



Skamania County
Community Development Department
 Building/Fire Marshal ♦ Environmental Health ♦ Planning
 Skamania County Courthouse Annex
 Post Office Box 1009
 Stevenson, Washington 98648
 Phone: 509-427-3900 Inspection Line: 509-427-3922

**CRITICAL AREA VARIANCE / SHORELINE VARIANCE
 SHORELINE SUBSTANTIAL DEVELOPMENT
 SHORELINE CONDITIONAL USE
 INTAKE CHECKLIST**

(This form must be completed and submitted with all requested documents for the application to be considered complete. Review will not begin on the project until all of the requirements below are submitted)

STAFF APPLICANT

Complete Application. Please check the box below for the type of permit you are requesting. Please note the associated *non-refundable* fee, payable to Skamania County Treasurer, which must accompany the complete application. **Fees are subject to change by resolution of the County Commissioners.**

- Critical Areas Water Resource Buffer Variance
 - Administrative (<50% buffer reduction) - \$625 *non-refundable* fee
 - Hearing Examiner (>50% buffer reduction) - \$950 *non-refundable* fee
- Shorelines Water Resource Buffer Variance
 - Shorelines Variance - \$1050 *non-refundable* fee
 - Shorelines Substantial Development Permit - \$1050 *non-refundable* fee
 - Shorelines Conditional Use Permit - \$1050 *non-refundable* fee

 SEPA and *non-refundable* \$400 fee.

 Critical Areas Variance Supplemental Questions. Answers must be attached in response to the criteria for approval explaining how your proposal meets those criteria.

 Certification that the applicant/owner has read and understands the Hearing Examiner process.

Reviewed by _____ **Complete:** Yes ___ No ___ **Date:** _____

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CRITICAL AREAS VARIANCE / SHORELINES APPLICATION – JARPA & INFORMATIONAL PACKET

What is a JARPA?

A Joint Aquatic Resources Permit Application (JARPA) is used to request a reduction in waterway buffers, which in addition to being a critical area, may also be a shoreline of county or state wide significance.

Assistance Completing the Form

Included in the JARPA application are instructions on completing the application, along with sample site plans. You can contact the Governor's Office of Regulatory Assistance at 800-917-0043, or access the On-Line Permit Assistance at their website: www.epermitting.wa.gov for help in completing this form.

The Process

1. Upon submittal of a complete application for a Critical Areas Variance, Community Development staff will determine if the request must be forwarded to the Director for administrative review or to the Hearing Examiner for a public hearing. If the proposed buffer width is greater than 50% of the standard buffer width, the request may be reviewed by the Director administratively. If the proposed buffer width is less than 50% of the standard buffer width, the request shall be reviewed by the Hearing Examiner. Requests for Shoreline Variances, Conditional Uses, and Substantial Development Permits always go before the Hearing Examiner.
2. Signature of the property owner(s) on the attached JARPA form authorizes the Community Development Department and other Agency personnel reasonable access to the site in order to evaluate the application. Signature also states that the applicant has read and understands the Hearing Examiner process (attached).
3. The applicant must submit the completed JARPA form to the correct agencies for review. Submitting the document to the Community Development Department does not exempt you from the necessary permits of other agencies.
4. A State Environmental Policy Act (SEPA) Environmental Checklist must be submitted along with the JARPA for all variances.
5. The SEPA will be reviewed and a threshold determination will be issued before any other application is reviewed. All SEPA requirements must be complete and the comment/appeal periods must be over before future applications will be reviewed.
6. If a Critical Areas Variance is to be reviewed administratively, a Notice of Application is sent to local and state agencies and adjacent property owners for a fourteen day comment period. When the comment period ends, an Administrative Decision will be issued for the proposal, which would be an approval, approval with conditions or denial of the project.
7. For those projects requiring a hearing, all paperwork must be submitted and considered complete at least six weeks prior to the next scheduled hearing date, space permitting. Public hearings are scheduled with the Hearing Examiner the first and third Wednesday of the month. Final hearing date will be determined based on the application completed date and the space available at each hearing.
8. Notice of public hearing is published in the Skamania County Pioneer at least ten days prior to the hearing date.

9. All adjacent property owners will receive notification of the public hearing at least 10 days prior to the hearing date.
10. The hearing will occur. The Hearing Examiner will issue a decision within ten business days of the close of the record, and may approve, approve with conditions or deny the proposal.

**Critical Area Water Resource Buffer Variance
Application Supplemental Information
(ANSWER SHEET MUST ACCOMPANY APPLICATION TO BE CONSIDERED COMPLETE)**

Along with the Joint Aquatic Resources Permit Application (JARPA) form, please answer the following questions as part of your application for a Critical Areas Water Resource Buffer Variance.

- 1) Please explain how the granting of your variance request shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

- 2) Please explain how the following circumstances are found to apply to your variance request:
 - a. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive subject property or rights and privileges enjoyed by other properties in the vicinity and under identical zone classification and/or special purpose district;
 - b. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone classification and/or special purpose district in which subject property is situated.

- 3) Please explain how your variance request meets the following criteria:
 - a. that no practicable alternative exists to locating the proposed development within a water resource buffer area; and
 - b. that on-site mitigation measures agreed to (or proposed) by the applicant are adequate to avoid significant degradation of the water resource.

ALL APPLICANTS MUST SIGN BELOW

I hereby certify that I have read and understand the Hearing Examiner process (attached).

Applicant signature(s): _____

Date: _____

Owner signature(s): _____

Date: _____

Signature of the property owner(s) authorizes Staff and other Agency personnel reasonable access to the site in order to evaluate the application.

FOR DEPARTMENT USE ONLY	
Legal description attached: Yes / No	
Date received	Date complete
Receipt #	File #

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2009

WASHINGTON STATE

Joint Aquatic Resources Permit Application (JARPA) Instruction B: Cell-by-Cell Technical Help



US Army Corps
of Engineers®
Seattle District

Part 1 – Project Identification

1. Project Name

The Project Name is a unique name for your project that you define to allow you to easily communicate with regulatory agencies about your project.

Definition(s):

- Project: A set of activities designed to achieve a desired endpoint or a list of activities to be completed on a certain property.

Part 2 – Applicant

Provide the applicant's contact information. Usually the "applicant" is the person filling out the application, but in circumstances where a consultant is filling out the application, the applicant is the party responsible for the project.

Definition(s):

- Applicant: The person or entity applying for a permit or responsible for the project.

Part 3 – Authorized Agent or Contact

Provide information for the authorized agent or contact.

Applicants may have an authorized agent complete the JARPA form on their behalf. Examples of authorized agents include an environmental consultant or lawyer. A contact is anyone else who can serve as a point of contact instead of the applicant or an authorized agent.

If this is not applicable, write N/A in the space provided.

Definition(s):

- Authorized Agent or Contact: The person or entity completing the application on behalf of the applicant or owner or who can be contacted with questions about the project.

Part 4 – Property Owner(s)

Provide contact information for the property owner, but only if different from the applicant. If owner and applicant are the same, indicate "Same as Applicant" in the space provided.

If there are multiple property owners, provide the information requested for each property owner. Use JARPA Attachment A for additional property owners.

Part 5 – Project Location(s)

As a first step, you should determine if your project will take place on State Owned Aquatic Lands (SOAL) managed by the Department of Natural Resources (DNR). Please contact the DNR at (360) 902-1100.

5a. Street Address

Provide the address of the project location. If there is no address, provide another description such as, highway segment, mileposts, or river mile. Use JARPA Attachment B for additional property locations.

5b. City, State, Zip

Provide the nearest city or town.

5c. County

Provide the county or counties where the project is located.

5d. Provide the section, township, and range for the project location.

This information may be located on your property deed. You may also be able to get this information from your county assessor's office. If your project crosses multiple sections, townships, or ranges, list them all. This information is needed to help the permit reviewers and site inspectors to locate the project.

Local government contact information can be found at <http://www.mrsc.org>. Click on the "LINKS" tab to find your city or county.

If you know which Watershed Resource Inventory Area (WRIA) your project is located in, you can locate the section, township, and range using the WA Department of Ecology's WRIA maps, located at <http://www.ecy.wa.gov/services/GIS/maps/wria/townships/trs.htm>.

5e. Provide the latitude and longitude of the project location.

You can get your projects latitude and longitude using a Global Positioning Service (GPS) device, a topographic map, or by entering your address at: <http://terraserver-usa.com/>. If applicable, report the latitude and longitude for the 'center point' of your project location.

If you know which Watershed Resource Inventory Area (WRIA) your project is located in, you can locate the latitude and longitude using the WA Department of Ecology's WRIA maps, located at <http://www.ecy.wa.gov/services/GIS/maps/wria/townships/trs.htm>.

Permitting agencies prefer latitude and longitude in the decimal format (47.05061 lat/ -122.84465 long), though most will also accept degree, minutes, seconds (5° 02' 27").

5f. List the tax parcel number(s) for the project location.

Identify the tax parcel number(s) for the project location. If the project location does not have a tax parcel number, for example: a right-of-way, put N/A in the box.

If you do not know the tax parcel number, call the local county assessor's office. Local government contact information can be found at <http://www.mrsc.org>. Click on the "LINKS" tab to find your city or county.

5g. Indicate the type of ownership of the property.

Indicate the type of ownership of the property. This information is used to confirm which regulatory agencies have jurisdiction and what rules and laws may apply.

Definition(s):

- State Owned Aquatic Land: State-owned aquatic lands include all tidelands, shorelands, harbor areas, the beds of navigable waters, and waterways owned by the State and administered by the Washington State Department of Natural Resources.
- Tribal: Owned by a Native American Government.
- Private: Owned by an individual or company.
- Other Publicly Owned: Owned by the federal, state, county or city governments, ports or schools.

