

Habitat Recovery Pilot Program

HCICAG

December 16, 2021

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WDFW Habitat Program





What is the Habitat Recovery Pilot Program?

...and how did we get here?

- E2SHB 1382
- 2021 legislative session
- Effective 7/25/21







Implementation – Process

Habitat Recovery Pilot Program

1. Pre-qualifications
2. HPA application (with distribution)
3. HPA completeness (with notification)
4. Multiagency Permitting Team review (as needed)
5. HPA permit (as only state/local permit*)

Apply to WDFW using APPS
Applicant sends a copy of the application to:
Local government
Members of MAP
Affected federally recognized tribes

APPS Status: Statutorily incomplete

WDFW reviews for statutory completeness
- Restoration project and is reviewed/approved or funded by qualifying restoration program
- Pre-qualifications satisfied/documentated

Missing application material is requested

APPS Status: Accepted
WDFW notifies
- Local government
- **Affected federally recognized tribe**
- MAP

WDFW permitting biologist makes a decision on the application before 45 days
APPS Status: HPA issued

25- day comment period

MAP can exclude a project from the streamline process if it concludes that the project may adversely impact human health, public safety, or the environment, or that the project's scope or complexity makes it not appropriate.

During 25- day comment period
- Local govt.
- Member of MAP team
- **Affected federally recognized tribe**
Can request application be placed ON HOLD to convene MAP team and applicant in meeting
Must provide WDFW with a written basis for its objections*
APPS Status: On Hold

MAP concludes streamlined review process is appropriate for the project, hold is lifted and WDFW makes decision in the time remaining

WDFW notifies local govt. and **affected federally recognized tribes** of this determination

APPS Status: Rejected
Can reapply using standard application form



Project pre-qualification

RCW 77.55.480 – emphasis added

(2)(a) In order to be included in this statewide pilot program and qualify for the permit review and approval process created in this section, an environmental restoration project must directly benefit freshwater, estuarine, or marine fish, or the habitat they rely on, and **must be included on a list** of projects reviewed, approved, or funded by one of the following restoration programs:

- (i) The Bonneville power administration restoration program;
- (ii) The Brian Abbott fish barrier removal board;
- (iii) The estuary and salmon restoration program;
- (iv) The floodplains by design program;
- (v) The office of Chehalis basin aquatic species restoration program;
- (vi) The office of Columbia river habitat recovery projects;
- (vii) The Puget Sound acquisition and restoration fund;
- (viii) The Puget Sound national estuary program;
- (ix) The salmon recovery funding board;
- (x) The Washington coast restoration and resiliency initiative;
- (xi) The Yakima tributary access and habitat program;
- (xii) Fish recovery projects sponsored by a federally recognized tribe; and
- (xiii) Fish acclimation facility projects sponsored or operated by a federally recognized tribe.



Pre-qualification process

Flood Risk

Must document consistency with local, state, and federal flood risk reduction requirements. *Local government role.*

Cultural Resources

(c)(i) With regard to cultural resources, a project applicant or funding agency must review the project with the Department of Archaeology and Historic Preservation and complete any required site surveys before the project applicant files an application under this section. A project applicant must document consistency in the application with applicable cultural resource protection requirements.

At least 60 days prior to applying for the HPA...

Plan A: Funding agency coordinates review – often RCO. Grant contract contains information needed to “document consistency” – *include with HPA application.*

Plan B: Proponent provides copies of applications to DAHP and affected federally recognized tribes at least 60 days prior to applying to WDFW for HPA. *Need DAHP letter.*

Tribal role in coordination with DAHP per standard project review – archeology.



Flood risk reduction

RCW 77.55.480(2)(b) – emphasis added

(b) A project application reviewed under this section must document consistency with local, state, and federal flood risk reduction requirements. A project may not be reviewed under the process created in this section if the local government within whose geographical jurisdiction the project will be located determines that the project does not meet applicable flood risk reduction requirements, *or otherwise determines that the project raises concerns regarding public health and safety*, and the local government provides timely notice of its determination to [WDFW].

As with Fish Habitat Enhancement Project (FHEP) process...

