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COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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CASCADIA WILDLANDS,

Appellant,

v.

STATE OF WASHINGTON  
DEPARTMENT OF FISH AND WILDLIFE

Respondent,

and

RESOURCES COALITION, INC.,

Intervenor.

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**APPELLANT'S OPENING BRIEF**

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William M. O'Connor  
4080 Crystal Springs Dr NE  
Bainbridge Island, WA 98110  
(540) 292-6482  
[woconnor78@gmail.com](mailto:woconnor78@gmail.com)

*Attorney for Appellant  
Cascadia Wildlands*

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## I. INTRODUCTION

This case presents an issue of statutory interpretation. Did the Department of Fish and Wildlife (“the Department”) exceed its statutory authority under RCW 77.55.091 (“Section .091”), the small-scale prospecting and mining exception to the Hydraulic Code, when it passed a rule expanding the exception to include methods of riverbed mining that go beyond the statutory definition of small-scale prospecting and mining?

The Department’s current rule authorizes motorized mining, like suction dredging, in Washington’s rivers and streams without an HPA permit. The HPA permit requirement is the core provision of the Hydraulic Code, and the plain language of Section .091 calls for the HPA exemption to apply *only* to four enumerated small-scale prospecting and mining methods (panning, nonmotorized sluices, concentrators, and minirocker boxes). Suction dredging was intentionally excluded from this list.

Motorized mining methods like suction dredging are more harmful to critical salmon and trout habitat in the state’s waterways. The stated purpose of the Hydraulic Code is the protection of fish, and the stated purpose of Section .091 is the regulation of *only* the four enumerated small-scale prospecting and mining methods in the least burdensome manner that is still consistent with the protection of fish. By waiving the

HPA permit process, the Department has vitiated the plain language and purpose of both the Hydraulic Code and Section .091. The Department has abandoned its duty to, at bare minimum, track the use of motorized mining and study its cumulative impacts in order to better protect fish.

The Department's current rule also directly contradicts the legislative history. The Final Bill Report for Section .091 states unequivocally, "motorized sluice boxes and dredging require a written HPA permit." The Department's rule exceeds the statutory authority granted to the agency by the Legislature, and is therefore invalid.

## **II. ASSIGNMENT OF ERROR AND ISSUE PERTAINING**

Assignment of Error: The trial court erred when it denied Cascadia's Motion for Summary Judgment and dismissed Claim 1 of Cascadia's Petition for Declaratory Judgment and Review with prejudice. CP-268-69 (Order on Judicial Review of Claims 1 and 3). Specifically, the trial court erred when it held that WAC 220-660-300 was adopted within the Department's rulemaking authority under RCW 77.55.091(3). *Id.* at 269, ll. 10-11.

Issue Pertaining to the Assignment of Error: Did the Department exceed its statutory authority under the Hydraulic Code, RCW §§ 77.55.011, .021, and .091, when it adopted WAC 220-660-300?

### III. STATEMENT OF THE CASE

This case asks the Court to determine the scope of the Department’s authority to regulate a practice known as placer mining under the Hydraulic Code.<sup>1</sup> The critical question is whether the Department has the power to exempt certain methods of placer mining from the HPA permit process under RCW 77.55.091 of the Hydraulic Code?

Placer mining is the recovery of gold and other minerals from alluvial sand and gravel deposits in and around a river. There are many methods of placer mining, and new methods are constantly invented. Panning is a familiar, ancient method of placer mining. WAC 220-660-030(109-110) (defining “pan” and “panning.”). Sluices are another example. A sluice is a long, narrow chute that uses water to separate gold from the rest of the dredged material. WAC 220-660-030(135)(defining “sluice”).

Suction dredging is a relatively modern and popular method of placer mining, and is a focus of Cascadia’s challenge to the Department’s rule.<sup>2</sup>

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<sup>1</sup> All references to “mining” in this brief incorporate the term “prospecting.” “Mining” is used as shorthand for “prospecting and mining.”

<sup>2</sup> Cascadia is challenging every aspect of the Department’s rule that allows prospecting and mining methods which exceeded the statutory definition of “small scale prospecting and mining” to operate without an HPA permit. This brief will refer to this group of mining methods as “motorized mining,” and will focus on suction dredging in particular because suction dredging is the most egregious violation of the statute.

Suction dredging generally consists of an engine and a sluice mounted to large floats that are anchored in the river. *See* WAC 220-660-030(140-141). The engine creates suction and a hose is maneuvered along the riverbed by a miner, who often operates the suction hose in the water while wearing diving equipment to stay close to the riverbed. Because gold and heavy minerals tend to concentrate on bedrock, miners typically remove sand and gravel all the way down to bedrock, which in some cases entails extracting several feet down into the riverbed. CP-101-102; SUPPAR-1531. The hose sucks up the entire riverbed (gravel, silt, gold, and water) and deposits the material along the sluice. *See* WAC 220-660-030(140-141). As this material passes over the sluice, the heavier gold flecks settle along the grooves of the sluice, and the remainder is discharged back into the river. *Id.*

Suction dredging harms fish in several ways. WAC 220-660-300(2); AR 3749-3754 (FEIS describing mechanisms of hydraulic project impacts to fish); AR-3759 (Table 4-2)(listing potential impacts of mineral prospecting on fish). Because so much of the riverbed is extracted and shot elsewhere in the waterway, fish habitat and food resources are modified. *Id.* Suction dredging can impair water quality, and direct fish kill can occur when eggs or juvenile fish (called fry) are sucked through the equipment. *See e.g. id;* AR-3052; SUPPAR-001-164. Of particular

concern, the Department's current rule allows suction dredging to operate without a permit in rivers and streams with critical habitat for several species of salmon and trout that are listed on the Endangered Species Act. AR-3737-3742, 3789-3790.

It is well-established that motorized mining, like suction dredging, is significantly more harmful to fish habitat than small-scale mining methods such as panning. *See e.g.* AR-3752 (“Mineral prospecting and mining activities can alter streambed morphology and sediment movement patterns because a variety of machines, including suction dredges, high bankers, and other heavy equipment, are used to remove or sort large quantities of aggregate to separate out valuable minerals. These alterations affect the physical processes that form and maintain fish habitat.”); AR-3729-3792 (FEIS); AR-3188-3189 (summary of comments); AR-2127-2128 (Snoqualmie Tribe calling for “outright ban on suction dredge mining in formally designated Critical Habitat for Threatened and Endangered species”); AR-2137 (Lummi Natural Resources Department, expressing support for panning, but opposition to suction dredging based on impacts to threatened and endangered fish life); AR-2036-41; AR-2091-92; AR-2093-95; AR-2096-98.

### **A. The Hydraulic Code and Regulation of Placer Mining**

The Hydraulic Code was enacted in 1943 to protect fish. AR-3046. It requires anyone seeking to work in or near state waters in a manner that will affect the bed or flow of that waterway to apply for a permit through the Department. RCW 77.55.021(1). These permits are called hydraulic project approvals (“HPA permit”), and through the HPA permit process the Department is charged with ensuring that the proposed project adequately protects fish. *Id.* Protection of fish is the only ground upon which the Department can deny or condition an HPA permit. RCW 77.55.021(7)(a).

As an activity that affects the bed of waterways, placer mining falls under the Hydraulic Code. *See* RCW 77.55.091. Prior to 1980, miners had to apply for individual HPA permits under the Hydraulic Code for all placer mining activity. AR-3960. After a spike in the price of gold, however, and a surge in mining permit applications, the Department decided to streamline HPA permit process. *Id.* In 1980, the Department published the first “Gold & Fish Pamphlet,” a publicly distributed pamphlet that allowed miners to forego the HPA permit process when using pans and sluices as long as the miners followed the rules laid out in the Pamphlet. *Id.* Over the years the Department revised the Pamphlet several times. *Id.*

The statute at the core of this litigation was originally passed in 1997, when the Legislature amended the Hydraulic Code, carving out an official exception for small-scale prospecting and mining from the HPA permit process. Substitute H.B. 1565, 55 Leg., Reg. Sess. (Wash. 1997).<sup>3</sup> The Legislature essentially codified the Department’s use of the Gold & Fish Pamphlet as a waiver for an HPA permit. At the time the Legislature passed the amendment, the Pamphlet and Department rules required an HPA permit for suction dredging. *See* AR-3960-62 (Verbatim Record of Proceedings, Jan. 10, 2014, Presentation)(this is a briefing on the history of the Department’s regulation of small-scale mining, given by Department employee, Pat Chapman, to the Department’s Commission).

The 1997 amendment incorporated four primary mandates: 1) waiving the HPA permit process for small-scale prospecting and mining as long as it was done in accordance with Department rules; 2) ordering the Department to work with the mining community to develop and

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<sup>3</sup> Substitute H.B. 1565 was originally codified as RCW 75.20.330 (1997) and subsequently recodified twice as RCW 77.55.270 (2000) and RCW 77.55.091 (2005). No changes have been made to the language of the statute since it was enacted, however, the first two versions of the statute included the definition of “small scale prospecting and mining” directly in the statute, under Subsection 4. The most recent recodification, and current statute RCW 77.55.091, relocated the definition of “small scale prospecting and mining” from the statute to the definitions section of the Hydraulic Code, RCW 77.55.011(21).

implement applicable rules; 3) ordering the Department to update its Gold & Fish Pamphlet in accordance with the newly adopted rules; and 4) ordering the Department to streamline the HPA permit process for prospecting and mining methods that still required a permit by using the Gold & Fish Pamphlet to minimize the number of written provisions in individual permits. *See* RCW 77.55.091. Critically, the amendment also expressly defined small-scale prospecting and mining as, “use of *only* the following methods: Pans; nonmotorized sluice boxes; concentrators; and minirocker boxes.” *See* RCW 77.55.011(21)(emphasis added), *supra* fn 2.

Suction dredging was explicitly and intentionally omitted from the definition of small-scale prospecting and mining. *Id.* The Final Bill Report for the amendment expressly stated, “Gold mining using motorized sluice boxes and dredging require a written HPA permit.” Final B. Rep., Substitute H.B. 1565, 55 Leg., Reg. Sess., (Wash. 1997).

After the 1997 amendment was enacted, the Department conducted rulemaking and updated the Gold & Fish Pamphlet in 1999. AR-3961-62 (Chapman briefing to Department Commission). Under the 1999 rule, the Department exempted suction dredging from the HPA permit requirement for the first time. SUPPAR-018. There is evidence that the Department fully knew that its 1999 rule exceeded the agency’s authority under the 1997 amendment. In a presentation on the history of the agency’s

regulation of mining given to the Department's Commission, Pat Chapman, a Regulatory Services Coordinator who worked for the Department during that 1997-99 rulemaking period said the following about the Department's procedure during that time:

One of the things we did that were different – that was different than previous pamphlets was that *we went beyond what the Legislature required*. What the Legislature required was no permits other than the pamphlet for pan sluice boxes, mini rocker boxes, and mini high-bankers and other small concentrators. *We decided since we're issuing hundreds of permits for dredging, why not include those in the pamphlet?* And so that's what we did, that and high banking. So we eliminated virtually 95 percent of the requirement for individual permits at that time.

AR-3961-62 (emphasis added).

#### **B. The Department's Current Rule and Lower Court Proceedings**

In 2011, the Department set out to overhaul its entire regulatory scheme under the Hydraulic Code. AR-002. Though small-scale mining was not the focus of this large rulemaking endeavor, it was a part of the process. The Department received significant public comment on its small-scale mining rule at several Commission meetings, and held a public hearing on the rule on August 8, 2014. AR-3956-4088. As a result, the Department made significant changes to its small-scale mining rule and adopted WAC 220-660-300 in December 2014. *See* CP-123-24 (WDFW's Response Brief for Claims 1 and 3). The rule went into effect July 2015. WAC 220-660-300.

Cascadia filed for judicial review in July 2017, bringing four claims against the Department, including the single issue in this appeal: whether the Department exceeded its statutory authority under RCW 77.55.091 and the Hydraulic Code when it adopted a rule that exempted motorized mining from the HPA permit requirement. CP-1-23. Cascadia filed for summary judgement on two of its claims, including the issue on appeal. CP-51-97. In October 2018 the trial court denied Cascadia’s motion for summary judgment and dismissed both claims. CP-263-65. Cascadia abandoned its remaining claim in an effort to expedite this appeal. CP-260-62.

#### **IV. ARGUMENT**

The Department exceeded its statutory authority when it enacted a rule exempting suction dredging and other forms of motorized mining from the HPA permit process. The Department’s reliance on RCW 77.55.091(3) (“Subsection 3”) as the source of its authority for the rule is not supported by the plain language of the statute, and is unequivocally rebutted by the legislative history.

##### **A. Standard of Review**

The Washington Administrative Procedure Act (APA) governs the standard of review for challenges to agency rules. *Lenander v. Dep’t of Ret. Sys.*, 186 Wash.2d 393, 402, 377 P.3d 199 (2016). Under the APA,

an agency rule is invalid if it exceeds the statutory authority of the agency. RCW 34.05.570(2)(c). Determining whether the agency had the authority to pass the rule is a question of law that is reviewed *de novo*. *Lenander*, 186 Wash.2d at 403. As the party challenging the validity of the rule, Cascadia carries the burden of demonstrating that the rule is invalid. RCW 34.05.570(1)(a).

Agencies only have rulemaking authority that is expressly granted or necessarily implied by statute. *Lenander*, 186 Wash.2d at 404. Agency rules cannot amend or change legislative enactments; those that do are invalid. *Swinomish Indian Tribal Comty. v. Wash. State Dep't of Ecology*, 178 Wash.2d 571, 580-81, 311 P.3d 6 (2013). Although agencies generally receive deference from the court on matters within their expertise, the court “does not defer to an agency the power to determine the scope of its own authority.” *Lenander*, 186 Wash.2d at 409 (quoting *In re Registration of Elec. Lightwave, Inc.*, 123 Wash.2d 530, 540, 869 P.2d 1045 (1994)).

**B. Plain Meaning of Section .091 Exempts *Only* Small-Scale Mining From the HPA Permit Requirement**

This case requires the Court to interpret Section .091 of the Hydraulic Code, the small-scale mining exception to the Hydraulic Code’s core HPA permit requirement. When interpreting a statute, a court’s fundamental

objective is to determine and effectuate legislative intent. *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). Analysis of legislative intent is governed by the plain language rule. Under the plain language rule the court is guided by the ordinary meaning of words, the basic rules of grammar, and statutory context. *Darkenwald v. Emp't Sec. Dep't*, 183 Wn.2d 237, 245, 350 P.3d 647 (2015).

Statutory context ensures that the provision in dispute is not viewed in isolation, but rather in light of legislative purposes or priorities appearing on the face of the statute and closely related statutes. *Campbell & Gwinn*, 146 Wn.2d at 11. Exceptions to statutory provisions must be interpreted narrowly in order to give effect to the broader statutory scheme. *Swinomish*, 178 Wash.2d at 582. The plain language rule also analyzes the possible consequences of different interpretations. *Burns v. City of Seattle*, 161 Wn.2d 129, 146, 164 P.3d 475 (2007). A court should avoid an interpretation that leads to “unlikely, strained, or absurd results.” *Id.* at 150.

The plain language of Section .091 exempts small-scale and *only* small-scale prospecting and mining from the HPA permit requirement, while requiring all other methods of mining – like suction dredging – to apply for an HPA permit. The Department, however, has interpreted Section .091 to grant the agency broad authority to exempt *any* method of

mining from the HPA permit requirement. CP-111-12 (WDFW's Response Brief). A careful review of Section .091 in its entirety illustrates the weakness of the Department's position. Section .091 reads:

**Small scale prospecting and mining—Rules.**

(1) Small scale prospecting and mining shall not require a permit under this chapter if the prospecting is conducted in accordance with rules established by the department.

(2) By December 31, 1998, the department shall adopt rules applicable to small scale prospecting and mining activities subject to this section. The department shall develop the rules in cooperation with the recreational mining community and other interested parties.

(3) Within two months of adoption of the rules, the department shall distribute an updated gold and fish pamphlet that describes methods of mineral prospecting that are consistent with the department's rule. The pamphlet shall be written to clearly indicate the prospecting methods that require a permit under this chapter and the prospecting methods that require compliance with the pamphlet. To the extent possible, the department shall use the provisions of the gold and fish pamphlet to minimize the number of specific provisions of a written permit issued under this chapter.

**Findings—1997 c 415:** "The legislature finds that small scale prospecting and mining: (1) Is an important part of the heritage of the state; (2) provides economic benefits to the state; and (3) can be conducted in a manner that is beneficial to fish habitat and fish propagation. Now, therefore, the legislature declares that small scale prospecting and mining shall be regulated in the least burdensome manner that is consistent with the state's fish management objectives and the federal endangered species act."

RCW 77.55.091

The Legislature explicitly defined small-scale prospecting and mining in the statute’s applicable definition section as, “use of *only* the following methods: Pans; nonmotorized sluice boxes; concentrators; and minirocker boxes for the discovery and recovery of minerals.” RCW 77.55.011(21) (emphasis added).

The Department’s interpretation, that Section .091 gives the agency the power to exempt *any* type of prospecting and mining through rulemaking, hinges on one sentence in Subsection 3: “The pamphlet shall be written to clearly indicate the prospecting methods that require a permit under this chapter and the prospecting methods that require compliance with the pamphlet.” RCW 77.55.091(3). The Department claims that use of the term “prospecting,” rather than “small scale prospecting and mining,” evinces Legislative intent to grant the Department the power to exempt *any* method of mining, not just small-scale mining, from the HPA permit process. This interpretation contradicts the plain language of the statute.