5h. Contact information for all adjoining property owners, lessees, etc.

Identify the name and mailing address for property owners, lessees, etc. for properties located next to or bordering the project location. Use JARPA Attachment C for additional adjoining property owners.

Definition(s):

- Adjoining Property Owners: All property owners whose property is directly connected to the project property.
- Lessee: A person renting property from the owner (in this case, usually the Department of Natural Resources).

5i. Is any part of the project area within a 100-year flood plain?

Floodplain maps can be located at the Federal Emergency Management Agency's (FEMA's) map center at, <http://msc.fema.gov/>.

You can also get this information by contacting your city or county government or contacting the Governor's Office of Regulatory Assistance at 1-800-917-0043 or help@ora.wa.gov.

Local government contact information can be found at <http://www.mrsc.org>. Click on the "LINKS" tab to find your city or county.

5j. Describe the vegetation and habitat conditions on the property.

Provide a brief description of the types of vegetation and habitat on the property (for example: fields, forests, prairie, grass lawn, streams, or wetland buffers), specifically the area in and around the project location.

Detailed information on the project and potential impacts will be asked for in Parts 6, 7, and 8.

Definition(s):

- 100 Year Floodplain: Lands in the floodplain subject to a one percent chance or greater of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, and wetlands.
- Habitat: What plants and animals call 'home', including all the things they need to live. Some of these things are: water, soil, sunlight, protection from danger, and food.

5k. Describe how the property is currently being used.

Describe how the property is currently being used (for example: houses, shopping center, farming, or undeveloped). How long has the current use been in place?

5l. Describe how the adjacent properties are currently being used.

Describe the current use(s) of the adjacent properties (for example: houses, shopping center, farming, or undeveloped). Note how long those current uses have been in place.

Definition(s):

- Adjacent: Something bordering, next to, or neighboring.

5m. Describe the structures (above or below ground) on the property, including their purpose(s).

Identify any man-made structures on the property. For example: parking lots, buildings, storage tanks, debris, concrete foundations, culverts, or roadways (gravel or asphalt), bridges, docks, or piers.

5n. Provide driving directions, from the closest highway, and attach a map.

Provide driving directions to the project location from the closest major highway. If you have a map of the project location, attach it to your application.

Part 6 – Project Description

6a. Summarize the overall project. You can provide more detail in 6d.

Provide a few sentences describing your project proposal. More detailed information will be asked for in the next few parts.

6b. Indicate the project category.

Check the box(es) for the category best describing your project.

6c. Indicate the major elements of your project.

Indicate the major elements of your project. Check all elements that apply and list any additional major elements under "Other."

Definition(s):

- Aquaculture: The cultivation of aquatic organisms (such as fish or shellfish) especially for food.
- Bank Stabilization: The placement of materials (such as native plants) to protect a streambank from erosion.
- Boat House: A building to house and protect boats, typically over water.
- Boat Launch: An established location along a waterbody where watercrafts can be placed in the water.
- Boat Lift: A device fixed in place or floating, used to hoist and moor a watercraft elevating it above water.
- Bridge: A structure carrying a pathway or roadway over a depression or obstacle (often over water).
- Bulkhead: A retaining wall along a waterfront; a structure or partition built to prevent land sliding behind it. It is normally vertical and built parallel or near-parallel to the shoreline.
- Buoy: A floating object anchored to the bottom of a waterbody that provides a watercraft a place to tie up and stay away from the shore.
- Channel Modification: A change to a waterway that naturally or forcefully allows water to move from its current path. It may either periodically or continuously have moving water. Or it may form a connecting link between two bodies of water.
- Culvert : A man-made structure, generally a pipe, placed to enhance water flow through in an area.
- Dam / Weir: A barrier preventing the flow of water or loose, solid materials.
- Dike / Levee / Jetty: Dike; a wall or mound built around a low-lying area to control flooding. Levee; an embankment build to control flooding. Jetty; a structure extending into a body of water designed to prevent reduction of a waterway through a sediment buildup and to direct or confine stream and tidal flow.

- Ditch: A trench or a long, narrow excavation of earth.
- Dock / Pier: A floating or attached floating structure fixed to the shoreline used for mooring recreational watercraft. A platform built out from the shore into the water and supported by piles. It provides access to ships and boats from the shoreline.
- Dredging: The removal of material built up on the bottom of a waterbody.
- Fence: A barrier used to enclose an area.
- Ferry Terminal: Facility built to receive, house and dock ferry boats.
- Fishway: A structure allowing fish to pass around a waterfall or dam in a stream. Also, a device designed to enable fish to effectively pass around or through an obstruction without undue stress or delay.
- Float: An anchored offshore platform (similar to a dock) used for water-related recreation.
- Geotechnical Survey: A professional assessment of the land and soils in an area. A geotechnical survey investigates the soils, rock, fault distributions, and bedrock properties on and below a site.
- Land Clearing: The removal of vegetation (plants and trees) and/or structures (buildings) from an area.
- Marina / Moorage: A facility, area or structure used to receive, dock, and store watercraft.
- Mining: A process or business of working mines; the removal of minerals from the earth, for example: gold mining.
- Outfall Structure: A structure extending into a body of water for the purpose of discharging an effluent such as sewage, storm runoff or cooling water.
- Piling: A long heavy timber or section of concrete or metal driven into the ground or seabed for support or protection.
- Retaining Wall (upland): A wall built to keep earth from sliding from its location. Also to keep water from flooding an area (such as a home).
- Road: A structure for driving vehicles on. A narrow strip of land made suitable for travel between places.
- Scientific Measurement Device: Equipment or instrument used to collect data.
- Stairs: A set of steps connecting two locations.
- Stormwater Facility: A facility that retains water for a period of time to control runoff and/or improve the quality of stormwater runoff.
- Swimming Pool: A man-made body of water contained for recreational use. A watertight basin, chamber, or tank containing water for swimming, diving, or recreational bathing.
- Upland: Any area that does not qualify as a wetland because it does not have the characteristics of a wetland (need to plain talk).
- Utility Line: Cables and pipes used to transfer utility resources such as electric, oil, natural gas, water, and sewer.

6d. Describe how you plan to construct each project element checked in 6c. Include specific construction methods and equipment that will be used.

For each of the major elements that you checked in 6c, provide detail about how you propose to construct them. Include detail about how the construction methods and techniques will reduce impacts to the natural environment (for example: silt fences, tarps, water diversion, or bubble curtains). List any staging areas and equipment that will be used. Be as specific as possible.

Make sure to identify where each element will occur in relation to the nearest waterbody. Also indicate whether each activity is within the 100-year floodplain.

If your activities will occur at different times or in phases, describe which activities will occur during which timeframes.

Definition(s):

- Waterbody: A river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean or other water area.

6e. What are the start and end dates for project construction?

Provide your best estimates of the overall start and end dates for the project. If the project activities will be completed during multiple timeframes, provide the start and end of each phase and which activities are included.

6f. Describe the purpose of the work and why you want or need to perform it.

Explain why the proposed activity is necessary or desired.

This is an opportunity for you to discuss the needs and/or challenges of the project described in this application. Describe any project alternatives that were considered, and any project modifications that may have resulted from discussions with resource agency staff. Attach additional sheets to the application if necessary.

6g. Fair market value of the project, including materials, labor, machine rentals, etc.

Provide the estimated cost of your project. In your estimate, include materials, value of paid or volunteer labor, and equipment.

Definition(s):

- Fair Market Value: The fair market value is the open market bid price for doing the work, using the equipment and facilities, and purchasing the goods, services, and materials necessary to accomplish the project. This would normally include the cost of hiring a contractor to do the work from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead, and profit. The fair market value should include the fair market value of any donated, contributed, or found labor, equipment, or materials. (Definition from Washington Administrative Code WAC 173-27-030 (8), <http://apps.leg.wa.gov/WAC/default.aspx?cite=173-27-030>).

6h. Will any portion of the project receive federal funding?

If any portion of the project, including planning and design, is funded by federal money, check “yes.” This could include direct funding, grants or loans. If yes, list the federal agencies or programs providing the funding.

This information is used to determine the federal agency that is responsible for compliance with the Endangered Species Act, Section 106 of the National Historic Preservation Act, and other federal regulations.

Definition(s):

- Endangered Species Act: The Endangered Species Act of 1973 provides protection for endangered or threatened plants and animals and the habitats in which they are found. Species include birds, insects, fish, reptiles, mammals, crustaceans, flowers, grasses, and trees. Additional information on the Endangered Species Act can be found at <http://www.nmfs.noaa.gov/pr/laws/esa/>.

Part 7 – Wetlands: Impacts and Mitigation

Definition(s):

- Adjacent: Something bordering, next to, or neighboring.
- Wetland: An area that is very wet or saturated with surface water or ground water so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.
- Wetland Buffer: An area around a specific location protected to minimize any direct contact with that location.
- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands.

Describe how your project is designed to avoid or reduce impacts to wetlands. Include whether placement of the project was selected to reduce impacts and how construction was modified to reduce or avoid impacts.

Definition(s):

- Impact: A change resulting from human activities or natural events.
- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.
- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7b. Will the project impact wetlands?

Indicate whether your project will or could impact wetlands. Impacts to wetlands can happen from activities that occur within a wetland or some distance away (for example: filling, excavating, draining, or clearing vegetation). If you have wetland impacts, describe the impacts, including type, amount, and duration in Question 7h.