...need National Flood Insurance Program (NFIP) review / approval / permit



Cultural resources

RCW 77.55.480(2)(c) – emphasis added

(iii) [WDFW] may not review a project under the expedited process created in this section if a cultural resource site is identified at the project site or if an affected federally recognized tribe withholds its consent that the project should be expedited according to the process set forth in this section. Such consent may be withheld upon a determination that the project may adversely impact cultural resources. Notice of such a determination must be provided to the department by the affected federally recognized tribe in a timely manner.

(iv) In the event of an inadvertent discovery of cultural resources or human remains, the project applicant shall immediately notify [WDFW], [DAHP], and affected federally recognized tribes. In the event of an inadvertent discovery of cultural resources or human remains, existing requirements applicable to inadvertent discoveries of cultural resources and human remains, including those set forth in chapters [27.53](#), 27.44, and [68.60](#) RCW, apply.



When on state-owned aquatic land

RCW 77.55.480(4)

(d) For those projects that require a lease or other land use authorization from the department of natural resources, the project applicant must include in its application for a permit under this section a signed joint aquatic resources permit application, attachment E. The project applicant must provide a copy of a completed application to the department of natural resources no fewer than 30 days before the application may be filed with the department. The department of natural resources must make a final decision on applications for projects under this section within 30 days of the issuance of a permit under this section.

DNR aquatic land use authorization required:

In most cases, the instrument will be a license (i.e., right-of-entry) – *technically, not a permit – proprietary (public land) not regulatory*



Streamlined review process

RCW 77.55.480 – emphasis added

(3) Fish recovery and fish habitat restoration projects meeting the criteria of subsection (2) of this section [i.e., pre-qualification] are expected to result in beneficial impacts to the aquatic environment. Projects approved for inclusion in this pilot program and that are reviewed and approved according to the provisions of this section are not subject to the requirements of RCW [43.21C.030](#)(2) and are not required to obtain local or state permits or approvals other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program.

One permit:

HPA, but no other* local or state permit (such as a shoreline permit)

No SEPA review:

Exempt from State Environmental Policy Act threshold determination



Permits & fees

RCW 77.55.480 – emphasis added

(5) No local or state government may require permits or charge fees other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program, for fish recovery pilot projects that meet the criteria of subsection (2) of this section [*i.e., pre-qualification*] and that are reviewed and approved according to the provisions of this section.

No permits or permit fees:

Except as required for flood risk reduction (NFIP), other federal program(s)

No fee for applying for / receiving HPA from WDFW



HPA process

Proponent applies for HPA through APPS (online)

...while providing copies of application to local government, affected tribes, and state agencies on multiagency permitting team (“MAP Team”)

WDFW makes determination of completeness

...and notifies local government with regulatory jurisdiction, affected tribes, and state agencies on MAP Team

45 days to issue HPA

However, within 25 days, any member of the MAP Team *or an affected tribe* may “stop the clock” in order to review and evaluate project.

MAP Team review process cannot exceed 45 days from request for review.



When project review is requested

RCW 77.55.480(4)(b) – *italics added*

(ii) **Within 25 days** of receiving a copy of the complete project application, the local government within whose geographical jurisdiction the project would be located, any member of the multiagency permitting team, or a potentially affected federally recognized tribe may request that [WDFW] place the application on hold and *immediately* convene a meeting with the requesting entity and the multiagency permitting team to review and evaluate the project.

(iii) All parties involved in this review process shall *work in good faith to expedite permitting* and any party with concerns shall *provide the basis for its concerns and potential pathways to address those concerns*. Any party *objecting to expedited permitting* shall provide a *written basis* for its objections to [WDFW] or the multiagency permitting team.

(iv) The multiagency review process *may not exceed 45 days* from the request for review.



MAP Team

RCW 77.55.480(4)(c)

- Local government with jurisdiction (ad hoc, case-by-case)
- WDFW
- Ecology
- Recreation and Conservation Office (RCO)
- DNR (if project on state-owned aquatic land)
- Puget Sound Partnership (if project located in the Puget Sound basin)

If a project review meeting is convened:

- For projects located in the Puget Sound basin, meetings of the MAP Team are facilitated by the Puget Sound Partnership.
- All other meetings of the MAP Team are facilitated by RCO.



