypass and containment structures (other than round, washed gravel or the specified streambed gravel) must be removed from the channel and disposed of offsite at an approved upland area. If washed stream gravel was used for the diversion or containment dams, it must be redistributed in the channel so as to not obstruct flows or fish passage.

DEWATERING OF WORK AREAS

23. During initial dewatering of work areas, turbid water must be pumped to upland areas for treatment to remove silt, fine sediments and materials harmful to fish and aquatic life. Subsequent pumping or draining of clean water infiltrating through sands and gravels may be discharged directly to the stream provided that: a) a sump chamber is installed away from the main work area to intercept the clean inflow, b) waste water containing raw concrete or other harmful materials is NOT reaching the sump chamber, c) water being pumped or drained from the sump is clear (no suspended solids or turbidity), and d) state water quality standards are satisfied. Lines discharging water to the stream must be equipped with a diffusing device which must prevent scouring or dislodging of fine sediments from the bank or bed.

WASTEWATER DISPOSAL

24. Wastewater containing mud, silt or materials harmful to aquatic life must be pumped to specifically authorized upland locations for treatment and disposal. Care must be taken to ensure no harmful material (e.g. raw concrete, petroleum products, toxic chemicals, etc.) are allowed to enter the water of the creek or associated wetlands. Washing of equipment, concrete trucks, chutes, tools, etc. must be done at locations where wash water will not be discharged to the stream or wetlands.

CULVERT AND CHANNEL WORK

25. The entirety of the old arch culvert (which includes the metal superstructure, the creosote footings, and the concrete bed) must be removed using hand tools; machinery which provides suspension only may be used provided that the equipment tracks/wheels do not operate within the wetted width of Whiskey Creek.

26. The new crossing structure must be a 18-foot clear span precast concrete bottomless arch culvert as per submitted plans.

27. During grouting of joints in the new concrete box culvert, the joints must be sealed or work area contained to prevent leakage of raw concrete, toxic materials, or water contaminated with such materials, to the creek.

28. The streambed through the new culvert must be constructed of a designed, well-graded mix of rounded streambed cobbles, gravel and sediment. Material conserved from excavation may be used if suitable and meets the specification. There must be no angular material incorporated in the streambed. The streambed elevation at the thalweg must match the existing channel thalweg elevations at the upstream and downstream ends.



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29. The culvert backfill and streambed mix must contain sufficient sand and fines to ensure that low stream flows will not percolate through the streambed instead of flowing across the surface of the bed. The backfill and streambed material must be installed in lifts. During installation of each lift, gravel and fines must be worked into the voids between the larger rocks to control permeability of the streambed and ensure stream flow remains on the surface of the bed. Water must be used to facilitate the choking of the interstitial voids in the streambed cobble and gravel with the finer streambed sediments.

30. To ensure that low flows are not dispersed across the entire channel width, the channel bed must slope to the center of the channel and a narrow thalweg must be defined in the stream bed so as to concentrate low flows and provide for fish passage. The defined thalweg must match the existing channel thalweg immediately upstream and downstream of the work area.

31. Channel margin boulders must be placed in the culvert as shown on the plans. Suitably shaped, 1-man to 2-man size boulders must be placed along the culvert walls to deflect the thalweg away from the walls and provide resting cover for fish. Boulders must be countersunk into the streambed up to one half of their height.

32. After the streambed material has been installed to its final configuration, the bed must be washed with water so as to leave a clean, natural-like streambed surface and wash fine materials down into the voids between the larger bed particles and reduce permeability of the bed. Wastewater from this washing must be captured and pumped to an upland area for disposal.

33. Road fill associated with the culvert must be protected from erosion to the 100-year peak flow with headwalls, wingwalls and rock riprap. Rock riprap used for fill protection must be angular rock of sufficient size to withstand the 100-year peak flow velocities.