For more information about wetland regulations and the Clean Water Act go to:
http://www.epa.gov/owow/wetlands/pdf/reg_authority_pr.pdf.

Definition(s):

- Wetland: An area that is very wet or saturated with surface water or ground-water so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7c. Will the project impact wetland buffers?

Indicate whether your project will or could impact wetland buffers. Impacts to buffers can happen from activities occurring within a wetland or some distance away (for example: filling, excavating, draining, or clearing vegetation). If you will or could have wetland buffer impacts, describe the impacts, including type, amount, and duration in Question 7h.

For more information about wetland regulations and the Clean Water Act go to:
http://www.epa.gov/owow/wetlands/pdf/reg_authority_pr.pdf.

Definition(s):

- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7d. Has a wetland delineation report been prepared?

Wetland delineation is a process for determining the boundary of a wetland in a certain location. This information is used to help determine accurate wetland boundaries and jurisdiction. It is also used to help determine the extent of impacts to the wetland from proposed construction activities.

For more information on wetland delineation reports, go to the Washington State Wetlands Identification and Delineation Manual at <http://www.ecy.wa.gov/biblio/9694.html> and US Army Corps of Engineer's Wetlands Delineation Manual at:
http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_Wetlands_and_Waters.

Definition(s):

- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7e. Have the wetlands been rated using the Western or Eastern Washington Wetland Rating System?

The rating system categorizes wetlands into four categories based on wetland functions, sensitivity to disturbance, rarity, and the ability to replace them. There are separate rating systems for wetlands located in Eastern Washington and Western Washington.

For more information about rating wetlands, go to:

<http://www.ecy.wa.gov/programs/sea/wetlands/ratingsystems/index.html>.

Definition(s):

- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands?

A mitigation plan is a description of additional activities you propose to compensate for adverse impacts to wetlands. These activities may include creating additional wetlands either on-site or off-site, or restoring, enhancing, or preserving wetlands.

For guidance on creating a mitigation plan, refer to Wetland Mitigation in Washington State Part 1&2 Guidance located at: <http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/guidance/index.html>.

Definition(s):

- Compensatory Mitigation Plan: A detailed document describing the restoration, establishment, enhancement, or preservation of aquatic resources to compensate for unavoidable adverse impacts that remain after all appropriate and practical avoidance and minimization has been achieved.
- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.
- Wetland: An area that is very wet or saturated with surface water or ground water so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7g. Use the table below to list the type and rating of each wetland that will be impacted; the extent and duration of the impact; and the type and amount of compensatory mitigation you propose. If you are submitting a compensatory mitigation plan that includes a similar table, you may simply state (below) where we can find this information in the mitigation plan.

List the proposed activities causing impacts and mitigation for those impacts in the summary table. Include information on the activity causing impact (for example: excavation or fill), and wetland type separately for each wetland (based on the Western Washington/Eastern Washington wetland rating system). State how much area of each wetland (square feet or acres) will be impacted, duration of impact for each wetland (temporary or permanent), and what type of mitigation is proposed (for example: creation or restoration), and how many acres of mitigation will be provided.

If a table or chart containing this information is available by wetland in your mitigation plan, you can list the page number where the table or chart can be found.

Definition(s):

- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.
- Bank: A land surface above where the water surface usually ends (ordinary high water line) that is next to a body of water and contains it except during a flood.
- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.
- Mitigation Bank/In Lieu Fee: An approach to compensatory mitigation that allows permit applicants to pay a fee to a third party such as a government agency or conservation organization. These fees are then used

to restore, create, enhance, or preserve wetlands. Generally, in-lieu fee contributions are collected in advance of wetland losses. These funds are accumulated until they are sufficient to design and implement a wetland compensation project.

- **Creation Mitigation:** The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Establishment results in a gain in wetland acreage and function.
- **Re-establishment Mitigation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions.
- **Rehabilitation Mitigation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.
- **Enhancement Mitigation:** The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.
- **Preservation Mitigation:** The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

7h. For all filling activities identified in 7g, describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland.

If you have any activities that involve “filling-in” wetlands, describe the material being used, including the type, source, and amount of material (for example: three cubic yards of dirt from the upland staging area). Indicate where and how it will be placed in the wetland (for example: fill placed in the western edge using a backhoe).

Definition(s):

- **Cubic Yards:** A measure of volume calculated by measuring length by width by depth (one yard x one yard x one yard). One cubic yard = 27 cubic feet.
- **Fill Material:** Any material that will change the bottom elevation of an aquatic area, wetland or waterbody.
- **Nature of the Fill Material:** What the fill material is made of, (for example: rocks, sand, soil, or woody debris).
- **Wetland:** An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

7i. For all excavating activities identified in 7g, describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed.

If you have any activities that involve excavating in a wetland, describe the type of material you will be removing, what method or equipment will be used for removing it, how much you will be removing it, and where you will place the removed material. (For example: using a backhoe to remove approximately two cubic yards of dirt and vegetation and placing it along the access road).

Definition(s):

- **Cubic Yards:** A measure of volume calculated by measuring length by width by depth (one yard x one yard x one yard). One cubic yard = 27 cubic feet.

7j. Summarize what the compensatory mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan.

Provide a brief summary of the activities you are proposing to compensate for impacts to wetlands. Include information on what the mitigation plan intends to accomplish. Also describe how a watershed approach was used to design the plan.

Definition(s):

- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.

Part 8 – Waterbodies (other than wetlands): Impacts and Mitigation

Definition(s):

- Adjacent: Something bordering, next to, or neighboring.
- Waterbody: A river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean or other water area.
- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.
- Wetland: An area that is very wet or saturated with surface water or ground water so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

8a. Describe how the project has been designed to avoid and minimize adverse impacts to the aquatic environment.

Describe how your project is designed to avoid or reduce impacts to the aquatic environment. Include whether placement of the project was selected to reduce impacts, and how construction was modified to reduce or avoid impacts.

Attach plans and specifications for activities designed to protect fish life (for example: fish-rearing pools, creating spawning areas, or adding large woody debris).

8b. Will your project impact a waterbody or the area around a waterbody?

Waterbodies include rivers, lakes, streams, creeks, seasonally dry river beds, ponds, bays, and ditches. Impacts could occur from activities that take place in these waterbodies or some distance away.

If you are unsure whether your activities could impact waterbodies please contact the Governor's Office of Regulatory Assistance at 1-800-917-0043 or help@ora.wa.gov.

Definition(s):

- Waterbody: A river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean or other water area.

8c. Summarize the impact(s) to each waterbody in the table below.

List each activity causing an impact, the waterbody, and the details of the impact, including duration, location, amount of impact (for example: material placed or removed), and the portion of the waterbody that will be affected.

Definition(s):

- Dredging: Removing material built up on the bottom of a waterbody.
- Waterbody: A river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean or other water area.

8d. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies?

A mitigation plan is a description of the additional activities you propose to compensate for adverse impacts to the aquatic environment.

Definition(s):

- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.
- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

8e. Summarize what the compensatory mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

Provide a brief summary of the activities you are proposing to compensate for impacts to non-wetland waterbodies. Include information on what the mitigation plan intends to accomplish. Also describe how a watershed approach was used to design the plan.

Definition(s):

- Mitigation: When actions are taken to avoid, minimize, and compensate for adverse or negative effects on the environment.

8f. For all activities identified in 8c., describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody.

If you have any activities that involve “filling-in” portions of waterbodies, describe the material you will use, including the type, source, and the amount of material (for example: three cubic yards of dirt from the upland staging area). Indicate where and how it will be placed in the waterbody (for example: fill placed on the western bank using a backhoe).

Definition(s):

- Cubic Yards: A measure of volume calculated by measuring length by width by depth (one yard x one yard x one yard). One cubic yard = 27 cubic feet.
- Fill Material: Any material that will change the bottom elevation of an aquatic area, wetland or waterbody.

8g. For all excavating or dredging activities identified in 8c., describe the method for excavating or dredging, the type and amount of material that will be removed, and where the material will be disposed.

If you have any activities involving excavating or dredging in a waterbody, describe what type of material you will be removing, what method or equipment will be used for removing it, how much you will be removing, and where you will place the removed material. (For example: I will use a backhoe to remove approximately two cubic yards of sand and rocks and placing it along the access road.)

Definition(s):

- Dredging: The removal of material built up on the bottom of a waterbody.

Part 9 – Additional Information

9a. If you have already worked with any government agencies on this project, list them below.

List any contacts you have had with city, county, state, and federal agencies as part of preparing your application or determining your site and construction activities.

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 on the Washington Department of Ecology’s 303(d) List?

If you know whether the waterbodies you propose to impact are on the current 303d list, indicate that and provide the parameters of the 303(d) list. The 303(d) list is a designation of the current conditions of a waterbody including existing problems and pollutants the waterbody may contain.

You can find out whether the waterbodies are on the 303d list by going to:
<http://www.ecy.wa.gov/programs/wq/303d/>.

Definition(s):

- 303(d) list: A list of all surface waters in the state where pollutants impair beneficial uses of the water (such as drinking, recreation, aquatic habitat, and industrial use).
- Wetland: An area that is very wet or saturated with surface water or ground-water, so much that plants and animals can live there. May also be known as a swamp, bog, or marsh.

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in?

These codes are based on watersheds and help determine the resources that are important in the project area.

For more information and to determine your HUC, visit <http://cfpub.epa.gov/surf/locate/index.cfm>.

Definition(s):

- Hydrological Unit Code: A unit or watershed classified at four levels; regions, sub-regions, accounting units, and cataloging units. The hydrologic units are arranged within each other, from the smallest to the largest. Each hydrologic unit is identified by a unique hydrologic unit code consisting of two to eight digits based on the four levels of classification in the hydrologic unit system. This classification system was developed by the U.S. Geologic Survey.