MAP Team

state agency roster

Habitat Recovery Pilot Program (HB 1382) Multiagency Permitting Team (MAP Team):

<u>Agency</u>	<u>Role</u>	<u>Name</u>	<u>Title</u>
WDFW	primary	Josh Peters	Protection Division Manager
WDFW	alternate	TBD	Pilot Program Coordinator
ECY	primary	Jeremy Sikes	Senior Shoreline Planner
ECY	alternate	Sydney Fishman	Shoreline Armoring Planning Associate
RCO	primary	Marc Duboiski	Salmon Section Manager
GSRO	primary	Jeannie Abbott	Lead Entity Program Manager
DNR	primary	Michal Rechner	Assistant Division Manager, Aquatics
DNR	alternate	Hannah Blackstock	Environmental Planner 4, Aquatics
PSP	primary	Stephanie Suter	Planning Program Manager
PSP	alternate	TBD	Pilot Program staff



Criteria / process for exclusion

RCW 77.55.480(4) – *emphasis added*

(d) [WDFW] or, where applicable, the multiagency permitting team, shall exclude any project from the review and approval process created by this section if it concludes that the project may adversely impact human health, public safety, or the environment, or that the project's scope or complexity renders it inappropriate for expedited review.

(e) If [WDFW] or the multiagency permitting team determines that the review and approval process created by this section is not appropriate for the proposed project, [WDFW] shall notify the applicant, the appropriate local government, and potentially affected federally recognized tribes of its determination. The applicant may reapply for approval of the project under generally applicable review and approval processes. If the multiagency permitting team determines that the review and approval process created by this section is appropriate for the proposed project, the hold on the application must be lifted and [WDFW] shall make a decision within the time that remains of the original 45-day decision deadline.

(f) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW [77.55.021](#)(8).



Two phases of project review

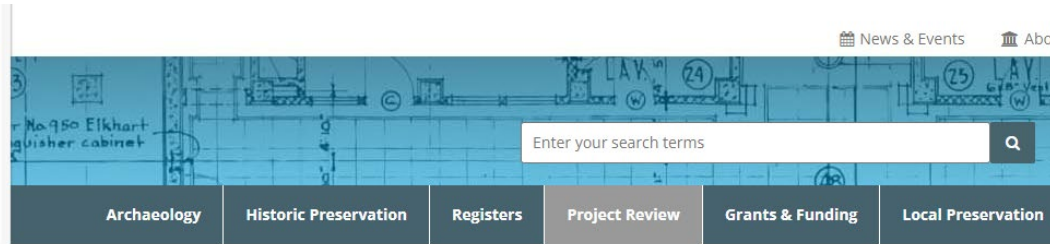
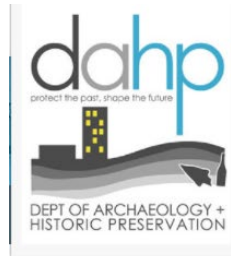
Pre-qualification
Cultural Resources –
project review for
archeology per DAHP
process – applicant or
funding agency
responsibility

Flood Risk – initiate prior
to HPA review

HPA-MAP Team review

*Health, safety,
environment, scope,
complexity* –

Concerns submitted in
writing to WDFW within 25
days of determination of
completeness



Home » Project Review » Project Review - Archaeology

PROJECT REVIEW

- Archaeology
- Historic Buildings
- I Need a Letter from the SHPO
- Wisaard System >
- Section 106
- SEPA
- Forest Practices Act
- Shoreline Management Act
- Hiring a Preservation Consultant
- Education/Training >
- Preservation Laws
- Mitigation Options
- Standards for Cultural Resource

Project Review - Archaeology

Compliance with archaeological resources requires the hiring of a professional archaeologist who meet the Secretary of the Interior's Professional Qualification Standards and State Law. This individual(s) will handle the formal consultation with DAHP. The department has developed a set of standards (Washington State Standards for Cultural Resource Reporting) which outlines how to conduct the archaeological survey and inventory process. The document is intended to explain survey standards and expectations and provides direction for professionals preparing and submitting Archaeology Site Inventory Forms and the survey reports that accompany them. Be aware that these standards do not set or interpret any policies, regulations, or permit requirements of any other public agency. For survey projects tied to federal, state, or local laws, these standards provide only technical information about the survey and inventory process and completion of related reports.



For specific information about various Federal and State programs and how to comply with 1 regulations relating to historic preservation see left column.

