



The Alaskan Way Viaduct
& Seawall Replacement Project

Environmental Permits and Approvals Guide

Submitted to:

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Urban Corridors Office

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Environmental Permits and Approvals Guide

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The SR 99: Alaskan Way Viaduct & Seawall Replacement Project is a joint effort between the Federal Highway Administration (FHWA), the Washington State Department of Transportation (WSDOT), and the City of Seattle. To conduct this project, WSDOT contracted with:

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Environmental Permits and Approvals Guide

1.0 Introduction/Overview

The purpose of this report is to identify the potential permits and approvals anticipated for construction of the Alaskan Way Viaduct and Seawall Replacement project (AWVSRP). The report provides permit information such as: the project activities that will trigger the need for a permit; regulatory requirements that must be met; permit processes, timelines and durations; and approval criteria, so that there is a common frame of understanding regarding permits for the AWVSRP¹. This report is a companion to the permit strategy, which is currently under development.

This report is divided into several chapters; Chapter 2.0 describes the permit coordination that will take place through the environmental review and permitting process, as well as a discussion of liaison staff.

Chapters 3.0, 4.0, 5.0, and 6.0 describe the Federal, State, City, and other permitting authority permits and approvals, respectively. Under each of these chapters a description of the permits under these types of reviewing agencies is provided. The permit description includes the statutes and regulations under which the permit is issued, as well as important approval criteria that will be considered by the reviewing agency. It lists whether or not other permits and approvals are required before certain permits can be issued. Application procedures, cost, duration of the permit and whether extensions are available are also described. An estimated timeline/schedule for each permit, as well as a discussion of the permit review process including public involvement and appeals is included with a flowchart depicting the process (for most but not all permits)².

Appendix A contains an overall summary matrix of the permits and approvals described in this report. It lists the permit, permit issuing agency, code authority, permit trigger, and the section where the permit is described in this report.

¹ This report purposely does not purport to address the AWVSRP project's consistency or compliance with the various permit regulations and requirements.

² Actual permit review durations may differ substantially from those depicted in the timeline. (The timelines are meant to give a general idea of timing involved in the review process.) Each flow chart represents a discrete process and does not indicate the interrelationships between permits or other agency actions.

Appendix B provides several draft timelines for some elements of the project that precede the general viaduct construction sequence: seawall test sections, utility relocation requiring in-water work, and utility relocations that do not require in-water work. These schedules focus on the first phases of the project and are meant to show typical durations for obtaining permits and approvals. Since two alternatives and various options are still under consideration and the design has not progressed sufficiently to determine how the project will be constructed, the timeframes for the permits are shown in a general manner and are not as yet tied to the construction sequence. One of the next steps in developing the permitting strategy is to tie the permit schedule for the various project elements to the actual construction phases and to integrate the permit schedule with the overall project schedule.

To obtain approvals for the project, some agencies require actual permits and others agencies require certification, letters of authorization, consistency determinations, notification, or other types of contact, review, or approvals. For the purposes of this report these will all be referred to as permits even though there may not be a specific permit tied to the approval.

2.0 Permit Coordination

2.1 Signatory Agency Committee (SAC) Agreement

Initially, the National Environmental Policy Act (NEPA)/Clean Water Act (CWA) Section 404 (NEPA/404) merger process was developed as a way to improve environmental review of transportation projects funded by FHWA that required individual permits from the U.S. Army Corps of Engineers (USACE). Often compliance with NEPA and CWA resulted in redundancy and less than efficient review and approval of Section 404 and Section 10 permits, because of the number of reviewing agencies involved, duplicative requirements, and lack of agency input into early environmental review. Thus, at the federal level, the Federal Highway Administration (FHWA), USACE, Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS) agreed to develop the NEPA/404 merger process to streamline the preparation, review, and approval of federal environmental impact statements and Section 404/Section 10 permits.

This was carried a step further in Washington State because the State has its own parallel environmental review process: the State Environmental Policy Act (SEPA), whose requirements are similar to NEPA. To minimize conflict and ensure consistency among similar state and USACE issued permits, Washington included state resource agencies as part of the merger team.

The merger process in the State of Washington is now known as the Signatory Agency Committee (SAC) Agreement. The SAC Agreement applies to all transportation projects requiring (a) an individual USACE Section 404 or Section 10 permit, and (b) FHWA action on a NEPA EIS and Washington State Department of Transportation (WSDOT) action on a SEPA EIS. The goals of the SAC are similar to those of the original NEPA/404 merger agreement to: minimize interagency conflicts over highway and aquatic resource issues; preclude revisiting decisions made early in the process; and to encourage early participation by regulatory and resource agencies. Implementation of the SAC Agreement is by a committee of the signatory agencies which consist of the four federal agencies party to the NEPA/404 merger agreement, along with three state agencies: WSDOT, Washington State Department of Fish and Wildlife (WDFW), and Washington State Department of Ecology (Ecology). The SAC determines whether or not a project meets the criteria to undergo the merger coordination process as part of environmental coordination³.

³ The project will not follow the newer (2005) SAFETEA-LU (Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users) process because the project was already started under the SAC process.

Essential elements of the process involve SAC agency coordination, review, and approval of project documentation at three concurrence points in the EIS process: (1) concurrence with the purpose and need statement and screening criteria, (2) concurrence with the range of project alternatives to be included in the Draft EIS, and (3) concurrence with selection of the preferred alternative/least environmentally damaging practicable alternative and detailed mitigation plan. The process agreement includes timelines for reaching concurrence and an issue resolution process if concurrence is not reached (See Figure 1).

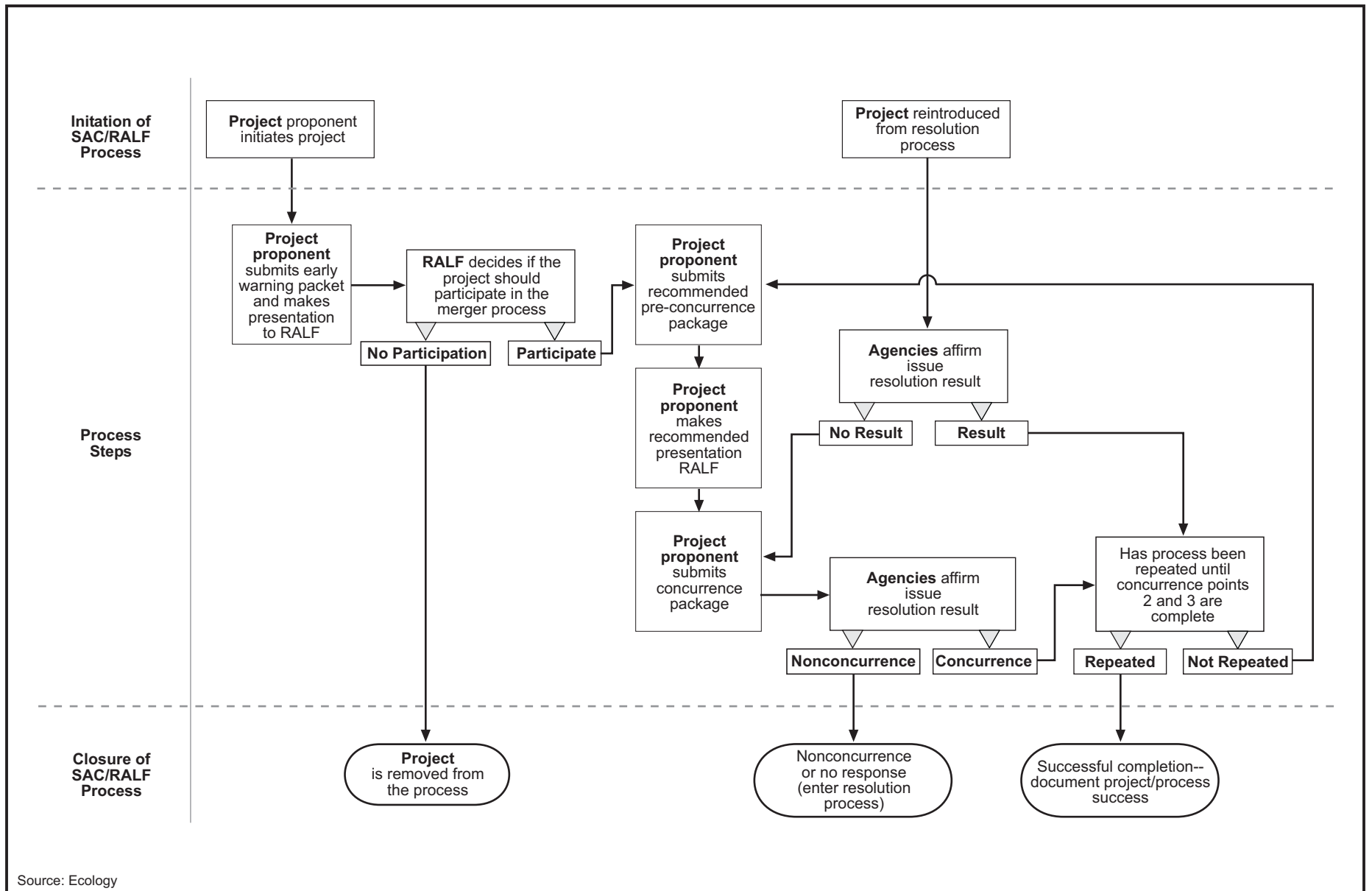
Once SAC agencies have concurred, a concurrence point will not be revisited unless substantial new information is available or substantial changes have occurred in the project. The overall goal of the process is to preclude revisiting decisions that have been made early in the process and to encourage early substantive participation by the regulatory and resources agencies.

2.1.1 Resource Agency Leadership Forum (RALF)

FHWA, WSDOT, and the City of Seattle (City) are co-leads and Project Sponsors for the AWVSRP. The Project Sponsors have convened an Interagency Regulatory Team (the Resource Agency Leadership Forum, or RALF) for the AWVSRP Project. RALF was created to encourage early participation in the project by regulators and those agencies and organizations with a vested interest in the project, to provide information that could facilitate permit review and to solicit feedback on project issues.

The RALF is comprised of representatives of SAC agencies (denoted by asterisk), tribes and other agencies with regulatory authority for various project elements and include the following:

- EPA*
- USACE*
- USFWS*
- NMFS*
- FHWA*
- WSDOT*
- Ecology*
- WDFW*
- Federal Transit Agency (FTA)
- Washington Department of Natural Resources (WDNR)



Source: Ecology

Alaska Way Viaduct/554-1585-025/290(2902) 4/06 (B)

**Figure 1
NEPA/SEPA/404
Merger Process
(SAC/RALF Process)**

- Puget Sound Clean Air Agency (PSCAA)
- Port of Seattle
- King County
- City of Seattle
- Muckleshoot Indian Tribe
- Suquamish Tribe⁴

2.1.1.1 SAC and RALF Coordination

The NEPA/SEPA/404 merger process being used for the AWVSRP is similar to that described in the SAC Agreement. The SAC typically serves as the interagency regulatory team for a transportation project. However, in the case of the AWVSRP, the project received special approval by the SAC that the SAC agency members of RALF (EPA, USACE, USFWS, NMFS, FHWA, WSDOT, Ecology, and WDFW) will serve in its SAC role.

The conditions of the SAC approval for the RALF are described below:

1. The RALF will serve as the SAC for the AWVSRP and concurrence point coordination.
2. Concurrence will be sought through the RALF, and presentations need only to be given to the RALF. While RALF agencies may comment on concurrence points, concurrence can only be decided by SAC member agencies of RALF.
3. Concurrence responses will be provided within 30 days (exceptions can be made under special circumstances) instead of 45 days as outlined in the SAC Agreement.
4. If a concurrence response is not received within 30 days, agencies will be notified in writing that the comment deadline has passed, the project is continuing forward, and their concurrence is assumed. Concurrence point comment extensions may be requested.
5. Advance notice will be given by WSDOT that the concurrence packages are forthcoming.

⁴ Indian Tribes have input into federal and state aquatic related permit processes because of their treaty fishing rights within their usual and accustomed fishing places. For this project, there are two tribes involved because their usual and accustomed fishing places include Elliott Bay. These are the Muckleshoot and Suquamish Indian Tribes. Tribal involvement is critical in obtaining approvals and is facilitated through their participation in the RALF and AWVSRP NEPA/SEPA/404 merger process.

6. Existing concurrence forms will be used. Comments with concurrence are considered advisory only and not binding.

2.1.2 WSDOT Liaison Staff

WSDOT funds liaison staff at several agencies to facilitate the approval of permits for their transportation projects. Liaison personnel work closely with agency staff such as the USACE, USFWS, NOAA, Department of Ecology, and WDFW to ensure that regulatory requirements are met and mitigation plans are implemented and monitored, as well as to speed up the delivery of permits and approvals. There are opportunities to utilize liaison staff for review and approval of permits for the AWVSRP. It may be necessary to augment liaison staff depending on the project workload, but the goal would be to have dedicated liaison staff available at the various resource permit agencies to work on the AWVSRP.

2.1.3 City of Seattle Liaison Staff

To streamline the permit application and review process, the City of Seattle will be funding dedicated staff at the Department of Planning and Development (DPD) and Seattle Department of Transportation (SDOT) Street Use Division to assist with obtaining and ongoing management of City permits.

3.0 Federal Permits and Approvals

3.1 Federal Highway Administration (FHWA)

3.1.1 National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) was signed into law in 1970 (42 USC 4331) and established a national environmental policy, focused on Federal activities, to consider the potential environmental consequences of Federal proposals, document the analysis, and make this environmental information available to the public for comment prior to implementation. NEPA requires, to the fullest extent possible, that the policies, regulations, and laws of the Federal Government be interpreted and administered in accordance with its environmental protection goals.

FHWA is committed to the avoidance of potential impacts to the social and natural environment when considering approval of proposed transportation projects. FHWA is the lead agency for NEPA for the AWVSRP project.

3.1.2 Transportation Act, Section 4(f)

Section 4(f) of the U.S. Department of Transportation Act (49 USC 1653, 49 USC 303, and 23 CFR § 138) applies only to the actions of agencies within the U.S. Department of Transportation (in this instance the Federal Highways Administration [FHWA], which is providing funding to the AWVSRP) and relates to the use of significant park and recreation lands, wildlife and waterfowl refuges, and historic sites of national, state, or local significance (i.e., Section 4(f) resources) for transportation projects. Under Section 4(f), FHWA must document that it has examined *feasible and prudent* alternatives and performed all possible planning to minimize harm to any Section 4(f) resources potentially affected by the project. The Section 4(f) analysis and documentation is being completed as part of the NEPA Environmental Impact Statement for the AWVSRP.

3.2 U.S. Army Corps of Engineers (USACE)

The USACE is the permit authority for the Clean Water Act Section 404 permit and the U.S. Rivers and Harbors Act Section 10 permit. As a practical matter, the two permits are reviewed and processed concurrently by the USACE, thus the discussion of these permits is combined in this section.

3.2.1 Clean Water Act Individual Section 404 Permit and U.S. Rivers and Harbors Act Section 10 Permit

The purpose of the Section 404 permit is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Activities requiring a Section

404 permit include discharge of dredged material, fills, and placement of riprap, jetties, groins, and structures into Waters of the United States. An individual Section 404 permit for AWVSRP is triggered by the need for fill in Elliott Bay, the maintenance of the existing seawall (bank stabilization), and excavation associated with replacing the outfall pipes with new pipes in the same location⁵.

The purpose of the Section 10 permit is to ensure that the navigability of the nation's waters is preserved and not obstructed by projects occurring in those waters. Activities requiring a Section 10 permit include placement or removal of structures such as utility lines, marinas, piers, wharves, bulkheads, pilings, outfall pipes that extend into the water, floats, and dolphins, or work involving dredging, disposal of dredged material, filling, excavation, or other disturbance of soils/sediments of a navigable waterway. A Section 10 permit for the AWVSRP would be triggered by placing structures in Elliott Bay including the temporary sheet pile wall and the overwater access to the ferry dock and piers.