*1) The Department’s Interpretation of Section .091 Ignores Statutory Context and Relies on a Single Unsupported Sentence*

The Department’s interpretation is built on the premise that the largest grant of authority from Section .091 springs from a single sentence buried in the third subsection. This interpretation is completely unsupported by

the statutory context of Section .091 and related statutes. Analysis of statutory context ensures that a provision is viewed, not in isolation, but in light of legislative purposes or priorities appearing on the face of the statute and closely related statutes. *Campbell & Gwinn*, 146 Wn.2d at 11.

Reading Section .091 as a whole it is clear the Legislature did not intend to grant the Department discretion to exempt *any* mining activity from the HPA permit requirement because there is no mention of that broad grant of rulemaking power anywhere in Section .091 or elsewhere. Instead, Section .091 is focused exclusively on the regulation of “small scale prospecting and mining,” a term the Legislature explicitly defined. The title of Section .091 is, “Small scale prospecting and mining—Rules.” RCW 77.55.091. The legislative findings lay out the purpose of Section .091, stating that “small scale prospecting and mining shall be regulated in the least burdensome manner,” consistent with the management and protection of fish. *Id.* Subsections 1 and 2 of Section .091 relate entirely to small-scale prospecting and mining, and implementation of a regulatory scheme that fulfills the stated legislative purpose of regulating small-scale prospecting and mining in the least burdensome manner. *Id.* The Department’s interpretation completely ignores this critical context.

The Legislature defined small-scale prospecting and mining restrictively as *only* the use of pans, nonmotorized sluices, concentrators,

and minirocker boxes. 77.55.011(21). The Legislature could have easily granted the Department authority to exempt methods beyond the four methods enumerated in the small-scale prospecting and mining definition had it intended to do so. The Legislature could have simply dropped the term “only” from the definition of small-scale mining, so as not to make the list exhaustive. It could have avoided defining small-scale prospecting and mining entirely, and allowed the Department to use its implied powers to create its own definition. (“Agencies have the implied authority to carry out their legislatively mandated purposes.” *Tuerk v. Dep't of Licensing*, 123 Wn.2d 120, 125, 864 P.2d 1382 (1994)). The Legislature could have explicitly stated that the Department had the power to define small-scale prospecting and mining, or to add or remove different mining methods from the definition. The Legislature took none of these steps.

The Department’s interpretation is unsupported by the purpose and broader scheme of the Hydraulic Code. The Hydraulic Code’s stated purpose is to protect fish from construction projects and activities that impact state waterways. RCW 77.55.021(1). The core requirement of the Hydraulic Code is the HPA permit process. *Id.* Anyone seeking to undertake a project or work that will affect the flow or the bed of any state waterway must apply for an HPA permit to ensure that fish are adequately protected. RCW §§ 77.55.011(11) and .021(1).

Suction dredging poses a high risk of harm to fish. The risk posed is significantly higher than that posed by the “small scale prospecting and mining” methods defined by the Legislature. The Department concedes as much. CP-114, ll. 20-23 (WDFW’s Response Brief)(citing SUPPAR-076-82). Placer mining often occurs in critical fish habitat, in sandy and gravelly portions of the river where many species of fish spawn. The greater the capacity for a mining method to extract this habitat, the greater the potential harm. In contrast to the “small scale prospecting and mining” methods defined by the Legislature, which all require extraction with hand-held tools, suction dredging uses a motor to extract material from the riverbed. Suction dredging can extract up to *several feet* into the bed, and extracts at a far faster rate than someone using a pan, bucket, or hand tool. As a result, suction dredging pulls up far more of the riverbed.

Viewed in the light of the Hydraulic Code’s stated purpose to protect fish, the Department’s interpretation of Section .091 is incongruous. By exempting suction dredging from the HPA permit requirement, the Department fails its mandate to protect fish, undermining the core purpose of the Hydraulic Code.

Read in its proper statutory context, the single sentence that the Department relies on for its interpretation (“The pamphlet shall be written to clearly indicate the prospecting methods that require a permit under this

chapter and the prospecting methods that require compliance with the pamphlet.” RCW 77.055.091(3)) is a simple mandate for the Department to clearly convey its new rules regarding small-scale prospecting and mining to the public. Section .091 leaves significant regulatory space for the Department to fill with its rules. Though the Legislature limited small-scale prospecting and mining to four distinct methods, it did not fully flush out the contours of those methods. It is up to the Department, for instance, to set limits on the size of the sluice or minirocker box for those methods to still be considered small-scale. It is up to the Department to regulate when small-scale mining can occur, and where it can occur. In an effort to minimize the number of specific provisions in individual HPA permits, Section .091 also directs the Department, to the extent possible, to regulate mining that still requires an HPA permit through the Gold & Fish Pamphlet. RCW 77.55.091(3). In short, Section .091 establishes a significant mandate for the Department to follow in its rulemaking and by extension in the Gold & Fish Pamphlet, which is the publicly distributed embodiment of its rules. Clarity in its rules and Pamphlet is critical so that the rules are followed. The Legislature intended to direct the Department to clearly distinguish in the Pamphlet when miners needed to apply for an HPA permit under its new, small-scale mining rules and when they were exempt from the HPA permit requirement.

The Department's interpretation is unsupported by the statutory context. It is unsupported by the plain language of Section .091. It is unsupported by the Legislature's definition of small-scale prospecting and mining, and it is unsupported by the Hydraulic Code as a whole. When read in context, the single sentence that the Department relies on to broaden its authority and expand the Legislative definition of small-scale prospecting and mining is a simple mandate for the Department to clearly communicate its new rules to the public.

*2) The Department Fails to Narrowly Construe Section .091, a Clear Exception to the Hydraulic Code*

Section .091 is an exception to the Hydraulic Code's core HPA permit requirement. Exceptions to statutory provisions must be interpreted narrowly in order to give effect to the broader statutory scheme.

*Swinomish*, 178 Wash.2d at 582. The Department's broad and self-serving interpretation is incompatible with that important principle.

A review of the Hydraulic Code makes plain that Section .091 is one of several enumerated exceptions to the general rule that hydraulic projects require an HPA permit. RCW 77.55.021, the first substantive section of the Hydraulic Code, lays out the HPA permit requirement. In the sections that follow, the Legislature carved out several exceptions to the permit requirement, such as driving in a stream at established fords,

removal of derelict fishing gear, and removal of noxious weeds. RCW §§ 77.55.031, .041, .051, and .081. Section .091, the small-scale prospecting and mining exception, is the last of these enumerated exceptions.

Section .091 must be viewed in the broader statutory scheme of the Hydraulic Code as a whole. The Hydraulic Code’s purpose is the protection of fish, and its core provision – the mechanism with which it fulfills its purpose – is the HPA permit process. The Department’s attempt to use Section .091, a clear exception to the Hydraulic Code, to stretch its authority to exempt motorized and more harmful methods of mining from the HPA permit process contravenes the very purpose of the Hydraulic Code. Rather than narrowly interpreting an exception, the Department ignores the bulk of the statute and relies on a single sentence to expand its authority to the detriment of the broader statutory scheme.

*3) The Department’s Interpretation Fails Because It Rests on a Fragile Assumption*

For the Department’s interpretation to be correct, a vital assumption must be true. The assumption relates to the pivotal sentence in Subsection 3, “The pamphlet shall be written to clearly indicate the prospecting methods that require a permit under this chapter and the prospecting methods that require compliance with the pamphlet.” RCW 77.55.091(3). The Department assumes that the use of the term “prospecting” does not

mean “small scale prospecting and mining.” If the Legislature used the term “prospecting” as a shorthand for small-scale prospecting and mining here, then the Department’s interpretation fails.

There is no dispute that the term “prospecting” must be shorthand for something. Used alone, “prospecting” does not have a workable meaning in this context. Prospecting is defined as the search for gold and minerals. *See* WAC 220-660-030(118)(“prospecting” definition). Mining is the act of processing gold and minerals. *Id.* at (98)(“mining” definition). It makes no sense that the Legislature intentionally omitted mining and meant for the Pamphlet to regulate prospecting alone. There is no dispute that the Legislature intended at the very least to shorten “prospecting and mining” to “prospecting.” Having established that “prospecting” is shorthand, the question becomes what precisely is it shorthand for?

Given that the Legislature uses the term “prospecting” and “mineral prospecting” as shorthand for “small scale prospecting and mining” in prior clauses in Section .091, and given Section .091’s clear emphasis on small-scale mining, it is doubtful that the Legislature meant to distinguish “prospecting” from “small scale prospecting and mining” in this context. *See* RCW §§ 77.55.091(1) and 77.55.091(3). Small scale prospecting and mining is a rhetorically clumsy phrase.

The Department may argue that the first use of the term “prospecting” in the sentence clearly means something other than small-scale prospecting and mining because Section .091 expressly mandates that small-scale prospecting and mining shall not require a permit. But this is not necessarily the case. Under the plain language of Section .091 a person can employ one of the small-scale prospecting and mining methods enumerated by the statute, but still require an HPA permit if the person intends to use the method in a manner that is inconsistent with Department rules. Section .091 lays out two requirements for exemption from the HPA permit process: 1) the mining method used must be small-scale; and 2) the method must be used in accordance with Department rules. RCW 77.55.091(1).

An example helps illustrate this point. The Department’s current rule prohibits mining at night. If a miner wanted to pan for gold at night, he or she *must* apply for and receive an HPA permit before mining, despite the fact that the miner intends to use a small-scale mining method.

There is no doubt that “prospecting” is used as shorthand. The Legislature used “prospecting” and “mineral prospecting” in previous provisions in Section .091 to refer to “small scale prospecting and mining.” Section .091 also has one clear focus: the regulation of “small scale prospecting and mining.” Yet, for the Department’s interpretation to

prevail, “prospecting” must mean *any* and *every* prospecting method that was not specifically enumerated in the definition of “small scale prospecting and mining.” This fragile assumption is unsupported by the plain language of Section .091.

4) *The Department’s Interpretation Fails Because It Leads to Absurd Results that Could Further Undermine the Hydraulic Code*

The Department’s interpretation places no cap on the agency’s authority to exempt mining methods from the permit requirement. As such, it has the potential to lead to absurd results. Analysis under the plain language rule includes the possible consequences of different interpretations and avoids interpretations that lead to “unlikely, strained, or absurd results.” *Burns*, 161 Wn.2d at 146 & 150.

The Department claims that the Legislature clearly contemplated a two-tiered regulatory framework, and gave the Department full authority under that framework. CP-111-12 (WDFW’s Response Brief). The first tier is comprised of small-scale prospecting and mining, which the Legislature defined and explicitly excluded from the HPA permit process as long as the methods complied with Department rules to protect fish. The second tier is comprised of *all* other methods of prospecting and mining. There is no definition for the methods that comprise the second tier other than that these methods fall outside of the four enumerated

methods defined by the Legislature as small-scale (panning, use of nonmotorized sluices, concentrators, and minirocker boxes). This nebulous concept places *no limit* on the Department's authority to exempt mining activities from the HPA, and opens the door to the absurd. There is nothing in this open-ended interpretation preventing exemptions for larger and more invasive mining methods from the HPA permit requirement, leading to greater harm to fish and further erosion of the purpose of the Hydraulic Code. This unlikely, strained, and absurd interpretation grants expansive, seemingly unchecked power, and runs afoul of the plain language and purpose of the Hydraulic Code and Section .091.

**C. If Section .091 is Ambiguous, then Legislative History Completely Rebutts the Department's Interpretation**

If the Court determines that Section .091 is ambiguous, then it may rely on legislative history to glean intent. Here, the legislative history unequivocally refutes the Department's interpretation by pointedly stating that suction dredging requires an HPA permit.

An ambiguous statute is one that is susceptible to more than one reasonable interpretation. *Densley v. Dep't of Ret. Sys.*, 162 Wn.2d 210, 221, 173 P.3d 885 (2007). The court will not "strain to find ambiguity" where the statute is clear. *Edelman v. State ex rel. Pub. Disclosure*

*Comm'n*, 152 Wash.2d 584, 591, 99 P.3d 386 (2004). When a statute is ambiguous, the reviewing court defers to the agency's interpretation of its own authority. *Cornelius v. Dep't of Ecology*, 182 Wn.2d 574, 585, 344 P.3d 199 (2015). If the court determines that the statute is ambiguous and it cannot resolve legislative intent through a plain language analysis, then the court can resort to aids such as legislative history. *Campbell & Gwinn*, 146 Wn.2d at 12. Courts can and do rely on bill reports as persuasive authority if a statute is ambiguous. *State v. Medina*, 180 Wn.2d 282, 291, 324 P.3d 682 (2014)(relying on a bill report to help find legislative intent); *State v. Bash*, 130 Wash.2d 594, 601, 925 P.2d 978 (1996)(“The court has frequently looked to final bill reports as part of an inquiry into legislative history.”)(citing *State v. Silva-Baltazar*, 125 Wash.2d 472, 479, 886 P.2d 138 (1994)).

This legislative history eviscerates the Department’s position. The Final Bill Report for Section .091 removes any debate on the question of whether the Legislature intended to give the Department the authority to waive HPA permits for suction dredging and other forms of motorized mining. The Final Report states, “Gold mining using motorized sluice boxes and dredging require a written HPA permit.” Final B. Rep., Substitute H.B. 1565, 55 Leg., Reg. Sess., (Wash. 1997). All other previous bill reports convey the same mandate. S.B. Rep., Substitute H.B.

1565, 55 Leg., Reg. Sess., (Wash. 1997); H.B. Rep., Substitute H.B. 1565, 55 Leg., Reg. Sess., (Wash. 1997)(as amended by the Senate).

If the Court finds Section .091 ambiguous, the bill reports remove all doubt on the Legislature's intent. The small-scale mining exception was meant to exempt small-scale mining and *only* small-scale mining from the HPA permit requirement.

#### **D. Rules In Excess of Statutory Authority are Invalid**

A rule adopted in excess of an agency's statutory authority is invalid. RCW 34.05.570(2)(c), *Wash. State Hosp. Ass'n v. Dep't of Health*, 183 Wash.2d 590, 597, 353 P.3d 1285 (2015); *Swinomish*, 178 Wash.2d at 602. Invalidating WAC 220-660-300 would restore the Legislature's original, clear mandate for rulemaking to exempt "small scale prospecting and mining" from the HPA permit requirement. Suction dredging and other forms of motorized prospecting and mining would continue to take place. But motorized prospecting and mining would require an HPA permit, and the Department would, at a minimum, be in a position to track the extent of the activity through the HPA permit process, collecting essential data to help understand the cumulative impacts of prospecting and mining on fish.

This Court should invalidate WAC 220-660-300 on the grounds that the rule exceeded the authority of its authorizing statute, RCW 77.55.091.

### **E. Attorney Fees**

Should Cascadia prevail in its appeal, recovery of attorney fees and costs is warranted under RCW 4.84.350. Under this statute, attorney fees and costs are awarded to a qualified party unless the court finds that the government was substantially justified.

As a 501(c)(3) organization, Cascadia is a qualified party under the statute. RCW 4.84.340(5)(defining qualified party). If Cascadia prevails, the remaining issues regarding fees and costs would be: 1) whether the Department was substantially justified; and if not then 2) a determination of the amount of the fees and costs award. Cascadia is prepared for subsequent briefing on these matters should it prevail.

### **V. CONCLUSION**

The Department's rule on placer mining exceeds the statutory authority of the Department by blatantly ignoring the plain language of the Hydraulic Code and the legislative history. The Legislature intended to exempt *only* small-scale prospecting and mining from the HPA permit requirement. The Department's rule exceeds this mandate by expanding the methods exempt from the HPA permit requirement to include motorized prospecting and mining, like suction dredging. As a result, the Hydraulic Code has been undermined, and the protection of fish has been

jeopardized. The Court must invalidate the Department's rule on placer mining, WAC 220-660-300.

RESPECTFULLY SUBMITTED this 18th day of March, 2019.

s/ William M. O'Connor

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William M. O'Connor  
WSBA # 52441  
4080 Crystal Springs Dr NE  
Bainbridge Island, WA 98110  
Telephone: (540) 292-6482  
E-mail: [woconnor78@gmail.com](mailto:woconnor78@gmail.com)

Attorney For Appellant Cascadia Wildlands

CERTIFICATE OF SERVICE

I certify that on the 18th day of March, 2019, I caused a true and correct copy of the above Appellant's Opening Brief to be served on the following in the manner indicated below:

Counsel for: Department of Fish & Wildlife    ( ) U.S. Mail  
Name:            Lauren R. Kirigin                            (X) Email  
Address:        POB 40100                                        ( ) Hand Delivery  
                         Olympia WA 98504-0100

Via email to: [LaurenR1@atg.wa.gov](mailto:LaurenR1@atg.wa.gov), [JeanneR@atg.wa.gov](mailto:JeanneR@atg.wa.gov),  
[fwdef@atg.wa.gov](mailto:fwdef@atg.wa.gov)

Counsel for: Resources Coalition, Inc.            ( ) U.S. Mail  
Name:            James L. Buchal                                        (X) Email  
Address:        3425 SE Yamhill St., Ste 100    ( ) Hand Delivery  
                         Portland OR 97214

Via email to: [jbuchal@mbllp.com](mailto:jbuchal@mbllp.com), [ccaldwell@mbllp.com](mailto:ccaldwell@mbllp.com)

s/ William M. O'Connor

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William M. O'Connor  
*Attorney for Appellant  
Cascadia Wildlands*

**TABLE OF APPENDICES**

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# **Appendix A**

**WAC 220-660-300**

(Excerpted from Clerk's Papers 136 – 197)

**WAC 220-660-300****Mineral prospecting.**

(1) **Description:** Mineral prospecting projects excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment. When prospectors locate valuable minerals through prospecting, they may attempt to recover larger quantities of the minerals using a variety of small motorized equipment, including suction dredges, high bankers, and heavy equipment. The rules in this section apply to using hand-held mineral prospecting tools and small motorized equipment.