What to send to the SHPO:

- A CR Report Cover Sheet
- A letter and map (showing project area) asking for the SHPO to concur with the Area of Potential Effect (APE) for the project/undertaking.
- A letter asking for the SHPO to concur with the federal agency's determinations of Eligibility and/or Effect. The agency should make its own determinations and not ask t

For more information contact:

Rob Whitlam
State Archaeologist
(360) 890-2615
Rob.Whitlam@dahp.wa.gov

or

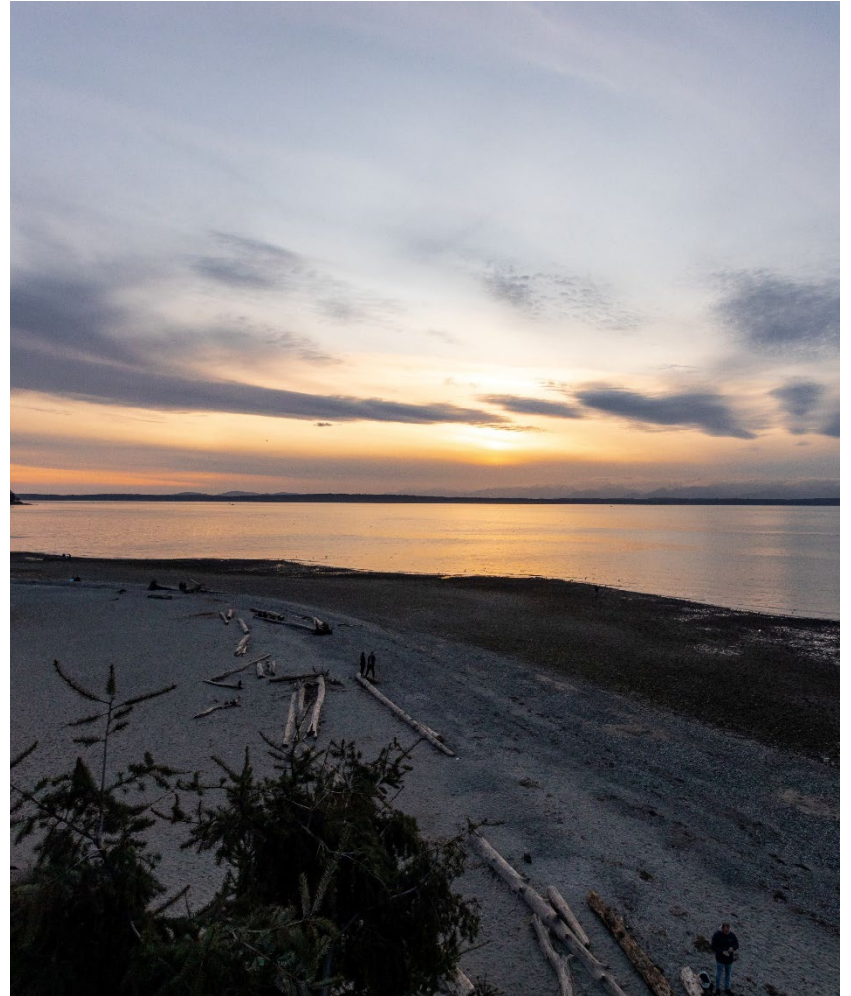
Lance Wollwage
Assistant State Archaeologist
(360) 890-2616
lance.wollwage@dahp.wa.gov



WDFW coordination with tribes

RCW 77.55.480(4)

(g) [WDFW] shall, in a timely manner, provide a copy of any application seeking review under this section and shall thereafter coordinate with affected federally recognized tribes as it implements this section.



WDFW team

Protection Division, Habitat Program, Olympia

- HRPP Coordinator
- Division Manager, Regulatory Services Section Manager, HPA Statewide Coordinator

Regional Operations

- Habitat Biologist
- Assistant & Regional Habitat Program Managers

Other divisions, programs

- Engineering services within Restoration Division, Habitat Program
- Others as needed

Also...

- Standing MAP Team meetings with state agency roster
- Other coordination/outreach as needed



Questions?