Additional discharges to Waters of the United States such as those from a stormwater system are regulated by Section 402 of the Clean Water Act through the National Pollution Discharge Elimination System discussed in Section 4.1.3.

3.2.1.1 Regulatory Authority

Section 404 of the Clean Water Act (33 USC Section 1344, 33 CFR § 323 and 40 CFR § 230) is administered by the USACE and the EPA and requires that applicants wishing to place a structure, excavate, or discharge dredged or fill material in Waters of the United States obtain a Section 404 permit from the USACE. Waters of the United States is defined by the USACE as all waters (i.e., streams, rivers, lakes, and tidally influenced waterbodies with very few exceptions), which are located within the United States including wetlands adjacent to those waters. The line of jurisdiction under Section 404 in marine waters is Mean Higher High Water (MHHW).

Since the project involves in-water work and likely discharges of dredged or fill material to the marine environment, the project will be subject to the Section 404(b)(1) requirements. Section 404(b)(1) involves preparation of an Alternatives Analysis that determines whether or not there would be any practicable alternative to the proposed discharge⁶.

Under the Section 404(b)(1) guidelines, a permit will not be issued if a practicable alternative to the proposed discharge exists that would have less adverse impact on

⁵ A portion of the seawall work of the AWVSRP could become a USACE sponsored project. In the event that happens the seawall portion of the overall project could be self-permitted by the USACE.

⁶ The Alternatives Analysis may be performed in a NEPA document, but must meet the Section 404(b)(1) requirements. The alternatives analysis will be completed and thoroughly documented through the NEPA/SEPA/404 merger process as described in Section 2.1.

the environment (including no discharge; discharge in another location; or acquiring a site for discharge). No discharge of dredged or fill material is permitted unless appropriate and practicable steps have been taken that will minimize potential adverse impacts (40 CFR § 230.70 et seq.). No discharge is permitted that will cause or contribute to significant degradation of the waters of the United States (including human health, aquatic and other wildlife, aquatic ecosystem diversity, productivity, stability, recreational, aesthetic, and economic).

Discharges of dredged or fill material may not (1) cause violation of any applicable state water quality standard (after consideration of disposal site dilution and dispersion); (2) violate applicable Clean Water Act Section 307 toxic effluent standards or prohibitions; (3) jeopardize the continued existence of threatened or endangered listed species, or result in the likelihood of adverse modification to critical habitat (see 30 CFR § 230.30); or (4) violate marine sanctuary protection requirements.

Section 10 of the Rivers and Harbors Act (33 USC 401, 33 USC 403, 33 CFR § 320 and 33 CFR § 322) is also administered by the USACE and requires a permit for applicants whose projects include placement of structures or fill within navigable waters.

3.2.1.2 Approval Criteria

The decision on whether to grant or deny a permit is based on a public interest review of the probable impact of the proposed activity and its intended use. Benefits and impacts are balanced by considering the effects of the project on a variety of factors. For this project, those public interest factors might include: conservation, economics, aesthetics, cultural values, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, safety, and the needs and welfare of the people.

The following general criteria are also considered:

- The relative extent of the public and private need for the proposed activity.
- The practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed activity.
- The extent and permanence of the beneficial and/or adverse effects that the proposed activity is likely to have on the public and private uses to which the area is suited.

3.2.1.3 Prerequisite Considerations

Compliance with the following programs must be demonstrated before a Section 404 permit or a Section 10 permit can be obtained:

- National Environmental Policy Act (NEPA)
- Coastal Zone Management Act (CZMA)
- Section 401 of the Clean Water Act (CWA)
- Endangered Species Act (ESA)
- Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat).

3.2.1.4 Application Procedure/Cost

The Joint Aquatic Resources Permit Application (JARPA) form is used to apply for Section 404 and Section 10 permits (as well as several other permits and approvals).

There is no charge for processing a Section 404/Section 10 permit application.

3.2.1.5 Permit Duration/Extension

Generally, Section 404/Section 10 permits are valid for two to three years, but the USACE can issue these permits for longer timeframes based on the project. The permittee may also request an extension before the permit expires.

Renewal of the Section 404/Section 10 permits may be granted by the USACE District Engineer based on a request by the applicant. The applicant must explain the request, which will be granted only if the USACE District Engineer determines it to be in the public interest. Requests for extensions will be processed in accordance with regular procedures, including issuance of public notice, except when such processing is not required because the USACE District Engineer determines that there has been no significant change in circumstances since the permit was issued and the work is proceeding essentially in accordance with the approved plans and conditions. Failure to request an extension before the permit expires will result in the applicant needing to submit a new application with all of the attendant review timelines as though it were a new project.

3.2.1.6 Permit Review Process/Timeline

The USACE encourages a pre-application meeting to discuss the project and permitting requirements. However, the pre-application consultation is optional. The pre-application process can involve one or more meetings, which typically include other agency representatives such as the USFWS, NMFS, Ecology and WDFW.

The applicant submits the JARPA form to the USACE to initiate the review process (see Figures 2 and 3). The USACE assigns the permit a unique identification number. They then review the application for completeness. If the application is not complete, then a letter is sent to the applicant requesting additional information.

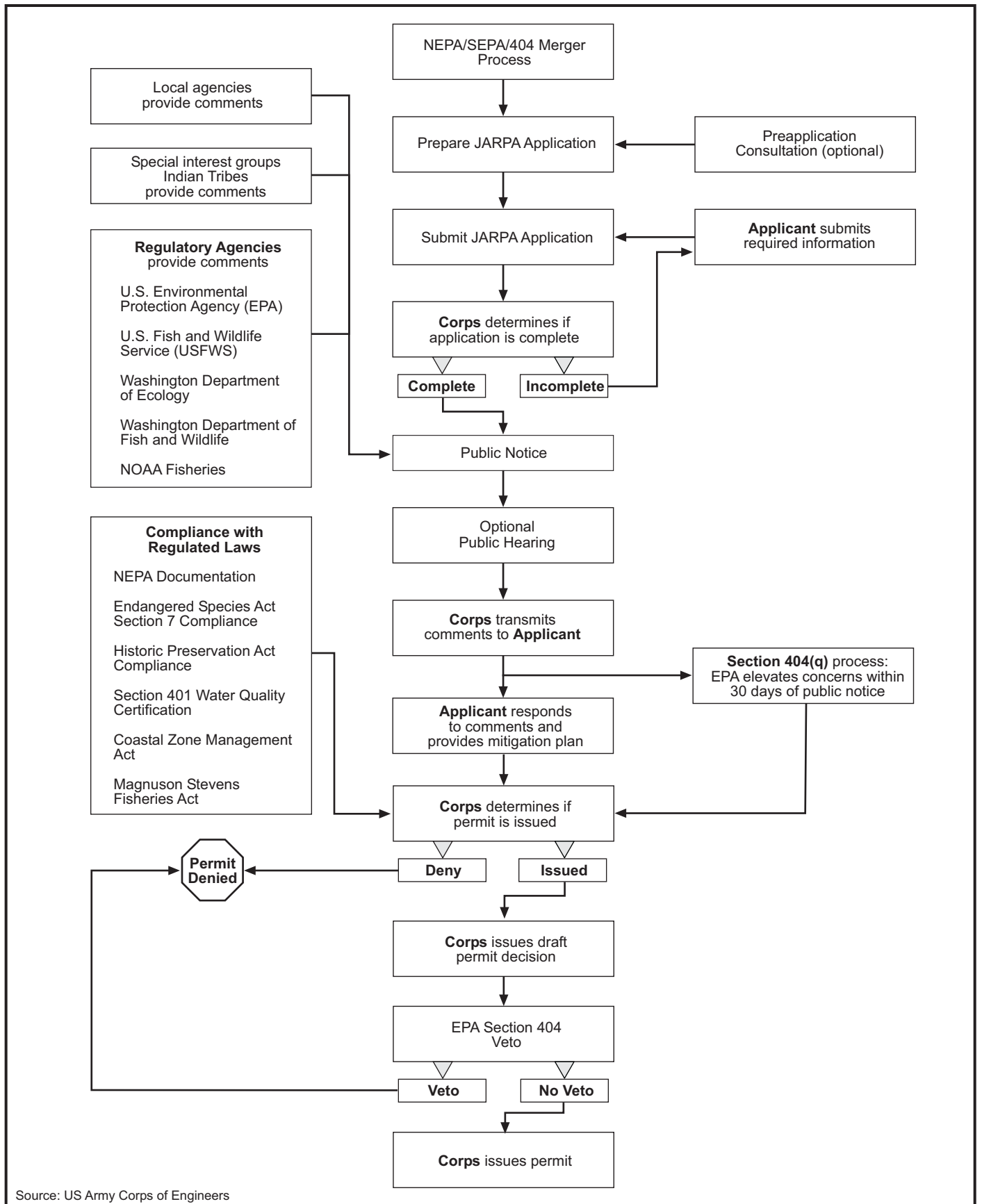
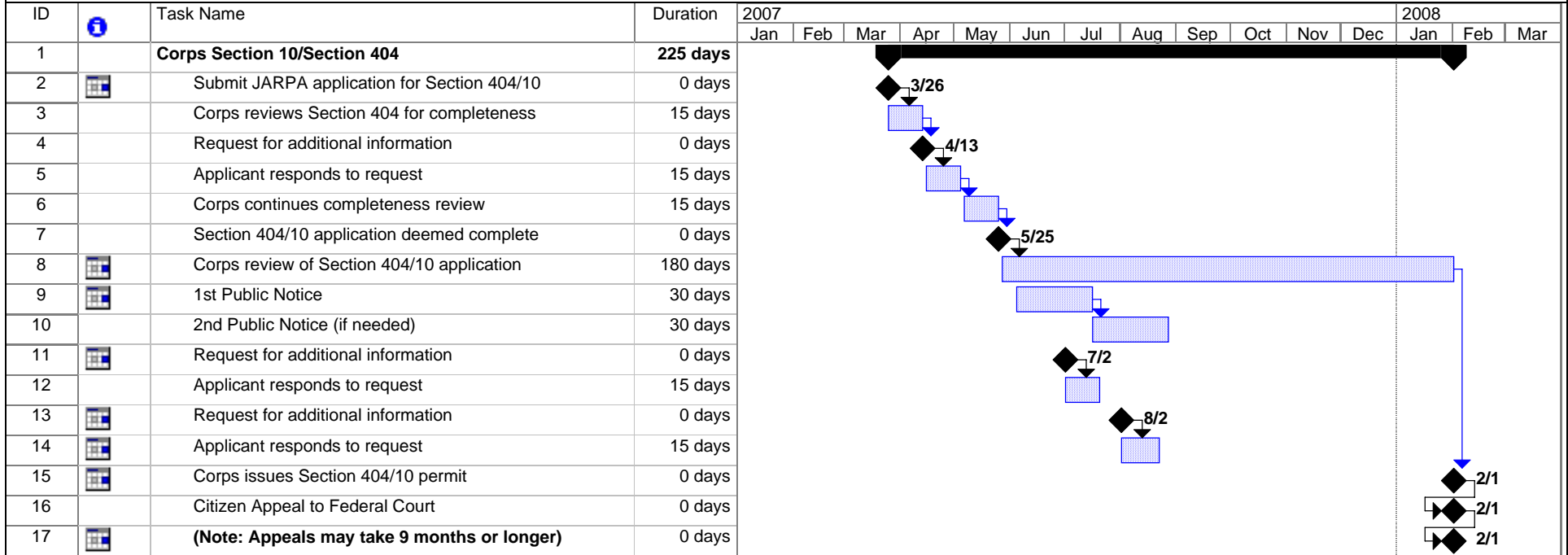


Figure 2
Section 404/Section 10
Permit Review Process

Figure 3 - Section 404/Section 10 Permit Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

Once the applicant provides the requested information, then the completeness review process begins again. If the applicant does not supply all the requested information, the USACE may request it again or deny the application. Typically the USACE has 30 days to determine if an application is complete and either request more information or issue the public notice.

An individual Section 404/Section 10 permit is processed through a public interest review procedure that involves public notice and the receipt of public comments. Thus, once the application is complete then public notice is issued. This typically takes 15 days from the date the application is determined to be complete. USACE review of the application varies, but is likely to take from 9 to 12 months for the AWVSRP (the timing depends on the availability of staff and the USACE' workload). The USACE coordinates their review with other agencies, the public, and special interest groups and considers all comments. During this process, consultation with other federal and state agencies and tribes also occurs. The USACE may also request additional information from the applicant during this time and can hold a public hearing if needed.

3.2.1.7 Public Process/Appeal

For an individual 404/10 permit there is a required public notice period that lasts 30 days. This may be extended to 45 days if requested by the public. For particularly complex or controversial projects, a second public notice period may be held.

There is no third party appeal through the USACE Section 404/Section 10 review process. There is an appeal process for the applicant, but in this instance it is not likely that WSDOT would appeal the decision on the Section 404/Section 10 permit (thus no additional discussion of that process is included here). Third parties can appeal the issuance of a Section 404 permit by filing suit through the federal court system.

3.3 U.S. Fish and Wildlife Service (USFWS)/National Marine Fisheries Service (NMFS)

The USFWS and NMFS are the two agencies responsible for consulting with an action agency under Section 7 of the Endangered Species Act (ESA), and NMFS is responsible for overseeing compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). The following section describes the compliance process under ESA and MSFCMA. In addition, both agencies have authority under the Marine Mammal Protection Act.

3.3.1 Endangered Species Act – Section 7 Consultation and the Magnuson-Stevens Fishery Conservation and Management Act

The Endangered Species Act (ESA) was enacted to protect threatened and endangered species and charges all federal agencies to use their authority to conserve and recover these listed species. The Act provides a means whereby: (1) the ecosystems upon which endangered and threatened species depend may be conserved, (2) to provide a program for the conservation of such endangered and threatened species, and (3) to take such steps as may be appropriate to achieve the purposes of preventing the extinction of fish, wildlife, and plants through international treaties (such as the International Convention for Northwest Atlantic Fisheries and migratory bird treaties with Mexico and Canada) and conservation programs.

The purpose of the MSFCMA is: (1) to take action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, (2) to support and encourage the implementation and enforcement of international fishery agreements, (3) to promote domestic commercial and recreational fishing, (4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery; (5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans (6) to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, and (7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

3.3.1.1 Regulatory Authority

The regulatory authority for ESA is found in federal law (16 USC 1531-1543). Section 7 of the ESA requires that federal agencies that fund, authorize, or carry out actions consult with NMFS and/or the USFWS (federal resource agencies) to ensure that these actions do not jeopardize the continued existence of any listed species or adversely modify designated critical habitat. The ESA also requires the applicant to avoid or minimize incidental injury or harm to listed species. NMFS has jurisdiction over anadromous fish (salmon) and USFWS has jurisdiction over bull trout and bald eagles (the likely listed species found within the project area).

In addition to species listed under the ESA, federal agencies must demonstrate compliance with and consult under the MSFCMA (PL-265). Regulations for implementing the Essential Fish Habitat (EFH) coordination and consultation provisions of the MSFCMA are at 50 CFR 600.905–930. This coordination with

NMFS typically occurs in conjunction with Section 7 ESA consultation and compliance with NEPA. The use of existing environmental coordination and/or review procedures to meet the EFH consultation requirements is the preferred approach for EFH consultations.

3.3.1.2 Approval Criteria

Section 7 requires agencies to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. To jeopardize means to engage in an activity that would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species. In making these determinations, USFWS and NMFS analyze the biological requirements of the listed species; relevance of environmental baseline to the species current status; consider the level or mortality attributable to the direct and indirect effects of the action; and evaluate the cumulative effects of other actions (50 CFR §§ 402.12 et seq.).