(2) **Fish life concerns:** Mineral prospecting and mining activities can harm fish life and habitat that supports fish life.

(a) Direct impacts from mineral prospecting and mining activities may include:

- (i) Mortality from the physical effects of disturbing eggs or fry incubating within the bed;
- (ii) Mortality from passing vulnerable fish through mineral prospecting equipment; and
- (iii) Lower environmental productivity resulting from habitat modifications such as altered stream beds or lowered water quality.

(b) Indirect impacts may include changes in food resources and human disturbances.

(c) The department minimizes impacts of mineral prospecting by restricting the type of mining equipment allowed, limiting excavation zones within streams, and setting allowable timing windows.

(3) **General requirements:**

(a) A copy of the current *Gold and Fish* pamphlet is available from the department, and it contains the rules that a person must follow when using the pamphlet as the HPA for the mineral prospecting project.

(b) Alternatively, a person may request exceptions to the *Gold and Fish* pamphlet by applying for a standard individual written HPA as described in WAC 220-660-060. The department must deny an HPA when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. The department may apply saltwater provisions to written HPAs for tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

(c) Nothing in chapter 220-660 WAC relieves a person of the duty to obtain landowner permission and any other required permits before conducting any mineral prospecting activity.

(4) **Mineral prospecting in freshwater without timing restrictions:**

(a) A person may mineral prospect year-round in all fresh waters of the state, except lakes. A person must follow the rules listed below, but does not need to have the *Gold and Fish* pamphlet on the job site when working in fresh waters of the state.

(b) When mineral prospecting without timing restrictions, a person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

- (i) Pans;
- (ii) Spiral wheels; and
- (iii) Sluices, concentrators, mini rocker boxes, and mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment.

(c) A person may not use vehicle-mounted winches. A person may use one hand-operated winch to move boulders or large woody material that is not embedded or located within the

wetter perimeter. A person may use additional cables, chains, or ropes to stabilize boulders, or large woody material that is not embedded.

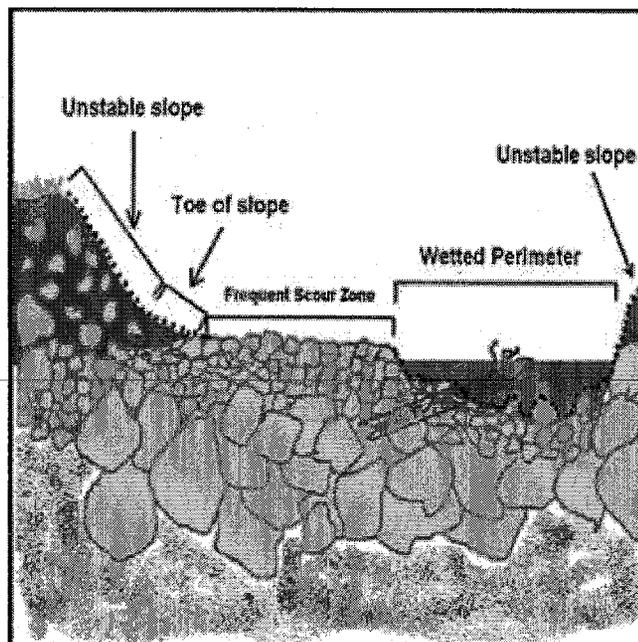
(d) A person may work within the wetted perimeter only from one-half hour before official sunrise to one-half hour after official sunset.

(e) A person may not disturb fish life or redds within the bed. If a person observes or encounters fish life or redds within the bed, or actively spawning fish when collecting or processing aggregate, a person must relocate their operation. A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

(f) Aggregate excavation, collection, and removal:

(i) A person may excavate only by hand or with hand-held mineral prospecting tools.

(ii) A person may not excavate, collect, or remove aggregate from within the wetted perimeter. See Figures 1 and 2.



**Figure 1: Cross section of a typical body of water, showing areas where excavation is not permitted under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

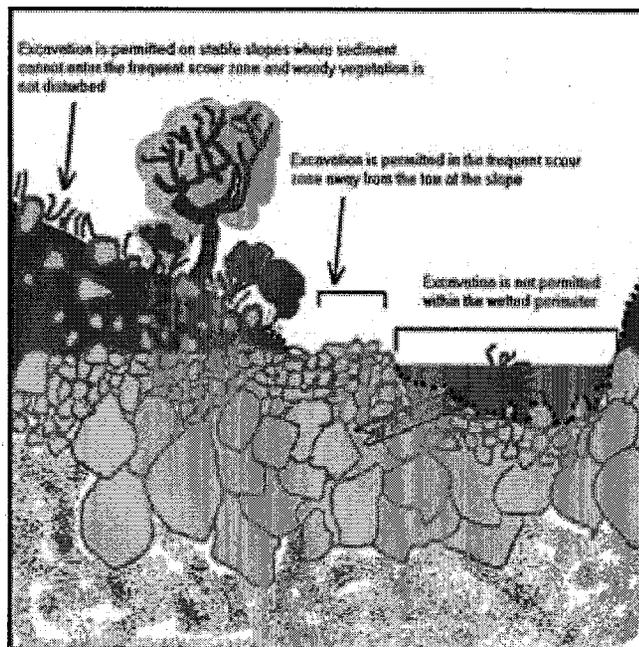
(iii) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

(iv) When collecting or excavating aggregate, a person may not stand within, or allow aggregate to enter, the wetted perimeter.

(v) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site. If a person moves boulders, a person must return them, as well as possible, to their original location.

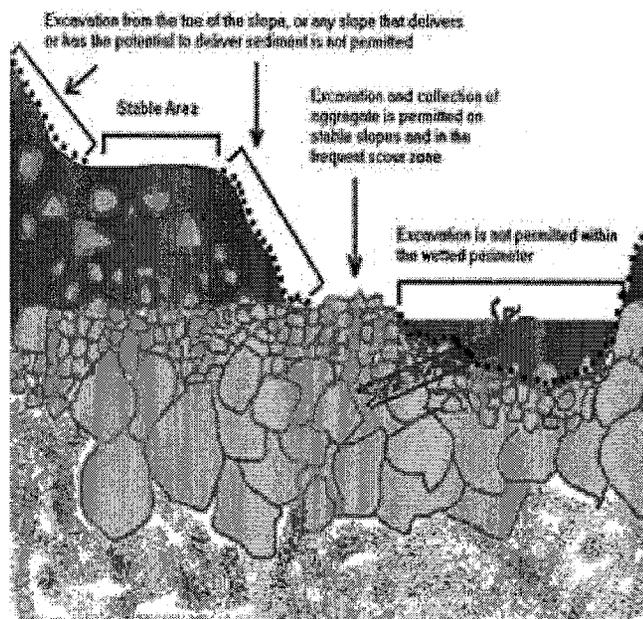
(vi) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person

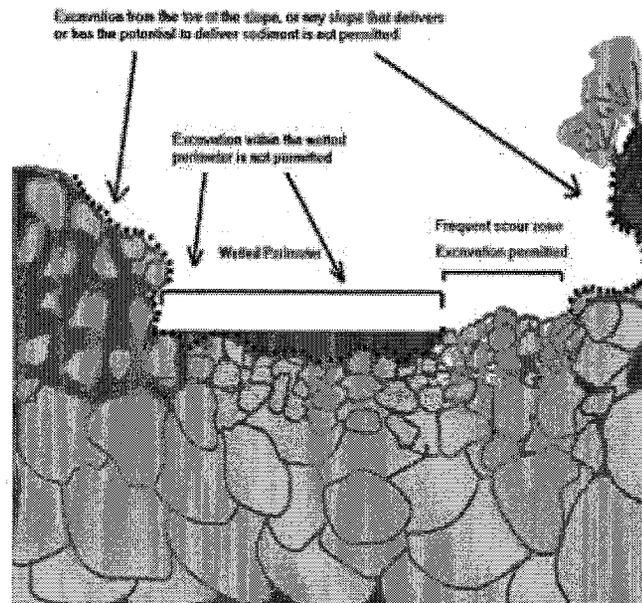
must keep them within the frequent scour zone. A person may not cut large woody material. See Figure 2.



**Figure 2: Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

- (vii) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.
- (viii) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver sediment to the wetted perimeter or frequent scour zone. See Figures 3 and 4.



**Figure 3: Limits on excavating, collecting, and removing aggregate on stream banks.****Figure 4: Excavating, collecting and removing aggregate within the wetted perimeter is not permitted.**

(g) Processing aggregate:

- (i) A person may stand within the wetted perimeter when processing aggregate with pans, spiral wheels, and sluices.
- (ii) A person may not stand on or process directly on redds, or disturb incubating fish life. A person may not allow tailings or visible sediment plumes (visibly muddy water) to enter redds or areas where fish life are located within the bed.
- (iii) A person may not level or disturb tailing piles that remain within the wetted perimeter after processing aggregate.
- (iv) If a person collected or excavated aggregate outside of the frequent scour zone, a person must classify it at the collection or excavation site before processing.
- (v) When using a sluice, a person may process only classified aggregate within the wetted perimeter.
- (vi) The maximum width of a sluice, measured at its widest point, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.
- (vii) A person may process with a sluice only in areas within the wetted perimeter that are composed mainly of boulders and bedrock. A person must separate sluice locations by at least fifty feet. A person may not place structures within the wetted perimeter to check or divert the water flow.
- (viii) A person may operate mini high-bankers or other concentrators only outside the wetted perimeter. A person may not allow visible sediment or muddy water to enter the wetted perimeter. A second excavation site may be used as a settling pond.
- (ix) As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has

openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(x) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

(xi) A person may not disturb existing habitat improvement structures or stream channel improvements.

(xii) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

(xiii) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately cease operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(5) Mineral prospecting in fresh waters with timing restrictions:**

(a) A person may mineral prospect in fresh waters of the state only during the times and with the mineral prospecting equipment limitations identified in subsection (7) of this section. A person must have the *Gold and Fish* pamphlet on the job site and comply with the provisions listed below.

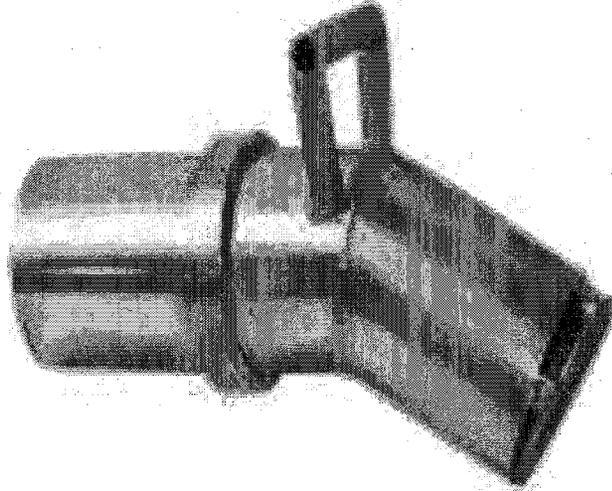
(b) When mineral prospecting with timing restrictions, a person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

(i) Pans;

(ii) Spiral wheels;

(iii) Sluices, concentrators, rocker boxes, and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;

(iv) Suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. See Figure 5.



**Figure 5: Dredge intake nozzle**

(v) Power sluice/suction dredge combinations that have riffle areas totaling ten square feet or less, including ganged equipment; suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle; and pump intake hoses with inside diameters of four inches or less. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size. See Figure 5; and

(vi) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

(c) The widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(d) The suction intake nozzle and hose of suction dredges and power sluice/suction dredge combinations must not exceed the diameters allowed in the listing for the stream or stream reach where a person is operating, as identified in subsection (7) of this section.

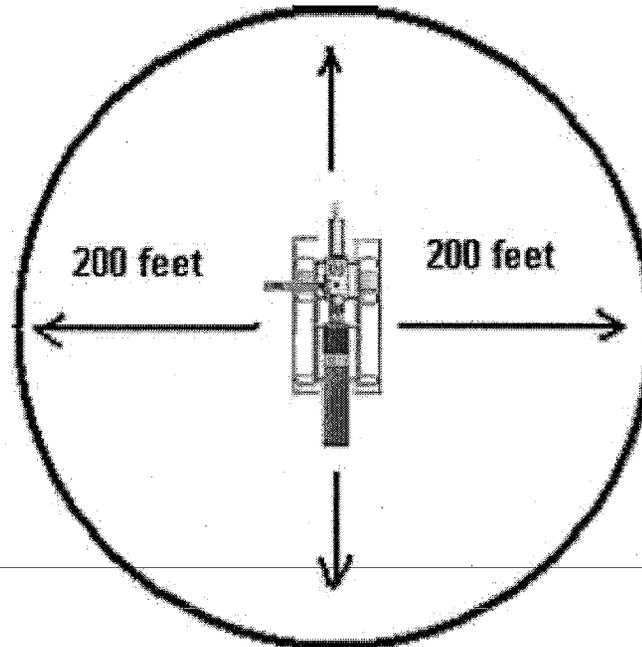
(e) A person may not use vehicle-mounted winches. A person may use one motorized winch and one hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

(f) Equipment separation:

(i) A person may use hand-held mineral prospecting tools; pans; spiral wheels; or sluices, mini rocker boxes, or mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.

(ii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), suction dredge, power sluice/suction dredge combination, high-banker, or power sluice within the wetted perimeter, a person's equipment must be at least two hundred feet from all others also operating this type of equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is actually operating within that two hundred foot radius. See Figure 6.

(iii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), suction dredge, power sluice/suction dredge combination, high-banker, or power sluice outside of the wetted perimeter that discharges tailings or wastewater to the wetted perimeter, a person's equipment must be at least two hundred feet from all others also operating this type of equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is actually operating within that two hundred-foot radius. See Figure 6.



**Figure 6: Equipment separation requirement.**

(g) As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(h) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

(i) A person may work within the wetted perimeter or frequent scour zone only from one-half hour before official sunrise to one-half hour after official sunset. If a person's mineral prospecting equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty

percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

(j) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

(k) A person must not disturb existing habitat improvement structures or stream channel improvements.

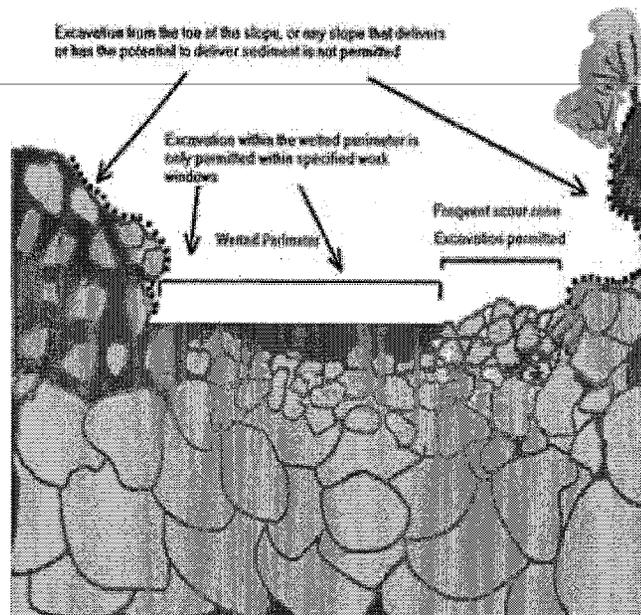
(l) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material.

(m) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

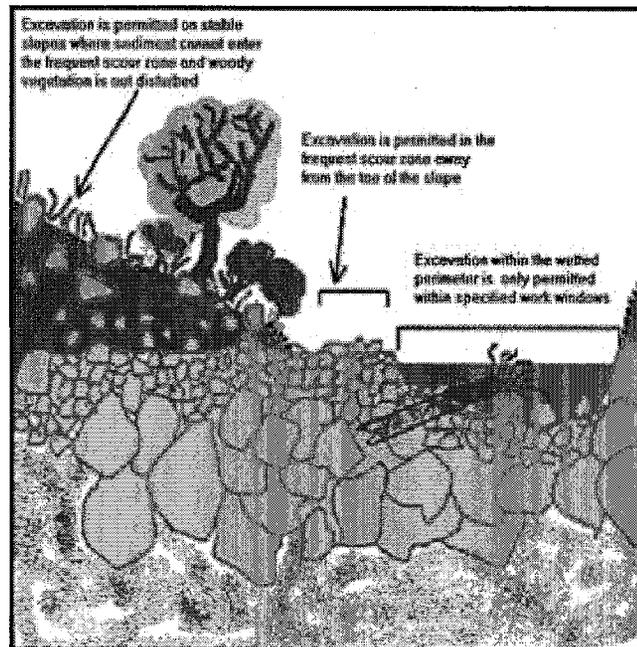
(n) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.