9d. What Water Resource Inventory Area Number (WRIA #) is the project in?

The WRIA number is based on watersheds and helps determine the important resources in the project area.

You can find out what your WRIA number is by going to:
<http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm>.

9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity?

If you know whether your project impacts will comply with the state of Washington water quality standards for turbidity (suspended sediments in water) you can note it here. The Water Quality Standards, Washington Administrative Code or WAC 173-201A, can be found at
<http://www.ecy.wa.gov/programs/wq/swqs/criteria.html>.

You can also read more about these standards by going to:
<http://www.ecy.wa.gov/programs/wq/swqs/index.html>.

Definition(s):

- Water Quality Standards: The basis for protecting and regulating the quality of surface waters in Washington State. The standards also contain policies to protect high quality waters.
- Turbidity: Muddiness created by stirring up sediment or having foreign particles suspended in the water.

9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation?

If you know your project location is within jurisdiction of the Shoreline Management Act, indicate the local shoreline designation. This usually occurs when your project is within 200 feet of a waterbody or within the 100-year flood plain.

You can find the information by contacting your city or county planning department. Local government contact information can be found at <http://www.mrsc.org>. Click on the “LINKS” tab to find your city or county.

9g. What is the Washington Department of Natural Resources Water Type?

You can find out more about water types and get the water type for the waterbodies your project may be impacting by visiting:

http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx

Contact the Department of Natural Resources if you are not sure if you will need this application.

Definition(s):

- Forest Practices Application and Notification – A Forest Practices Application and Notification is required for any of the following activities on forest land: harvesting timber; salvaging logs, stumps or snags; constructing forest roads; installing or replacing culverts/bridges on forest roads; constructing or expanding gravel pits on forestland for forestry use and using aircraft to apply chemicals.

9h. Will this project be designed to meet the Washington Department of Ecology’s most current stormwater manual?

If you do not have this information, indicate whether you are following a different manual approved by the Department of Ecology. The stormwater manual provides guidance on how to design and maintain stormwater controls, including the control of runoff, and stormwater holding ponds.

For more information on Ecology’s stormwater manual, visit

<http://www.ecy.wa.gov/programs/wq/stormwater/tech.html>.

9i. If you know what the property was used for in the past, describe below.

If you have any historical knowledge of the property, you can describe its past uses here. Include any previous land uses or previous states of the natural environment (for example: used to be a dairy farm, a gas station was here 20 years ago, or it was forested until 30 years ago).

9j. Has a cultural resource (archaeological) survey been performed on the project area?

If a cultural resource or archaeological survey has been conducted on the project area, include a copy of the report with your application.

For more information on cultural resource surveys, contact the Washington Department of Archaeology and Historic Preservation (<http://www.dahp.wa.gov>) at 360-586-3065 or your local government. Local government contact information can be found at <http://www.mrsc.org>. Click on the “LINKS” tab to find your city or county.

9k. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work.

The Endangered Species Act of 1973 provides protection for endangered or threatened plants and animals and the habitats where they are found. Species include birds, insects, fish, reptiles, mammals, crustaceans, flowers, grasses, and trees. Additional information on the Endangered Species Act can be found at <http://www.nmfs.noaa.gov/pr/laws/esa/>.

A list of species considered endangered or threatened in Washington can be found at

http://ecos.fws.gov/tess_public/pub/stateListing.jsp?status=listed&state=WA.

9l. List each species or habitat on the Washington Department of Fish and Wildlife’s Priority Habitats and Species List that might be affected by the proposed work.

The Washington Department of Fish and Wildlife (WDFW) publishes a catalog of habitats and species considered priorities for conservation and management. This catalog is called the Priority Habitats and Species List. More information on the List, including the most recent edition, can be found at <http://wdfw.wa.gov/hab/phslist.htm>. Contact the WDFW area habitat biologist to determine the habitats and species for your area. <http://www.wdfw.wa.gov/hab/ahb/index.htm>.

Definition(s):

- Habitat: What plants and animals call 'home', including all the things they need to live. Some of these things are: water, soil, sunlight, protection from danger, and food.

Part 10 – Identify the Permits You Are Applying For

10a. Compliance with the State Environmental Policy Act (SEPA)

The State Environmental Policy Act (SEPA) environmental review is usually started early in the application process. This review involves filling out an environmental checklist to help you determine if significant impacts may be caused by your proposal.

Usually county or city government staff can work with you to make an initial evaluation of whether the impacts are significant or not.

If your project has a National Environmental Policy Act (NEPA) document that has been adopted by the lead agency for SEPA compliance, please mark the box to indicate a SEPA decision letter (or SEPA determination) is attached, and attach the Notice of Adoption letter to your application.

If you have not started the SEPA review process, please contact your local government or go to <http://www.ecy.wa.gov/programs/sea/sepa/e-review.html> for more information about this process, the checklist, and forms.

10b. Identify the permits you are applying for:

On-line Permit Assistance System (OPAS): This online questionnaire asks a series of 'yes' or 'no' questions to help you determine which permits and approvals may be required for your project. This tool is available at <http://apps.ecy.wa.gov/opas>.

Environmental Permit Handbook: The Environmental Permit Handbook provides an overview for each environmental permit, including contacts and resources for more detailed information. You can view the handbook online, download a copy at <http://apps.ecy.wa.gov/permithandbook>, or request a hardcopy from the Governor's Office or Regulatory Assistance by contacting them at help@ora.wa.gov or 800-917-0043.

Shoreline permits: (Verify that your local city or county will accept the JARPA for these permits.)

Substantial Development: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=38>.

Conditional Use: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=44>.

Variance: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=45>.

Other city/county permits: (Verify that your local city or county will accept the JARPA for these permits.)

Floodplain Development Permit: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=47>.

Washington Department of Fish & Wildlife

Hydraulic Project Approval: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=25>.

Washington Department of Ecology

Section 401 Water Quality Certification: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=43>.

Washington Department of Natural Resources

The JARPA form is not the Aquatic Resources use Authorization. Contact your DNR regional office at www.dnr.wa.gov/businesspermits/topics/shellfishaquaticleasing/pages/aqr_aquatic_land_leasing.aspx
Aquatic Resources use Authorization: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=31>.

Department of the Army (U.S. Army Corps of Engineers) permits

Section 404 (discharges into waters of the US):

<http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=37>.

Section 10 (work in navigable waters): <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=36>.

United States Coast Guard permits

General Bridge Act Permit: <http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=106>.

Private Aids to Navigation (for non-bridge projects):

<http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=98>.

Part 11 – Authorizing Signatures

11a. Applicant Signature

The applicant, identified in Part 2, must sign the application before submitting the JARPA package to the reviewing agencies. Each JARPA you are mailing requires an individual signature from the applicant.

If applicable, the applicant must also initial the statement granting authority to his or her designated agent in Part 3.

The applicant must also initial the statement granting the authority to access the property. If the applicant identified in Part 2 is not the property owner, the owner's signature is required in question 11c.

11b. Authorized Agent Signature

If an authorized agent is identified in Part 3, they must sign the application before submitting the JARPA package to the reviewing agencies.

11c. Property Owner Signature (if not applicant)

If the applicant identified in Part 2 is not the property owner, the owner's signature is required. This signature provides authorization for the permitting agencies to access the property for inspections of the project site and work.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.

ORA publication number: ENV-025-09

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2009



US Army Corps of Engineers®
Seattle District

WASHINGTON STATE Joint Aquatic Resources Permit Application (JARPA) Form [\[help\]](#)

AGENCY USE ONLY

Date received: _____

Agency reference #: _____

Tax Parcel #(s): _____

USE BLACK OR BLUE INK TO ENTER ANSWERS IN WHITE SPACES BELOW.

Part 1–Project Identification

1. Project Name (A unique name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [\[help\]](#)

Part 2–Applicant

The person or organization responsible for the project. [\[help\]](#)

2a. Name (Last, First, Middle) and Organization (if applicable)

2b. Mailing Address (Street or PO Box)

2c. City, State, Zip

2d. Phone (1)

2e. Phone (2)

2f. Fax

2g. E-mail

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Part 3–Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b. of this application.) [\[help\]](#)

3a. Name (Last, First, Middle) and Organization (if applicable)

3b. Mailing Address (Street or PO Box)

3c. City, State, Zip

3d. Phone (1)

3e. Phone (2)

3f. Fax

3g. E-mail

()

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()

Part 4–Property Owner(s) [\[help\]](#)

Contact information for people or organizations owning the property(ies) where the project will occur. [\[help\]](#)

- Same as applicant. (Skip to Part 5.)
- Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)
- There are multiple property owners. Complete the section below and use [JARPA Attachment A](#) for each additional property owner.

4a. Name (Last, First, Middle) and Organization (if applicable)			
4b. Mailing Address (Street or PO Box)			
4c. City, State, Zip			
4d. Phone (1)	4e. Phone (2)	4f. Fax	4g. E-mail
()	()	()	

Part 5–Project Location(s)

Identifying information about the property or properties where the project will occur. [\[help\]](#)

- There are multiple properties or project locations (e.g., linear projects). Complete the section below and use [JARPA Attachment B](#) for each additional property.

5a. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5n.) [help]			
5b. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]			
5c. County [help]			
5d. Provide the section, township, and range for the project location. [help]			
¼ Section	Section	Township	Range
5e. Provide the latitude and longitude of the project location. [help]			
<ul style="list-style-type: none"> Example: 47.03922 N lat. / -122.89142 W long 			
5f. List the tax parcel number(s) for the project location. [help]			
<ul style="list-style-type: none"> The local county assessor's office can provide this information. 			