The MSFCMA regulates all federal activities or federally-authorized or funded projects that may adversely affect EFH. Agencies are required to provide a written description of the measures proposed to avoid, minimize, or mitigate the impact of the activity on EFH. These measures are reviewed to see if they adequately preserve EFH and are approved or conditioned by NOAA.

3.3.1.3 Prerequisite Considerations

There are no prerequisite considerations.

3.3.1.4 Application Procedure/Cost

There is no application form per se, but rather a Biological Assessment or Evaluation is prepared, which is submitted to the resource agencies (NMFS and USFWS) through the federal action agency (in the case of the AWVSRP this agency is FHWA). There is no cost for this consultation.

3.3.1.5 Duration of Biological Opinion Consultation

There is no time limit, duration, or extension associated with approval of compliance with the ESA and MSFCMA. However, if the project description or effects change at some point in the future, consultation may need to be re-initiated.

3.3.1.6 Consultation Process/Timeline

The ESA Section 7 process is initiated by requesting information on listed species from the federal and state resource agencies (NMFS, USFWS, and WDFW for fish and wildlife, and WDNR for plants). The resource agencies respond to the request

with a list that typically includes federal and state threatened, endangered, proposed, and candidate species and their habitats that are known or may occur in the project area. If species are present, the federal action agency must determine if the proposed activity *may affect* a listed species⁷. This involves the preparation of a Biological Assessment or Evaluation (BA). If the action agency determines (and the federal resource agencies agree) that the project *is not likely to adversely affect* any listed species, then the consultation (informal to this point) is concluded and the decision is put in writing (see Figure 4). However, this will not likely be the case for AWVSRP, as there are listed species in the vicinity of the project that may be affected by the project.

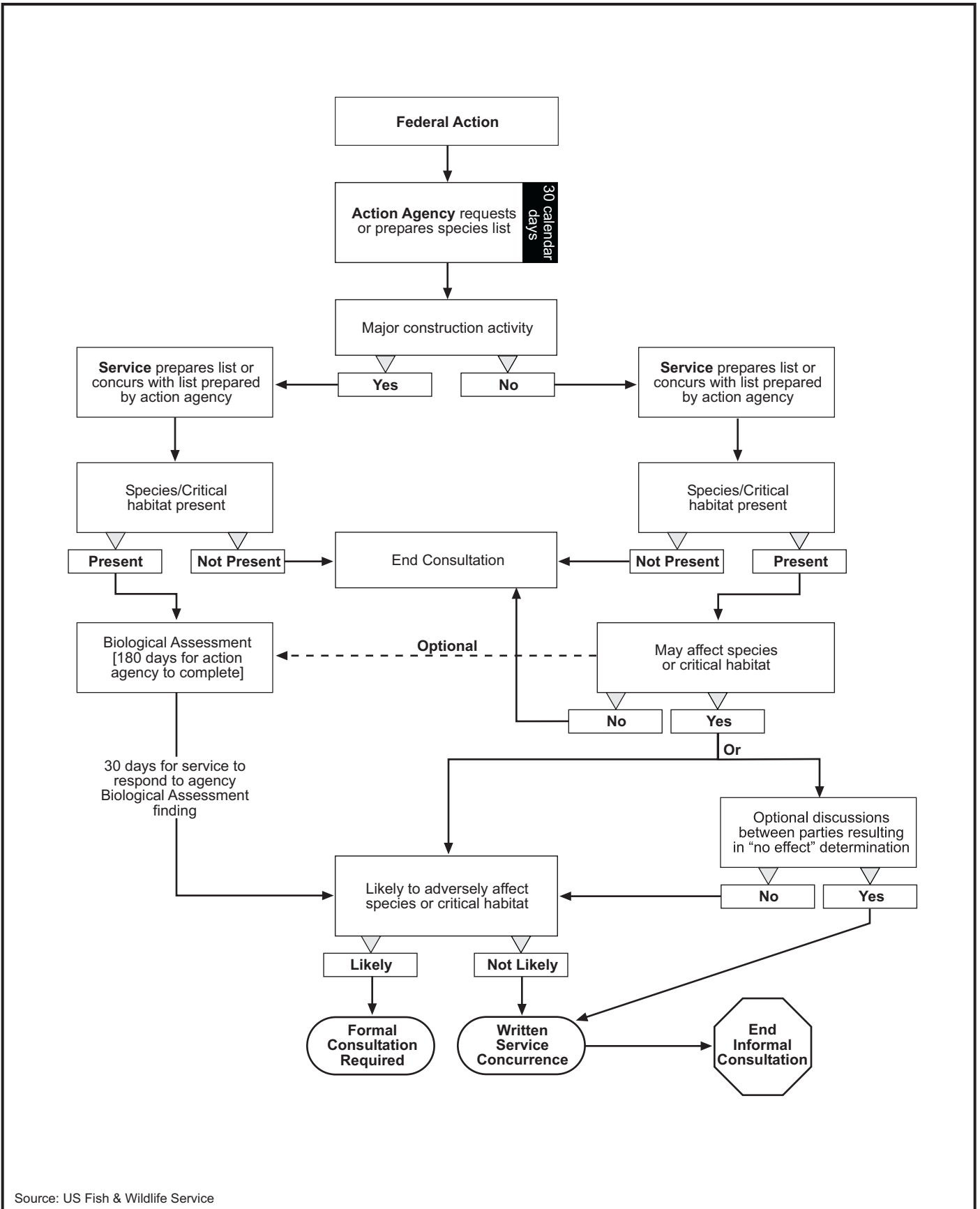
If the action agency determines that a project *is likely to adversely affect* a listed species or designated critical habitat, then formal consultation is required (see Figure 5). Under formal consultation, the resource agencies review the BA and consult with other agencies. They prepare a Biological Opinion that makes a determination of whether or not the proposed action would be likely to jeopardize the species or adversely modify its critical habitat. If the resource agencies make an initial finding that the project is likely to cause jeopardy they may work with the action agency to develop a *reasonable and prudent alternative* allowing the project to avoid causing jeopardy. If no reasonable and prudent alternative can be identified and the resource agencies issue a jeopardy opinion, the project can not proceed without violating Section 7.

If the resource agencies issue either a *no jeopardy* opinion or a *jeopardy* opinion that contains reasonable and prudent alternatives, it must include an incidental take statement if take of a listed species may occur. “Take” is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting or attempting to engage in any such conduct. “Incidental take” is defined as take that is incidental to, and not the purpose of, an otherwise lawful activity. The resource agencies must anticipate the take that may result from the proposed project and, providing such take will not jeopardize the listed species describe that take in the incidental take statement. The incidental take statement will include *reasonable and prudent* measures necessary to minimize any incidental take and other terms and conditions such as monitoring activities; these terms are binding on the action agency. The Biological Opinion may also contain *conservation recommendations* for the project which are voluntary and not binding.

Typically, as part of the preparation of the Biological Assessment, information on EFH is also described and discussed. Thus, as part of NMFS review of the BA, EFH information is also reviewed for compliance with the MSFCMA.

Regulations state that the consultation process should take approximately 90 days unless the applicant has consented to a 60-day extension. Following the consultation process, there are 45 days for the resource agencies to prepare a Biological Opinion.

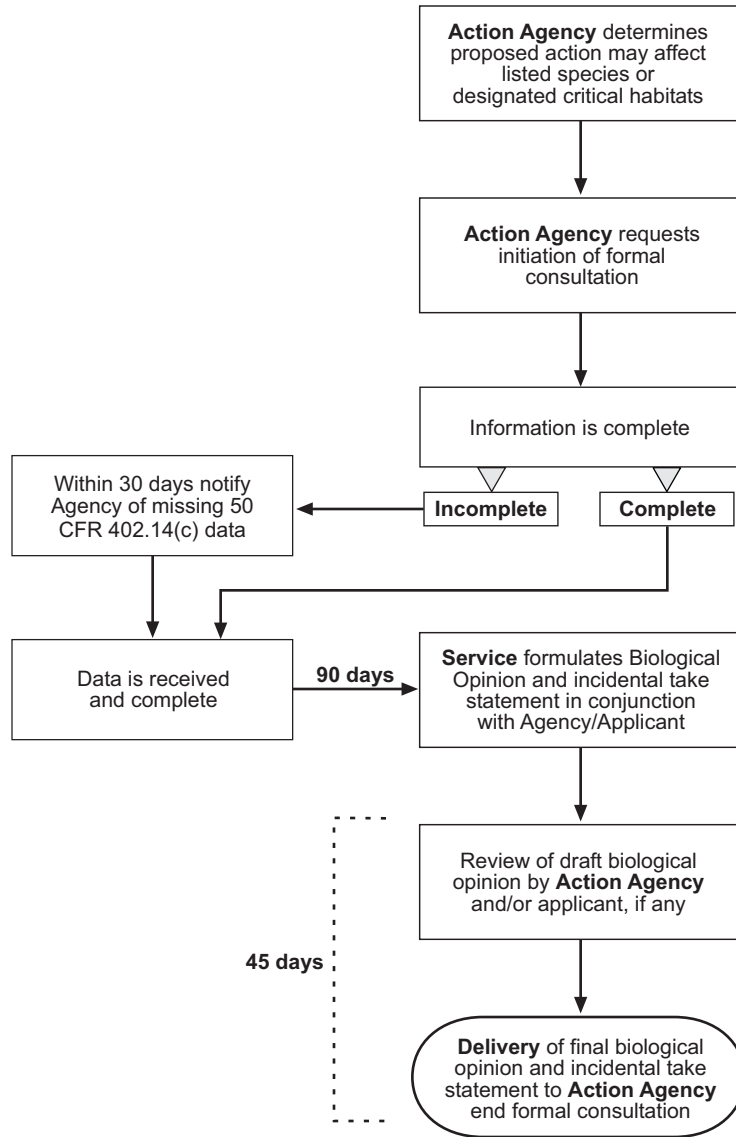
⁷ A federal agency may appoint a non-federal representative to make this determination.



Source: US Fish & Wildlife Service

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**Figure 4
ESA Informal Consultation
Process**



Source: US Fish & Wildlife Service

Alaska Way Viaduct/554-1585-025/290(2902) 1/06 (B)

**Figure 5
ESA Formal Consultation
Process**

3.3.1.7 Public Process/Appeal

There are no public notification or review requirements and no formal appeal process associated with the ESA and MSFCMA consultation.

3.3.2 Marine Mammal Protection Act

The Marine Mammal Protection Act (MMPA) was enacted to halt the steady decline of marine mammal species caused by various human activities and provide a means to recover these populations. In passing the MMPA Congress found that: (1) some marine mammal species or stocks may be in danger of extinction or depletion as a result of human activities, (2) these species or stocks must not be permitted to fall below their optimum sustainable population level (depleted), (3) measures should be taken to replenish these species or stocks, (4) there is inadequate knowledge of the ecology and population dynamics, and (5) marine mammals have proven to be resources of great international significance.

As initially enacted the MMPA provide a strict prohibition on take (killing, wounding and harassing) of marine mammals except in certain circumstances involving scientific study or incidental to commercial fishing operations. Major amendments in 1981 and 1994 added procedures for other types of incidental taking similar to those provisions in the ESA. Under the MMPA the USFWS and NMFS share jurisdiction based on the species of marine mammal with USFWS having jurisdiction over walruses, polar bears, sea otters, and manatees and NMFS having jurisdiction over other cetaceans (whales and dolphins) and pinnipeds (seals). Today many of these species are also listed as threatened or endangered under the ESA.

3.3.2.1 Regulatory Authority

The regulatory authority for the MMPA is found in federal law (16 USC 1361 et. seq). Section 101 of the MMPA (16 USC 1371(a)(5)) authorizes the issuance of permits for the incidental taking of marine mammals. There are two types of incidental take permits issued depending on the type of take. A Letter of Authorization (LOA) is issued for activities that may actually cause injury or death to the animals. An Incidental Harassment Authorization (IHA) is used for projects that will only result in the harassment of individuals.

3.3.2.2 Approval Criteria

For both LOA and IHA incidental take permits, it must be shown that the total take of the activity will have negligible impact on the species and will not have an unmitigable adverse impact on any subsistence harvest associated with the species. A negligible impact is one that would not “adversely affect the species or stock through effects on annual rates of recruitment or survival.”

3.3.2.3 Prerequisite Considerations

Because the incidental take permit would be a federal action, its issuance would require consultation under Section 7 of the ESA, if the species impacted is threatened or endangered. This can likely be done as part of the consultation for the other permits required for the AWVSRP.

3.3.2.4 Application Procedure/Cost

There is a specific application form available from NMFS and USFWS that requires the detailing of the project activities, the species potentially affected, type of take and other information. There is no cost for this consultation.

3.3.2.5 Permit Duration/Extension

LOAs can be issued for five years and IHAs issued for only 1 year at a time. After these time periods a new permit would need to be requested.

3.3.2.6 Permit Review Process/Timeline

For those activities requiring an incidental take permit in the form of a LOA it is required that individual regulations be published in the Code of Federal Regulations describing the terms of the LOA. This process includes two public comment periods, publications in the Federal Register and possibly public hearings. The resource agencies suggest that this process can require 6-12 months depending on the complexity of the project and comments received. It is not anticipated that the AWVSRP will have the potential to cause any injury or death of marine mammals and therefore will not require an LOA.

For projects that will cause take of marine mammals only as a result of harassment there is an abbreviated process in order to obtain an IHA. Issuance of an IHA does not require publication of individual regulations and follows a more traditional permit process. Within 45 days of receiving a complete application for an IHA the resource agencies will publish a notice of the application in the Federal Register initiating a 30-day comment period. The IHA should be issued not later than 45 days after the close of the public comment period. The resource agencies suggest that the IHA process can generally take 2-6 months. Because the impacts of the AWVSRP are most likely to be from vibration or other acoustic impacts, any take of marine mammals would likely be harassment.

Although the MMPA is a separate permit process it will likely require much of the same information and involve the same issues as the ESA process and be conducted in coordination with the Section 7 consultation.

3.3.2.7 Public Process/Appeal

Both the LOA and IHA require public notice and comment (the LOA can have more process including public hearings because it involves the promulgation of formal regulations).

3.4 Other Federal Laws and Statutes

Compliance with the following laws and statutes is required for the AWVSRP. Several of these do not specifically have any permits associated with them, but require documentation to achieve compliance. Some of these also pass authority from the federal government to the states and thus are addressed in more detail in Section 4.0 below. These laws include the Clean Air Act and the National Historic Preservation Act.

3.4.1 Puget Sound Clean Air Agency

3.4.1.1 Clean Air Act, Air Quality Conformity

Under the federal Clean Air Act (CAA) (42 USC 7401) and Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans for Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. (40 CFR Parts 51 and 93), a State Implementation Plan (SIP) is required, which considers how transportation programs, plans and projects in maintenance and nonattainment areas will meet the National Ambient Air Quality Standards (NAAQS) (the AWVSRP is located in a maintenance area).

In addition, programs and projects may not cause or contribute to new violations, exacerbate existing violations, or interfere with the timely attainment of air quality standards or the required interim emission reductions towards attainment. Positive findings of conformity are required by the CAA, the Transportation Equity Act for the 21st Century (TEA-21) (PL 105-178), and the Clean Air Washington Act (WAC 173-420).

In the project area, the Puget Sound Regional Council (PSRC) is the responsible entity for preparing the SIP for the Central Puget Sound region. In the PSRC's Destination 2030 Progress Report (2004) the PSRC air quality modeling indicated that implementing the planned transportation plans, programs and projects in the region (which include the AWVSRP) would not result in nonattainment with the NAAQS. A project conformity determination will be made by the FHWA prior to the issuance of the AWVSRP NEPA Record of Decision through the review of the air quality technical report and consideration of the PSRC's Destination 2030 Progress Report.

