

APPENDIX D: PERMITTING GUIDANCE

Environmental permits are typically required for work in and around water. However, many of the applicable permitting processes have “streamlined” options for beneficial habitat restoration projects. Proponents of projects defined in the Plan may qualify for one or more of the following streamlined processes. A complete description of these and other environmental permitting processes can be found at the WA Governor’s Office of Regulatory Assistance (2009).

U.S. Army Corps of Engineers Section 404, or Section 10 Permits

Work below the Ordinary High Water Mark (OHWM) or Mean High Water Line (MHWL) requires an approval from the U.S. Army Corps of Engineers (Corps). Habitat restoration projects may qualify for two types of streamlined Corps permit processes: Letters of Permission or Coverage under Nationwide Permits (likely Nationwide Permits 13 (Bank Stabilization) and 27 (Stream and Wetlands Restoration Activities). More complex projects that do not qualify for these permitting processes would require an individual permit. Guidance on permit options can be found at the Corps’ Seattle District web site (2009).

Section 7 Endangered Species Act (ESA) Consultation

Projects requiring a federal action (a Corps permit for example) are required to undergo consultation with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) on potential impacts to ESA listed species, including the fish targeted for recovery in this implementation plan. In order to create efficiencies in habitat restoration work, a statewide restoration programmatic consultation covering species under the responsibility of both NMFS and USFWS has been adopted by the Corps, NMFS and USFWS. This programmatic consultation addresses many restoration activities that would potentially occur under the Plan. Activities that fit within the programmatic consultation do not undergo the more lengthy informal or formal consultation processes. The programmatic consultation can be found on the Corps’ Seattle District website (USFWS and NMFS 2008).

WDFW Hydraulic Project Approval

Work below the Ordinary High Water Mark (OHWM) or Mean High Water Line (MHWL) requires a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW). Fish enhancement projects can qualify for streamlined review if the project meets specific criteria (RCW 77.55.181). WDFW processes applications for fish enhancement projects within 45 days. More information can be found at the WDFW HPA website (WDFW 2009).

Local Agency Permits

Many cities and counties have ordinances or regulations that protect their critical areas and shorelines. The restoration projects prescribed in this plan may trigger one or more permits related to these ordinances. Project proponents should check with their local jurisdictions to identify specific requirements.

Literature or Web Sites Cited

US Army Corps of Engineers. 2009.

http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Home_Page.

USFWS and NMFS. 2008. Endangered Species Act Section 7 Consultation Biological Opinion And Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation. FWS No.: 13410-2008-FWS # F-0209; NMFS No.: 2008/03598.

http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=2008_FishRestoration.

WA Governor's Office of Regulatory Assistance. 2009. <http://www.ora.wa.gov/>.

WDFW. 2009. <http://wdfw.wa.gov/hab/hpapage.htm>.