5g. Indicate the type of ownership of the property. (Check all that apply.) [\[help\]](#)

- State Owned Aquatic Land Tribal Private
 Other publicly owned (federal, state, county, city, special districts like schools, ports, etc.)

5h. Contact information for all adjoining property owners, lessees, etc. (If you need more space, use [JARPA Attachment C.](#)) [\[help\]](#)

Name	Mailing Address	Tax Parcel # (if known)

5i. Is any part of the project area within a 100-year flood plain? [\[help\]](#)

- Yes No Don't know

5j. Briefly describe the vegetation and habitat conditions on the property. [\[help\]](#)

5k. Describe how the property is currently used. [\[help\]](#)

5l. Describe how the adjacent properties are currently used. [\[help\]](#)

5m. Describe the structures (above and below ground) on the property, including their purpose(s). [\[help\]](#)

5n. Provide driving directions from the closest highway to the project location, and attach a map. [\[help\]](#)

Part 6–Project Description

6a. Summarize the overall project. You can provide more detail in 6d. [\[help\]](#)

6b. Indicate the project category. (Check all that apply.) [\[help\]](#)

- Commercial Residential Institutional Transportation Recreational
 Maintenance Environmental Enhancement

6c. Indicate the major elements of your project. (Check all that apply.) [\[help\]](#)

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> Aquaculture | <input type="checkbox"/> Culvert | <input type="checkbox"/> Float | <input type="checkbox"/> Road |
| <input type="checkbox"/> Bank Stabilization | <input type="checkbox"/> Dam / Weir | <input type="checkbox"/> Geotechnical Survey | <input type="checkbox"/> Scientific Measurement Device |
| <input type="checkbox"/> Boat House | <input type="checkbox"/> Dike / Levee / Jetty | <input type="checkbox"/> Land Clearing | <input type="checkbox"/> Stairs |
| <input type="checkbox"/> Boat Launch | <input type="checkbox"/> Ditch | <input type="checkbox"/> Marina / Moorage | <input type="checkbox"/> Stormwater facility |
| <input type="checkbox"/> Boat Lift | <input type="checkbox"/> Dock / Pier | <input type="checkbox"/> Mining | <input type="checkbox"/> Swimming Pool |
| <input type="checkbox"/> Bridge | <input type="checkbox"/> Dredging | <input type="checkbox"/> Outfall Structure | <input type="checkbox"/> Utility Line |
| <input type="checkbox"/> Bulkhead | <input type="checkbox"/> Fence | <input type="checkbox"/> Piling | |
| <input type="checkbox"/> Buoy | <input type="checkbox"/> Ferry Terminal | <input type="checkbox"/> Retaining Wall (upland) | |
| <input type="checkbox"/> Channel Modification | <input type="checkbox"/> Fishway | | |

Other: _____

6d. Describe how you plan to construct each project element checked in 6c. Include specific construction methods and equipment to be used. [\[help\]](#)

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year flood plain.

6e. What are the start and end dates for project construction? (month/year) [\[help\]](#)

- If the project will be constructed in phases or stages, use [JARPA Attachment D](#) to list the start and end dates of each phase or stage.

Start date: _____ End date: _____ See JARPA Attachment D

6f. Describe the purpose of the work and why you want or need to perform it. [\[help\]](#)

6g. Fair market value of the project, including materials, labor, machine rentals, etc. [\[help\]](#)

6h. Will any portion of the project receive federal funding? [\[help\]](#)

- **If yes**, list each agency providing funds.

Yes No Don't know

Part 7–Wetlands: Impacts and Mitigation

- Check here if there are wetlands or wetland buffers on or adjacent to the project area.
(If there are none, skip to Part 8.)

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [\[help\]](#)

Not applicable

7b. Will the project impact wetlands? [\[help\]](#)

Yes No Don't know

7c. Will the project impact wetland buffers? [\[help\]](#)

Yes No Don't know

7d. Has a wetland delineation report been prepared? [\[help\]](#)

- If yes, submit the report, including data sheets, with the JARPA package.

Yes No

7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [\[help\]](#)

- If yes, submit the wetland rating forms and figures with the JARPA package.

Yes No Don't know

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [\[help\]](#)

- If yes, submit the plan with the JARPA package.

Yes No Not applicable

7g. Use the table below to list the type and rating of each wetland that will be impacted; the extent and duration of the impact; and the type and amount of compensatory mitigation proposed. If you are submitting a compensatory mitigation plan with a similar table, you may simply state (below) where we can find this information in the mitigation plan. [\[help\]](#)

Activity causing impact (fill, drain, excavate, flood, etc.)	Wetland type and rating category ¹	Impact area (sq. ft. or acres)	Duration of impact ²	Proposed mitigation type ³	Wetland mitigation area (sq. ft. or acres)

¹ Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.

² Indicate the time (in months or years, as appropriate) the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.

³ Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: _____

7h. For all filling activities identified in 7g., describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [\[help\]](#)

7i. For all excavating activities identified in 7g., describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [\[help\]](#)

7j. Summarize what the compensatory mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [\[help\]](#)

Part 8–Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, “waterbodies” refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [\[help\]](#)

Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [\[help\]](#)

Not applicable

8b. Will your project impact a waterbody or the area around a waterbody? [\[help\]](#)

Yes No

8c. Summarize impact(s) to each waterbody in the table below. [\[help\]](#)

Activity causing impact (clear, dredge, fill, pile drive, etc.)	Waterbody name	Impact location ¹	Duration of impact ²	Amount of material to be placed in or removed from waterbody	Area (sq. ft. or linear ft.) of waterbody directly affected

¹ Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.

² Indicate the time (in months or years, as appropriate) the waterbody will be measurably impacted by the work. Enter “permanent” if applicable.

8d. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [\[help\]](#)

- If yes, submit the plan with the JARPA package.

Yes No Not applicable

8e. Summarize what the compensatory mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

If you already completed 7j., you do not need to restate your answer here. [\[help\]](#)

8f. For all activities identified in 8c., describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [\[help\]](#)

8g. For all excavating or dredging activities identified in 8c., describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [\[help\]](#)

Part 9—Additional Information

Any additional information you can provide helps the reviewer(s) understand your project.

9a. If you have already worked with any government agencies on this project, list them below. [\[help\]](#)

Agency Name	Contact Name	Phone	Most Recent Date of Contact
		()	
		()	
		()	

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 on the Washington Department of Ecology's 303(d) List? [\[help\]](#)

- If **yes**, list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: <http://www.ecy.wa.gov/programs/wq/303d/>.

Yes No

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [\[help\]](#)

Go to <http://cfpub.epa.gov/surf/locate/index.cfm> to help identify the HUC.

9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [\[help\]](#)

- Go to <http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm> to find the WRIA #.

9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [\[help\]](#)

- Go to <http://www.ecy.wa.gov/programs/wq/swqs/criteria.html> for the standards.

Yes No Not applicable

9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [\[help\]](#)

- If you don't know, contact the local planning department.
- For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html.

Rural Urban Natural Aquatic Conservancy Other _____

9g. What is the Washington Department of Natural Resources Water Type? [\[help\]](#)

- Go to http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx for the Forest Practices Water Typing System.

Shorelines Fish Non-Fish perennial Non-Fish seasonal

9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [\[help\]](#)

- **If no**, provide the name of the manual your project is designed to meet.

Yes No

Name of manual:

9i. If you know what the property was used for in the past, describe below. [\[help\]](#)

9j. Has a cultural resource (archaeological) survey been performed on the project area? [\[help\]](#)

- **If yes**, attach it to your JARPA package.

Yes No

9k. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [\[help\]](#)

9l. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [\[help\]](#)

Part 10–Identify the Permits You Are Applying For

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at <http://apps.ecy.wa.gov/opas/>.
- Governor’s Office of Regulatory Assistance at (800) 917-0043 or help@ora.wa.gov.

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [\[help\]](#)

- For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html.

A copy of the SEPA determination or letter of exemption is included with this application.

A SEPA determination is pending with _____ (lead agency). The expected decision date is _____.

I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.)

- Submit the Fish Habitat Enhancement Project form with this application. The form can be found at: http://www.epermitting.wa.gov/site/alias_resourcenter/jarpa_jarpa_form/9984/jarpa_form.aspx.

This project is exempt (choose type of exemption below).

Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt?

Other: _____

SEPA is pre-empted by federal law. [\[help\]](#)

10b. Indicate the permits you are applying for. (Check all that apply.) [\[help\]](#)

LOCAL GOVERNMENT

Local Government Shoreline permits:

- Substantial Development Conditional Use Variance
 Shoreline Exemption Type (explain): _____

Other city/county permits:

- Floodplain Development Permit Critical Areas Ordinance

STATE GOVERNMENT

Washington Department of Fish and Wildlife:

- Hydraulic Project Approval (HPA) Fish Habitat Enhancement Exemption

Washington Department of Ecology:

- Section 401 Water Quality Certification

Washington Department of Natural Resources:

- Aquatic Resources Use Authorization

FEDERAL GOVERNMENT

United States Department of the Army permits (U.S. Army Corps of Engineers):

- Section 404 (discharges into waters of the U.S.) Section 10 (work in navigable waters)

United States Coast Guard permits:

- General Bridge Act Permit Private Aids to Navigation (for non-bridge projects)

Mailing Addresses and Contact Information

Mailing location for Shoreline permits

Send to: Appropriate city or county planning, building, or community development department.