34. A flow restriction plate meeting the specifications submitted in the planset "WDFW Modification Whiskey Creek 11-11-2019.pdf" may be temporarily installed on the inlet of the new culvert. The restrictor is permitted to remain in place for a length of time no greater than 5 years (through January 2025), or only until the siphon at the Ellensburg Water Company under Whiskey Creek is corrected. See Provision 41.

35. The restriction plate must be inspected and maintained per the "MAINTENANCE for Flow Restrictor 11.5.19.docx" document submitted and uploaded to APPs.

CONSTRUCTION OF STORMWATER CHANNEL OUTFALL TO CREEK

36. The construction of the stormwater channels (off-site flow bypass ditches) transition into the creek (outfall) must be done in isolation from the wetted perimeter of the stream. Temporary work area isolation must be as per provisions 14 and 15 above. If fish are trapped inside of the work area, they must be captured and released unharmed upstream of the work area. There must be no excavation within the flowing water of the stream.

37. The stormwater channels transition to the stream must be constructed as per submitted plans entitled "EN-104-2019-11-25.pdf". Following construction, the bed surface of the channel transition must be washed with water so as to leave a clean, streambed-like surface leading to the Whiskey Creek.

38. The northern ditch must be outfitted with at least two rock check dams which are a minimum of 6 inches high, so as to prevent fish from accessing the ditch network.

SITE RESTORATION

39. All waste material and earth in excess of backfill needs must be removed completely from the channel and



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disposed of in an approved upland location outside of the floodplain

40. Protect all exposed soils with coir fabric or similar biotechnical erosion control mechanisms.

FOLLOW UP AND MAINTENANCE

41. A complete site restoration plan, replanting plan, proposal for irrigation ditch dissipation pad work, and proposal for the removal of the flow restriction plate must be incorporated into the new HPA application which must be applied for no later than July 01, 2020.

42. The stream crossing (box culvert, restriction plate, and associated channel bed) must be maintained by the owner to ensure continued, unimpeded upstream and downstream fish passage. If this facility becomes a hindrance to fish passage, the owner must be responsible for obtaining an HPA and providing prompt repair. Financial responsibility for maintenance and repairs must be that of the owner.

LOCATION #1: Site Name: Black Horse at Whiskey Creek
1406 West Bender Road, Ellensburg, WA 98926

WORK START: January 24, 2020

WORK END: May 22, 2020

<u>WRIA</u>		<u>Waterbody:</u>			<u>Tributary to:</u>	
39 - Yakima (Above Naches R)		Unknown Stream Number			Unknown	
<u>1/4 SEC:</u>	<u>Section:</u>	<u>Township:</u>	<u>Range:</u>	<u>Latitude:</u>	<u>Longitude:</u>	<u>County:</u>
	27	18 N	18 E	47.024712	-120.568878	Kittitas

Location #1 Driving Directions

From I-90 East, take exit 106 onto US-97 South. Drive straight on US-97 South for approximately 0.5 mile and continue on West University Way for another 0.6 mile. Turn left onto Reecer Creek Road and drive for 1 mile until the property is reached. See Sheet 1 for a vicinity map.

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. 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.



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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 civil action against you, including, but not limited to, a stop work order or notice to comply, and/or a gross misdemeanor criminal charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

MINOR MODIFICATIONS TO THIS HPA: You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA unless this is a General HPA. If this is a General HPA you must use the Major Modification process described below. Any approved minor modification will require issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you did not use APPS you must submit a written request that clearly indicates you are seeking a minor modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

MAJOR MODIFICATIONS TO THIS HPA: You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you did not use APPS you must submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You may email your request for a major modification to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

APPEALS INFORMATION



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If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee may conduct an informal hearing or review and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.



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Habitat Biologist
Elizabeth Torrey

Elizabeth.Torrey@dfw.wa.gov
509-607-6711

A handwritten signature in blue ink that reads "Elizabeth Torrey".

for Director
WDFW