(o) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site.

(p) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 7 and 8.



**Figure 7: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites under rules for mineral prospecting with timing restrictions. Dashed line indicates areas where excavation is not permitted.**



**Figure 8: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites under rules for mineral prospecting with timing restrictions. Dashed line indicates areas where excavation is not permitted.**

(q) A person may partially divert a body of water into mineral prospecting equipment.

However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

(r) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

(s) A person may process aggregate collected from the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; mini rocker boxes; mini high-bankers; or sluices or other concentrators with riffle areas three square feet or less, including ganged equipment.

(ii) Only in the frequent scour zone or upland areas landward of the frequent scour zone if a person uses power sluice/suction dredge combinations, high-bankers, or power sluices with riffle areas totaling ten square feet or less, including ganged equipment; or sluices or rocker boxes that have riffle areas larger than three, but less than ten square feet, including ganged equipment. A person may not discharge tailings to the wetted perimeter when using this equipment. However, a person may discharge wastewater to the wetted perimeter if its entry point into the wetted perimeter is at least two hundred feet from any other wastewater discharge entry point.

(t) A person may process aggregate collected from upland areas landward of the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; or sluices, concentrators, mini rocker boxes, and mini high-bankers with riffle areas totaling three square feet or less,

including ganged equipment. A person must classify the aggregate at the excavation site before processing with this equipment within the wetted perimeter or frequent scour zone.

(ii) Only at an upland location landward of the frequent scour zone if a person uses power sluice/suction dredge combinations; high-bankers; power sluices; or rocker boxes. A person may not allow tailings or wastewater to enter the wetted perimeter or frequent scour zone.

(iii) Within the wetted perimeter or frequent scour zone if a person uses a sluice with a riffle area greater than three square feet. A person must classify the aggregate at the excavation site prior to processing with a sluice with a riffle area exceeding three square feet.

(u) A person may use pressurized water only for crevicing or for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

(v) A person may conduct crevicing in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing may not have an inside diameter larger than three-quarters of an inch. If a person crevices landward of the frequent scour zone, no sediment or wastewater may be discharged into the wetted perimeter or the frequent scour zone.

(w) A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

(x) A person may not disturb redds. If a person observes or encounters redds or actively spawning fish when collecting or processing aggregate, a person must relocate the operation.

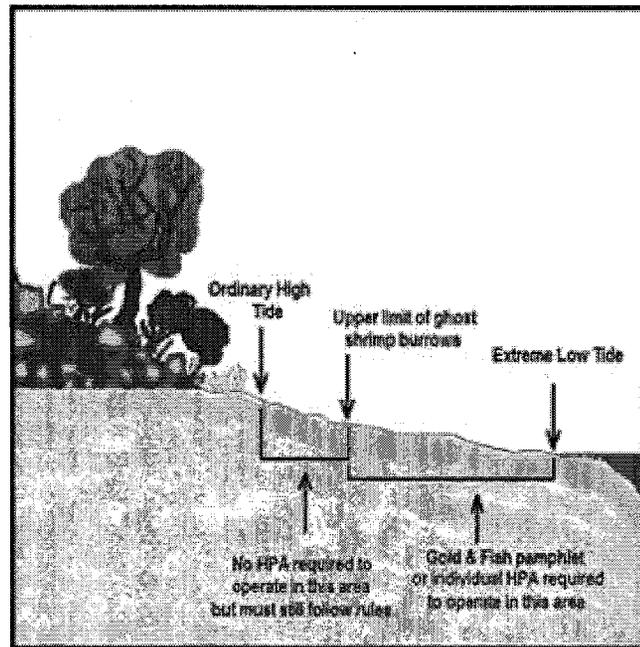
(y) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(6) Mineral prospecting on ocean beaches:**

(a) A person may mineral prospect year-round on ocean beaches of the state. A person must follow the rules listed below, and must have the *Gold and Fish* pamphlet on the job site when working on ocean beaches of the state, except as noted in this subsection.

(b) A person may mineral prospect only between the line of ordinary high tide and the line of extreme low tide on beaches within the Seashore Conservation Area set under RCW 79A.05.605 and managed by Washington state parks and recreation commission.

(c) No written or pamphlet HPA is required to mineral prospect south of the Copalis River, if a person operates landward of the upper limit of ghost shrimp burrowing in the beach; waterward of the ordinary high tide line; and a person does not use fresh water from fish-bearing streams during operations. See Figure 9.



**Figure 9. Beach area where no written or pamphlet HPA is required.**

(d) A person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

- (i) Pans;
- (ii) Spiral wheels;
- (iii) Sluices, concentrators, rocker boxes, and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;
- (iv) Suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size;

(v) Power sluice/suction dredge combinations that have riffle areas totaling ten square feet or less, including ganged equipment; suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle; and pump intake hoses with inside diameters of four inches or less. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size; and

(vi) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

(e) When operated in fish-bearing freshwater streams, the widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(f) A person may not use vehicle-mounted winches. A person may use one motorized winch and one hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

(g) Under RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(h) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water and beach, and contact the Washington military department emergency management division. A person may not return the equipment to the water or beach until the problem is corrected. A person must store fuel and lubricants away from the water inside a vehicle or landward of the beach, and in the shade when possible.

(i) A person may work only from one-half hour before official sunrise to one-half hour after official sunset. If a person uses mineral prospecting equipment in a fish-bearing freshwater stream and the equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

(j) A person may not undermine, cut, disturb, or move large woody material or woody debris jams.

(k) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

(l) A person must backfill all trenches, depressions, or holes created in the beach during project activities before moving to another excavation site (except during use as a settling pond) or leaving an excavation site.

(m) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter of a fish-bearing freshwater stream, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

(n) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

(o) A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

(p) A person may not disturb live razor clams or other shellfish within the bed. If a person observes or encounters live razor clams or other shellfish during excavation, the person must relocate the operation.

(q) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department, and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(7) Authorized work times and mineral prospecting equipment restrictions by specific state waters for mineral prospecting and placer mining projects:**

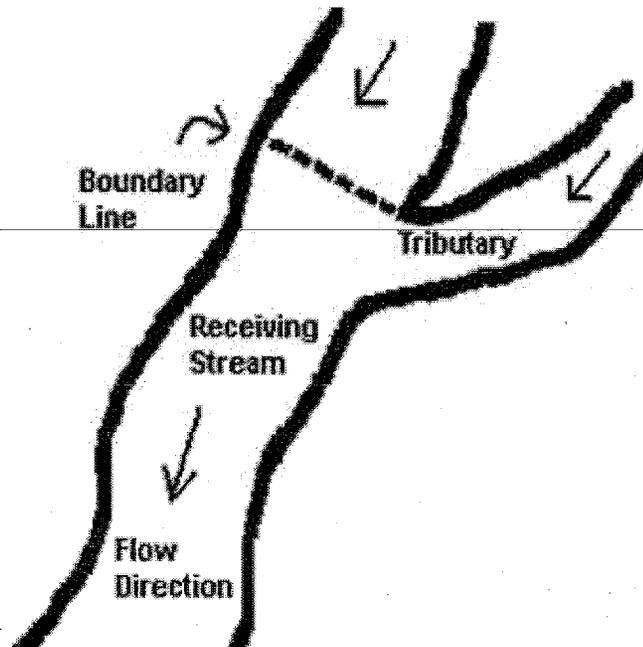
(a) A person may conduct mineral prospecting and placer mining under subsections (5) and (6) of this section only in the state waters, with the equipment restrictions, and during the times specified in the following table of authorized work times.

(b) The general work time for a county applies to all state waters within that county, unless otherwise indicated in the table.

(c) The work time for state waters identified in the table of authorized work times applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the table for the county in which mineral prospecting or placer mining is to be conducted to determine the work time for that water body.

(d) Where a tributary is identified as a boundary, that boundary is the line perpendicular to the receiving stream that is projected from the most upstream point of the tributary mouth to the opposite bank of the receiving stream. See Figure 10.

(e) Mineral prospecting and placer mining within water bodies identified in the table of authorized work times as "submit application" are not authorized under the *Gold and Fish* pamphlet. A person must obtain a written individual HPA to work in these water bodies.



**Figure 10: Where the boundary is located if a tributary listed as a boundary.**

(f) Mineral prospecting using mineral prospecting equipment that has suction intake nozzles with inside diameters that should be four inches or less, but must be no greater than four and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle, is authorized only in the state waters identified in the table of authorized work times, and any tributaries to them, unless otherwise indicated in the table. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

(g) Mineral prospecting using mineral prospecting equipment that has suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation

of the nozzle is authorized only in the state waters specifically identified in the table of authorized work times. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. A person may use only mineral prospecting equipment with suction intake nozzle inside diameters of four and one-quarter inches or less in tributaries of these state waters. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

**Table 3  
Authorized Work Times and Mineral Prospecting Equipment Restrictions by Specific State Waters for Mineral Prospecting and Placer Mining Projects**

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
<b>Adams County</b>	July 1 - October 31	X	--
Crab Creek (41.0002)	July 16 - February 28	X	X
Esquatzel Creek (36.MISC)	June 1 - February 28	X	X
Palouse River (34.0003)	July 16 - February 28	X	X
<b>Asotin County</b>	July 16 - September 15	X	--
Snake River (35.0002)	See Below	--	--
Alpowa Creek (35.1440)	July 16 - December 15	X	--
Asotin Creek (35.1716)	July 16 - August 15	X	--
Couse Creek (35.2147)	July 16 - December 15	X	--
Grande Ronde River (35.2192)	July 16 - September 15	X	X
Ten Mile Creek (35.2100)		X	--

	July 16 - December 15		
<b>Benton County</b>	June 1 - September 30	X	-
Columbia River	See Below	-	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Yakima River (37.0002)	June 1 - September 15	X	X
Amon Wasteway (37.0009)	June 1 - September 30	X	-
Corral Creek (37.0002)	June 1 - September 30	X	-
Spring Creek (37.0205)	June 1 - September 30	X	-
<b>Chelan County</b>	July 16 - August 15	X	-
Columbia River	See Below	-	-
Antoine Creek (49.0294) - Mouth to falls at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls at river mile 1.0	July 1 - March 31	X	-
Chelan River (47.0052) - Mouth to Chelan Dam	July 16 - September 30	X	X
Colockum Creek (40.0760)	July 1 - October 31	X	-
Entiat River (46.0042) - Mouth to Entiat Falls	July 16 - July 31	X	X
Entiat River (46.0042) - Upstream of Entiat Falls	July 16 - March 31	X	-
Crum Canyon (46.0107)	July 16 - March 31	X	-
Mad River (46.0125)	July 16 - July 31	X	-
Indian Creek (46.0128)	July 16 - February 28	X	-
Lake Chelan (47.0052)	Submit Application	-	-
Railroad Creek (47.0410)	July 16 - September 30	X	-
Stehekin River (47.0508)	Submit Application	-	-

Twenty-Five Mile Creek (47.0195)	July 16 - September 30	X	-
Other Lake Chelan tributaries outside of North Cascades National Park	July 1 - August 15	X	-
Other Lake Chelan tributaries within North Cascades National Park	Submit Application	-	-
Number 1 Canyon (45.0011)	July 1 - February 28	X	-
Number 2 Canyon (45.0012)	July 1 - February 28	X	-
Squilchuck Creek (40.0836) - Mouth to South Wenatchee Avenue	July 1 - September 30	X	-
Squilchuck Creek (40.0836) - Upstream of South Wenatchee Avenue	July 1 - February 28	X	-
Stemilt Creek (40.0808) - Mouth to falls	July 1 - September 30	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Wenatchee River (45.0030) - Mouth to Hwy 2 Bridge in Leavenworth	July 15 - September 30	X	X
Wenatchee River (45.0030) - Hwy 2 Bridge in Leavenworth to Lake Wenatchee	July 15 - August 15	X	X
Beaver Creek (45.0751)	July 1 - September 30	X	-
Chiwaukum Creek (45.0700)	July 1 - July 31	X	-
Chiwawa River (45.0759) - Mouth to Phelps Creek	July 1 - July 31	X	X
Chiwawa River (45.0759) - Upstream of Phelps Creek	July 1 - July 31	X	-
Deep Creek (45.0764)	July 1 - February 28	X	-
Phelps Creek (45.0875)	July 16 - August 15	X	-

Icicle Creek (45.0474) - Mouth to Johnny Creek	July 1 - July 31	X	X
Icicle Creek (45.0474) - Upstream of Johnny Creek	July 1 - July 31	X	--
Fourth of July Creek (45.0525)	July 1 - February 28	X	--
Lake Wenatchee (45.0030)	Submit Application	--	--
Little Wenatchee (45.0985) - Mouth to Wilderness Boundary	July 1 - July 31	X	X
Little Wenatchee (45.0985) - Upstream of Wilderness Boundary	Submit Application	--	--
White River (45.1116) - Mouth to White River Falls	July 1 - July 31	X	X
White River (45.1116) - Upstream of White River Falls	July 1 - February 28	X	--
Nason Creek (45.0888)	July 1 - July 31	X	--
Peshastin Creek (45.0232) - Mouth to Negro Creek	July 16 - August 15	X	--
Peshastin Creek (45.0232) - Upstream of Negro Creek	August 1 - February 28	X	--
Ingalls Creek (45.0273) - Mouth to Cascade Creek	Submit Application	--	--
Ingalls Creek (45.0273) - Upstream of Cascade Creek	July 16 - February 28	X	--
Negro Creek (45.0323) - Mouth to falls at stream mile 2.9	Submit Application	--	--
Negro Creek (45.0323) - Upstream of falls at stream mile 2.9	July 16 - February 28	X	--
Ruby Creek (45.0318)	July 16 - February 28	X	--
Tronson Creek (45.0346)	August 1 - February 28	X	--
Scotty Creek (45.0376)	August 1 - February 28	X	--
Shaser Creek (45.0365)		X	--

	August 1 - February 28		
<b>Clallam County</b>	July 16 - September 15	X	--
Clallam River (19.0129)	August 1 - August 15	X	--
Dungeness River (18.0018)	Submit Application	--	--
Independent Creek (18.MISC)	August 1 - August 31	X	--
Elwha River (18.0272)	August 1 - August 15	X	X
Hoko River (19.0148)	August 1 - September 15	X	--
Jimmycomelately Creek (17.0285)	August 1 - August 31	X	--
Lake Ozette (20.0046)	Submit Application	--	--
Little Quilcene River (17.0076)	July 16 - August 31	X	--
Lake Ozette tributaries	July 16 - September 15	X	--
Lyre River (19.0031)	August 1 - September 15	X	--
McDonald Creek (18.0160)	August 1 - September 15	X	--
Morse Creek (18.0185)	August 1 - August 15	X	--
Ozette River (20.0046)	July 16 - September 15	X	--
Pysht River (19.0113)	August 1 - September 15	X	--
Quillayute River (20.0096, 20.0162, 20.0175)	August 1 - August 15	X	X
Bogachiel River (20.0162)	Submit Application	--	--
Calawah River (20.0175)	August 1 - August 15	X	X
Salmon Creek (17.0245)	July 16 - August 31	X	--
Sekiu River (19.0203)	August 1 - September 15	X	--

Snow Creek (17.0219)	July 16 - August 31	X	-
Sol Duc River (20.0096)	Submit Application	-	-
Lake Pleasant (20.0313)	Submit Application	-	-
Lake Pleasant tributaries	July 16 - September 15	X	-
Sooes River (20.0015)	July 16 - September 15	X	-
<b>Clark County</b>	July 16 - September 30	-	-
Columbia River	See Below	-	-
Lacamas Creek (28.0160) - Mouth to dam	August 1 - August 31	X	-
Lacamas Creek (28.0160) - Upstream of dam	August 1 - September 30	X	-
Lewis River (27.0168)	August 1 - August 15	X	X
East Fork Lewis River (27.0173) - Mouth to Lucia Falls	August 1 - August 15	X	X
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28	X	X
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28	X	-
Lake River (28.0020)	January 1 - December 31	X	X
Burnt Bridge Creek (28.0143)	August 1 - August 31	X	-
Salmon Creek (28.0059)	August 1 - August 31	X	-
Whipple Creek (28.0038)	August 1 - September 30	X	-
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15	X	X
Cedar Creek (27.0339)	August 1 - September 15	X	-
	July 16 - August 15	X	X

North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls			
Canyon Creek (27.0442)	July 16 - February 28	X	-
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - August 15	X	X
Washougal River (28.0159) - Mouth to headwaters	August 1 - August 31	X	X
<b>Columbia County</b>	July 16 - September 30	X	-
Touchet River (32.0097)	August 1 - August 15	X	X
Grande Ronde River tributaries (35.2192)	July 16 - August 15	X	-
North Fork Touchet/Wolf Fork (32.0761)	Submit Application	-	-
South Fork Touchet (32.0708)	Submit Application	-	-
Tucannon River (35.0009)	July 16 - August 15	X	X
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15	X	X
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15	X	-
<b>Cowlitz County</b>	July 16 - September 30	X	-
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Mouth to Fisk Falls	August 1 - August 31	X	X
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Upstream of Fisk Falls	August 1 - August 31	X	-
Columbia River	See Below	-	-
Abernathy Creek (25.0297)	July 16 - September 15	X	-