- For city and county contact information, go to: <http://www.ora.wa.gov/today.asp>

Mailing location for Hydraulic Project Approvals

Send to: Department of Fish and Wildlife

- If you are **NOT** requesting emergency or expedited processing, please submit applications to the Headquarters office in Olympia.
- If you are requesting emergency or expedited processing, please submit applications to the appropriate Regional office.

Headquarters: Receives all applications when emergency or expedited processing is NOT being requested	Washington State Department of Fish and Wildlife Habitat Program 600 Capitol Way North Olympia, Washington 98501-1091	Tel (360) 902-2534 TDD (360) 902-2207 Fax (360) 902-2946
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Regions:

Receives all applications for emergency or expedited processing

Region 1 (Pend Oreille, Ferry, Stevens, Spokane, Lincoln, Whitman, Columbia, Garfield, Asotin, and Walla Walla Counties)	Washington State Department of Fish and Wildlife 2315 North Discovery Place Spokane, WA 99216	Tel (509) 892-1001 Fax (509) 921-2440
Region 2 (Okanogan, Douglas, Grant, Adams, and Chelan Counties)	Washington State Department of Fish and Wildlife 1550 Alder Street NW Ephrata, WA 98823-9699	Tel (509) 754-4624 Fax (509) 754-5257
Region 3 (Franklin, Kittitas, Yakima, and Benton Counties)	Washington State Department of Fish and Wildlife 1701 South 24th Avenue Yakima, WA 98902-5720	Tel (509) 575-2740 Fax (509) 575-2474
Region 4 (Whatcom, Skagit, Snohomish, King, Island, and San Juan Counties)	Washington State Department of Fish and Wildlife 16018 Mill Creek Boulevard Mill Creek, WA 98012-1296	Tel (425) 775-1311 Fax (425) 338-1066
Region 5 (Lewis, Wahkiakum, Cowlitz, Skamania, Clark, and Klickitat Counties)	Washington State Department of Fish and Wildlife 2108 Grand Blvd. Vancouver, WA 98661-4624	Tel (360) 906-6700 Fax (360) 906-6776
Region 6 (Pacific, Pierce, Thurston, Grays Harbor, Mason, Jefferson, Clallam, and Kitsap Counties)	Washington State Department of Fish and Wildlife 48 Devonshire Road Montesano, WA 98563-9618	Tel (360) 249-4628 Fax (360) 664-0689

Mailing location for 401 Water Quality Certification

Send to: Department of Ecology regional office– Federal Permit Unit

- For a map of Ecology Regional Offices, go to: www.ecy.wa.gov/org.html

Headquarters	<u>Mailing Address</u> P.O. Box 47600 Olympia, WA 98504-7600 <u>Physical Address</u> 300 Desmond Drive Lacey, WA 98504	Tel (360) 407-6000
Central Region	15 West Yakima Avenue, Suite 200 Yakima, WA 98902-3401	Tel (509) 575-2490 Fax (509) 575-2809
Eastern Region	4601 North Monroe, Suite 202 Spokane, WA 99205-1295	Tel (509) 329-3400 Fax (509) 329-3529
Northwest Region	3190 - 160th Avenue S.E. Bellevue, WA 98008-5452	Tel (425) 649-7000 Fax (425) 649-7098
Southwest Region	<u>Mailing Address:</u> P.O. Box 47775 Olympia, WA 98504-7775 <u>Physical Address:</u> 300 Desmond Drive Lacey, WA 98504	Tel (360) 407-6300 Fax (360) 407-6305

Mailing location for Aquatic Resources Use Authorizations

Send to: Department of Natural Resources regional office

- For a map of DNR regional offices, go to: <http://www.dnr.wa.gov/ContactDNR/Pages/Home.aspx>

Headquarters	Tel (360) 902-1100
Northwest Region	Tel (360) 856-3800
Pacific Cascade Region	Tel (360) 577-2025
South Puget Sound Region	Tel (360) 825-1631
Northeast Region	Tel (509) 684-7474
Southeast Region	Tel (509) 925-8510
Olympic Region	Tel (360) 374-6131

Mailing location for Department of the Army Permits Send to: US Army Corps of Engineers		
US Army Corps of Engineers	Seattle District Regulatory Branch P.O. Box 3755 Seattle, WA 98124-3755	Tel (206) 764-3495 Fax (206) 764-6602

Mailing location for General Bridge Act Permits and Private Aids to Navigation (for non-bridge projects) Send to: United States Coast Guard		
Section 9 Bridge Permit	Commander 13th Coast Guard District (OAN) 915 Second Avenue, Room 3510 Seattle, WA 98174-1067 Attn: Bridge Administrator	Tel (206) 220-7282 Fax (206) 220-7265
Private Aids to Navigation	Commander 13th Coast Guard District (OAN) 915 Second Avenue, Room 3510 Seattle, WA 98174-1067 Attn: PATON Manager	Tel (206) 220-7285 Fax (206) 220-7265

Part 11—Authorizing Signatures

Signatures required before submitting the JARPA package.

11a. Applicant Signature (required) [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. _____ (initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. _____ (initial)

Applicant

Date

11b. Authorized Agent Signature [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

Authorized Agent

Date

11c. Property Owner Signature (if not applicant) [\[help\]](#)

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Property Owner

Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.

ORA publication number: ENV-019-09

**SKAMANIA COUNTY
OFFICE OF THE HEARING EXAMINER
RULES OF PROCEDURE FOR OPEN RECORD HEARINGS ON
LAND USE PERMIT APPLICATIONS AND APPEALS**

1. APPLICABILITY

- 1.1 These procedures shall apply to open record hearings on land use permit applications and appeals of administrative decisions that come before the Hearing Examiner.

2. DEFINITIONS

- 2.1 "Administrative decision" means a decision issued by the Director of the Skamania County Community Development Department or his or her designee, or a threshold determination issued by the Responsible Official under the State Environmental Policy Act (SEPA).

"Appellant" means a person, organization, or other similar group who files a complete and timely appeal of an administrative decision or other appealable action.

"Applicant" means a person who is the owner of the subject property or the authorized representative of the owner of the subject property who has applied for a land use permit.

"Burden of proof" means the responsibility of a party to present sufficient, credible evidence to support his or her position.

"Comprehensive Plan" means the Comprehensive Plan that has been adopted by the Skamania County.

"Board" means the Skamania County Board of County Commissioners.

"County" means Skamania County, Washington.

"Ex parte communication" means written or oral communication to the Hearing Examiner about a matter pending before the Hearing Examiner that is not included in the public record and/or is made outside of a public hearing.

"Hearing" means the open record public proceeding at which testimony and exhibits of evidence are presented to the Hearing Examiner on a given land use permit application or appeal.

"Hearing Examiner" or "Examiner" means the Hearing Examiner of Skamania County.

"Interested Party" means any individual, partnership, corporation, association, or public or private organization of any character that may be affected by proceedings before the Hearing Examiner. Any party in a contested case is an interested party.

"Motion" means a written request made to the Hearing Examiner for an order or other ruling.

"Notice of Decision" means the written document that communicates a decision on an action before the Hearing Examiner.

"Party of record" or "Party" means:

- a. Any person who testifies at a hearing,
- b. An Appellant,
- b. The Applicant or his/her agents,
- c. Persons submitting written testimony about a matter prior to the close of the record, and
- d. Skamania County.

"Community Development Department" means the Skamania County Community Development Department.

"Record" means the oral testimony and written exhibits admitted at the hearing. The audio recording of the proceeding shall be included as part of the record.

"Staff" means the staff member of the Community Development Department assigned to present a case before the Hearing Examiner.

"Subject property" means the real property that is subject of the land use permit application or appeal.

"SCC" means Skamania County Code.

3. JURISDICTION

- 3.1 The Hearing Examiner's jurisdiction is limited to those issues where ordinance or other appropriate authority grants the Hearing Examiner the authority to make a decision or issue an order pursuant to SCC 2.80.060 or other sections of the SCC.
- 3.2 Timely filing of an appeal is required for the Examiner to acquire jurisdiction over any appeal.
- 3.3 Any party may challenge the Examiner's ability to hear an appeal/matter on jurisdictional grounds, or the Examiner may independently raise the jurisdictional issue. If the Examiner determines that he/she does not have jurisdiction, the appeal/matter will be dismissed.

4. EX PARTE COMMUNICATION

- 4.1
 - a. No person, nor agent, employee, or representative of any person, who is an interested party in an application currently pending before the Examiner shall communicate ex parte, directly or indirectly, with the Hearing Examiner concerning the merits of any pending application/appeal or any factually related application/appeal. Communications on purely procedural matters such as scheduling and logistics are permitted on an ex parte basis; however, all allowed ex parte procedural communications should be directed to the Hearing Examiner in care of the Community Development Department.
 - b. The Examiner shall not communicate ex parte directly or indirectly with any person, agent, employee, or representative of any person who is an interested party in an application currently pending before the Examiner concerning the merits of the pending application or any factually related application, unless he/ she provides notice and opportunity for all parties to participate.
 - c. If a prohibited ex parte communication is made to or by the Examiner, such communication shall be publicly disclosed at hearing. The Examiner shall exercise proper discretion as to whether to disqualify him/herself as Examiner for that particular hearing.

5. NATURE OF PROCEEDINGS

5.1 Expeditious Proceedings

It is the policy of the Hearing Examiner that, to the extent practicable and consistent with the requirements of law, public hearings shall be conducted expeditiously. In the conduct of such proceedings, the Hearing Examiner, County staff, and all parties, agents, and witnesses shall make every effort at each stage of a proceeding to avoid delay.