3.4.2 Advisory Council on Historic Preservation

3.4.2.1 National Historic Preservation Act, Section 106

The National Historic Preservation Act (NHPA) (16 USC 470) requires that all federal agencies consider impacts on historic resources as part of all licensing, permitting, and funding decisions. The Advisory Council on Historic Preservation (ACHP) is responsible for overseeing compliance with the NHPA. ACHP promotes the preservation, enhancement, and productive use of the Nation's historic resources, advises the President and Congress on national historic preservation policy, administers the NHPA's Section 106 review process, and works with federal agencies to help improve how they consider historic preservation values in their programs.

Although, ACHP has ultimate responsibility for the Section 106 consultation process, they have passed the general Section 106 review to the Federal Agency (in this case FHWA) in consultation with the State Offices of Historic and Archaeological Preservation (the ACHP typically only becomes involved in cases of dispute or complex projects). It is anticipated that Section 106 consultation for the AWVSRP will be performed by FHWA and WSDOT in coordination with the Washington Department of Archaeology and Historic Preservation (DAHP) (see Section 4.4.1). FHWA typically gives significant weight to the opinion of the DAHP, but ultimately is independently responsible for compliance with Section 106.

4.0 State Permits/Approvals

4.1 Washington Department of Ecology (ECOLOGY)

The Washington Department of Ecology is the permit authority for the Clean Water Act (CWA) Section 401 Water Quality Certification, Coastal Zone Management Act (CZMA) Consistency Certification, National Pollutant Discharge Elimination System (NPDES), and State Waste Discharge permits.

4.1.1 Clean Water Act Section 401 Water Quality Certification

Concern for controlling water pollution led to passage of the Federal Water Pollution Control Act, which was later amended becoming known as the Clean Water Act. This Act established the basic structure for regulating discharges of pollutants into the waters of the United States and gave EPA the authority to implement pollution control programs. This included determining wastewater standards for industry, and setting water quality standards for contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. It also funded the construction of sewage treatment plants under the construction grants program and recognized the need for planning to address the critical problems posed by nonpoint source pollution.

The stated objective of the Act was “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” It further stated that it “is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, and to plan the development and use (including restoration, preservation, and enhancement) of land and water resources.”

The EPA and the provisions in the CWA gave the states authority to set water quality standards in concert with the EPA and to administer the review and approval of certifications with the CWA under Section 401. Thus in Washington State, Ecology is the agency tasked with ensuring compliance with the CWA for projects requiring federal permits.

Section 401 of the CWA, requires that any applicant for a federal permit, which involves an activity that may result in a discharge to State waters, obtain a water quality certification from the State (Ecology). This certification must declare that the activity complies with state law regarding discharges to surface water (e.g., meets state water quality standards). This certification gives States a more active role in making decisions that protect waters of the State. Through Section 401 Ecology can approve, condition, or deny a project that might result in a discharge to water, and any conditions of the state’s certification become conditions of the federal permit.

This certification is triggered by the need to obtain a federal permit (i.e., Section 404/Section 10 permits) for the AWVSRP.

4.1.1.1 Regulatory Authority

Regulatory authority for this permit includes Section 401 criteria described in 33 U.S.C. 1341 Sections 1311, 1312, 1313, 1316 and 1317 (Federal Water Pollution Control Act Sections 301, 302, 303, 306 and 307), RCW 90.48, and WAC 173-225 and WAC 173-201A.

4.1.1.2 Approval Criteria

Ecology makes Water Quality Certification decisions based on the following criteria:

- The environmental issues associated with construction and operation of the project
- The potential impact on water quality and ability to meet state water quality standards
- The timing and quality of information needed by Ecology to make informed decisions.

Ecology also consults within other state and federal agencies to ensure compliance with the water quality standards.

4.1.1.3 Prerequisite Considerations

The Section 401 Water Quality Certification will not be issued until compliance with SEPA is completed.

4.1.1.4 Application Procedure/Cost

The Section 401 Water Quality Certification is applied through the use of the JARPA form submitted to the Washington Department of Ecology. There is no cost for processing this permit.

4.1.1.5 Permit Duration/Extension

The duration of the Section 401 Certification would be in effect for the same time period as the Section 404/Section 10 permits however Ecology issues Section 401 Water Quality Certifications as administrative orders (RCW 90.48), so they may have conditions that apply to the project longer than the conditions of the federal Section 404/Section 10 permits (e.g., if there are long-term monitoring requirements).

4.1.1.6 Permit Review Process/Timeline

The JARPA form is submitted to Ecology and the USACE (see Figures 6 and 7), and Ecology reviews the JARPA for completeness and requests additional information if the application is incomplete. During this time, the USACE makes contact with Ecology and informs them of the submission of federal permit applications for the project and sets up coordination on the consultation and public review process.

Once the application is deemed complete, Ecology's clock starts. They have one year from a complete application to make their determination, but typically it takes less time (if a decision is not made in a year then Ecology may waive or deny the permit). The public notice for the Section 401 is the same as used by the USACE in their Section 404/10 process. During the review process, Ecology considers any public or agency comments on the application, consults with other agencies as needed, and may request additional information from the applicant, which the applicant would submit. Ecology issues one of several decisions following review of the application: deny, certify with conditions, or waive. If a consistency determination is denied, the applicant can appeal to the Washington Pollution Control Hearings Board. When Ecology certifies the consistency determination they always have conditions, which become binding on the project. Otherwise, Ecology can waive the certification.

4.1.1.7 Public Process/Appeal

The public process for this approval is provided independently of the Section 401 Water Quality Certification process through the Section 404/Section 10 and Shoreline Substantial Development permits, whose public involvement processes are deemed adequate for the purposes of this certification.

The applicant or the public can appeal the Water Quality Certification to the Washington Pollution Control Hearing Board within 30 days of Ecology issuing the certification.

4.1.2 Coastal Zone Management Act (CZMA) Consistency Certification

Congress passed the CZMA in 1972 to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal and shoreline resources. The CZMA gave authority to manage these areas to the states, which is accomplished by preparing and implementing the policies in a State Coastal Zone Management Program. These programs are meant to provide for: (1) Increased specificity in protecting significant natural resources, (2) Reasonable coastal-dependent economic growth, (3) Improved protection of life and property in

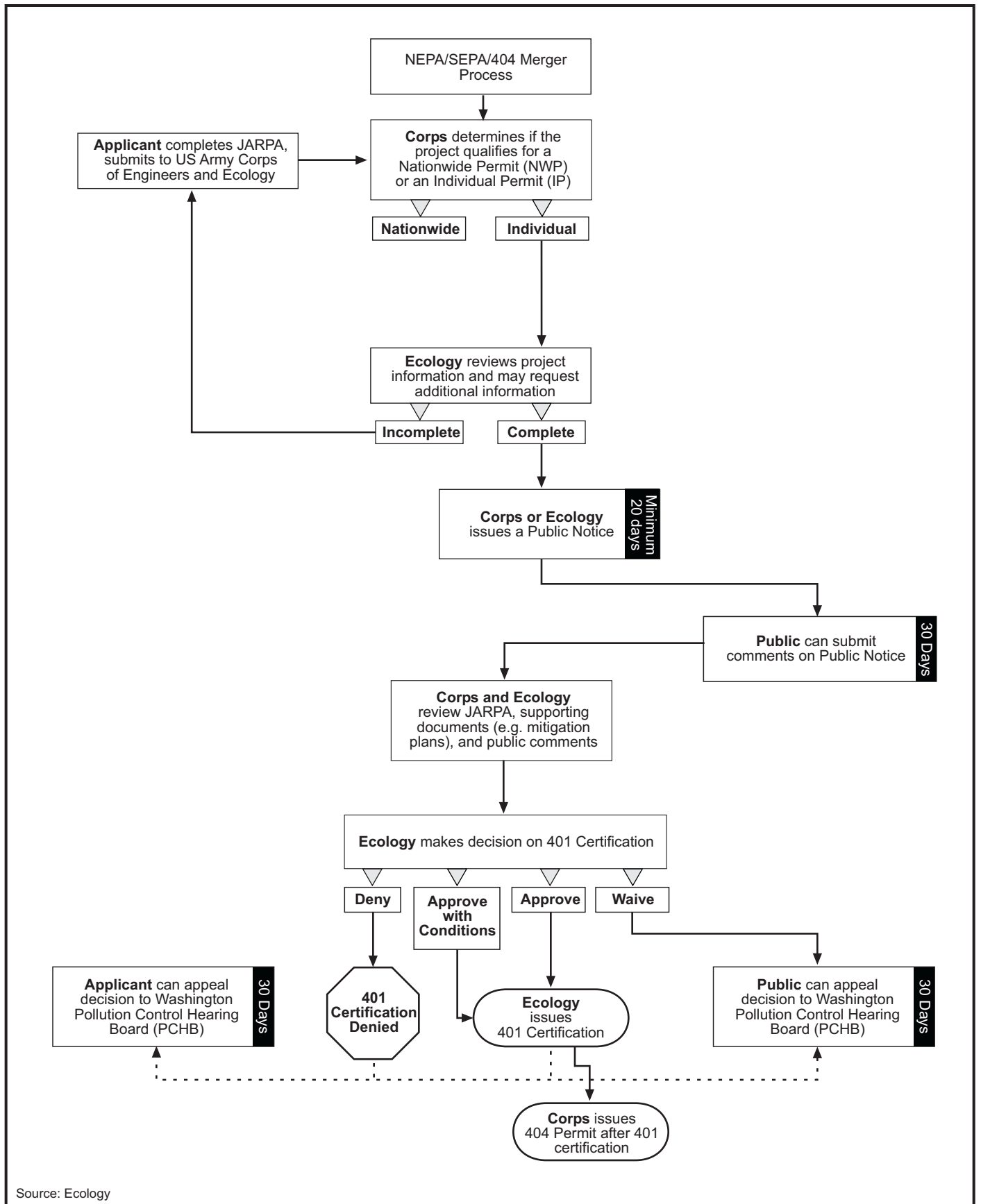
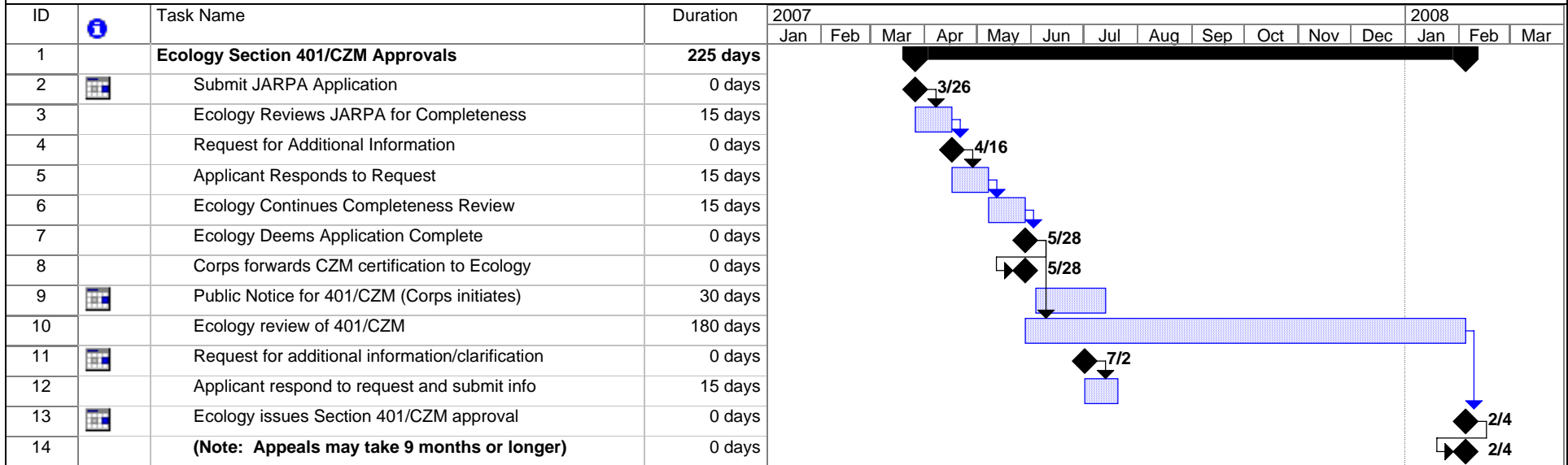


Figure 6
Section 401 Water Quality
Certification Review Process

Figure 7 - Section 401 Water Quality Certification/Coastal Zone Management Act Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

hazardous areas, and (4) Improved predictability in governmental decision-making. They also encourage the participation and cooperation of the public, state, and local governments, and Federal agencies having programs affecting the coastal zone.

CZMA consistency approval is conducted through a process known as “federal consistency.” This process allows the public, Tribes and local and state agencies an opportunity to review actions likely to affect Washington's coastal resources or uses. There are three categories of activities, which trigger a federal consistency review: (1) Activities undertaken by a Federal agency, (2) Activities which require Federal approval (includes permits, certifications, licenses, authorizations, or any other form of permission that a federal agency may issue) and (3) Activities which use federal funding. If a project falls into one of these categories and is either in the coastal zone or it impacts coastal uses or resources, then the federal consistency process is triggered.

The CZMA Consistency Certification is triggered for the AWVSRP by the need for federal permits (i.e., Section 404 and 10 permits) and federal funding, and because it is in one of the 15 coastal counties in the state that are required to go through this process.

4.1.2.1 Regulatory Authority

The CZMA (16 USC 1451 and 15 CFR § 930) is administered by the Washington Department of Ecology through the Washington Coastal Zone Management Program.

4.1.2.2 Approval Criteria

The consistency determination will be evaluated on the project’s ability to be consistent to the “maximum extent practicable” with the federal CZMA and the State Coastal Zone Management Program. This includes evaluating the direct effects of the project including siting and construction and impacts on air, water, erosion, beach access, recreation, and economic development in the coastal zone.

4.1.2.3 Prerequisite Considerations

Federal or federally-funded activities in Washington State that affect the coastal zone must comply with the laws listed below:

- Shoreline Management Act (including Seattle’s shoreline master program)
- NEPA/SEPA
- Clean Water Act
- Clean Air Act.

4.1.2.4 Application Procedure/Cost

The CZMA Consistency Certification is applied through the use of the Determination of Consistency Checklist for Federally Licensed/Permitted Activities and a JARPA form submitted to the Washington Department of Ecology. In addition, a statement of consistency with several laws as described above is required.

There is no cost for processing the CZMA Certification.

4.1.2.5 Permit Duration/Extension

The CZMA Consistency Certification is issued for the life of the project.