Burke Creek (27.0148)	August 1 - August 31	X	-
Burris Creek (27.0151)	August 1 - August 31	X	-
Bybee Creek (27.0142)	August 1 - August 31	X	-
Canyon Creek (27.0147)	August 1 - August 31	X	-
Coal Creek (25.0340)	July 16 - September 15	X	-
Clark Creek (25.0371)	August 1 - August 31	X	-
Cowlitz River (26.0002) - Mouth to barrier dam at river mile 49.5	July 16 - August 15	X	X
Coweeman River (26.0003) - Mouth to Baird Creek	August 1 - August 31	X	X
Coweeman River (26.0003) - Upstream of Baird Creek	August 1 - August 31	X	-
Cowlitz River (26.0002) - Tributaries below barrier dam to mouth	July 16 - September 30	X	-
Owl Creek (26.1441)	July 16 - September 15	X	-
Toutle River (26.0227)	July 16 - August 15	X	X
North Fork Toutle River (26.0314) - Mouth to Debris Dam	July 16 - August 15	X	X
North Fork Toutle River (26.0314) - Upstream of Debris Dam	July 16 - August 15	X	-
Green River (26.0323) - Mouth to Shultz Creek	July 16 - September 30	X	X
Green River (26.0323) - Upstream of Shultz Creek	July 16 - September 30	X	-
South Fork Toutle (26.0248) - Mouth to Bear Creek	July 16 - September 15	X	X

South Fork Toutle (26.0248) - Upstream of Bear Creek	July 16 - September 15	X	-
Tributaries to Silver Lake	July 16 - September 30	X	-
Germany Creek (25.0313)	July 16 - September 15	X	-
Kalama River (27.0002) - Mouth to Kalama Falls	August 1 - August 15	X	X
Kalama River (27.0002) - Upstream of Kalama Falls	August 1 - August 15	X	-
Lewis River (27.0168) - Mouth to East Fork Lewis River	August 1 - August 15	X	X
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15	X	X
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15	X	X
Mill Creek (25.0284)	July 16 - September 15	X	-
Schoolhouse Creek (27.0139)	August 1 - August 31	X	-
<b>Douglas County</b>	July 1 - September 30	X	-
Columbia River	See Below	-	-
Douglas Creek Canyon (44.0146)	May 16 - January 31	X	-
Foster Creek (50.0065)	August 1 - April 15	X	-
McCarteney Creek (44.0002)	July 1 - February 28	X	-
Pine/Corbaley Canyon Creek (44.0779)	September 16 - April 15	X	-
Rock Island Creek (44.0630)	July 1 - September 30	X	-
<b>Ferry County</b>	July 1 - August 31	X	-
Columbia River	See Below	-	-
Kettle River (60.0002)	June 16 - August 31	X	X

Boulder Creek (60.0130) - Mouth to Hodgson Road Bridge	Submit Application	-	-
Boulder Creek (60.0130) - Upstream of Hodgson Road Bridge	June 16 - February 28	X	-
Deadman Creek (60.0008) - Mouth to SR395 Crossing	Submit Application	-	-
Deadman Creek (60.0008) - Upstream of SR395	June 16 - February 28	X	-
Goosmus Creek (60.0254)	June 16 - February 28	X	-
Toroda Creek (60.0410)	July 1 - September 30	X	-
San Poil River (52.0004)	June 16 - September 30	X	X
Granite Creek (52.0099) - Mouth to Powerhouse Dam	June 16 - September 30	X	-
Granite Creek (52.0099) - Upstream of Powerhouse Dam	June 16 - February 28	X	-
West Fork San Poil River (52.0192) - Mouth to Deep Creek	June 16 - September 30	X	X
West Fork San Poil River (52.0192) - Upstream of Deep Creek	June 16 - September 30	X	-
Gold Creek (52.0197)	June 16 - February 28	X	-
<b>Franklin County</b>	June 1 - September 30	X	-
Columbia River	See Below	-	-
Snake River	See Below	-	-
Palouse River (34.0003)	July 16 - February 28	X	X
North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River	June 16 - October 31	X	-

<b>Garfield County</b>	July 16 - September 30	X	-
Snake River (35.0003)	See Below	-	-
Alpowa Creek (35.1440)	July 16 - December 15	X	-
Asotin Creek (35.1716)	July 16 - August 15	X	-
Deadman Creek (35.0688)	July 16 - December 15	X	-
Grande Ronde River tributaries (35.2192)	July 16 - August 15	X	-
Meadow Creek (35.0689)	July 16 - December 15	X	-
Tucannon River (35.0009) - Mouth to Panjab Creek	July 16 - August 15	X	X
Tucannon River (35.0009) - Upstream of Panjab Creek	July 16 - August 15	X	-
Pataha Creek (35.0123) - Mouth to Pataha Creek	January 1 - December 31	X	-
Pataha Creek (35.0123) - Upstream of Pataha Creek	July 16 - December 31	X	-
<b>Grant County</b>	July 1 - October 31	X	-
Columbia River	See Below	-	-
Crab Creek (41.0002)	July 16 - September 15	X	X
Grays Harbor County	July 16 - October 15	X	-
Chehalis River (22.0190/23.0190) - Mouth to Porter Creek	August 1 - August 31	X	X
Chehalis River (22.0190/23.0190) - Porter Creek to Fisk Falls	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of Fisk Falls	August 1 - August 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-
		X	-

Cloquallum Creek (22.0501)	August 1 - September 30		
Porter Creek (23.0543)	August 1 - September 30	X	-
Satsop River (22.0360)	August 1 - August 31	X	X
Wishkah River (22.0191)	August 1 - October 15	X	X
Wynoochee River (22.0260)	August 1 - September 30	X	X
Copalis River (21.0767)	August 1 - October 15	X	X
Elk River (22.1333)	July 1 - October 31	X	X
Hoquiam River (22.0137)	August 1 - October 15	X	X
Humtulpis River (22.0004) - Mouth to Forks	August 1 - September 30	X	X
Humtulpis River (22.0004) - Upstream of Forks	August 1 - September 30	X	-
Johns River (22.1270)	August 1 - September 30	X	X
Moclips River (21.0731)	August 1 - October 15	X	X
North River (24.0034)	August 1 - September 30	X	X
Queets River (21.0001)	August 1 - August 15	X	X
Quinault River (21.0398)	August 1 - August 15	X	X
Raft River (21.0337)	August 1 - October 15	X	X
<b>Island County</b>	June 16 - October 15	X	-
Cavalero Creek (06.0065)	June 16 - December 15	X	-
Chapman Creek (06.0070)	June 16 - December 15	X	-
Crescent Creek (06.0002)	June 16 - December 15	X	-

Cultus Creek (06.0026)	June 16 - March 15	X	-
Deer Creek (06.0024)	June 16 - March 15	X	-
Dugualla Creek (06.0001)	June 16 - March 15	X	-
Glendale Creek (06.0025)	June 16 - December 15	X	-
Kristoferson Creek (06.0062-06.0063)	May 1 - December 15	X	-
Maxwelton Creek (06.0029)	June 16 - December 15	X	-
North Bluff Creek (06.0006)	June 16 - March 15	X	-
Old Clinton Creek (06.0023)	June 16 - March 15	X	-
<b>Jefferson County</b>	July 16 - October 31	X	-
Big Quilcene River (17.0012) - Mouth to falls	July 16 - August 31	X	X
Big Quilcene River (17.0012) - Falls to Forks	August 1 - February 28	X	X
Big Quilcene River (17.0012) - Upstream of Forks	August 1 - February 28	X	-
Bogachiel River (20.0162)	Submit Application	-	-
Chimacum Creek (17.0203)	July 16 - September 15	X	-
Donovan Creek (17.0115)	July 1 - October 15	X	-
Dosewallips River (16.0442)	July 16 - August 15	X	-
Duckabush River (16.0351)	July 16 - August 15	X	-
Dungeness River (18.0018)	August 1 - August 15	X	-
Elwha River (18.0272)	August 1 - August 15	X	X
Goodman Creek (20.0406)	August 1 - September 15	X	-

Hoh River (20.0422)	August 1 - August 15	X	X
Little Quilcene River (17.0076)	July 16 - August 31	X	-
Queets River (21.0001)	August 1 - August 15	X	X
Matheny Creek (21.0165)	August 1 - August 15	X	-
Sams River (21.0205)	August 1 - August 15	X	X
Quinault River (21.0398)	August 1 - August 15	X	X
Salmon Creek (17.0245)	July 16 - August 31	X	-
Skokomish River (16.0001)	August 1 - August 31	X	X
Snow Creek (17.0219)	July 16 - August 31	X	-
Tarboo Creek (17.0129)	August 1 - September 30	X	-
Thorndyke Creek (17.0170)	August 1 - October 15	X	-
<b>King County</b>	July 16 - September 30	X	-
Cedar River (08.0299) - Mouth to Forks	August 1 - August 31	X	X
Cedar River (08.0299) - Upstream of Forks	August 1 - August 31	X	-
Issaquah Creek (08.0178)	August 1 - August 31	X	-
Sammamish River (08.0057)	August 1 - August 31	X	-
Steele Creek (08.0379)	July 16 - February 28	X	-
Green River (Duwamish River) (09.0001) - Mouth to Sawmill Creek	August 1 - August 31	X	X
Green River (Duwamish River) (09.0001) - Upstream of Sawmill Creek	August 1 - August 31	X	-

Lake Washington tributaries (08.LKWA)	August 1 - August 31	X	-
Snoqualmie River (07.0219) - Mouth to Snoqualmie Falls	August 1 - August 15	X	X
Snoqualmie River (07.0219) - Snoqualmie Falls to mouth of South Fork	July 16 - February 28	X	X
Patterson Creek (07.0376)	July 16 - September 30	X	-
Middle Fork Snoqualmie River (07.0219) - Mouth to Taylor Creek	July 16 - February 28	X	X
Middle Fork Snoqualmie River (07.0219) - Upstream of Taylor Creek	July 16 - February 28	X	-
Goat Creek (07.0754)	July 16 - February 28	X	-
North Fork Snoqualmie River (07.0527) - Mouth to Lennox Creek	July 16 - February 28	X	X
North Fork Snoqualmie River (07.0527) - Upstream of Lennox Creek	July 16 - February 28	X	-
Deep Creek (07.0562)	July 16 - February 28	X	-
Illinois Creek (07.0624)	July 16 - February 28	X	-
Lennox Creek (07.0596)	July 16 - February 28	X	-
Bear Creek (07.0606)	July 16 - February 28	X	-
Raging River (07.0384)	August 1 - September 15	X	X
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
South Fork Skykomish River (07.0012) - Upstream of Sunset Falls	August 1 - August 15	X	-
		X	X

Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15		
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	-
Index Creek (07.1264) - Mouth to Mud Lake Creek	August 1 - August 31	X	-
Index Creek (07.1264) - Upstream of Mud Lake Creek including Salmon Creek	July 16 - February 28	X	-
Miller River (07.1329) - Mouth to Forks	August 1 - August 15	X	X
Miller River (07.1329) - Upstream of Forks	August 1 - August 15	X	-
Coney Creek (07.1347)	July 16 - February 28	X	-
East Fork Miller River (07.1329) - Mouth to Great Falls Creek	July 16 - August 15	X	-
East Fork Miller River (07.1329) - Upstream of Great Falls Creek	July 16 - February 28	X	-
Foss River (07.1562) - Mouth to Forks	July 16 - August 31	X	X
East Fork Foss River (07.1562) - Mouth to Burn Creek	July 16 - August 15	X	X
East Fork Foss River (07.1562) - Upstream of Burn Creek	July 16 - February 28	X	-
West Fork Foss River (07.1573) - Mouth to falls at river mile 2.0	July 16 - August 31	X	-
West Fork Foss River (07.1573) - Upstream of falls at river mile 2.0	July 16 - February 28	X	-

West Fork Miller River (07.1335)	July 16 - February 28	X	X
Money Creek (07.1300) - Mouth to 0.5 mile upstream of Kimball Creek	August 1 - August 31	X	-
Money Creek (07.1300) - Upstream of 0.5 mile upstream of Kimball Creek	August 1 - February 28	X	-
Kimball Creek (07.1301)	August 1 - August 31	X	-
Tye River (07.0012) - Mouth to Alpine Falls	August 1 - August 31	X	X
Tye River (07.0012) - Upstream of Alpine Falls	July 16 - February 28	X	-
South Fork Snoqualmie River (07.0467)	July 16 - February 28	X	X
Denny Creek (07.0517)	July 16 - February 28	X	-
Tolt River (07.0291) - Mouth to Forks	August 1 - August 31	X	X
North Fork Tolt River (07.0291) - Mouth to Yellow Creek	July 16 - September 15	X	X
North Fork Tolt River (07.0291) - Upstream of Yellow Creek	July 16 - February 28	X	-
South Fork Tolt River (07.0302) - Mouth to dam	July 16 - September 15	X	X
South Fork Tolt River (07.0302) - Upstream of Tolt Reservoir	July 16 - February 28	X	-
Yellow Creek (07.0337)	July 16 - February 28	X	-
White River (10.0031)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
<b>Kittitas County</b>	July 1 - September 30	X	-
Brushy Creek (40.0612)	July 1 - February 28	X	-

Colockum Creek (40.0760)	July 1 - October 31	X	-
Quilomene Creek (40.0613)	July 1 - October 31	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Tarpiscan Creek (40.0723)	July 1 - February 28	X	-
Tekiason Creek (40.0686)	July 1 - February 28	X	-
Whisky Dick Creek (40.0591)	July 1 - February 28	X	-
Yakima River (39.0002) - Roza Dam to Teanaway River	August 1 - August 31	X	X
Naches River (38.0003) - Tieton River to Bumping River	July 1 - August 15	X	X
Little Naches River (38.0852) - Mouth to Matthew Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthew Creek	July 16 - August 15	X	-
Pileup Creek (38.0932)	July 16 - August 31	X	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Swauk Creek (39.1157)	July 16 - September 30	X	-
Baker Creek (39.1157)	July 16 - September 30	X	-
First Creek (39.1157)	July 16 - September 30	X	-
Iron Creek (39.1157)	July 16 - September 30	X	-
Williams Creek (39.1157)	July 16 - September 30	X	-
Boulder Creek (39.1157)	July 16 - February 28	X	-
Cougar Gulch (39.1157)		X	-

	July 16 - February 28		
Lion Gulch (39.1157)	July 16 - February 28	X	-
Yakima River (39.0002) - Teanaway River to Easton Dam	August 1 - August 31	X	X
Yakima River (39.0002) - Upstream of Easton Dam	August 1 - August 31	X	X
Cle Elum River (39.1434) - Mouth to dam	July 16 - August 31	X	X
Cle Elum River (39.1434) - Upstream of Cle Elum Dam	Submit Application	-	-
Big Boulder Creek (39.1434MISC)	August 1 - February 28	X	-
Camp Creek (39.1434MISC)	August 1 - February 28	X	-
Fortune Creek (39.1434MISC)	August 1 - August 15	X	-
South Fork Fortune Creek (39.1434MISC)	August 1 - February 28	X	-
Howson Creek (39.1434)	July 16 - February 28	X	-
Little Salmon Le Sac Creek (39.1482)	August 1 - August 15	X	-
Paris Creek (39.1434MISC)	August 1 - February 28	X	-
Salmon Le Sac Creek (39.1520)	August 1 - February 28	X	-
Kachess River (39.1739) - Upstream of Lake Kachess	Submit Application	-	-
Kachess River (39.1739) - Below dam	July 16 - August 15	X	X
Box Canyon Creek (39.1765)	Submit Application	-	-
Mineral Creek (39.1792)	August 1 - August 15	X	-
Lake Keechelus (39.1842) tributaries	July 16 - August 15	X	-
	Submit Application	-	-

Gold Creek (Lake Keechelus) (39.1842)			
Manastash Creek (39.0988)	July 16 - September 30	X	-
Naneum Creek (39.0821)	July 16 - September 30	X	-
Taneum Creek (39.1081) - Mouth to I-90	July 16 - August 31	X	-
Taneum Creek (39.1157) - Upstream of I-90	July 16 - September 30	X	-
Teaway River (39.1236)	July 16 - August 31	X	X
NF Teaway River (39.1260)	Submit Application	-	-
Umtanum Creek (39.0553)	July 16 - September 30	X	-
Wenas Creek, Below dam (39.0032)	July 16 - October 15	X	-
Wenas Creek, Upstream of Wenas Lake (39.0032)	July 16 - February 28	X	-
Other Yakima River tributaries not listed	July 16 - August 31	X	-
<b>Kitsap County</b>	July 16 - October 15	X	-
Anderson Creek (15.0211)	August 1 - November 15	X	-
Barker Creek (15.0255)	August 1 - September 30	X	-
Big Beef Creek (15.0389)	August 1 - August 15	X	-
Big Scandia Creek (15.0280)	August 1 - September 30	X	-
Blackjack Creek (15.0203)	August 1 - September 30	X	-
Burley Creek (15.0056)	August 1 - September 30	X	-
Chico Creek (15.0229)	August 1 - October 15	X	-
Clear Creek (15.0249)	August 1 - September 30	X	-

