

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-2017-10
Administering Agency Douglas County Transportation and Land Services

Type of Permit: ■ Shoreline Substantial Development Permit

Action: ■ Approved □ Denied

Date of Action: April 22, 2019

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Douglas County Regional Shoreline Master Program, a permit is hereby granted to:

**The Public Utility District No. 1 of Chelan County
POB 1231
Wenatchee, WA 98807**

To undertake the following development: An application for a shoreline substantial development permit for shoreline stabilization of approximately 1,647 linear feet of bank slope at Kirby Billingsley Hydro Park.

Upon the following property: The subject property is described as being located within the Northeast Quarter of Section 24, Township 22N., Range 20 E., W.M., Douglas County, Washington. The shoreline designation is Urban Conservancy. The Douglas County Assessor's Numbers are 41000002305, 41000002306, 41000003402, 41000003500, 41000003604, 41000003603, 41000003602, 41000003601, 41000002801, 41000002801, and 41000002702.

Within 200 feet of the Columbia River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within an urban conservancy designation. The Douglas County Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

CONDITIONS OF APPROVAL

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.

2. The project shall proceed in substantial conformance with the plans and application materials on file, submitted on August 21, 2017, revised and augmented May 31, 2018 and further revised on March 12, 2019 except as amended by the conditions herein.
3. The applicant shall comply with all applicable local, state and federal regulations.
4. A copy of this permit and attached conditions shall be kept on-site and provided to the contractor and all others working within the shoreline area at all times. The applicant, contractor, machinery operators and all others working within the shoreline area shall have read this permit and attached conditions and shall follow its conditions at all times.
5. The project application shall proceed consistent with the following plans and/or studies in support of the project:
 - 5.1 McMillen Jacobs (McMillen Jacobs Associates), 2015 Kirby Billingsley Hydro Park Shoreline Stabilization Waters of the US and Wetlands Delineation Report Prepared For Chelan County Public Utility District No. I, Wenatchee, WA Dated November 2015.
 - 5.2 McMillen Jacobs, 2016a Kirby Billingsley Hydro Park Shoreline Stabilization Biological Assessment Prepared for Chelan County Public Utility District No. I, Wenatchee, WA Dated December 2016.
 - 5.3 McMillen Jacobs, 2016b Kirby Billingsley Hydro Park Shoreline Stabilization Habitat Management and Vegetation Plan Prepared for Public Utility District No. I or Chelan County, Washington Dated December 2016 and amended May 1, 2018.
 - 5.4 Water Quality Protection Plan (WQPP)
 - 5.5 Spill Prevention, Control, and Countermeasures (SPCC) Plan
 - 5.6 Temporary Erosion and Sedimentation Control (TESC) Plan
 - 5.7 Master Stabilization Plan received March 12, 2019 which includes, but is not limited to: Existing Conditions; Demolition Plan; Erosion and Sedimentation Control Plan (Areas A-E); Site Plan; Site Details; Grading Plan; Landscaping Plan; and Irrigation Plan
6. The following BMPs will be employed during construction:
 - 6.1 All applicable permits for the Project would be obtained prior to construction. Work would be performed according to the requirements and conditions of these permits.
 - 6.2 The contractor would inspect fuel hoses, oil or fuel transfer valves, and fittings on a regular basis for drips or leaks in order to prevent spills or runoff of deleterious materials into the surface water.
 - 6.3 The contractor would conduct all refueling at least 150 feet from the river.
 - 6.4 Chelan PUD would develop a Water Quality Protection Plan.
 - 6.5 The contractor would be responsible for the preparation and implementation of a Spill Prevention, Control, and Countermeasures (SPCC) Plan to be used for the duration of the Project, which would include spill prevention, control, and response BMPs. In addition, the SPCC Plan would outline roles and responsibilities, notifications, inspections, and response protocols to be implemented in the event of a spill.
 - 6.6 The contractor would provide the Project Engineer with a Temporary Erosion and Sedimentation Control (TESC) Plan and/or a Construction Stormwater Pollution Prevention Plan (SWPPP) that would use BMPs to prevent erosion and sediment-laden runoff from leaving the site; this TESC/SWPPP would be implemented prior to the start of ground-disturbing activities.
 - 6.7 All areas disturbed by Project construction would be stabilized and re-vegetated as soon as possible post-construction to prevent erosion prior to the removal of TESC/SWPPP measures.

- 6.8 As part of the TESC/SWPPP, clearing limits would be clearly marked to limit impacts to upland vegetation in those areas proposed as part of this Project. The contractor would clean equipment to remove noxious weeds/seeds, aquatic invasive species, and petroleum products prior to mobilizing to the site.
- 6.9 The contractor would not use asphalt, concrete, or steel for shoreline stabilization or in the active stream channel. Geofabric will be used behind the treatment to stabilize the area.
- 6.10 Excess or waste materials would not be disposed of or abandoned waterward of the OHWM or allowed to enter Waters of the State.
- 6.11 Demolition and construction materials would not be stored where wave action or upland runoff can cause materials to enter surface waters.
- 6.12 For temporary upland soil or sediment stockpiles, the offloading site would include BMPs consistent with the SWPPP to prevent uncontrolled release of material to aquatic areas or upland areas.
- 6.13 Excavators and loaders would contain hydraulic fluid certified as non-toxic to aquatic organisms.
- 6.14 If in-water work occurs, a turbidity curtain would be installed in the water below the OHWM around the work area to minimize the downstream transport of re-suspended sediments from construction activities in the mainstem of the Columbia River.
- 6.15 If in-water work occurs, a block seine would be deployed from shore to herd fish out of the construction area. Once deployed, the area would be surveyed via snorkeling to ensure all ESA-listed fish are excluded from the construction area. The seine would remain in place during all in-water construction activities to prevent fish from re-entering the construction area.
- 6.16 The placement of material would occur starting at lower elevations and working to higher elevations, to the extent practicable.
- 6.17 Imported materials would consist of clean granular material free of contaminants and all other deleterious materials.
- 6.18 In-water work will be conducted during the approved in-water work window, currently October 1 - 31 for Chelan PUD.
7. A five year monitoring period shall commence upon placement of the planting materials and irrigation system.
8. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 80% survival during the 5 year monitoring period and shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
9. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified biologist, as defined by Douglas County Code. The biologist must verify that the conditions of approval and provisions in the Habitat Management and Mitigation Plan have been satisfied.
10. Non-compliance can result in the scheduling a hearing with the Douglas County Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.
11. Where a condition imposed herein may be found inconsistent with the requirements of the Washington State Department of Fish and Wildlife, HPA Permit, or permitting issued by the United States Army Corps of Engineers, the Douglas County Land Services Director shall have discretion to allow for project redesign consistent with the approvals granted by said agencies; if the redesign can be found consistent with the Douglas County Code, the Shoreline Master Program, and the Shoreline Management Act.