5.2 Record of Hearing

- a. Hearings shall be audio recorded and such recordings shall be a part of the official case record.
- b. The County shall make copies of the audio recording of a particular hearing and the written materials within the official case record available to individuals who request them. The requester shall pay the reasonable cost of copying.

5.3 Computation of Time

Unless otherwise provided in the SCC or state law, the computation of any period of time prescribed or allowed by these rules shall begin with the first day following the day on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or holiday, the period shall run until the end of the next business day.

6. RIGHTS AND RESPONSIBILITIES OF PARTIES

6.1 Rights of County

County staff shall have the right to present evidence, testimony, objections, motions, arguments, recommendations, and all other rights essential to a fair hearing.

6.2 Rights of Applicant and Appellant

Every Applicant and Appellant shall have the right to adequate notice, cross-examination, presentation of evidence, objection, motions, argument, and all other rights essential to a fair hearing. The Applicant shall have the right of timely access to the County's staff report.

6.3 Rights of Interested Parties

Every interested party shall have the right to present evidence and testimony at hearings on permit applications. The right of interested parties to cross-examine, object, submit motions and arguments shall be at the discretion of the Hearing Examiner. The Hearing Examiner may impose reasonable limitations on the nature and length of witnesses' testimony.

6.4 Responsibilities of County Staff

County Staff shall provide notice of the hearing consistent with County Code, provide a staff report consistent with the provisions of Rule 8.5 and SCC 2.80.110, present materials at the hearing, and provide the Hearing Examiner with documentation relevant to the case. In addition, County staff shall be responsible for audio recording the proceedings and maintaining possession of the official record in each matter.

6.5 Responsibilities of Applicant

The Applicant or his/her representative shall familiarize him/herself with the criteria for review prior to the hearing; provide the Hearing Examiner with any material that supports his/her case; and be prepared to present his/her case and answer questions from the Hearing Examiner, County staff, and the public.

6.6 Responsibilities of Appellant

Appellants have the same responsibilities as Applicants, and in addition shall be required to provide a specific and comprehensible written statement of the issues on appeal prior to the hearing.

6.7 Responsibilities of All Parties

Parties, witnesses, and observers shall conduct themselves with civility and deal courteously with all persons involved in the proceedings. Failure to do so will result in removal from the hearing.

6.8 Time Limits on Witness Testimony

Where the Hearing Examiner finds that testimony would be repetitious or irrelevant to the matters before him or her, the Examiner may impose reasonable limitations on the nature and length of witnesses' testimony. Cross-examination is permitted as necessary for a full disclosure of the facts, but the Hearing Examiner shall control the amount and style of cross-examination.

7. **PRESIDING OFFICIALS**

7.1 Presiding Officials

- a. The Hearing Examiner shall preside over all hearings.
- b. The Hearing Examiner shall have the authority and duties granted to him/her in state statutes, the SCC, and other County ordinances. Included in the duties of the Hearing Examiner are the following: to conduct fair and impartial hearings;

to take all necessary action to avoid delay in the disposition of proceedings; and to maintain order. He/she shall have all powers necessary to that end, including the following:
 1. to administer oaths and affirmations;
 2. to rule upon offers of proof and receive evidence;
 3. to regulate the course of the Hearing and the conduct of the parties and their agents;
 4. to question any party presenting testimony at the hearing;
 5. to hold conferences for settlement, simplification of the issues, or any other proper purpose;
 6. to require briefs on legal issues;
 7. to consider and rule upon all procedural and other motions appropriate to the proceedings; and,
 8. to make and file recommendations or decisions, consistent with County Code.
- c. Interference. In the performance of his/her adjudicative functions, the Hearing Examiner shall not be subject to the supervision or direction of any elected official, officer, employee or agent of any County department.

8. CONDUCT OF OPEN RECORD HEARINGS ON PERMITS AND APPEALS

8.1 Notice Requirements of Hearing and Filings

- a. All notice and time requirements and methods of notification shall be consistent with the SCC.
- b. Affidavit of Notice. An affidavit attesting to the notice given of a public hearing (including dates and places of publication and mailing list) should be part of each official case record.

8.2 Oath or Affirmation

All testimony before the Hearing Examiner shall be given under oath or affirmation to tell the truth.

8.3 Order of Presentation at the Permit Application Hearing

A permit application hearing generally includes, but is not limited to, the following elements: a brief introductory statement of the hearing process by the Hearing Examiner; a presentation by County staff, including a summary of the proposal, identification of applicable SCC criteria and development standards, and staff's recommendation; a presentation by the Applicant; public testimony; opportunity for cross-examination and rebuttal; and opportunity for questions by the Hearing Examiner. The Hearing Examiner has discretion to set the order of presentation in any given case.

8.4 Content of the Record of a Permit Application Hearing

The record of a permit application hearing conducted by the Hearing Examiner shall include, at a minimum, the following materials:

- a. The application for permit;
- b. Appropriate departmental staff reports;
- c. All evidence received, including oral testimony given at the hearing, all exhibits and other materials admitted as evidence;
- d. A statement of all matters officially noticed;
- e. A recommendation by Community Development Department Staff as to the outcome;
- f. Audio recordings of the proceedings; and
- g. An environmental determination made pursuant to the State Environmental Policy Act of 1971 (SEPA), as applicable.

8.5 Content and Form of Staff Reports on Permit Applications

The staff report shall be distributed to the Hearing Examiner and to the Applicant, and made available for public review at least ten days prior to the scheduled hearing. The staff report shall include the following, as appropriate:

- a. Name and address of the Applicant and his/her property interest in the property that is the subject of the hearing;

- b. A brief summary of the requested action and the citation of the ordinance controlling the request;
- c. The following descriptive information about the subject property:
 - (1) The address and legal description of the subject property,
 - (2) A statement of the zoning and Comprehensive Plan designations applicable to the subject property,
 - (3) A description of existing development on the subject property,
 - (4) A description of surrounding land uses,
 - (5) Any scientific, environmental, or engineering information germane to the case, and
 - (6) A description of critical areas identified or suspected to exist on site;
- d. An analysis of the project's consistency with the criteria for approval. In making the analysis, staff shall refer to applicable ordinances as often as possible.
- e. A summary of the reports or recommendations of any other agencies consulted;
- f. Appropriate maps of the subject property;
- g. The environmental review process under the State Environmental Policy Act; and
- h. Staff's conclusions and recommendations, including recommended conditions of approval.

8.6 Order of Presentation at an Appeal Hearing

Open record appeal hearings generally include, but are not limited to, the following elements: a brief introductory statement of the hearing process by the Hearing Examiner; a brief background of the decision appealed by departmental staff; a detailed presentation of the appeal (including presentation of witnesses, if any) by the Appellant; a response to the appeal (including presentation of witnesses, if any) by the County; a response to the appeal (including presentation of witnesses, if any) by the Applicant, if different from the Appellant; cross-examination of parties and witnesses; opportunity for rebuttal; and, opportunity for questions by the Hearing Examiner. Unless otherwise provided in the SCC, only witnesses called by the parties to an appeal are permitted to testify at an appeal hearing. The Hearing Examiner has discretion to set the order of presentation in any given case.

8.7 Continuances of Hearing

- a) Hearing Examiner. If the Hearing Examiner determines that more information is necessary in order to make a decision, or he/she is unable to hear all of the evidence on the matter during the scheduled open record hearing, the hearing may be continued to a specified date and time.
- b) At the Request of a Party. Any party of record may request continuance of a hearing. However, the hearing may not be continued over the objection of a party unless good cause is shown. The Hearing Examiner shall have discretion to grant or deny the request for continuance.

8.8 Evidence

- a) Burden of Proof. In each proceeding on a permit application, the Applicant shall have the burden of proof to show compliance with applicable laws and regulations of Washington State and the Skamania County. In each proceeding on an appeal, the Appellant shall have the burden of proof.

- b. Admissibility. Relevant evidence, including hearsay, shall be admitted if:
 - (1) it possesses probative value such as would be commonly accepted by reasonably prudent persons in the conduct of their affairs, and
 - (2) in the opinion of the Hearing Examiner, it is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness.
- c. Hearing Examiner Discretion. The Hearing Examiner shall have discretion to admit or deny evidence offered at the hearing. Objections to evidence will be noted for the record. In ruling on the admissibility of evidence, the Examiner shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings before the superior courts in the state of Washington. All parties will be allowed opportunity to make a record of evidence admitted or denied during the course of the hearing. This record shall include offers of proof.
- d. Copies. Documentary evidence may be received in the form of copies if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. Parties bringing documentary evidence to hearings are advised to bring at least three extra copies, one for the Hearing Examiner to use as a "working copy", one for Community Development Department Staff and the other for the opposing party.
- e. Judicial notice. The Hearing Examiner may take judicial notice of judicially cognizable facts; applicable federal, state, and county laws; and general, technical, or scientific facts within his or her specialized knowledge. The Hearing Examiner shall not take notice of disputed adjudicative facts.
- f. Record held open for submission of relevant evidence. The Hearing Examiner may request documents to be filed after the close of public testimony. In such cases, only those documents specifically requested by the Hearing Examiner on the record during the public hearing may be admitted.

8.9 Presence of Legal Counsel at Public Hearings

Although representation by legal counsel is not required at the hearing, all parties participating in the hearing may be represented by legal counsel of their choice.

9. ADDITIONAL RULES FOR APPEALS

9.1 Pre-hearing Conference

- a. The Hearing Examiner may, on his/her own order or at the request of a party, hold a conference prior to the hearing to consider:
 - (1) Identification, clarification, and simplification of the issues;
 - (2) Disclosure of witnesses to be called and exhibits to be presented;
 - (3) Motions; and
 - (4) Other matters deemed by the Hearing Examiner appropriate for the orderly and expeditious disposition of the proceedings.
- b. Pre-hearing conferences may be held telephonically.