Curley Creek (15.0185)	August 1 - September 30	X	-
Dewatto River (15.0420)	August 1 - August 15	X	-
Dogfish Creek (15.0285)	August 1 - August 15	X	-
Gorst Creek (15.0216)	August 1 - August 15	X	-
Grovers Creek (15.0299)	August 1 - August 31	X	-
Johnson Creek (15.0387)	August 1 - October 31	X	-
Ollala Creek (15.0107)	August 1 - September 30	X	-
Ross Creek (15.0209)	August 1 - November 15	X	-
Salmonberry Creek (15.0188)	August 1 - November 30	X	-
Seabeck Creek (15.0400)	August 1 - August 15	X	-
Steele Creek (15.0273)	August 1 - September 30	X	-
Tahuya River (15.0446)	August 1 - August 31	X	X
Union River (15.0503)	August 1 - August 31	X	X
<b>Klickitat County</b>	July 15 - September 30	X	-
Alder Creek (31.0459)	August 1 - September 30	X	-
Chapman Creek (31.0192)	August 1 - September 30	X	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Juniper Canyon Creek (31.0378)	August 1 - September 30	X	-
Klickitat River (30.0002) - Mouth to Klickitat hatchery	Submit Application	-	-
Klickitat River (30.0002) - Upstream of Klickitat hatchery	Submit Application	-	-

Little White Salmon River (29.0131) - Mouth to Cabbage Creek	July 16 - January 31	X	X
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
Pine Creek (31.0354)	August 1 - September 30	X	-
Rock Creek (31.0014)	August 1 - September 30	X	-
Six Prong Creek (31.0465)	August 1 - September 30	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wood Gulch Creek (31.0263)	August 1 - September 30	X	-
<b>Lewis County</b>	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190) - Mouth to South Fork Chehalis River	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of South Fork Chehalis River	August 1 - August 31	X	X
Newaukum River (23.0882) - Mouth to South Fork	August 1 - August 31	X	X
Newaukum River (23.0882) - Upstream of South Fork	August 1 - August 31	X	-
Skookumchuck River (23.0761)	August 1 - August 31	X	X
Cowlitz River (26.0002)	August 1 - August 15	X	X
	August 1 - August 15	X	X

Cispus River (26.0668) - Mouth to Squaw Creek (26.1010)			
Cispus River (26.0668) - Squaw Creek to Chambers Creek	July 16 - February 28	X	X
Cispus River (26.0668) - Upstream of Chambers Creek	July 16 - February 28	X	-
Yellowjacket Creek (26.0757)	August 1 - August 15	X	-
McCoy Creek (26.0766) - Mouth to lower falls	August 1 - August 15	X	-
McCoy Creek (26.0766) - Upstream of lower falls	July 16 - February 28	X	-
Walupt Creek (26.1010)	Submit Application	-	-
Packwood Lake tributaries	August 16 - September 15	X	-
Tilton River (26.0560) - Mouth to North Fork	August 1 - September 30	X	X
Tilton River (26.0560) - Upstream of North Fork	August 1 - September 30	X	-
Toutle River (26.0227)	August 1 - August 31	X	X
North Fork Toutle River (26.0314)	July 16 - August 15	X	X
Green River (26.0323)	July 16 - September 30	X	X
Deschutes River (13.0028)	July 16 - August 31	X	X
Little Deschutes River (13.0110)	July 16 - February 28	X	-
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30	X	X
<b>Lincoln County</b>	June 16 - February 28	X	-
Columbia River	See Below	-	-
Hawk Creek (53.0101) - Mouth to falls	June 16 - August 31	X	-
Hawk Creek (53.0101) - Upstream of falls	June 16 - February 28	X	-

Upper Crab Creek (42.0001)	June 16 - February 28	X	-
Wilson Creek (43.0020)	June 16 - February 28	X	-
<b>Mason County</b>	August 1 - October 15	X	-
Cloquallum Creek (22.0501)	August 1 - September 30	X	-
Coulter Creek (15.0002)	August 1 - August 31	X	-
Dewatto River (15.0420)	August 1 - August 31	X	-
Goldsborough Creek (14.0035)	August 1 - October 15	X	-
John Creek (16.0253)	August 1 - August 31	X	-
Hamma Hamma River (16.0251) - Mouth to falls	August 1 - August 31	X	-
Johns Creek (14.0049)	August 1 - August 15	X	-
Lilliwaup River (16.0230) - Mouth to falls	August 1 - August 31	X	X
Lilliwaup River (16.0230) - Upstream of falls	August 1 - February 28	X	-
Mill Creek (14.0029)	August 1 - August 15	X	-
Satsop River (22.0360)	August 1 - August 31	X	-
Schaerer Creek (16.0326)	August 1 - August 31	X	-
Sherwood Creek (14.0094)	August 1 - August 15	X	-
Skokomish River (16.0001) - Mouth to Forks	August 1 - August 31	X	X
Skokomish River (16.0001) - Upstream of Forks	August 1 - August 31	X	-
Tahuya River (15.0446)	August 1 - August 31	X	-
Twanoh Creek (14.0134)	August 1 - October 31	X	-

Union River (15.0503)	August 1 - August 31	X	X
<b>Okanogan County</b>	July 1 - August 15	X	--
Aneas Creek (49.0243) - Mouth to falls	July 16 - August 31	X	--
Aneas Creek (49.0243) - Upstream of falls	July 1 - March 31	X	--
Chewiliken Creek (49.0232) - Mouth to falls	July 16 - August 31	X	--
Chewiliken Creek (49.0232) - Upstream of falls	July 1 - March 31	X	--
Chiliwist Creek (49.0034) - Mouth to falls	July 16 - August 31	X	--
Chiliwist Creek (49.0034) - Upstream of falls	July 1 - March 31	X	--
Foster Creek (50.0065)	July 1 - February 28	X	--
Methow River (48.0007) - Columbia confluence to Twisp River	July 1 - July 31	X	X
Methow River tributaries between Black Canyon Creek and Gold Creek	July 1 - February 28	X	--
Black Canyon Creek (48.0015) - Mouth to Left Fork	Submit Application	--	--
Black Canyon Creek (48.0015) - Upstream of Left Fork	July 1 - February 28	X	--
Gold Creek (48.0104) - Mouth to Foggy Dew Creek	Submit Application	--	--
Foggy Dew Creek (48.0153) - Mouth to Foggy Dew Falls	Submit Application	--	--
Foggy Dew Creek (48.0153) - Upstream of Foggy Dew Falls	July 1 - February 28	X	--
Middle Fork Gold Creek (48.0139)	July 1 - February 28	X	--

North Fork Gold Creek (48.0104)	Submit Application	-	-
Crater Creek (48.0177) - Mouth to Martin Creek	Submit Application	-	-
Crater Creek (48.0177) - Upstream of Martin Creek	July 1 - February 28	X	-
Martin Creek (48.0177)	July 1 - February 28	X	-
South Fork Gold Creek (48.0105) - Mouth to Rainy Creek	Submit Application	-	-
South Fork Gold Creek (48.0105) - Upstream of Rainy Creek	July 1 - February 28	X	-
Rainy Creek (48.0105)	July 1 - February 28	X	-
McFarland Creek (48.0090) - Mouth to Vinegar Gulch	Submit Application	-	-
McFarland Creek (48.0090) - Upstream of Vinegar Gulch	July 1 - February 28	X	-
Methow River tributaries between Libby Creek and Beaver Creek	July 1 - February 28	X	-
Beaver Creek (48.0307)	Submit Application	-	-
Frazer Creek (48.0309)	July 1 - February 28	X	-
Lightning Creek (48.0361)	July 1 - February 28	X	-
Middle Fork Beaver Creek (48.0307)	July 1 - February 28	X	-
South Fork Beaver Creek (48.0342)	July 1 - February 28	X	-
Libby Creek (48.0203) - Mouth to Hornet Draw Creek	Submit Application	-	-
Libby Creek (48.0203) - Upstream of Hornet Draw	July 1 - February 28	X	-
Methow River (48.0007) - Twisp River to Goat Creek	July 1 - July 31	X	X

Methow River (48.0007) - Upstream of Goat Creek	July 1 - July 31	X	-
Chewuch River (48.0728) - Mouth to Meadow Creek	July 1 - July 31	X	X
Chewuch River (48.0728) - Upstream of Meadow Creek	July 1 - February 28	X	-
Early Winters Creek (48.1408) - Mouth to Silver Star Creek	Submit Application	-	-
Early Winters Creek (48.1408) - Upstream of Silver Star Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Mouth to 500 feet upstream of Montana Creek	Submit Application	-	-
Goat Creek (48.1364) - 500 feet Upstream of Montana Creek to Roundup Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Upstream of Roundup Creek	Submit Application	-	-
Lost River (48.0592)	July 16 - August 15	X	X
Twisp River (48.0374)	July 1 - July 31	X	X
Buttermilk Creek (48.0466)	Submit Application	-	-
North Creek (48.0674)	Submit Application	-	-
North Fork Twisp River (48.0691)	July 1 - February 28	X	-
South Creek (48.0641) - Upstream of Louis Creek	July 1 - February 28	X	-
South Creek (48.0641) - Mouth to Louis Creek	Submit Application	-	-
South Fork Twisp River (48.0698)	July 1 - February 28	X	-
Wolf Creek (48.1300)	Submit Application	-	-
Myers Creek (60.0517)	July 1 - February 28	X	-
Bolster Creek (60.0517)		X	-

	July 1 - February 28		
Ethel Creek (60.0517)	July 1 - February 28	X	-
Gold Creek (60.0517)	July 1 - February 28	X	-
Mary Ann Creek (60.0517)	July 1 - February 28	X	-
North Fork Mary Ann Creek (60.0517)	July 1 - February 28	X	-
Okanogan River (49.0019) - Mouth to Zosel Dam	July 1 - August 31	X	X
Antoine Creek (49.0294) - Mouth to velocity gradient at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Mouth to Bonaparte Falls at river mile 1.0	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Mouth to Loup Loup Falls at river mile 2.4	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Upstream of Loup Loup Falls at river mile 2.4	July 1 - March 31	X	-
Mosquito Creek (49.0321) - Mouth to falls	July 1 - August 31	X	-
Mosquito Creek (49.0321) - Upstream of falls	July 1 - March 31	X	-
Nine Mile Creek (49.0516)	July 1 - February 28	X	-
Omak Creek (49.0138) - Mouth to Mission Falls at river mile 5.4	July 1 - February 28	X	-
Omak Creek (49.0138) - Upstream of falls	July 1 - March 31	X	-

Salmon Creek (49.0079) - Mouth to diversion	July 1 - August 31	X	-
Salmon Creek (49.0079) - Upstream of diversion	July 1 - February 28	X	-
Similkameen River (49.0325) - Mouth to Enloe Dam	July 1 - August 31	X	X
Similkameen River (49.0325) - Upstream of Enloe Dam	July 1 - October 31	X	X
Sinlahekin Creek (49.0349) - Mouth to barrier dam at Connors Lake	July 1 - August 31	X	-
Cecile Creek (49.0447)	July 1 - February 28	X	-
Chopaka Creek (49.0357)	July 1 - February 28	X	-
Toats Coulee Creek (49.0368)	July 1 - February 28	X	-
Cougar Creek (49.0368)	July 1 - February 28	X	-
Siwash Creek (49.0284) - Falls to headwaters	July 1 - March 31	X	-
Siwash Creek (49.0284) - Mouth to falls at river mile 1.4	July 1 - February 28	X	-
Tonasket Creek (49.0501) - Mouth to Tonasket Falls at river mile 1.8	July 1 - February 28	X	-
Tonasket Creek (49.0501) - Upstream of Tonasket Falls at river mile 1.8	July 1 - March 31	X	-
Tunk Creek (49.0211) - Mouth to falls	July 1 - February 28	X	-
Tunk Creek (49.0211) - Upstream of falls	July 1 - March 31	X	-
San Poil River (52.0004)	June 16 - September 30	X	X
West Fork San Poil (52.0192)	June 16 - September 30	X	X

Gold Creek (52.0197)	June 16 - February 28	X	-
Toroda Creek (60.0410)	July 1 - September 30	X	-
<b>Pacific County</b>	August 1 - September 30	X	-
Bear River (24.0689)	August 1 - September 30	X	X
Bone River (24.0405)	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190)	August 1 - August 15	X	X
Columbia River	See Below	-	-
Chinook River (24.MISC)	August 1 - September 30	X	X
Grays River (25.0093)	July 16 - September 15	X	X
Naselle River (24.0543)	August 1 - September 15	X	X
Nemah River (24.0460)	August 1 - September 30	X	X
Niawiakum River (24.0417)	August 1 - September 30	X	-
North River (24.0034)	August 1 - September 30	X	X
Palix River (24.0426)	August 1 - September 30	X	-
Willapa River (24.0251)	August 1 - September 30	X	X
<b>Pend Oreille County</b>	July 1 - August 31	X	-
Little Spokane River (55.0003)	August 1 - March 15	X	-
West Branch Little Spokane River (55.0439)	August 1 - March 15	X	-
Harvey Creek (62.0310) - Mouth to Rocky Fork of Harvey Creek	August 1 - August 31	X	-
Harvey Creek (62.0310) - Upstream of Rocky Fork of Harvey Creek	July 16 - February 28	X	-

Pend Oreille River (62.0002)	Submit Application	-	-
Big Muddy Creek (62.0279)	August 1 - March 15	X	-
Bracket Creek (62.0815)	August 1 - March 15	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Exposure Creek (62.0261)	August 1 - August 31	X	-
Kent Creek (62.0819)	August 1 - March 15	X	-
Le Clerc Creek (62.0415)	August 1 - August 31	X	-
Lime Creek (62.0014)	August 1 - March 15	X	-
Lodge Creek (62.0859)	August 1 - August 31	X	-
Lost Creek (62.0322)	August 1 - March 15	X	-
Marmust Creek (62.0842)	August 1 - March 15	X	-
Pee Wee Creek (62.0007) - Mouth to falls	August 1 - August 31	X	-
Pee Wee Creek (62.0007) - Upstream of falls	August 1 - March 15	X	-
Renshaw Creek (62.0310)	August 1 - March 15	X	-
Sullivan (O'Sullivan) Creek (62.0074)	August 1 - August 31	X	-
North Fork Sullivan Creek (62.0075)	August 1 - August 31	X	-
Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 - August 15	X	-
Currant Creek (61.0249)	July 16 - August 15	X	-
Meadow Creek (61.0351)	July 16 - August 15	X	-
Rocky Creek (61.0364)	July 16 - August 15	X	-

Silver Creek (61.0195)	July 16 - August 15	X	-
Smackout Creek (61.0226)	July 16 - August 15	X	-
<b>Pierce County</b>	July 16 - August 31	X	-
Chambers/Clover Creek Watershed (12.MISC)	July 16 - September 30	X	-
Flett Creek (12.0009)	July 16 - October 31	X	-
Leach Creek (12.0008)	July 16 - September 30	X	-
Nisqually River (11.0008) - Mouth to Alder Lake	July 16 - August 31	X	X
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30	X	X
Mashel River (11.0101) - Mouth to Busy Wild Creek	July 16 - September 30	X	X
Mashel River (11.0101) - Upstream of Busy Wild Creek	July 16 - September 30	X	-
Puyallup River (10.0021) - Mouth to PSE Electron Powerhouse Outfall	July 16 - August 31	X	X
Puyallup River (10.0021) - Upstream of PSE Electron Powerhouse Outfall	July 16 - August 15	X	X
Carbon River (10.0413)	July 16 - August 15	X	X
Cayada Creek (10.0525) - Mouth to falls about 800 feet upstream	July 16 - August 31	X	-
Cayada Creek (10.0525) - Upstream of the falls	January 1 - December 31	X	-
South Prairie Creek (10.0429)	July 16 - August 15	X	-
Voight Creek (10.0414) - Mouth to falls at river mile 4.0	July 16 - August 31	X	-
	July 16 - February 28	X	-

Voight Creek (10.0414) - Upstream of falls river mile 4.0			
White River (10.0031)	July 16 - August 15	X	X
Clearwater River (10.0080)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
Huckleberry Creek (10.0253)	July 16 - August 15	X	-
West Fork White River (10.0186)	July 16 - August 15	X	X
Sequalitchew Creek (12.0019)	July 16 - September 30	X	-
<b>San Juan County</b>	July 1 - August 31	X	-
Cascade Creek (02.0057), Orcas Island - Upstream of Lower Falls	July 1 - February 28	X	-
Cascade Creek (02.0057), Orcas Island, Buck Bay to falls located approximately 300 feet above mouth	July 1 - October 31	X	-
Doe Creek (02.MISC), San Juan Island, Westcott Bay to falls (approximately 250 feet from mouth)	June 16 - October 15	X	-
False Bay Creek (02.MISC) - San Juan Island; mouth to lake	July 1 - October 31	X	-
Glenwood Springs, Orcas Island; direct tributary to Eastsound Bay	July 1 - October 15	X	-
Moran Creek (02.MISC) - Orcas Island; from Cascade Lake delta upstream 1/4 mile	July 1 - October 15	X	-
Unnamed Creek (02.0041) - San Juan Island; mouth to lake	July 1 - October 15	X	-
<b>Skagit County</b>	August 1 - September 15	X	-