Josh Peters – Protection Division Manager
Kelly Still – Regulatory Services Section Manager

HPApilotprogram@dfw.wa.us

wdfw.wa.gov/licenses/environmental/hpa/types/pilot



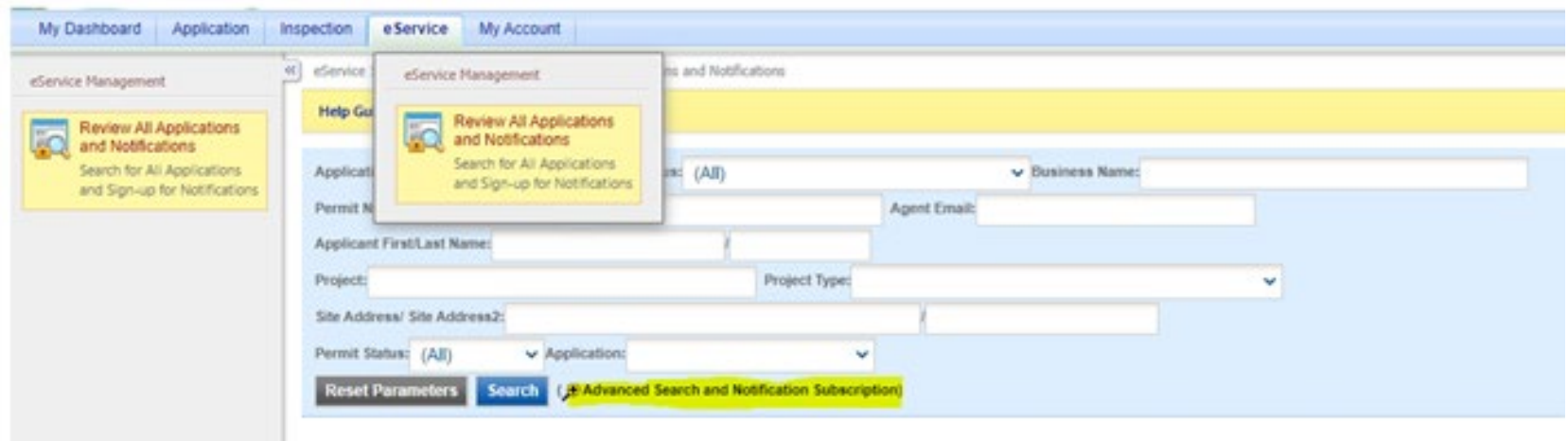
Setting up APPS Subscription Notices

Interested parties may “subscribe” for automatic notifications, access to permit documents

Log into your APPS account

Click on e Service → review all application and notifications

Anyone can create an APPS account. You do not have to be someone who applies for HPAs.



Setting up APPS subscription notices

Close Reset Parameters Search

Application Status: (All) (In Process) Accepted Admin Review Completed

Application Type: Standard Expedited Emergency

Permit Status: Active Expired Inactive

Application: Standard Hydraulic Project Beach Prospecting US Forest Service MOU

Application ID: Business Name: Permit Number:

Project Name: Applicant First/Last Name:

Email:

Agent First/Last Name: Agent Email:

Site Address/Site Address 2:

NOTE: Entering a date only in the "From" box will return results equal to or greater than the "From" date. Entering a date only in the "To" box will return results less than or equal to that date. To search for just one day, use the same date in both the "From" and "To" boxes.

Permit Issued Date Range: From To Permit End Date Range: From To

Requested Project Start Date Range: From To Requested Project End Date Range: From To

Waterbody Name: Waterbody Number:

WRIA Number: Region: County:

0 - Unknown 1 - Nooksack 2 - San Juan 1 - Eastern 2 - North Central 3 - South Central Adams Asotin Benton

Section: Township: Range: Project Type:

01 01 N 01 E Aquatic Plant Control
02 02 N 01 W Bank Protection
03 03 N 02 E Barge Landing

Latitude: Longitude:

Biologist Issuing Permit: Assigned Habitat Biologist:

Bryant, Jessica Andonaegui, Carmen
Chapman, Patrick Arber, Laura
Fischer, John Bails, Jamie

Close Reset Parameters Search Notification Name: Daily Add To My Notification

Set up notifications by using the search criteria to be selective of the HPA applications for which you would like to receive email notifications.

After selecting the criteria, assign the search a notification name and then click on "Add to my notification."

Individuals can have multiple notifications sent either daily, weekly, or monthly.