- c. The Community Development Department shall give timely notice to all parties of any pre-hearing conference order by the Hearing Examiner. Notice may be written or oral.
- d. All parties shall participate in any pre-hearing conference unless they waive the right to be present or represented, and are granted permission by the Hearing Examiner not to attend.
- d. Following the pre-hearing conference, the Hearing Examiner may issue an order reciting the actions taken or ruling on motions made at the conference.
- e. Pre-hearing orders may not be appealed until the Hearing Examiner issues an appeal decision.

9.2 Timeliness

To be considered timely filed, an appeal must be received no later than close of business on the last day of the appeal period. All appeals received after this time shall be considered untimely and shall be dismissed by the Hearing Examiner.

9.3 Fee

Any filing fee as required by Skamania County Code shall accompany an appeal.

9.4 Contents

An appeal must be in writing, identify the decision being appealed, and contain a concise statement of the basis for appeal and the relief requested.

9.5 Briefs

Briefs or other memoranda of law, limited to the specific issues set forth in the Appellant's statement of appeal, may be submitted by the parties in support of or in response to an appeal. Each party is permitted one primary brief not exceeding 50 double-spaced pages in length, and one reply brief not exceeding 25 pages in length. The Hearing Examiner may, at his/her discretion, waive or modify these page limits at the request of either of the parties in order to accommodate complex legal and factual issues.

9.6 Motions

Motions and responses to motions are not to exceed 20 double-spaced pages in length without prior approval of the Hearing Examiner.

9.7 Party Representative

Where an appeal is filed by several individuals or a group, the party shall designate one individual to be its representative, who shall be made known to the Hearing Examiner. Notice or other communication to the party representative is considered notice to the party.

9.8 Withdrawal of Appeal

- a. An appeal may be withdrawn only by the Appellant. Where the appeal is filed by several persons or a group, withdrawal shall be made by the person designated as the party representative.
- b. The Hearing Examiner may dismiss an appeal by an order of default where the Appellant, without requesting a continuance, fails to appear at a scheduled and properly noticed hearing.

10. DECISIONS

10.1 Written Decisions

The Hearing Examiner shall issue a written report of findings, conclusions, and decision within the time allowed by SCC 2.80.130. The findings, conclusions, and decision shall

indicate how the decision carries out the policies and regulations of the Comprehensive Plan, the County Code, and other relevant laws and plans.

10.2 Content of Decision

At a minimum, each decision shall include the following:

- a. The nature and background of the proceeding.
- b. Findings. The findings shall be a statement of the facts that are the basis of the conclusions and decision of the Examiner, and shall be based exclusively on the evidence entered into the record and any matters officially noticed. The source of each finding shall be identified.
- c. Conclusions. Whenever practical, the conclusions shall reference specific provisions of the law, and shall include the reasons and precedents relied upon to make the conclusions.
- d. A decision or order. The decision shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence. All decisions may include conditions of approval.
- e. Statement of appeal process for that particular decision.

10.3 Procedure for Reopening Hearing

At any time prior to filing the final decision, the Hearing Examiner may reopen the proceeding to receive further evidence. All parties of record shall be given notice of the consideration of such evidence and granted an opportunity to review such evidence and file rebuttal arguments.

11. APPEALS OF HEARING EXAMINER DECISIONS

The decision of the Hearing Examiner shall be final and conclusive unless an appeal is timely filed with the appropriate decision making body (superior court, per RCW 36.70C; the Shorelines Hearings Board, per RCW 90.58; or the Columbia River Gorge Commission). Only a party of record may file an appeal of the Hearing Examiner's decision. Additional information can be found in SCC 2.80.140 and the applicable statutes.

12. CONFLICTS

These rules of procedure are adopted to supplement the requirements set forth in the SCC. Any conflicts between these rules and the provisions of the SCC shall be decided in favor of the SCC.

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Skamania County Land Use Hearing Examiner Process

The following information explains the fundamental role of the Land Use Hearing Examiner and the process by which the Examiner renders land use decisions. *This is not a complete description of the rules and laws governing the hearing process, but rather an overview to prepare applicants, appellants, and members of the public for participation in public proceedings.* The land use hearing process is described in more detail in Chapter 2.80 of the Skamania County Code (SCC) and in the Land Use Hearing Examiner Rules of Procedure. Copies of the relevant ordinances and rules are available through the Skamania County Community Development Department.

The Hearing Examiner system assures fairness and due process protection for all persons involved in the land use hearing process. It is the Examiner's responsibility to render land use decisions in an efficient manner. County ordinances authorize the Hearing Examiner to conduct hearings on certain land use permit applications and appeals of administrative decisions. The specific applications and appeals under the Hearing Examiner's jurisdiction are listed in SCC 2.80.060.

Overview of the Process

Hearings before the Hearing Examiner are usually "open record hearings." The purpose of the open record hearing is to allow parties to present evidence as to whether the application or appeal under review satisfies the County's criteria for approval and other applicable state and local laws. The evidence submitted at the hearing, which may consist of oral testimony or written documents, is known as the "record" of the hearing. Because the Hearing Examiner's decision - and a court's decision on appeal of a Hearing Examiner's decision - is based on the record, **it is important that parties present all relevant information and arguments at the open record hearing.** When the hearing is concluded, the record is "closed" and no new evidence may be submitted.

Occasionally, the Hearing Examiner may leave the record open for submission of specific information that was not provided prior to or at the hearing. This can happen when the Examiner has questions the parties need time to answer or when interested parties at the hearing bring up relevant issue not addressed to the Examiner's satisfaction. If the Hearing Examiner determines the information is necessary for making a decision on the matter, the record will be "held open" for the specific information. When this occurs, the Hearing Examiner will be admitted. Typically, both the specific information requested and the deadline are spelled out in a Post-Hearing Order for Submission of Additional Evidence. The Order will usually state when the record will close. Generally, no new evidence may be submitted after the close of record, even on appeal.

Hearings on permit applications typically proceed in the following order:

- Introductory comments by the Hearing Examiner;
- Presentation by County staff, including staff's analysis of the application and recommendation;
- Presentation by the applicant;
- Public testimony, which may include questions for County staff or the applicant; and
- County and applicant responses to the issues and questions that have been raised.

Hearings on appeals typically proceed in the following order:

- Introductory comments by the Hearing Examiner;
- Presentation by the appellant, and any witnesses the appellant calls;
- Presentation by the County, and any witnesses the County calls;
- Presentation by the applicant, if different from the appellant, and any witnesses the applicant calls;
- Rebuttal testimony and/or concluding remarks by the parties.

Each hearing is audio recorded in order to establish a verbatim record of the testimony and procedures. All testimony is given under oath, and each person who testifies must identify him or herself for the record. The Hearing Examiner may establish time limits for testimony.

At the conclusion of the hearing, the Hearing Examiner closes the record and sets the due date for rendering his or her decision. No decision is issued at the hearing itself. The Hearing Examiner takes the case under advisement and prepares a written decision including findings of fact and conclusions of law.

The Hearing Examiner's final decision is mailed to parties of record (i.e., individuals who submit written or oral testimony, the applicant or appellant, and the County) and to other individuals who request a copy.

How to Participate Effectively

- Limit testimony and/or written documentation to the specific case at hand. Testimony about desired changes in the code is not relevant and will not be considered. Land use applications are required to be decided according to the rules in effect at the time of application. Changes to the code are more properly addressed to the Board of County Commissioners.
- Focus on facts that have some tendency to show that the project does or does not satisfy the County's criteria for approval or other applicable laws. The most persuasive testimony or written documentation is that which is based on the speaker's or writer's first-hand observations and, for technical issues, is within the speaker's or writer's area of expertise.
- To the extent possible, review the project documents and the relevant codes prior to the hearing.
- Be courteous and respectful to each participant.
- Direct your comments to the Hearing Examiner and not to members of the audience.

Due Process Considerations

- Land use hearings before the Hearing Examiner are quasi-judicial proceedings, which means that certain due process protections apply. Not only must quasi-judicial proceedings be fair; they must appear to be fair. Accordingly, the Hearing Examiner may not participate in any matter in which he or she has financial or personal interest. Any person who has grounds to believe the Hearing Examiner may be influenced by a consideration outside the public record should promptly bring that concern to the attention of the Hearing Examiner prior to or at the hearing.
- If written testimony is submitted, it must be received prior to or at the public hearing for it to be considered by the Hearing Examiner. Written testimony should be addressed to the Hearing Examiner in care of the Community Development Department; should contain the writer's name and mailing address (the mailing address is needed to ensure the writer receives notice of the decision); should reference the application file number;

and should be legible. Comments should contain the specific reasons why the application should be approved, denied, or conditioned.

- The Hearing Examiner may not be contacted directly about specific applications. To ensure that the Hearing Examiner will remain free from bias or prejudice in the decision-making process, any contact with the Examiner must be through testimony or written statements submitted at the hearing, or through material submitted to Community Development Department staff for transmittal to the Hearing Examiner. Material submitted in an inappropriate manner will not be considered part of the record.

Appeals from Hearing Examiner Decisions

- Section 2.80.140 of the Skamania County Code contains information on appealing a Hearing Examiner's decision. To be considered, appeals must be filed by one of the parties of record with the appropriate decision-making body (Superior Court, Shorelines Hearings Board, or Columbia River Gorge Commission) within the time limits specified in the applicable statutes.