Granite Creek (04.2313) - Upstream of East Creek	July 16 - February 28	X	-
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15	X	X
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15	X	-
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28	X	-
Samish River (03.0005)	August 1 - September 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-
Baker River (04.0435) - Mouth to Baker Dam	Submit Application	-	-
Cascade River (04.1411)	Submit Application	-	-
Day Creek (03.1435)	July 16 - February 28	X	-
Lookout Creek (04.1447)	July 16 - February 28	X	-
Sibley Creek (04.1481)	July 16 - February 28	X	-
Day Creek (03.0299) - Mouth to Rocky Creek	Submit Application	-	-
Day Creek (03.0299) - Upstream of Rocky Creek	August 1 - February 28	X	-
Finney Creek (04.0392) - Mouth to Big Fir Creek	Submit Application	-	-
Finney Creek (04.0392) - Upstream of Big Fir Creek	July 16 - February 28	X	-
Illabot Creek (04.1346)	Submit Application	-	-
Sauk River (04.0673) - Mouth to Forks	Submit Application	-	-
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15	X	-
Suiattle River (04.0710)	Submit Application	X	X
Wiseman Creek (03.0280) - Mouth to SR20	Submit Application	-	-

Wiseman Creek (03.0280) - Upstream of SR20	July 16 - February 28	X	-
South Fork Nooksack River (01.0246) - Mouth to falls at river mile 30	Submit Application	-	-
South Fork Nooksack River (01.0246) - Falls at river mile 30 to Wanlick Creek	Submit Application	-	-
South Fork Nooksack River (01.0246) - Upstream of Wanlick Creek	Submit Application	-	-
<b>Skamania County</b>	July 15 - September 15	X	-
Columbia River	See Below	-	-
Cispus River (26.0668)	August 1 - August 15	X	X
Cispus River (26.0668) tributaries located in Skamania County	August 1 - October 31	X	-
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28	X	X
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28	X	-
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 - September 30	X	X
Hamilton Creek (28.0303)	August 1 - August 31	X	-
Hardy Creek (28.0303)	August 1 - August 31	X	-
Little White Salmon River (29.0131) - Mouth to Hatchery	July 16 - August 15	X	X
Little White Salmon River (29.0131) - Hatchery to Cabbage Creek	July 16 - January 31	X	X
	July 16 - January 31	X	-

Little White Salmon River (29.0131) - Upstream of Cabbage Creek			
North Fork Lewis River (27.0168) - Merwin Dam to Lower Falls	July 16 - August 15	X	X
Canyon Creek (27.0442)	July 16 - February 28	X	-
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - February 28	X	X
Washougal River (28.0159) - Mouth to Stebbins Creek	August 1 - August 31	X	X
Washougal River (28.0159) - Upstream of Stebbins Creek	August 1 - August 31	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wind River (29.0023)	August 1 - August 15	X	X
Woodward Creek (28.0298)	August 1 - August 31	X	-
<b>Snohomish County</b>	July 16 - September 15	X	-
Lake Washington tributaries	August 1 - August 15	X	-
Sauk River (04.0673) - Mouth to Forks	August 1 - August 15	X	X
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15	X	-
Suiattle River (04.0710)	August 1 - August 15	X	X
Snohomish River (07.0012) - Mouth to Highway 9	August 1 - October 31	X	X
	August 1 - August 15	X	X

Snohomish River (07.0012) - Upstream of Highway 9			
Pilchuck River (07.0125) - Mouth to city of Snohomish Diversion Dam	August 1 - August 31	X	X
Pilchuck River (07.0125) - City of Snohomish Diversion Dam to Boulder Creek	August 1 - September 15	X	X
Pilchuck River (07.0125) - Upstream of Boulder Creek	August 1 - September 15	X	-
Skykomish River (07.0012) - Mouth to Forks	August 1 - August 15	X	X
Deer Creek (05.0173) - Mouth to stream mile 0.5	August 1 - August 31	X	-
Deer Creek (05.0173) - Upstream of stream mile 0.5	August 1 - February 28	X	-
North Fork Skykomish River (07.0982) - Mouth to Bear Creek Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Bear Creek Falls to Deer Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Deer Falls to West Cady Creek	August 1 - February 28	X	X
North Fork Skykomish River (07.0982) - Upstream of West Cady Creek	August 1 - February 28	X	-
Howard Creek (07.1042)	July 16 - February 28	X	-
Silver Creek (07.1053) - Mouth to Lake Gulch	August 1 - August 31	X	-
Silver Creek (07.1053) - Upstream of Lake Gulch	August 1 - February 28	X	-
Troublesome Creek (07.1085)	August 1 - February 28	X	-
		X	-

West Fork Troublesome Creek (07.1092)	August 1 - August 31		
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	X
Sultan River (07.0881) - Mouth to Diversion Dam at river mile 9.4	August 1 - August 15	X	X
Sultan River (07.0881) - Diversion Dam to Elk Creek	July 16 - February 28	X	X
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28	X	-
Wallace River (07.0940) - Mouth to Wallace Falls	August 1 - August 31	X	X
Wallace River (07.0940) - Upstream of Wallace Falls	August 1 - February 28	X	-
Olney Creek (07.0946) - Mouth to Olney Falls	August 1 - August 31	X	-
Olney Creek (07.0946) - Upstream of Olney Falls	August 1 - February 28	X	-
Snoqualmie River Mouth to falls (07.0219)	August 1 - August 15	X	X
All other Snohomish River tributaries	August 1 - August 31	X	-
Stillaguamish River (05.0001) - Mouth to Forks	August 1 - August 31	X	X
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15	X	X
		X	-

North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15		
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28	X	-
South Fork Stillaguamish River (05.0001) - Mouth to Deer Creek	August 1 - August 15	X	X
South Fork Stillaguamish River (05.0001) - Upstream of Deer Creek	August 1 - August 15	X	-
<b>Spokane County</b>	June 16 - August 31	X	-
Latah Creek (56.0003)	June 16 - August 31	X	-
Little Spokane River (55.0600) - Mouth to Deer Creek	June 16 - August 31	X	X
Little Spokane River (55.0600) - Upstream of Deer Creek	June 16 - August 31	X	-
Spokane River (57.0001)	June 16 - August 31	X	X
<b>Stevens County</b>	July 16 - August 31	X	-
Columbia River	See Below	-	-
Big Sheep Creek (61.0150)	July 16 - August 15	X	-
Colville River (59.0002) - Mouth to the falls	July 16 - September 30	X	X
Colville River (59.0002) - Upstream of the falls	July 16 - September 30	X	X
Deep Creek (61.0195)	July 16 - August 15	X	-
Onion Creek (61.0098)	July 16 - August 15	X	-
Sheep Creek (59.0861)	July 16 - September 30	X	-
		X	-

Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 - February 28		
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. border	July 16 - February 28	X	-
Tributaries of Little Spokane River (55.0600)	June 16 - August 31	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Other tributaries to the Pend Oreille River in Stevens County	July 1 - August 31	X	-
<b>Thurston County</b>	July 16 - September 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190) - Upstream of Porter Creek	August 1 - August 15	X	X
Skookumchuck River (23.0761) - Mouth to Skookumchuck Reservoir	August 1 - August 31	X	X
Skookumchuck River (23.0761) - Upstream of Skookumchuck Reservoir	August 1 - August 31	X	-
Deschutes River (13.0028) - Mouth to Deschutes Falls	July 16 - August 31	X	X
Deschutes River (13.0028) - Upstream of Deschutes Falls	July 16 - August 31	X	-
Ellis Creek (13.0022)	May 16 - September 30	X	-
Little Deschutes River (13.0110)	July 16 - February 28	X	-
McLane Creek (13.0138)	August 1 - October 31	X	-
Percival Creek (13.0029)	July 16 - August 31	X	-
Nisqually River (11.0008)		X	X

	July 16 - August 31		
Tributaries of Nisqually River (11.0008)	July 16 - August 31	X	-
Porter Creek (23.0543)	August 1 - September 30	X	-
Schneider Creek (14.0009)	August 1 - October 31	X	-
Waddell Creek (23.0677)	August 1 - September 30	X	-
Woodard Creek (13.0012)	July 16 - August 31	X	-
Woodland Creek (13.0006)	July 16 - September 30	X	-
<b>Wahkiakum County</b>	July 16 - September 15	X	-
Columbia River	See Below	-	-
Abernathy Creek (25.0297)	July 16 - September 15	X	-
Deep River (25.0011)	July 16 - September 15	X	X
Elochoman River (25.0236)	July 16 - September 15	X	X
Grays River (25.0093)	July 16 - September 15	X	X
Mill Creek (25.0284)	July 16 - September 15	X	-
Naselle River (24.0543)	July 16 - September 15	X	X
Skamokowa Creek (25.0194)	July 16 - September 15	X	-
<b>Walla Walla County</b>	July 16 - September 30	X	-
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15	X	X
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15	X	-
Touchet River (32.0097) - Mouth to Forks	August 1 - August 15	X	X

North Fork Touchet/Wolf Fork (32.0761)	Submit Application	-	-
South Fork Touchet (32.0708)	Submit Application	-	-
<b>Whatcom County</b>	July 16 - August 15	X	-
Damfino Creek (00.0032)	July 16 - August 31	X	-
Nooksack River (01.0120)	Submit Application	-	-
Cascade Creek (02.0057) - Mouth to FR 37	Submit Application	-	-
Cascade Creek (02.0057) - Upstream of FR 37	July 16 - February 28	X	-
Middle Fork Nooksack River (01.0339) - Mouth to city of Bellingham Diversion Dam	Submit Application	-	-
Middle Fork Nooksack River (01.0339) - Upstream of city of Bellingham Diversion Dam	Submit Application	-	-
North Fork Nooksack River (01.0120) - Mouth to Nooksack Falls	Submit Application	-	-
North Fork Nooksack River (01.0120) - Upstream of Nooksack Falls	Submit Application	-	-
Barometer Creek (01.0513)	July 16 - February 28	X	-
Ruth Creek (01.0531)	July 16 - February 28	X	-
Swamp Creek (01.0518)	July 16 - February 28	X	-
Wells Creek (02.0057)	Submit Application	-	-
Bar Creek (01.0500)	July 16 - February 28	X	-
South Fork Nooksack (01.0246) - Mouth to Wanlick Creek	Submit Application	-	-
	Submit Application	-	-

South Fork Nooksack (01.0246) - Upstream of Wanlick Creek			
Samish River (03.0005)	July 16 - August 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-
Baker River (04.0435) - Mouth to Baker Lake Dam (04.0435)	Submit Application	-	-
Baker River (04.0435) - Baker Lake to National Park boundary	Submit Application	-	-
Boulder Creek (04.0499)	July 16 - February 28	X	-
Park Creek (04.0506) - Mouth to fish passage barrier at river mile 1.6	Submit Application	-	-
Park Creek (04.0506) - Upstream of river mile 1.6	July 16 - February 28	X	-
Swift Creek (04.0509) - Mouth to Rainbow Creek	Submit Application	-	-
Swift Creek (04.0509) - Upstream of Rainbow Creek	July 16 - February 28	X	-
Ross Lake tributaries (03.0176/04.0176)	Submit Application	-	-
Ruby Creek (04.2199)	Submit Application	-	-
Canyon Creek (04.2458) - Mouth to Barron Creek	Submit Application	-	-
Canyon Creek (04.2458) - Upstream of Barron Creek and tributaries	October 1 - February 28	X	-
Barron Creek (04.2591)	October 1 - February 28	X	-
Boulder Creek (04.2478) - Mouth to 300 feet upstream	Submit Application	-	-
Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-

Friday Creek (04.2549) - Mouth to 300 feet upstream	Submit Application	-	-
Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Holmes Creek (04.2473) - Mouth to 300 feet upstream	Submit Application	-	-
Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Mill Creek (04.2504) - Mouth to 300 feet upstream	Submit Application	-	-
Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Nickol Creek (04.2476) - Mouth to 300 feet upstream	Submit Application	-	-
Nickol Creek (04.2476) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Mouth to Elk Creek	Submit Application	-	-
Cascade Creek (05.2584)	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Upstream of Elk Creek	October 1 - February 28	X	-
Slate Creek (04.2557) - Mouth to falls at river mile 0.6	Submit Application	-	-
Slate Creek (04.2557) - Upstream of falls at river mile 0.6	October 1 - February 28	X	-
Granite Creek (04.2313) - Mouth to East Creek	Submit Application	-	-
	October 1 - February 28	X	-

Granite Creek (04.2313) - Upstream of East Creek and tributaries			
Saar Creek (00.0003)	August 1 - September 30	X	--
Silesia Creek (00.0042) - Canadian border to Middle Fork	July 16 - August 15	X	--
Silesia Creek (00.0042) - Middle Fork to National Park boundary	July 16 - February 28	X	--
Rapid Creek (00.0048)	July 16 - February 28	X	--
West Fork Silesia Creek (00.0044)	July 16 - February 28	X	--
Winchester Creek (00.0045)	July 16 - February 28	X	--
<b>Whitman County</b>	July 16 - December 15	X	--
Snake River (35.0002)	See Below	--	--
Alkali Flats Creek (35.0570)	July 16 - December 15	X	--
Almota Creek (35.1017)	July 16 - December 15	X	--
Little Almota Creek (35.1018)	July 16 - December 15	X	--
Palouse River (34.0003) - Mouth to Palouse Falls	July 16 - September 30	X	X
Palouse River (34.0003) - Upstream of Palouse Falls	July 16 - February 28	X	X
Penewawa Creek (35.0916)	July 16 - December 15	X	--
Wawawi Canyon Creek (35.1165)	July 16 - December 15	X	--
<b>Yakima County</b>	June 1 - September 15	X	--
Glade Creek (31.0851)	August 1 - September 30	X	--
Klickitat River (30.0002)	Submit Application	--	--
	June 1 - September 15	X	X

Yakima River (37.0002/38.0002/39.0002) - Mouth to Roza Dam			
Ahtanum Creek (37.1382)	June 16 - September 30	X	-
North Fork Ahtanum Creek (37.1382)	Submit Application	-	-
South Fork Ahtanum Creek (37.1382)	Submit Application	-	-
Naches River (38.0003) - Mouth to Tieton River	July 1 - October 15	X	X
Naches River (38.0003) - Upstream of mouth of Tieton River to Bumping River	July 1 - August 15	X	X
Bumping River (38.0998)	July 16 - August 15	X	X
American River (38.1000)	Submit Application	-	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Kettle Creek (38.1033)	Submit Application	-	-
Miner Creek (38.1027)	July 16 - February 28	X	-
Morse Creek (38.1072) - Mouth to SR410 crossing	August 1 - August 15	X	-
Morse Creek (38.1072) - Upstream of SR410 crossing	August 1 - February 28	X	-
Rock Creek (38.MISC)	July 16 - February 28	X	-
Timber Creek (38.1062)	August 1 - August 15	X	-
Union Creek (38.1045) - Upstream of 500 feet above falls	August 1 - February 28	X	-
Union Creek (38.1045) - Mouth to 500 feet above falls	Submit Application	-	-
Other American River tributaries not listed	August 1 - February 28	X	-
Deep Creek (38.MISC)	Submit Application	-	-

Copper Creek (38.MISC)	August 1 - August 15	X	-
Cowiche Creek (38.0005) - Mouth to South Fork Cowiche Creek	July 1 - September 30	X	-
North Fork Cowiche Creek (38.0008)	July 1 - February 28	X	-
South Fork Cowiche Creek (38.0031) - Mouth to Reynolds Creek	July 1 - September 30	X	-
South Fork Cowiche Creek (38.0031) - Upstream of Reynolds Creek	July 16 - October 31	X	-
Granite Creek (38.MISC)	August 1 - August 15	X	-
Little Naches River (38.0852) - Mouth to Matthews Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthews Creek	July 16 - August 15	X	-
Crow Creek (38.0858)	July 16 - August 15	X	-
Nile Creek (38.0692)	July 16 - October 15	X	-
Rattlesnake Creek (38.0518)	July 16 - August 15	X	-
Tieton River (38.0166) - Mouth to Rimrock Dam	July 1 - August 31	X	X
North Fork Tieton River (38.0291) - Below Clear Lake Dam	Submit Application	-	-
North Fork Tieton River (38.0291) - Upstream of Clear Lake	July 1 - August 15	X	-
Clear Creek (38.0317)	July 16 - February 28	X	-
South Fork Tieton River (38.0374) - Below South Fork Falls	Submit Application	-	-
	July 16 - February 28	X	-

South Fork Tieton River (38.0374) - Upstream of South Fork Falls			
Indian Creek (38.0302)	Submit Application	-	-
Tributaries of Tieton River below Rimrock Dam	July 16 - February 28	X	-
Umtanum Creek (39.0553)	July 16 - September 30	X	-
Wenas Creek (39.0032)	July 16 - October 15	X	-
Other Yakima River tributaries	July 16 - August 31	X	-
Columbia River	-	-	-
Mouth to the I-205 Bridge	August 1 - March 31	X	X
I-205 Bridge to Bonneville Dam	July 16 - September 15	X	X
Bonneville Dam to Snake River	July 16 - February 28	X	X
Snake River to Priest Rapids Dam	July 16 - September 30	X	X
Priest Rapids Dam to Mouth of Crab Creek	July 16 - February 28	X	X
Mouth of Crab Creek to Wanapum Dam	July 16 - September 30	X	X
Wanapum Dam to the SR 285 bridge in South Wenatchee	July 16 - February 28	X	X
SR 285 bridge in South Wenatchee to the SR 2 bridge	July 16 - September 30	X	X
SR 2 bridge to one mile downstream of the Chelan River	July 16 - February 28	X	X
From one mile downstream of the Chelan River to the SR 97 bridge	July 16 - September 30	X	X
From SR 97 bridge to Chief Joseph Dam	July 16 - February 28	X	X
Chief Joseph Dam to Grand Coulee Dam	June 16 - March 31	X	X

Grand Coulee Dam to Canadian border	Submit Application	-	-
All Columbia River tributaries	See County Listings	-	-
Snake River	-	X	-
Mouth to Ice Harbor Dam	July 16 - September 30	X	X
Ice Harbor Dam to Mouth of Clearwater River	July 16 - March 31	X	X
Mouth of Clearwater River to state line	August 1 - August 31	X	X
All Snake River tributaries	See County Listings	-	-
Lakes	Submit Application	-	-
Strait of Juan de Fuca, Puget Sound, Hood Canal	Submit Application	-	-
Ocean beaches within the Seashore Conservation Area established under RCW 79A.05.605	January 1 - December 31	X	X
All waters within Indian tribal reservation, National Park, state park, or wilderness boundaries, except those within the Seashore Conservation Area established under RCW 79A.05.605	Submit Application	-	-

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 15-02-029 (Order 14-353), § 220-660-300, filed 12/30/14, effective 7/1/15.]

