
HOUSE BILL 2932

State of Washington

56th Legislature

2000 Regular Session

By Representatives Koster, Ericksen, Lambert and Fortunato

Read first time 01/24/2000. Referred to Committee on Natural Resources.

1 AN ACT Relating to hydraulic projects for streambank stabilization
2 on farm and agricultural land; amending RCW 75.20.103; and declaring an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 75.20.103 and 1998 c 190 s 88 are each amended to read
6 as follows:

7 In the event that any person or government agency desires to
8 construct any form of hydraulic project or other work that diverts
9 water for agricultural irrigation or stock watering purposes, or when
10 such hydraulic project or other work is associated with streambank
11 stabilization to protect farm and agricultural land as defined in RCW
12 84.34.020, and when such diversion or streambank stabilization will
13 use, divert, obstruct, or change the natural flow or bed of any river
14 or stream or will utilize any waters of the state or materials from the
15 stream beds, the person or government agency shall, before commencing
16 construction or work thereon and to ensure the proper protection of
17 fish life, secure a written approval from the department as to the
18 adequacy of the means proposed for the protection of fish life. This
19 approval shall not be unreasonably withheld. Except as provided in RCW

1 75.20.1001, the department shall grant or deny the approval within
2 forty-five calendar days of the receipt of a complete application and
3 notice of compliance with any applicable requirements of the state
4 environmental policy act, made in the manner prescribed in this
5 section. The applicant may document receipt of application by filing
6 in person or by registered mail. A complete application for an
7 approval shall contain general plans for the overall project, complete
8 plans and specifications of the proposed construction or work within
9 ordinary high water line, and complete plans and specifications for the
10 proper protection of fish life. The forty-five day requirement shall
11 be suspended if (1) after ten working days of receipt of the
12 application, the applicant remains unavailable or unable to arrange for
13 a timely field evaluation of the proposed project; (2) the site is
14 physically inaccessible for inspection; or (3) the applicant requests
15 delay.

16 Immediately upon determination that the forty-five day period is
17 suspended, the department shall notify the applicant in writing of the
18 reasons for the delay.

19 An approval shall remain in effect without need for periodic
20 renewal for projects that divert water for agricultural irrigation or
21 stock watering purposes and that involve seasonal construction or other
22 work. Approval for streambank stabilization projects shall remain in
23 effect without need for periodic renewal if the problem causing the
24 need for the streambank stabilization occurs on an annual or more
25 frequent basis. The permittee must notify the appropriate agency
26 before commencing the construction or other work within the area
27 covered by the approval.

28 The permittee must demonstrate substantial progress on construction
29 of that portion of the project relating to the approval within two
30 years of the date of issuance. If the department denies approval, the
31 department shall provide the applicant, in writing, a statement of the
32 specific reasons why and how the proposed project would adversely
33 affect fish life. Protection of fish life shall be the only ground
34 upon which approval may be denied or conditioned. Issuance, denial,
35 conditioning, or modification shall be appealable to the hydraulic
36 appeals board established in RCW 43.21B.005 within thirty days of the
37 notice of decision. The burden shall be upon the department to show
38 that the denial or conditioning of an approval is solely aimed at the
39 protection of fish life.

1 The department may, after consultation with the permittee, modify
2 an approval due to changed conditions. The modifications shall become
3 effective unless appealed to the hydraulic appeals board within thirty
4 days from the notice of the proposed modification. The burden is on
5 the department to show that changed conditions warrant the modification
6 in order to protect fish life.

7 A permittee may request modification of an approval due to changed
8 conditions. The request shall be processed within forty-five calendar
9 days of receipt of the written request. A decision by the department
10 may be appealed to the hydraulic appeals board within thirty days of
11 the notice of the decision. The burden is on the permittee to show
12 that changed conditions warrant the requested modification and that
13 such modification will not impair fish life.

14 In the event that any person or government agency desires to
15 construct a hydraulic project or other work associated with streambank
16 stabilization to protect farm and agricultural land as defined in RCW
17 84.34.020, the department shall issue immediately upon receipt of a
18 complete application written approval for the project if the project
19 has been approved by the conservation district from the county where
20 the project resides.

21 In case of an emergency arising from weather or stream flow
22 conditions or other natural conditions, the department, through its
23 authorized representatives, shall issue immediately upon request oral
24 approval for removing any obstructions, repairing existing structures,
25 restoring stream banks, or to protect property threatened by the stream
26 or a change in the stream flow without the necessity of obtaining a
27 written approval prior to commencing work. Conditions of an oral
28 approval shall be reduced to writing within thirty days and complied
29 with as provided for in this section.

30 For purposes of this chapter, "streambank stabilization" shall
31 include but not be limited to log and debris removal, bank protection
32 (including riprap, jetties, and groins), gravel removal and erosion
33 control.

34 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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