4.1.2.6 Permit Review Process/Timeline

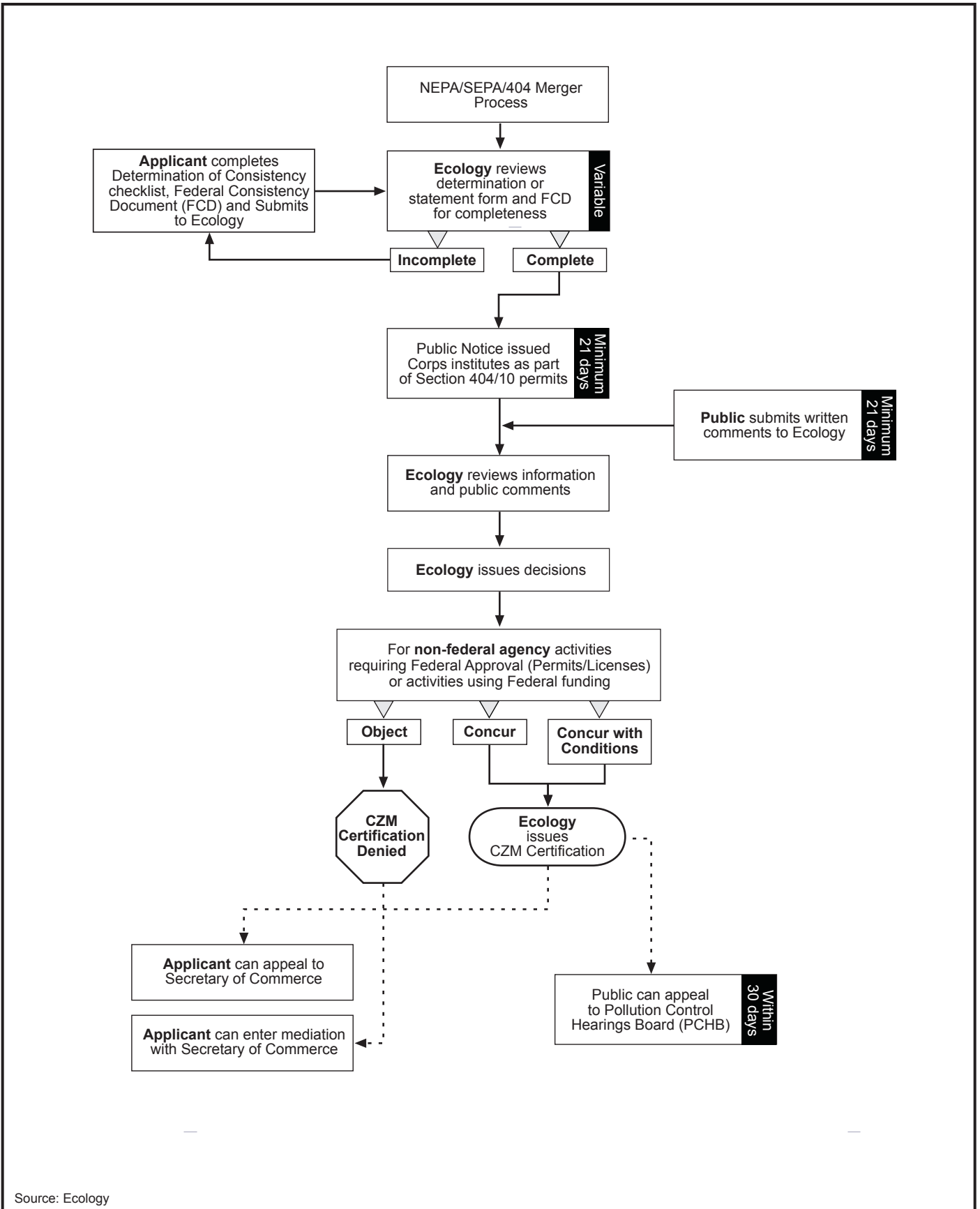
The process for the CZMA Consistency Certification would occur in parallel to Ecology's review of the Section 401 Water Quality Certification (see Figures 7 and 8). The process is initiated by submitting the JARPA form to Ecology. Ecology reviews the JARPA for completeness and requests additional information if the application is incomplete.

Once the application is deemed complete, Ecology begins their review. A public notice would be issued as part of the Section 404/Section 10 process by the USACE. This same public notice would also serve as the public notice for the CZMA Consistency Certification. Ecology considers any public or agency comments on the application, consults with other agencies as needed, and then issues one of three decisions: object, concur, or concur with conditions. If an object decision is made and the consistency determination is denied then the applicant can appeal, otherwise the decisions to concur or concur with conditions results in the issuance of the CZMA Consistency Certification. Regulations state that the CZMA Consistency Certification should be completed in 180 days.

4.1.2.7 Public Process/Appeal

The public process for this approval is provided independently of the CZMA process through the Section 404/Section 10 permit process, whose public involvement processes are deemed adequate for the purposes of the consistency determination.

The applicant can appeal a consistency determination or enter mediations with the Secretary of Commerce.



Source: Ecology

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**Figure 8
Coastal Zone Management Act
Consistency (CZM) Certification
Review Process**

4.1.3 National Pollutant Discharge Elimination System (NPDES)

As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. Industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters. Permits are also required for construction activities (on sites larger than one acre) and when there is a discharge of stormwater from a construction site. The EPA has delegated the NPDES permit program in Washington State to Ecology.

4.1.3.1 Construction Stormwater Individual Permit

Ecology requires a permit for all soil disturbing activities (including clearing, grading, demolition, etc.), where one or more acres will be disturbed, and have a discharge of stormwater to a receiving water or storm drains that discharge to a receiving water. A receiving water can be a wetland, creek, river, marine water, ditch, or estuary. If stormwater would be retained on the construction site, but detention facilities need to be constructed to retain the stormwater, permit coverage is also required. The goal of the permit is to eliminate or reduce the impact of stormwater discharges from construction sites on the water quality of surface waters. Since the AWVSRP will require soil disturbance and discharges of stormwater from the construction site, this permit is required.

4.1.3.1.1 Regulatory Authority

Ecology's construction stormwater permit is required by federal and state regulations (33 U.S. C. 1342 Section 402 and 40 CFR § 122, 123, and 124, RCW 90.48060 and WAC 173-220 and 173-226). Ecology may issue an individual or general NPDES construction stormwater permit for discharges. The individual construction stormwater permit is for larger and more complex construction projects such as the AWVSRP, which will require a permit written specifically for the project.

4.1.3.1.2 Approval Criteria

All stormwater discharges and designs must follow requirements outlined in Ecology's Stormwater Management Manual for Western Washington (2005) or WSDOT's 1995 Highway Runoff Manual (currently being revised) and WSDOT's existing stormwater instructional letters. An individual permit contains site specific requirements, such as monitoring of pollutants, but has the same approval criteria as the general permit. Approval criteria include the preparation and implementation of an acceptable Stormwater Pollution Prevention Plan (SWPPP). The primary focus of the plan is to control erosion and sediment, as well as the velocity of the stormwater runoff.

4.1.3.1.3 Prerequisite Considerations

SEPA must be complete prior to issuance of the NPDES Construction Stormwater permit.

4.1.3.1.4 Application Procedure/Cost

The permit is applied for through the Ecology Application for Individual Permit to Discharge Stormwater Associated with Construction Activity (Notice of Intent) form. There is no application fee to process the NPDES Construction Stormwater permit. However, there is an annual permit fee once a permit is issued.

4.1.3.1.5 Permit Duration/Extension

The construction stormwater permit is generally issued for a period of 5 years, but may be administratively extended. The applicant is required to submit a renewal application to Ecology 180 days prior to the permit expiration date.

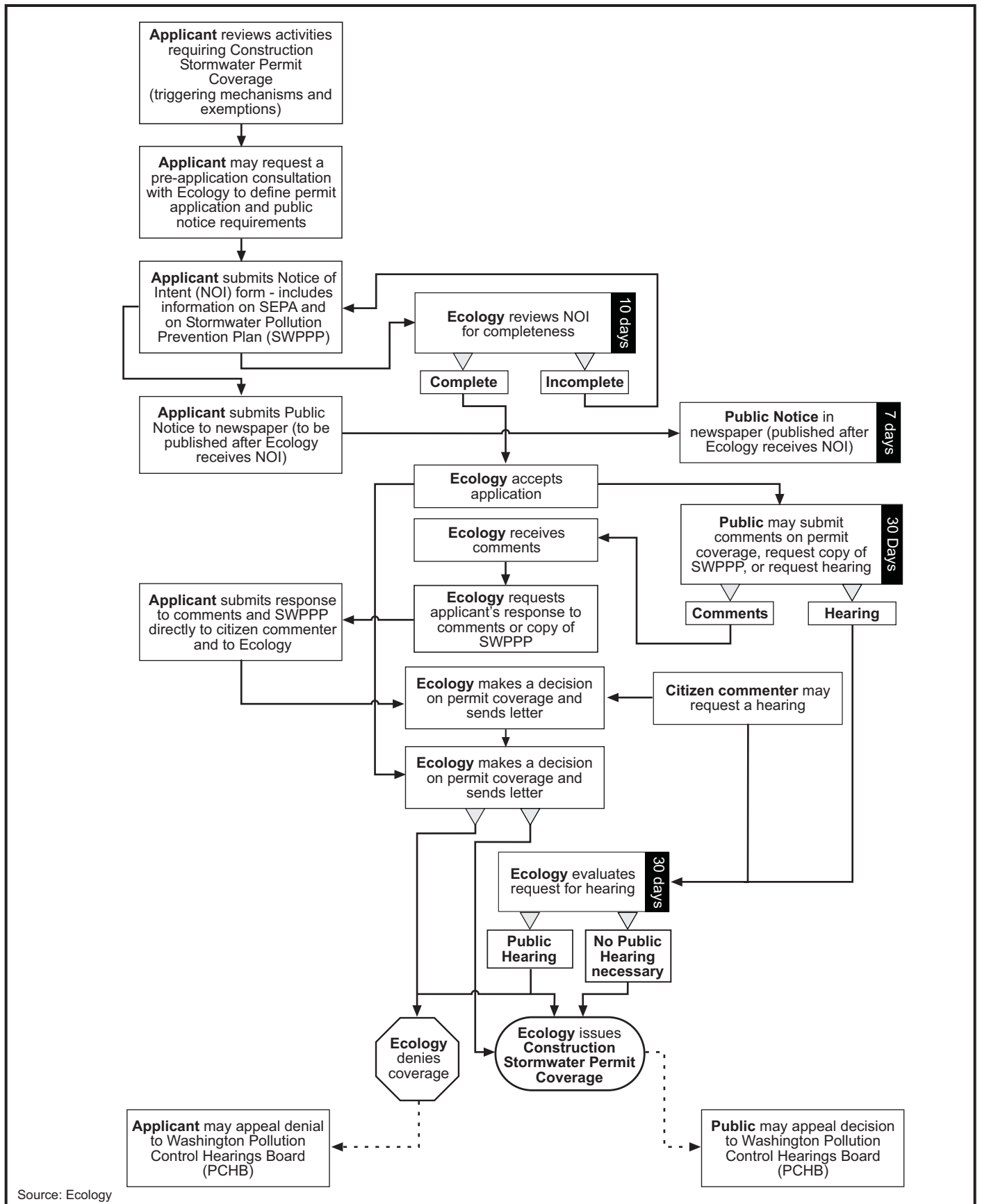
4.1.3.1.6 Permit Review Process/Timeline

The applicant prepares the Notice of Intent form and submits to Ecology to initiate the review process (see Figures 9 and 10). Ecology reviews the application for completeness and may request additional information. Once the permit is deemed complete, then the applicant publishes two public notices on consecutive weeks in the newspaper of record. Site coverage under this permit cannot be issued any sooner than 31 days from the 2nd public notice date. Ecology requires 7 days in between each public notice date. For the individual permit, the timeframe for Ecology's review generally takes longer than 45 days. The public may also request a hearing during the public notice phase, which Ecology may grant. Ecology writes the individual permit following the public review phase and then issues the permit once SEPA is complete.

4.1.3.1.7 Public Process/Appeal

The public process includes public notification on two consecutive weeks in the newspaper of record. The public may send comments to Ecology following this notification.

The terms and conditions of the permit may be appealed by any person within 30 days of the issuance of the permit to the Washington Pollution Control Hearings Board. The appeal must be filed in accordance with RCW 43.21B.310.

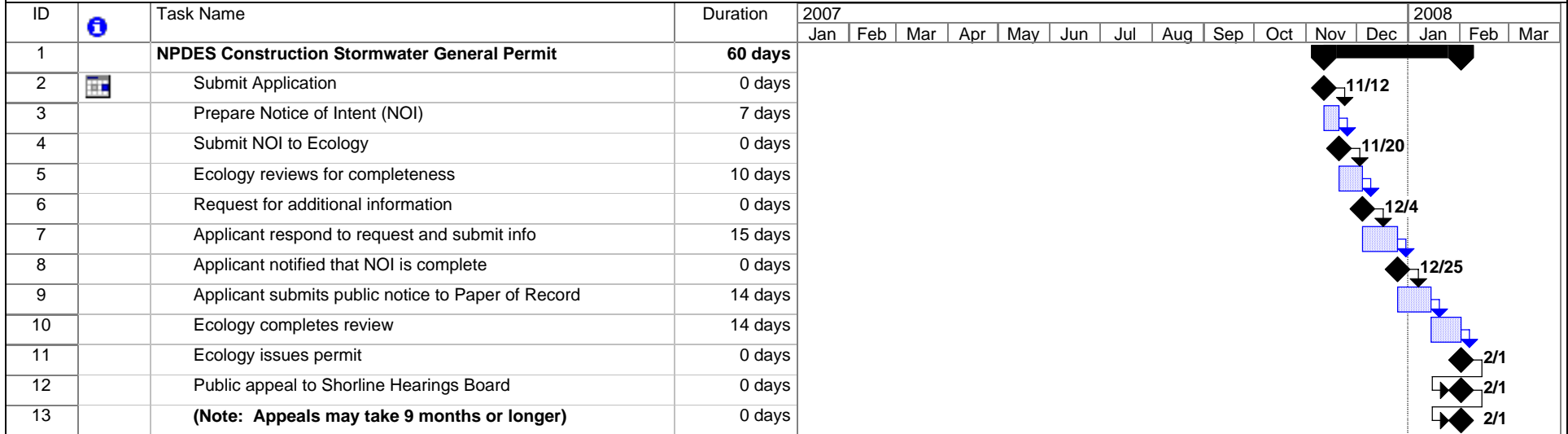


Source: Ecology

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**Figure 9
NPDES Construction
Stormwater Individual
Permit Review Process**

Figure 10 - NPDES Construction General Stormwater Permit Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

4.1.3.2 NPDES Individual Wastewater Discharge Permit/State Waste Discharge Permit

Under Section 402 of the Clean Water Act, an NPDES Wastewater Discharge Permit is required for any discharges of wastewater to waters of the U.S. (surface water only). Surface waters of the State are the same as waters of the U.S. Related to the NPDES Wastewater Discharge Permit, the State Wastewater Discharge Permit is similar except that it includes discharges of wastewater to both surface and groundwater (waters of the state include surface and groundwater). This permit is issued under the authority of RCW Chapter 90.48. For federal/state projects, these permits are actually issued under dual authority under federal and state requirements.

The AWVSRP will need to comply with NPDES permits, but will not require a separate permit for the AWVSRP (Fitzpatrick 2005). Rather, the AWVSRP will need to comply with King County and Seattle NPDES permits for their combined sewer outfalls, stormwater outfalls, and sewage treatment outfall. The AWVSRP must comply with existing NPDES permit conditions if the project will continue to discharge to these drainage systems (See Sections 5.1.5 and 6.1.1).

4.1.4 Removal of Underground Storage Tanks (USTs)

The Department of Ecology oversees many of the state's regulations dealing with toxic wastes and pollution causing activities including the regulation of underground storage tanks (UST). Active underground storage tanks must comply with a variety of programs including licensing, monitoring, testing and proof of financial responsibility in case of a spill. Additional standards apply when USTs are closed and taken out of service. Closed USTs may either be removed from the ground or filled with an inert solid material.

It is the policy of the Seattle Department of Transportation to require the removal of USTs located in street and alley rights-of-way when the operator closes them (See Section 5.2.1). Where the majority of a tank lies beneath the area behind the curb (area between curb and the property line), the portion of the tank lying deeper than eight feet may be abandoned in place.

Any sludges removed from the tank, as well as any other toxic wastes removed during the project will need to comply with regulations including the Model Toxics Control Act (MTCA). MTCA and corresponding regulation provide standards by which all contaminated soils and groundwater must be cleaned to. If the AWVSRP requires UST removal or other contaminated site cleanup, technical assistance can be received from Ecology through the Voluntary Cleanup Program. Through this program Ecology assists cleanup efforts and can issue a "no further action" decision upon satisfactory cleanup.

4.1.4.1 Regulatory Authority

The UST program including management of active tanks and closure of old tanks is authorized by RCW 90.76.

4.1.4.2 Approval Criteria

Although UST closure does not require a traditional permit there are criteria that must be followed in order to properly close a UST. Before closure, a site assessment must be performed in order to determine if there have been any leaks from the UST system. The assessment must be performed by a person registered by Ecology. The assessment can also be accomplished if there is proper release detection equipment on the UST system. If any contaminated is discovered appropriate cleanup action must be taken.