## **APPENDIX B**

RCW 77.55.091

RCW 77.55.011

## RCW 77.55.091

### Small scale prospecting and mining—Rules.

(1) Small scale prospecting and mining shall not require a permit under this chapter if the prospecting is conducted in accordance with rules established by the department.

(2) By December 31, 1998, the department shall adopt rules applicable to small scale prospecting and mining activities subject to this section. The department shall develop the rules in cooperation with the recreational mining community and other interested parties.

(3) Within two months of adoption of the rules, the department shall distribute an updated gold and fish pamphlet that describes methods of mineral prospecting that are consistent with the department's rule. The pamphlet shall be written to clearly indicate the prospecting methods that require a permit under this chapter and the prospecting methods that require compliance with the pamphlet. To the extent possible, the department shall use the provisions of the gold and fish pamphlet to minimize the number of specific provisions of a written permit issued under this chapter.

[ 2005 c 146 § 402; 1997 c 415 § 2. Formerly RCW 77.55.270, 75.20.330.]

#### NOTES:

**Part headings not law—2005 c 146:** See note following RCW 77.55.011.

**Findings—1997 c 415:** "The legislature finds that small scale prospecting and mining: (1) Is an important part of the heritage of the state; (2) provides economic benefits to the state; and (3) can be conducted in a manner that is beneficial to fish habitat and fish propagation. Now, therefore, the legislature declares that small scale prospecting and mining shall be regulated in the least burdensome manner that is consistent with the state's fish management objectives and the federal endangered species act." [ 1997 c 415 § 1.]

## RCW 77.55.011

### Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.
- (2) "Board" means the pollution control hearings board created in chapter **43.21B** RCW.
- (3) "Commission" means the state fish and wildlife commission.
- (4) "Date of receipt" has the same meaning as defined in RCW **43.21B.001**.
- (5) "Department" means the department of fish and wildlife.
- (6) "Director" means the director of the department of fish and wildlife.
- (7) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.
- (8) "Emergency permit" means a verbal hydraulic project approval or the written follow-up to the verbal approval issued to a person under RCW **77.55.021**(12).
- (9) "Expedited permit" means a hydraulic project approval issued to a person under RCW **77.55.021** (14) and (16).
- (10) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter **76.09** RCW.
- (11) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.
- (12) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.
- (13) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.
- (14) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.
- (15) "Multiple site permit" means a hydraulic project approval issued to a person under RCW **77.55.021** for hydraulic projects occurring at more than one specific location and which includes site-specific requirements.
- (16) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining freshwater is the elevation of the mean annual flood.
- (17) "Pamphlet hydraulic project" means a hydraulic project for the removal or control of aquatic noxious weeds conducted under the aquatic plants and fish pamphlet authorized by RCW **77.55.081**, or for mineral prospecting and mining conducted under the gold and fish pamphlet

authorized by RCW **77.55.091**.

(18) "Permit" means a hydraulic project approval permit issued under this chapter.

(19) "Permit modification" means a hydraulic project approval issued to a person under RCW **77.55.021** that extends, renews, or changes the conditions of a previously issued hydraulic project approval.

(20) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(21) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; concentrators; and minirocker boxes for the discovery and recovery of minerals.

(22) "Spartina," "purple loosestrife," and "aquatic noxious weeds" have the same meanings as defined in RCW **17.26.020**.

(23) "Stream bank stabilization" means those projects that prevent or limit erosion, slippage, and mass wasting. These projects include, but are not limited to, bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection using rock or woody material or placement of jetties or groins, gravel removal, or erosion control.

(24) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(25) "Waters of the state" and "state waters" means all salt and freshwaters waterward of the ordinary high water line and within the territorial boundary of the state.

[ **2012 1st sp.s. c 1 § 101**. Prior: **2010 c 210 § 26**; **2009 c 549 § 1028**; **2005 c 146 § 101**.]

## NOTES:

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW **1.08.015(2)(k)**.

**Finding—Intent—2012 1st sp.s. c 1:** "The legislature finds that significant opportunities exist to modify programs that provide for management and protection of the state's natural resources, including the state's forests, fish, and wildlife, in order to streamline regulatory processes and achieve program efficiencies while at the same time increasing the sustainability of program funding and maintaining current levels of natural resource protection. The legislature intends to update provisions relating to natural resource management and regulatory programs including the hydraulic project approval program, forest practices act, and state environmental policy act, in order to achieve these opportunities." [ **2012 1st sp.s. c 1 § 1**.]

**Limitation—2012 1st sp.s. c 1:** "Nothing in this act affects any rules, processes, or procedures of the department of fish and wildlife and the department of natural resources existing on July 10, 2012, that provide for regulatory integration of hydraulic projects and forest practices for projects in nonfish-bearing waters." [ **2012 1st sp.s. c 1 § 216**.]

**Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1:** "Nothing in this act affects the jurisdiction or other authority of a federally recognized Indian tribe within the boundary of its reservation or on other tribally owned lands." [ **2012 1st sp.s. c 1 § 218**.]

**Intent—Effective dates—Application—Pending cases and rules—2010 c 210:** See notes following RCW **43.21B.001**.

**Part headings not law—2005 c 146:** "Part headings used in this act are not any part of the law." [ **2005 c 146 § 1007.**]

# **APPENDIX C**

**SHB 1565**

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1565**

55th Legislature  
1997 Regular Session

Passed by the House April 26, 1997  
Yeas 98 Nays 0

\_\_\_\_\_  
**Speaker of the  
House of Representatives**

Passed by the Senate April 26, 1997  
Yeas 42 Nays 1

\_\_\_\_\_  
**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1565** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

APP000067

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**SUBSTITUTE HOUSE BILL 1565**

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Passed Legislature - 1997 Regular Session  
AS RECOMMENDED BY THE CONFERENCE COMMITTEE

**State of Washington                      55th Legislature                      1997 Regular Session**

**By** House Committee on Natural Resources (originally sponsored by Representatives Mielke, Pennington, Carrell, Mulliken, Thompson and Cairnes)

Read first time 03/05/97.

1            AN ACT Relating to small scale prospecting and mining; adding a new  
2 section to chapter 75.20 RCW; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.**    The legislature finds that small scale  
5 prospecting and mining: (1) Is an important part of the heritage of  
6 the state; (2) provides economic benefits to the state; and (3) can be  
7 conducted in a manner that is beneficial to fish habitat and fish  
8 propagation. Now, therefore, the legislature declares that small scale  
9 prospecting and mining shall be regulated in the least burdensome  
10 manner that is consistent with the state's fish management objectives  
11 and the federal endangered species act.

12           NEW SECTION.    **Sec. 2.**    A new section is added to chapter 75.20 RCW  
13 to read as follows:

14           (1) Small scale prospecting and mining shall not require written  
15 approval under this chapter if the prospecting is conducted in  
16 accordance with provisions established by the department.

17           (2) By December 31, 1998, the department shall adopt rules  
18 applicable to small scale prospecting and mining activities subject to

1 this section. The department shall develop the rules in cooperation  
2 with the recreational mining community and other interested parties.

3 (3) Within two months of adoption of the rules, the department  
4 shall distribute an updated gold and fish pamphlet that describes  
5 methods of mineral prospecting that are consistent with the  
6 department's rule. The pamphlet shall be written to clearly indicate  
7 the prospecting methods that require written approval under this  
8 chapter and the prospecting methods that require compliance with the  
9 pamphlet. To the extent possible, the department shall use the  
10 provisions of the gold and fish pamphlet to minimize the number of  
11 specific provisions of a written approval issued under this chapter.

12 (4) For the purposes of this chapter, "small scale prospecting and  
13 mining" means only the use of the following methods: Pans,  
14 nonmotorized sluice boxes, concentrators, and minirocker boxes for the  
15 discovery and recovery of minerals.

--- END ---

# **APPENDIX D**

## Legislative History

(SHB 1565 House Bill Report, Senate Bill  
Report, Final Bill Report)

# FINAL BILL REPORT

## SHB 1565

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C 415 L 97

Synopsis as Enacted

**Brief Description:** Exempting small scale mining from the requirement of obtaining a hydraulic permit.

**Sponsors:** By House Committee on Natural Resources (originally sponsored by Representatives Mielke, Pennington, Carrell, Mulliken, Thompson and Cairnes).

**House Committee on Natural Resources**  
**Senate Committee on Natural Resources & Parks**

**Background:** The Department of Fish and Wildlife is authorized to regulate mining activities within the high watermark of streams, rivers, and other water bodies of the state. The regulation occurs through the hydraulic permit approval (HPA) process. A written HPA permit is not required for persons who pan for gold using hand tools, including panning, mini-rocker boxes, and certain non-motorized sluice boxes if the persons follow the provisions in the department's Gold and Fish- pamphlet. The Gold and Fish- pamphlet that describes when, where, and how gold mining can take place. Gold mining using motorized sluice boxes and dredging require a written HPA permit.

**Summary:** By December 31, 1998, the Department of Fish and Wildlife is directed to adopt a rule to regulate small scale prospecting activities. The department must cooperate with the small scale prospecting community and other interested parties in developing the rule. Within two months of rule adoption, the department must update and distribute a revised Gold and Fish- pamphlet.

Small scale mineral prospecting- is defined as activities that use pans, sluice boxes, concentrators, concentrators, or mini-rocker boxes. Small-scale mineral prospecting activities do not require a written HPA permit if the provisions established by the department are followed.

**Votes on Final Passage:**

House 97 0

Senate 29 19 (Senate amended)

House (House refused to concur)

Conference Committee

Senate 42 1

House 98 0

**Effective:** July 27, 1997

# SENATE BILL REPORT

## SHB 1565

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As Reported By Senate Committee On:  
Natural Resources & Parks, April 4, 1997

**Title:** An act relating to small scale prospecting and mining.

**Brief Description:** Limiting the regulations of small scale mining.

**Sponsors:** House Committee on Natural Resources (originally sponsored by Representatives Mielke, Pennington, Carrell, Mulliken, Thompson and Cairnes).

**Brief History:**

**Committee Activity:** Natural Resources & Parks: 4/4/97 [DPA]

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### SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

**Majority Report:** Do pass as amended.

Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Roach, Snyder, Stevens and Swecker.

**Staff:** Ross Antipa (786-7413)

**Background:** The Department of Fish and Wildlife is authorized to regulate mining activities within the high watermark of streams, rivers, and other water bodies of the state through the hydraulic permit approval (HPA) process. The department publishes a gold and fish– pamphlet that describes when, where, and how small scale gold mining can take place. A written HPA permit is not required for persons who pan for gold using hand tools, including panning, mini-rocker boxes, and certain nonmotorized sluice boxes if the provisions in the gold and fish pamphlet are followed. Gold mining using motorized sluice boxes and dredging require a written HPA permit. Current regulations allow a 1.5 inch nozzle for motorized sluicing operations and 2.5 to 8 inch nozzles for dredging operations, depending on the river or stream being mined.

The department issues HPA permits for a number of activities not related to gold mining. In practice, the department issues several types of HPA permits, including emergency permits, expedited permits, and standard permits. Standard permits must be issued within 45 days of receiving a complete application and generally require an environmental analysis under the State Environmental Policy Act (SEPA).

**Summary of Amended Bill:** Small scale prospecting and mining is exempt from the hydraulic permit statute. Small scale mining is defined as mining with pans, sluice boxes, concentrators and mini-rocker boxes. Small scale mining must not undercut streambanks or disturb rooted live woody plants.

**Amended Bill Compared to Substitute Bill:** The regulation of small scale miners is removed from the authority of the Department of Fish and Wildlife.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** None.

**Testimony Against:** The improper use of small scale mining can have adverse effects on fish life.

**Testified:** Millard S. Deusen, WDFW (con).

# HOUSE BILL REPORT

## SHB 1565

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### As Amended by the Senate

**Title:** An act relating to small scale prospecting and mining.

**Brief Description:** Exempting small scale mining from the requirement of obtaining a hydraulic permit.

**Sponsors:** By House Committee on Natural Resources (originally sponsored by Representatives Mielke, Pennington, Carrell, Mulliken, Thompson and Cairnes).

**Brief History:**

**Committee Activity:**

Natural Resources: 2/18/97, 3/4/97 [DPS].

**Floor Activity:**

Passed House: 3/12/97, 97-0.

Senate Amended.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Buck, Chairman; Sump, Vice Chairman; Thompson, Vice Chairman; Regala, Ranking Minority Member; Butler, Assistant Ranking Minority Member; Alexander; Anderson; Chandler; Hatfield; Pennington and Sheldon.

**Staff:** Rick Anderson (786-7114).

**Background:** The Department of Fish and Wildlife is authorized to regulate mining activities within the high watermark of streams, rivers, and other water bodies of the state through the hydraulic permit approval (HPA) process. The Department publishes a Gold and Fish pamphlet that describes when, where, and how gold mining can take place. A written HPA permit is not required for persons who pan for gold using hand tools, including panning, mini-rocker boxes, and certain non-motorized sluice boxes if the provisions in the Gold and Fish pamphlet are followed. Gold mining using motorized sluice boxes and dredging require a written HPA permit. Current regulations allow a 1.5 inch nozzle for motorized sluicing operations and 2.5 to 8 inch nozzles for dredging operations, depending on the river or stream being mined.

The department issues HPA permits for a number of activities not related to gold mining. In practice, the department issues several types of HPA permits, including emergency permits, expedited permits, and standard permits. Standard permits must be issued within 45 days of receiving a complete application and generally require an environmental analysis under the State Environmental Policy Act (SEPA).

**Summary of Bill:** By December 31, 1998, the Department of Fish and Wildlife is directed to adopt a rule, in conjunction with the small scale prospecting community and other interested parties, to regulate small scale prospecting activities. Within two months of rule adoption, the department must update and distribute a revised gold and fish pamphlet.

Small-scale mineral prospecting activities using specified hand tools and non-motorized equipment do not require a written HPA permit if the provisions of the department's gold and fish pamphlet are followed. A written HPA permit is required for activities using certain motorized equipment and for dredging equipment with a suction nozzle with a diameter of four inches or less. These written HPA permits do not require an environmental analysis under SEPA, must use the provisions of the gold and fish pamphlet to minimize specific written permit conditions, and must be issued within 30 days. Prospecting activities using dredging equipment with a suction nozzle greater than four inches is subject to a standard written HPA permit.

**EFFECT OF SENATE AMENDMENT(S):** The Senate striking amendment exempts all small scale mineral prospecting activities from HPA requirements if the activity does not negatively affect streambanks or live woody plants. Small scale mineral prospecting— is defined as activities that uses pans, sluice boxes, concentrators, concentrators, or mini-rocker boxes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The small-scale prospecting community has too little access to rivers and streams. Small-scale prospecting does not harm fish habitat and can improve fish habitat. Gold does not drop out of the current in slow-moving water; fish spawn in areas where there is current. Dredging equipment moves very little material as compared to natural events. This bill will improve access. Small scale prospecting is a family activity that should be encouraged, not discouraged. Current regulations are not based on sound science. A 1995 proposal by the department would have further restricted the prospecting community's access to rivers and streams.

**Testimony Against:** Current regulations allow many prospecting activities to occur without requiring notice to the department or a written permit. Regulations are based on science and are necessary to protect fish life and fish habitat. The gold and fish pamphlet can be revised to improve access by small scale prospecting community while still protecting fish life and habitat. The bill would not require any notice to the department and as a consequence will very likely endanger fish habitat.

**Testified:** Representative Thomas Mielke, prime sponsor; Mike Alberg, Kittitas County Planning Commission; Michael G. Dunican, Boeing Employees Prospecting Society, Washington Prospectors, and Washington Alliance of Miners and Prospectors, GPAA; David L. Rutan, Northwest Mining Prospectors and Washington Prospecting & Mining Adhoc Committee; Dan H. Johnson, Charles Cox, and David Hoff, Washington Prospectors; Joe Williams, Northwest Gold & Gem Prospectors (all in favor); Millard S. Deussen, Washington Department of Fish and Wildlife; Greg Stewart, Rivers Council of Washington (both against); and Dawn Vyvyan, Yakama Indian Nation (con w/concerns).

**March 18, 2019 - 10:47 AM**

**Transmittal Information**

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**Appellate Court Case Number:** 52643-3  
**Appellate Court Case Title:** Cascadia Wildlands, Appellant v. Fish and Wildlife, Respondent  
**Superior Court Case Number:** 17-2-03912-5

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