12. Construction of the project for which this permit has been granted must be commenced within two (2) years of the effective date of this permit. Authorization to conduct development activities granted by the permit shall terminate five (5) years from the filing date of the permit.

FINDINGS OF FACT

1. The applicant is Public Utility District No. I of Chelan County.
2. Public Utility District No. I of Chelan County has submitted an application for a shoreline substantial development permit for shoreline stabilization of approximately 1,647 linear feet of bank slope at Kirby Billingsley Hydro Park. .
3. The subject property is described as being located within the Northeast Quarter of Section 24, Township 22N., Range 20 E., W.M., Douglas County, Washington. The shoreline designation is Urban Conservancy. The Douglas County Assessor's Numbers are 41000002305, 41000002306, 41000003402, 41000003500, 41000003604, 41000003603, 41000003602, 41000003601, 41000002801, 41000002801, and 41000002702
4. The subject property is located in the Recreation Overlay.
5. The Columbia River Shoreline section of the subject property is designated as Urban Conservancy by the Douglas County Regional Shoreline Master Program.
6. WAC 173-27-150 establishes minimum review criteria for Shoreline Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
7. The applicant has provided the following plans and/or studies in support of the project:
 - 7.1 McMillen Jacobs (McMillen Jacobs Associates), 2015 Kirby Billingsley Hydro Park Shoreline Stabilization Waters of the US and Wetlands Delineation Report Prepared For Chelan County Public Utility District No. I, Wenatchee, WA Dated November 2015.
 - 7.2 McMillen Jacobs, 2016a Kirby Billingsley Hydro Park Shoreline Stabilization Biological Assessment Prepared for Chelan County Public Utility District No. I, Wenatchee, W A Dated December 2016.
 - 7.3 McMillen Jacobs, 2016b Kirby Billingsley Hydro Park Shoreline Stabilization Habitat Management and Vegetation Plan Prepared for Public Utility District No. I or Chelan County, Washington Dated December 2016 and amended May 1, 2018.
 - 7.4 Water Quality Protection Plan (WQPP); Spill Prevention, Control, and Countermeasures (SPCC) Plan; and Temporary Erosion and Sedimentation Control (TESC) Plan.
 - 7.5 Master Stabilization Plan received March 12, 2019, includes: Existing Conditions, Demolition Plan, Erosion and Sedimentation Control Plan (Areas A-E), Site Plan, Site Details, Grading Plan, Landscaping Plan, and Irrigation Plan.
8. The mitigation proposed in the plans and/or studies meets the requirements of the Douglas County Regional Shoreline Master Program. Specifically, 4.1 Ecological Protection And Critical Areas, 4.2 Water Quality, 4.3 Vegetation Conservation, 4.7 Restoration, and 5.14 Shoreline stabilization
9. The project is designed to minimize impacts to instream and upland habitat in the vicinity of the Park. In order to avoid or minimize potential adverse impacts to the environment, the applicant has provided Best Management Practices which will be employed during construction.

10. Chelan PUD is the designated Responsible Official; and issued a Determination of Non-significance on July 24, 2017.
11. The applicant has provided a “Written Response to Criteria in the Washington Administrative Code.”
12. Cultural resource studies were conducted extensively as part of the licensing for Rock Island Dam; and the Yakama Nation was provided an opportunity to comment.
13. Surrounding property owners were given the opportunity to comment on the proposal, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
14. No public comments were received.
15. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
16. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
17. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
18. An open record public hearing after due legal notice was held on April 18, 2019.
19. The entire planning staff file was admitted into the record at this hearing.
20. Additionally, Exhibit 1 was admitted into the record. Exhibit 1 is an email from the applicant’s agent indicating that she would not be attending the hearing and that the applicant had no objection to any of the proposed conditions of approval.
21. No member of the public testified at this hearing.
22. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this Decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan and the Douglas County Regional Shoreline Master Program.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 “Zoning” and Title 19 “Environment” of the Douglas County Code.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Douglas County Regional Shoreline Master Program, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

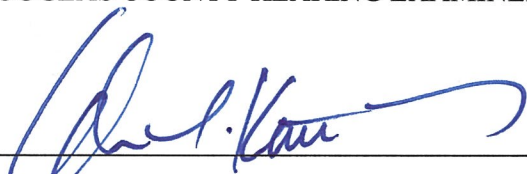
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approved this 22nd day of April, 2019.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the “date of receipt” as defined in RCW 43.21B.001 to file a petition for review with the Shorelines Hearings Board as provided for in Washington law.

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department _____

Approved _____

Denied _____

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official