For the closure process, one of several established cleaning and closure procedures can be followed. Closure must be performed by a certified UST supervisor.

4.1.4.3 Prerequisite Considerations

There are no specific prerequisite considerations for UST removal other than the assessment for potential leaks.

4.1.4.4 Application Procedure/Cost

Because there is no required permit there is no application cost however the required site assessment and closure process itself can have significant cost.

4.1.4.5 Permit Duration/Extension

Closure of a UST is considered permanent. The closure process needs to be completed within 60 days although extensions may be granted by Ecology for cause.

4.1.4.6 Permit Review Process/Timeline

Notice to Ecology of intent to permanently close a UST must be given 30 days before closure of a UST can begin.

4.1.4.7 Public Process/Appeal

There is no public process or appeal involved in UST removal.

4.2 Washington Department of Fish and Wildlife (WDFW)

WDFW is the permitting authority for the Hydraulic Project Approval (HPA) under the State Hydraulic Code.

4.2.1 Hydraulic Project Approval

The Hydraulic Project Approval is required for any construction work that uses, diverts, obstructs, or changes the natural flow or bed of any marine or fresh water of the State. This permit would be triggered by the need to reconstruct the seawall, place fill for the tunnel, construct the sheet pile wall, use temporary access bridges to the piers, or any other in-water or over-water work.

4.2.1.1 Regulatory Authority

The regulatory authority for the HPA is derived from the State hydraulic code (RCW 77.55 and WAC 220-100).

4.2.1.2 Approval Criteria

Construction activity in or near the water has the potential to kill fish or shellfish directly and can also alter the habitat that fish and shellfish require. Fish and shellfish have special habitat requirements related to water quality and quantity (including temperature) and to the physical features of the body of water in which they live. WDFW considers a project's potential direct and indirect impacts on fish and shellfish and their habitat when reviewing the HPA.

WDFW will deny an HPA application when the project will result in direct or indirect harm to fish life, unless conditioning the HPA or modifying the proposal can assure adequate mitigation. Mitigation measures are those necessary to achieve "no-net-loss" of productive capacity of fish and shellfish habitat.

4.2.1.3 Prerequisite Considerations

SEPA compliance must be completed prior to issuance of the permit.

4.2.1.4 Application Procedure/Cost

The Joint Aquatic Resources Permit Application (JARPA) form is used to apply for the HPA. There is no cost for processing this permit.

4.2.1.5 Permit Duration/Extension

HPA permits are valid for five years and applicants must demonstrate substantial progress on construction of the portions of the project affected by the HPA within two years of the date of HPA issuance. Permit extensions or renewals may be granted by WDFW through either written or verbal requests. To obtain an extension the applicant must agree to be bound by the conditions on the HPA.

4.2.1.6 Permit Review Process/Timeline

Project review is initiated by submitting the JARPA form to WDFW (see Figures 11 and 12). All HPA applications are assigned to a WDFW Area Habitat Biologist. In most cases, the representative will visit the project site and will try to meet with the applicant to point out fish habitat needs and how the project may affect that habitat. The representative will work with the applicant to help achieve objectives while protecting fish, shellfish, and their habitat.

If the project as proposed will adversely affect fish habitat, it may be approved with certain conditions attached, such as construction timing and methods, to prevent damage. If the project cannot be accomplished without significant adverse impacts on fish, shellfish, or their habitat, the HPA may be denied.

4.2.1.7 Public Process/Appeal

There is no formal public process (i.e., public comment periods or public meetings) associated with the HPA. There is a formal and informal appeal process available to the applicant or public. Appeals to WDFW must be made within 30 days for the permit being issued or denied.

4.3 Washington Department of Natural Resources (WDNR)

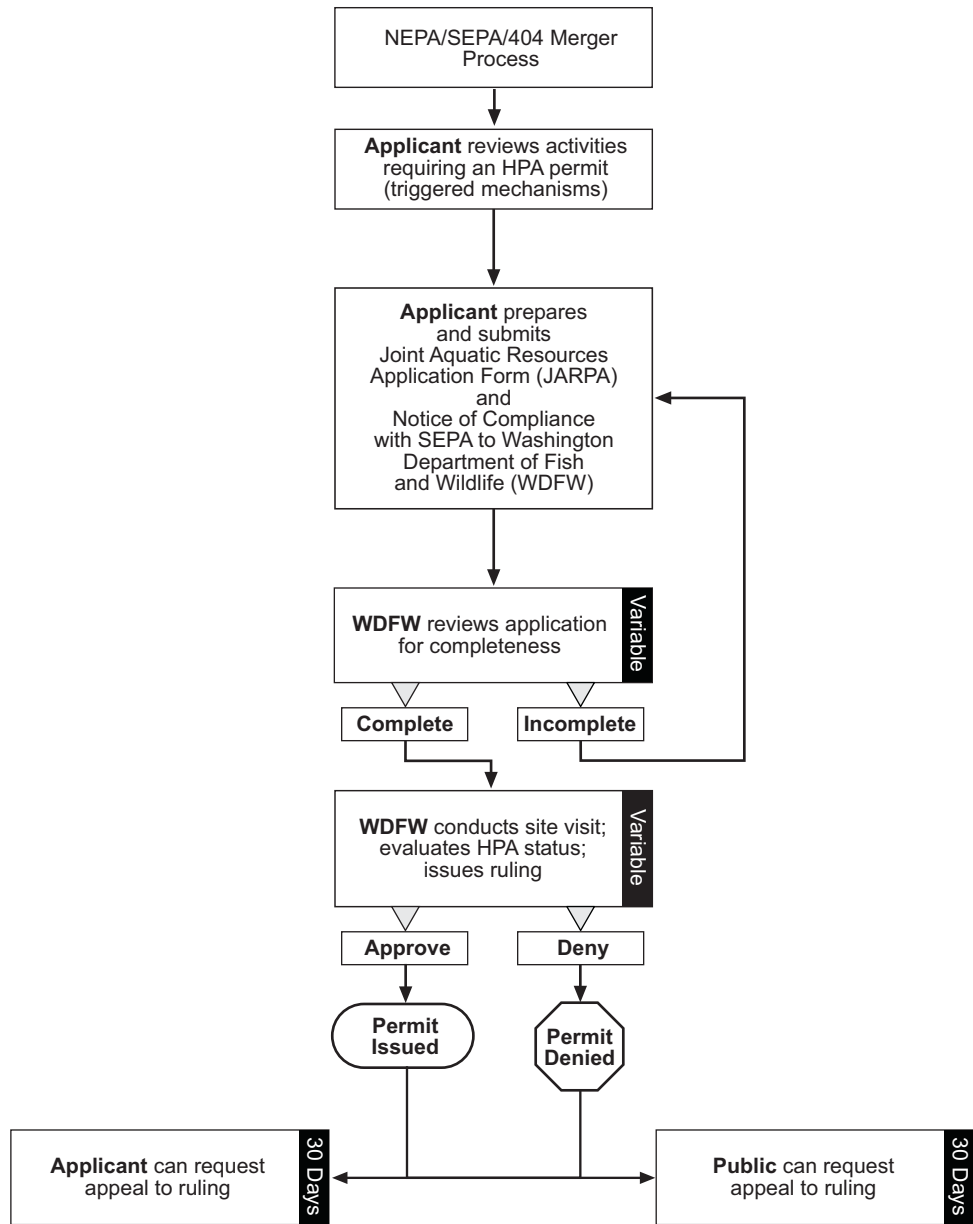
4.3.1 Aquatic Lands Use Lease/Approval

The state owns 2.4 million acres of aquatic lands. The state legislature delegated to the WDNR the responsibility to manage these lands for the benefit of the public. These lands include the bedlands of the Puget Sound such as those under Elliott Bay. Anyone that wants to use these lands must get authorization from WDNR. These uses may include easements for utility crossings including outfalls and reconstruction of the seawall.

Aquatic Lands Leases are issued for lands that are state owned within the inner harbor line or within the inner and outer harbor lines (generally these are for navigation aids). There are no leases issued for areas outside the outer harbor line. All the land within the inner harbor line of Elliott Bay in the project area is privately owned, however it appears that there may be some areas of state-owned lands within the inner and outer harbor line that could be affected by the AWVSRP (i.e., removal of Pier 48). Removal of the pier would likely trigger the need for this approval if the area between the inner and outer harbor line is owned by the state. Further investigations will identify those portions of the project that might require a lease.

4.3.1.1 Regulatory Authority

WDNR regulates the use of aquatic lands through RCW 79.90 and WAC 332-30.

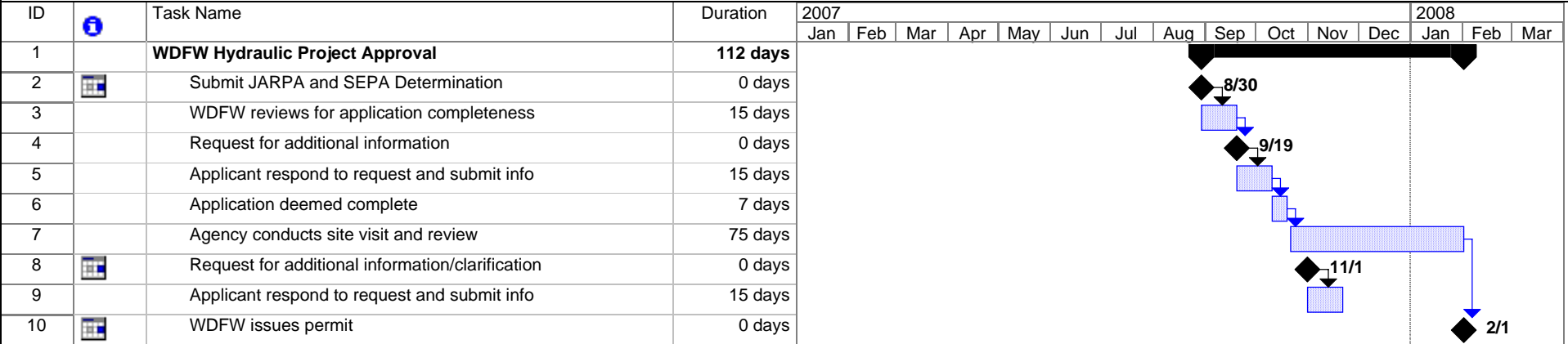


Source: Ecology

Alaska Way Viaduct/554-1585-025/290(2901) 10/05 (B)

**Figure 11
Hydraulic Project
Approval (HPA)
Review Process**

Figure 12 - Hydraulic Project Approval Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

4.3.1.2 Approval Criteria

Determination of the area encumbered by an authorization for use is made by WDNR based on the impact to public use. Uses which cause adverse environmental impacts may be authorized on aquatic lands only upon compliance with applicable environmental laws and regulations and appropriate steps to mitigate substantial or irreversible damage to the environment. Long-term ecosystem and economic viability are among WDNR's considerations when making decisions regarding state-owned lands. Nonwater-dependent uses which have significant adverse environmental impacts are typically not authorized by WDNR.

4.3.1.3 Prerequisite Considerations

All necessary federal, state, and local permits must be acquired prior to issuance of the aquatic use authorization (e.g., NEPA, SEPA, Section 404/Section 10, Section 401 Water Quality Certification, HPA, CZMA Consistency, shoreline permit, etc.). When evidence of interest in aquatic land is necessary for application for a permit, an authorization instrument may be issued prior to permit approval but conditioned on receiving the permit. A property survey must also be completed and approved by WDNR.

4.3.1.4 Application Procedure/Cost

The JARPA form is used to apply for an Aquatic Lands Use Authorization. There are fees (rents) associated with the authorization. These fees are determined by statute and WAC 332-30-123. In general the formula for annual rental for water-dependent use leases of state-owned aquatic land is based on the per unit assessed value of the upland tax parcel, exclusive of improvements, multiplied by the units of lease area multiplied by thirty percent multiplied by the real rate of return.

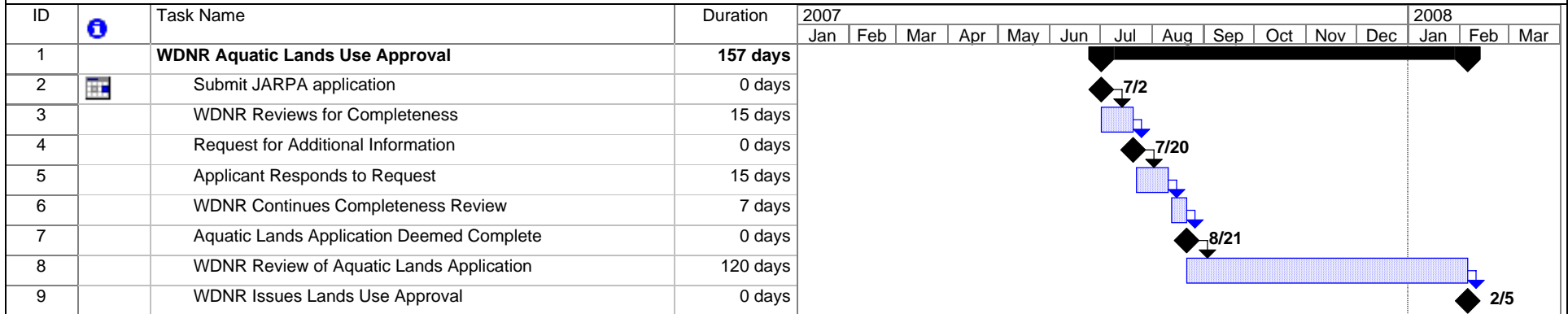
4.3.1.5 Permit Duration/Extension

The Aquatic Lands Use Authorization duration ranges from 10 to 55 years and is based on the type of activity and class of land being leased.

4.3.1.6 Permit Review Process/Timeline

Similar to the other permits covered by the JARPA application, submittal of the JARPA starts the permit process (see Figure 13). WDNR reviews the application for completeness and requests additional information if necessary. Once all necessary material is received, WDNR deems the application complete and begins their review. WDNR may take from six months to a year to complete their review and must receive copies of other approved aquatic resources permits and compliance documentation for NEPA/SEPA prior to issuing the Aquatic Land Use Authorization.

Figure 13 - Aquatic Lands Lease Approval Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

4.3.1.7 Public Process/Appeal

There is no formal public process associated with the Aquatic Lands Use Authorization. An applicant or citizen can appeal a decision in county superior court. The applicant can appeal the proposed rent within 30 days of WDNR's notification of rent being due.

4.4 Washington Department of Archaeology and Historic Preservation (DAHP)

4.4.1 National Historic Preservation Act Section 106 Consultation

Section 106 of the National Historic Preservation Act requires that projects which receive federal funding or require a federal permit be reviewed for possible impacts to historic and archaeological resources by the lead Federal Agency, in this case FHWA assisted by WSDOT. Determinations of eligibility and affect are then consulted with the Washington Department of Archaeology and Historic Preservation (DAHP) and they have an opportunity to comment. Section 106 also requires Federal agencies (such as FHWA) to consult with appropriate State and local officials, Indian tribes, applicants for Federal assistance, and members of the public and consider their views and concerns about historic preservation issues when making final project decisions.

Potential adverse effects on historic resources are resolved by mutual agreement, usually among DAHP and/or the Tribal Historic Preservation Officer, the Federal agency, and any other involved parties. ACHP may participate in controversial or precedent-setting situations (see Section 3.3.2). For the AWVSRP, FHWA will lead these consultations with DAHP and other involved parties.

As part of the Section 106 process in Washington, each agency must consult with the DAHP to assure that resources are identified, and to obtain the formal opinion of the DAHP on the significance of historic sites and the impact of any actions, which may affect historic resources.

4.4.1.1 Regulatory Authority

Section 106 of the National Historic Preservation Act (16 USC 470, 36 CFR § 800) is the regulation, which requires the consultation process for federally-funded or permitted projects.

4.4.1.2 Approval Criteria

To successfully complete Section 106 review, Federal agencies must:

- Determine if Section 106 of NHPA applies to a given project and, if so, initiate the review

- Gather information to decide which properties in the project area are listed in or eligible for the National Register of Historic Places
- Determine how historic properties might be affected
- Explore alternatives to avoid or reduce harm to historic properties
- Reach agreement with the DAHP/affected Indian Tribes (and the ACHP in some cases) on measures to deal with any adverse effects or obtain advisory comments from the ACHP.

4.4.1.3 Prerequisite Considerations

There are no prerequisite considerations.

4.4.1.4 Application Procedure/Cost

A letter is written to the DAHP to request information on historic resources and initiate consultation under Section 106. There is no cost for the Section 106 consultation.

4.4.1.5 Permit Duration/Extension

This is not applicable to the Section 106 review process.

4.4.1.6 Permit Review Process/Timeline

A letter is written to the DAHP to request information on historic resources and initiate consultation under Section 106. If there are potential resources, then historic property inventory forms may need to be filled out. DAHP reviews the project information relating to historic resources and decides whether the federal Agency has correctly identified potential impacts that would require mitigation. After DAHP's review is complete it sends a letter that lists any requirements for compliance with the NHPA. If there is an adverse affect on any historic resource, a Memorandum of Agreement will be completed, which must be signed by the FHWA and the SHPO. This MOA will be included in the FEIS. For the AWVSRP, most of the Section 106 consultation will be accomplished during the NEPA EIS process.

4.4.1.7 Public Process/Appeal

There is no public or appeal process associated with the Section 106 consultation.

5.0 City of Seattle Permits/Approvals

5.1 Department of Planning and Development (DPD)

The discussion of the City of Seattle permits is intended to describe typical processes, but it should be noted that the system is complex and can't be completely generalized. Readers of this report are cautioned to bring questions to the AWVSRP permit team and DPD, and to test assumptions early. For example, if the reviewer determines that a permit needs design review or triggers a City Council process, the steps and timelines described in this section could change.

The City of Seattle Department of Planning and Development (DPD) is the main point of contact for land use and building permit submittals for projects within the City of Seattle. If reviews by other departments are required on these permits, DPD forwards applications to the appropriate departments within the City and coordinates application review.

5.1.1 Environmentally Critical Areas Ordinance Review

The City of Seattle Environmentally Critical Areas (ECA) Ordinance requires a special review process for any proposed construction activities that would occur within or near critical areas. Critical areas include steep slopes (or erosion prone slopes), wetlands, slide prone areas, floodplains, riparian zones, abandoned landfills and mines, liquefaction-prone soils, fish and wildlife habitat areas, and aquifer recharge areas. ECA review ensures that projects meet the requirements and development standards of the ordinance; do not harm the general public's safety and welfare; and prevent degradation and harm to the environment. The most likely critical areas to be encountered in the AWVSRP are liquefaction-prone areas.

A City project such as the AWVSRP is required to comply with the ECA, except for activities, specifically exempt in SMC 25.09.045. These include:

- Utility relocation and public projects designed to enhance shoreline habitat and its buffer where:
 - The work is not prerequisite to other development
 - No practicable alternatives to the work with less impact on ECAs exist
 - The work does not pose an unreasonable threat to the public health, safety and welfare.
- Development that does not temporarily or permanently encroach within, alter, or increase the impact to the ECA or ECA buffer.

- Maintenance, repair, renovation, or structural alteration of an existing structure that does not increase the impact to or encroach further within an ECA or ECA buffer.
- Revegetation within public right-of-ways, as long as this work does not result in substantial disturbance to an ECA or buffer.

5.1.1.1 Regulatory Authority

The regulatory authority for the ECA is under Seattle Municipal Code 25.09.

5.1.1.2 Approval Criteria

Projects are reviewed to ensure that development is safe (e.g., from structural failure) and will not harm critical area resources, such as wetlands, streams, and floodplains, or other property. For the AWVSRP, the main concern under ECA is liquefaction prone areas, which includes much of the alignment where past fill has occurred. Specific information relating to liquefaction that will be required for the project includes:

- Demonstrating that AWVSRP will be safe, stable, and compatible with the liquefaction prone area
- Demonstrating that AWVSRP will not cause harm to adjacent land uses.

5.1.1.3 Prerequisite Considerations

There are additional submittal requirements for projects that would affect critical areas (see application procedure below).

5.1.1.4 Application Procedure/Cost

As part of any permit application review (such as master use permits or grading and drainage approvals), DPD determines if the proposed development meets the requirements and standards of the ECA.

There is no cost for this review (the costs are included with the permits which trigger the ECA review).

5.1.1.5 Permit Duration/Extension

The ECA approval continues for the life of the project (unless additional work is planned or there are alterations in the type of work to be performed).

5.1.1.6 Permit Review Process/Timeline

Generally, ECA review is conducted in parallel with other permit applications. In the case of the AWVSRP, ECA review will occur with the application for the Shoreline Substantial Development Permit (likely the first or one of the first permits submitted to the City).

5.1.1.7 Public Process/Appeal

There is no specific public and appeal process tied to the ECA review⁸. Rather, public processes are associated with the permits that trigger ECA compliance.

5.1.2 Tree Protection Regulations

Tree Protection regulations are primarily implemented through other building and land use processes used to review development activities. For projects that occur in certain Environmentally Critical Areas (ECAs), tree protection occurs as part of the ECA Ordinance Review, see Section 5.1.1. There are special tree protection considerations within the ECA Review for projects in wetlands, wetland and riparian buffers, landslide-prone, steep slopes, and fish and wildlife habitat areas. However there are not any additional tree protection criteria for liquefaction prone ECAs that cover much of the AWVSRP project area. For projects not within an ECA with specific tree protection concerns, trees are protected through the building and/or grading permit. No separate permit is required for tree removal that is regulated by one of these three processes⁹.

5.1.2.1 Regulatory Authority

Authority for the Tree Protection Regulation is located in the Seattle Municipal Code (SMC 25.09.320 and 25.11).

5.1.2.2 Approval Criteria

For tree removals involving projects within wetlands, wetland buffers and riparian corridor buffer ECAs tree removal will only be allowed as part of a vegetation restoration plan required by the ECA review. For tree removals within landslide prone, steep slopes, and fish and wildlife habitat ECAs, DPD must approve the removal of any tree greater than six inches in diameter. In considering approving a

⁸ An exemption request that is decided separately from a MUP under the current code may have an interpretation or LUPA appeal; this separate exemption practice is expected to disappear under the new code.

⁹ Removal of trees with a public right-of-way is governed by the Seattle Department of Transportation under its Street Use Permits, see Section 5.2. A permit is only required if a person is removing a privately maintained, non-city controlled tree from the right-of-way. AWVSRP will require the removal of some street trees but they will be city controlled and managed trees, removed as part of a public project and will not require an additional permit.

tree removal with the ECA's, DPD must consider the justification for the removal and the adverse effect on the ECA characteristics and may require a replacement plan or other conditions based on public health and safety and the concerns of the ECA.

For tree removals outside of these ECAs approvals will be part of the building or grading permit for the project. For projects in already developed areas and outside of Single-Family or Residential Small Lot zones the only trees that are protected are those trees designated as "Exceptional Trees" by DPD because of their unique historical, ecological, or aesthetic value. Removal of Exceptional Trees is permitted only if the project can not avoid the tree through implementation of the various Development Standard Departures contained in the zoning ordinances (SMC Title 23).

Protection of all other trees over two feet in diameter is encouraged although not required. All Exceptional Trees and trees over two feet that are removed must be replaced by one or more new trees as part of a tree replacement and site restoration plan approved by DPD.

5.1.2.3 Prerequisite Considerations

There are no prerequisite considerations for tree removal other than the completion of the related land use or building process.

5.1.2.4 Application Procedure/Cost

There are no separate tree removal procedures or costs.

5.1.2.5 Permit Duration/Extension

The duration of any tree removal authorization will be tied to the underlying ECA Review, Building or Grading Permit.

5.1.2.6 Permit Review Process/Timeline

The process and timeline for tree removal authorizations will be tied to the underlying ECA Review, Building or Grading Permit.

5.1.2.7 Public Process/Appeal

The public process for a tree removal authorization would be the same as the underlying permits which would typically occur during the SEPA process, which is part of the related MUP decision which can be appealed to the hearing examiner.

5.1.3 Master Use Permit

Master Use Permits (MUPs) are the overall land use permit for reviewing development activity. MUP review is used to ensure that new uses comply with all

land use requirements for the particular zone (and, in the case of Shoreline permits, the shoreline environment) in which the activity is located, such as lot coverage, setbacks, building/structure heights, parking requirements, and other standards. The MUP consolidates all required land use approvals into one permit.

MUPs are generally not required for work within rights-of-way, except when the right-of-way is located in the Shoreline area. However, DPD would still perform an informal review of activities within the right-of-way to ensure that City standards are met. Master Use permits will be required for activities outside the right-of-way such as staging areas, the seawall test sections, utility relocation, and for right-of-way work in the shoreline.

5.1.3.1 Regulatory Authority

Authority for the Master Use Permit is located in the Seattle Municipal Code (SMC 23.76).

5.1.3.2 Approval Criteria

Applications for Master Use Permits (MUPs) are reviewed for consistency with the use and development standards of the Land Use Code. Environmental review and conditioning pursuant to SEPA are performed during this process¹⁰.

Projects may also undergo design review by the Seattle Design Commission, and landmarks and historic district preservation review (e.g., Pike Place Market Historic District Commission and Pioneer Square Preservation Board). Projects located in Environmentally Critical Areas are also subject to DPD review and although not classified as MUPs, approvals for development in these areas use the same procedures as those applicable to MUPs¹¹.

5.1.3.3 Prerequisite Considerations

There are no prerequisite considerations.

5.1.3.4 Application Procedure/Cost

There are five types of MUPs based on the amount of discretionary authority required and the nature of the decision (Types I through V). Type I MUPs are granted by decision of the Director of DPD and do not have an administrative appeal process. Generally, Type I MUPs apply to projects that are permitted outright by the land use code including temporary or intermittent uses, or fall into certain categories such as certain street uses. Type II MUPs generally require some

¹⁰ Some projects require MUPs only because they are subject to environmental review requirements.

¹¹ However, landmark designation and review is not subject to the same time frame and procedures.

type of conditional use, variance, special exception, or are located in the shoreline district, or fall into certain categories of land use such as short subdivisions. For example, most typical Shoreline permits are Type II permits, with the Director of DPD issuing a decision that can be appealed to the Shoreline Hearings Board. Type III MUP permits are limited to subdivisions and require approval by the Hearing Examiner. Type IV and V MUPs are decisions made by the City Council. Type IV permits are quasi-judicial in nature and include for example site-specific rezones, and Type V permits are legislative decisions by the Council based on a recommendations from DPD. Type V MUP approvals are typically for comprehensive rezones and projects undertaken by the City of Seattle and land use code amendments.

The fees for review of MUPs, as well as other City permits and approvals are updated periodically and found in the City's "Fee Subtitle", which is approved by the City Council. Documents associated with the Fee Subtitle include a DPD Director's Rule which implements the Fee Subtitle, a Fee Worksheet, and a Building Valuation Data Table. Fees are based on a number of components that depend on the nature and scope of any given project or situation including the amount of time it takes to perform permit review. Final fees are not determined until a permit is issued.

5.1.3.5 Permit Duration/Extension

Generally, MUPs are valid for a period of three years and may be extended for an additional two years. However, there are special rules for the expiration of MUPs with shoreline permits and for MUPs with building permits. Shoreline MUPs, which are generally valid for five years with a one-time, two-year extension, may be extended for as long as necessary-(see Section 5.1.4 [SMC 23.60.074]). A MUP can't be renewed beyond a period of five years, unless it is part of an approved major phased development (as defined in the Land Use Code).

5.1.3.6 Permit Review Process/Timeline

The review process for most of the City administratively approved permits (permits that don't require a public hearing) would be similar to the Type I MUP. The process is initiated by submittal of a permit application. For private development projects there is a choice between getting the MUP first with SEPA or applying for the MUP with other permits such as building or grading permits. The City has approximately 28 days to determine if a permit is complete¹². During that time the City may request additional information. Once the application is deemed complete, the City has approximately 120 days to review the permit (generally, complex permits will take longer) (see Figures 14 and 15). During the review period, the City may also

¹² The time that additional information is sought or applicants are providing corrections to plans and other application materials is not included in the time line. Thus, the more time that an applicant delays in responding to information requests/plan alterations, the longer the time it will take to get a permit.

request additional information. Once the City is satisfied that the project has met all the City requirements and any other applicable requirements the permit is issued.

5.1.3.7 Public Process/Appeal

Each Type of MUP application triggers somewhat different notice, comment, and appeal procedures. In all instances, appeals permitted by SEPA are intended to be handled with appeals on other components of the MUP. For example, a Type II Shoreline MUP would result in a right to appeal any conditioning under SEPA or the Shoreline Substantial Development Permit itself to the Shoreline Hearings Board. A Type V MUP decision would allow the SEPA decision to be appealed to the hearing examiner before the City Council could address the substantive issues involved in the permit (See SMC 23.76.064C).

5.1.4 Shoreline Substantial Development Permit

A Shoreline Substantial Development Permit (SSDP) is required for any “substantial development” that is located within 200 feet of the waters of the state (i.e., shoreline district) other than certain specified exempt usually maintenance-type activities. Substantial development is defined as any development, which exceeds \$2,500, total cost or fair market value, or any development, which materially interferes with the normal public use of the water or shorelines of the City. Special uses, conditional use permits, and/or variances are integrated into the shoreline permit process. If a shoreline variance or conditional use permit is required, the Department of Ecology also reviews the permit and may approve or deny the permit, or approve the permit with conditions.

A SSDP would be required because AWVSRP project work will occur within 200 feet of the shoreline. A shoreline special use, conditional use, or variance, as well as the SSDP may be necessary for some aspects of the project.

5.1.4.1 Regulatory Authority

Shoreline permits are required under state law, but are generally issued by local governments pursuant to a shoreline master program that has been approved by Ecology. The State Shoreline Management Program is codified in RCW 90.58 and WAC 173-27, and the City Shoreline Master Program is located in SMC Chapter 23-60. Shoreline permits are elements of the Master Use permit system (see Section 5.1.3) administered by DPD.

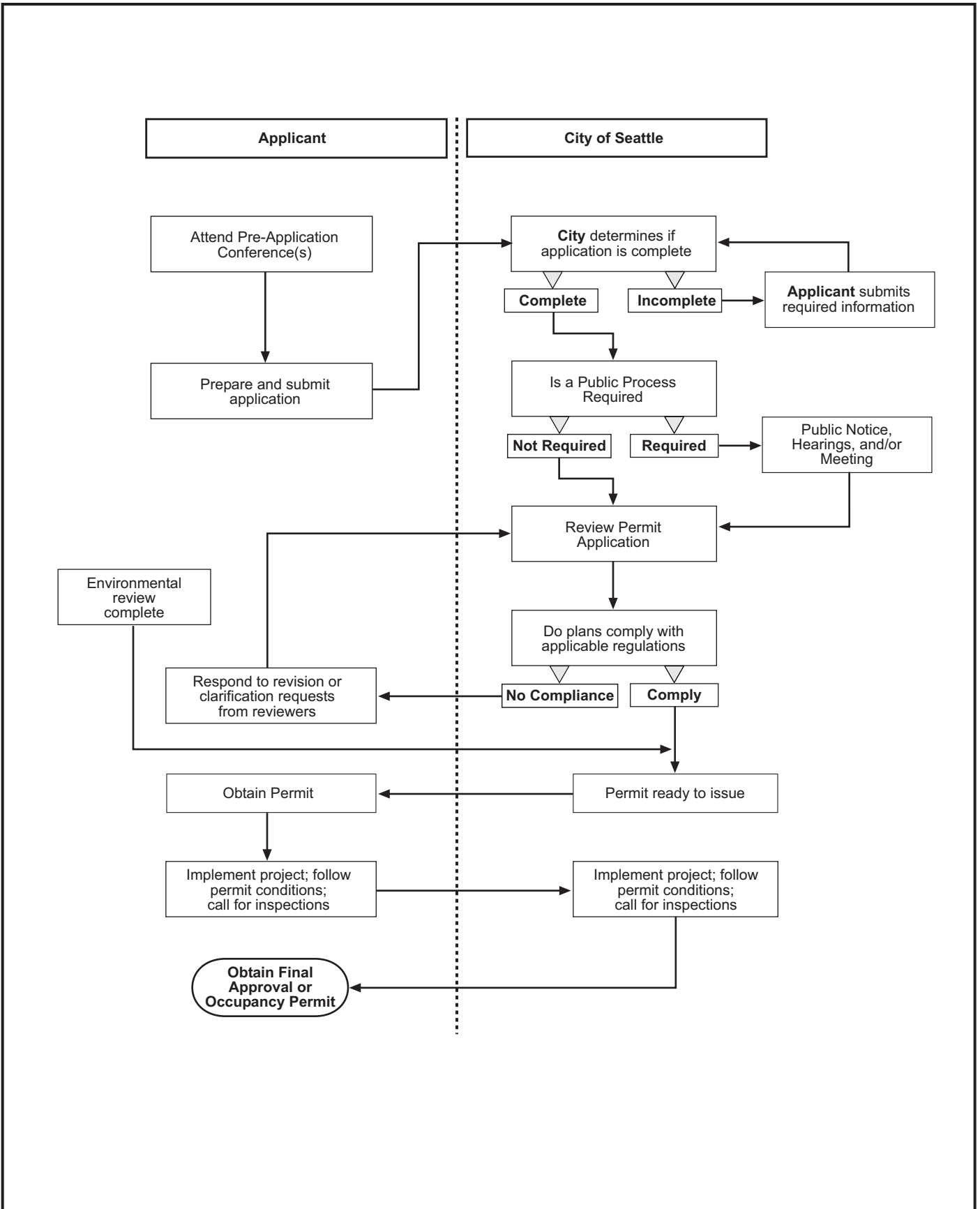
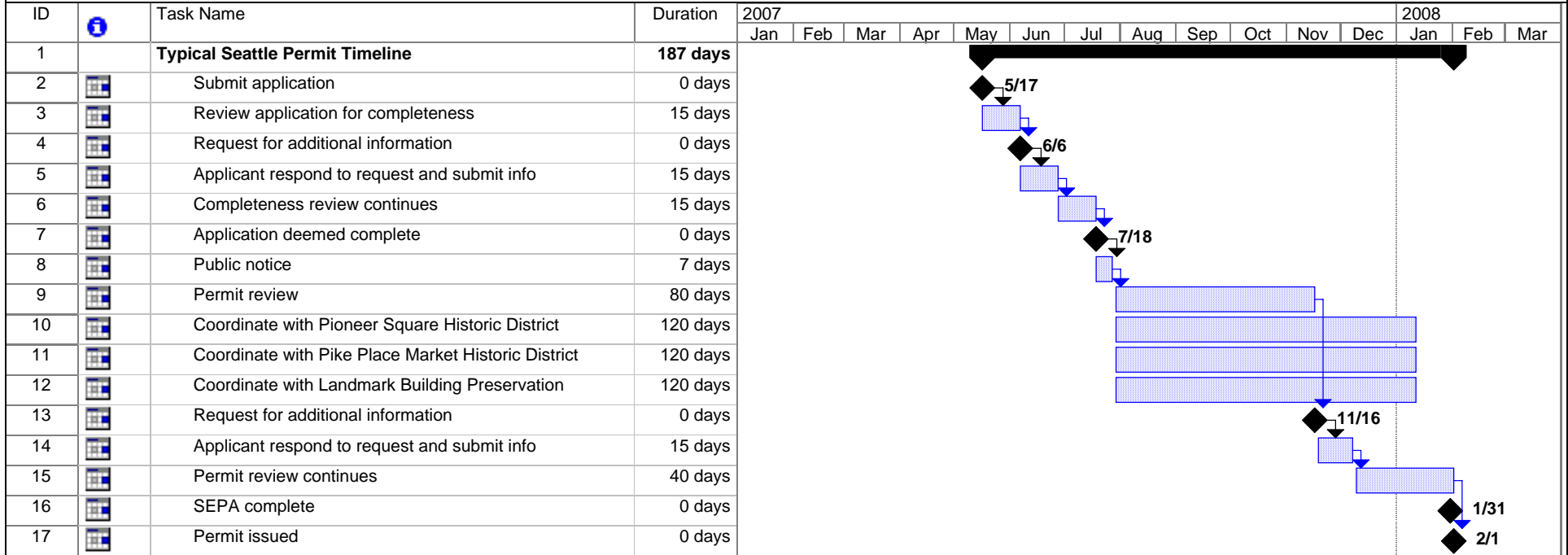


Figure 14
Typical Seattle Permit
Review Process

Figure 15 - Typical Seattle Permit Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

5.1.4.2 Approval Criteria

To obtain a shoreline permit, the proposed development must be consistent with:

- The policies and procedures of Seattle’s Municipal Code (SMC Chapter 23.60)
- The provisions of State’s Shoreline Management Act (SMA) (RCW 90.58) and Ecology’s regulations (WAC 173-27)
- The Seattle shoreline master program.

As part of any project review, DPD determines if the proposed development complies with the regulations listed above. The City may attach conditions to a permit approval to assure consistency with the shoreline requirements (WAC 173-27-150). Each separate shoreline environment has its own regulations concerning uses permitted and development standards. The AWVSRP is located in two shoreline environments, each with somewhat different regulations.

In addition to the Shoreline Substantial Development Permit, there are special uses, conditional uses, and variances that can be issued by the City for shoreline development. If a special use approval is required the following must be demonstrated:

- Consistency with RCW 90.58.020 and shoreline policies
- That the project will not interfere with normal public use of public shorelines
- Compatibility with other permitted uses within the area
- That the proposed use will cause no unreasonably adverse impacts to the shoreline environment in which it is to be located
- That the public interest suffers no substantial detrimental effect.

Some uses are permitted only as conditional uses, which may be authorized if the shoreline use:

- Is consistent with the policies of the City of Seattle’s Shoreline Master Program and the policies of RCW 90.58.020
- Will not interfere with the normal public use of public shorelines
- Is compatible with other authorized and planned uses within the area, pursuant to the comprehensive plan and shoreline master program
- Will cause no significant adverse effects to the shoreline environment
- The public interest suffers no substantial detrimental effect [WAC 173-27-160 (1)]
- Cumulative impacts are considered (WAC 173-27-160 (2)).

Variations may be authorized where the applicant can demonstrate extraordinary circumstances requiring a variance to prevent unnecessary hardship resulting from unique conditions of the property, compliance with the regulations significantly interferes with or precludes reasonable use of the property, the variance will not result in a grant of special privilege, the requested relief is the minimum necessary to provide relief, and that the public interest shall suffer no substantial detrimental effect (WAC 173-27-170). More stringent requirements apply for variances for activities in the water. If a shoreline variance or conditional use permit is required, the Department of Ecology must also approve or deny the permit, or approve the permit with conditions.

5.1.4.3 Prerequisite Considerations

SEPA review and consideration of the environmental analysis is required as part of the MUP/Shoreline Permit. Other federal and state permits are also required for work in the water.

5.1.4.4 Application Procedure/Cost

The City has its own application form for the Shoreline Substantial Development permit and has developed a screening and submittal checklist for the permit (Index 15) to assist in preparing a complete application.

See Section 5.1.3 for information on cost.

5.1.4.5 Permit Duration/Extension

Generally, shoreline permits are valid for a period of five years with a one-time two-year extension. However, upon finding good cause, the City may approve longer time limits consistent with the policy and provisions of the shoreline master program and the amount of time reasonably related to the time it will take to carry out the project (SMC 23.60.074).

5.1.4.6 Permit Review Process/Timeline

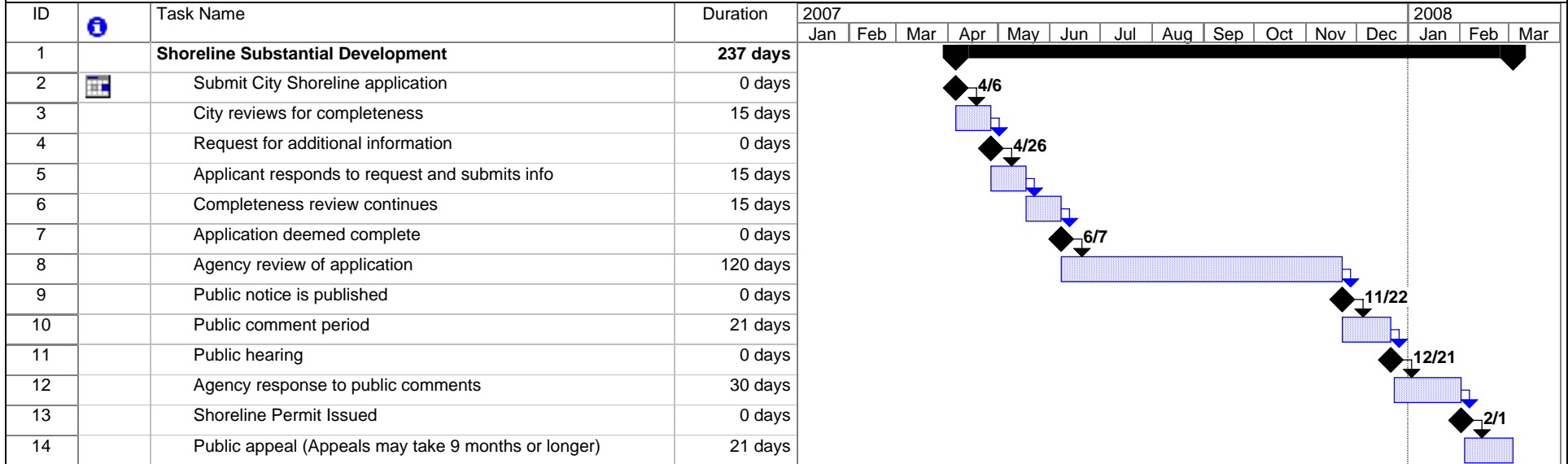
DPD reviews the shoreline application as part of the MUP process (See Section 5.1.3). The timeline for the shoreline permit is shown in Figure 16.

5.1.4.7 Public Process/Appeal

Once the permit is approved it can be appealed by an applicant, the public, or other government agency by filing a request for review with the Washington Shoreline's Hearings Board.

The public process includes a public comment period. Appeals of shoreline decisions can be made to the Washington Shoreline Hearings Board within 21 days of permit approval.

Figure 16 - Shoreline Substantial Development Permit Timeline



Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

5.1.5 Grading Permit

Generally, a grading permit is required when construction would alter grades by more than three feet and either: (1) the cumulative volume of excavation, fill, dredging or other earth movement is more than 100 cubic yards over the lifetime of the site, or (2) the grading would result in a slope steeper than three horizontal to one vertical. In shoreline districts and environmentally critical areas (excluding liquefaction zones) approval is required if more than 25 cubic yards of earth will be moved. In shoreline districts, a grading permit is required for any grading within ten feet of the line of mean higher high water adjoining saltwater or for any grading of lands covered by water. A grading permit may require MUP approval if SEPA thresholds are triggered.

A permit is required to move any earth on “potentially hazardous sites,” defined as any site on a list, register or database of the EPA or DOE for investigation, cleanup, or other action regarding contamination under any federal or state environmental law, and may also include existing and abandoned solid waste disposal sites and hazardous waste treatment, storage or disposal facilities. Temporary stockpiles also need a permit if they exceed the threshold levels for the type of site. A permit is always required for “in-place ground modification,” such as soil compaction on a liquefaction-prone site (unless DPD finds the work to be insignificant).

Grading permits are not required for work by city agencies within publicly owned right-of-way, but the work must comply with the standards set forth in the Stormwater, Grading and Drainage Control Code (SGDC) and must obtain applicable street use permits under SMC Title 15. While the AWVSRP would not require a grading permit for work in the roadway, it would still need a grading permit for work outside the roadway based on the amount and location of potential grading required.

5.1.5.1 Regulatory Authority

Grading is regulated by the City’s SGDC (SMC 22.800 – 22.808).

5.1.5.2 Approval Criteria

The SGDC includes specific provisions regarding protection of adjoining property, erosion control, fencing and boundary designation during grading, and regulations affecting temporary stockpiling of material. DPD Director’s Rule 16-2000, "Construction Stormwater Control Technical Requirements Manual," specifies the best management practices (BMPs) for meeting these requirements.

General grading criteria and standards include the following requirements:

- Final graded slopes must be no steeper than is safe for the intended use, and no steeper than two horizontal to one vertical

- The ground must be prepared (i.e., removal of vegetation, topsoil and non-approved or unsuitable materials) prior to placement of fill to ensure stability
- The base edge of any fill must be more than 12 feet horizontally from the top edge of any existing slope or planned cut slope
- Sloping fill may not be placed on top of slopes which are steeper than one and one-half horizontal to one vertical
- Subsurface drainage must be provided on cut and fill slopes when necessary for stability.
- Grading shall not create or increase the likelihood of earth movement, including landslides, accelerated soil creep, settlement and subsidence, and hazards associated with strong ground motion and soil liquefaction.

5.1.5.3 Prerequisite Considerations

Any conditions of the MUP to be performed prior to grading permit issuance must be met and may require SEPA review if SEPA thresholds are triggered.

5.1.5.4 Permit Duration/Extension

Grading permits are valid for 18 months and may be extended for an additional 18 months (SGDC [SMC] Chapter 22.800-22.808).

5.1.5.5 Permit Review Process/Timeline

The process is initiated by submittal of a permit application (see Figures 14 and 15). The City has approximately 28 days to determine if a permit is complete. During that time the City may request additional information. Once the application is deemed complete, the City has approximately 120 days to review the permit (generally, complex permits will take longer). During the review period, the City may also request additional information. Once the City is satisfied that the project has met all the City requirements and any other applicable requirements the permit is issued.

5.1.5.6 Public Process/Appeal

Any public process for this permit would occur during the SEPA process, which is part of the related MUP decision and can be appealed to the hearing examiner.

5.1.6 Stormwater and Drainage Control Review

The Stormwater, Grading and Drainage Control Code (SGDC) is a comprehensive framework for managing the quality and quantity of stormwater to protect property, the environment, public interests, surface waters, and receiving waters. The permit

will be approved and issued if it meets the requirements for state and federal law and the City's municipal stormwater NPDES permit. Drainage regulations apply to all grading and drainage and erosion control, all new or replaced impervious surface, all land disturbing activities, all discharges directly or indirectly to a public drainage control system, and all new and existing land uses. Compliance is required, whether or not a permit or other approval is required. In the case of the AWVSRP, any development undertaken by WSDOT in State highway right-of-way that complies with standards in WAC 173-270 would not require SGDC approval (SMC 22.802.010B3). Similar to the other City permits for the viaduct right-of-way, even if no permit is required the City will still perform project review under its ordinances to ensure the project meet SMC 22.

5.1.6.1 Regulatory Authority

The City manages stormwater through the SGDC (SMC 22.800-22.808) and four associated DPD Director's Rules: Construction Stormwater Control Technical Requirements Manual (DR 16-2000), Source Control Technical Requirements Manual (DR 17-2000), Flow Control Technical Requirements Manual (DR 26-2000), and Stormwater Treatment Technical Requirements Manual (DR 27-2000). There are also State supporting regulations found in WAC 173-270-050, WAC 173-270-060(6). DPD issues this permit via Seattle Public Utilities (SPU).

5.1.6.2 Approval Criteria

Approval criteria focus on code compliance that provides protection to property, the environment, public interests, and surface and receiving water quality. Compliance with federal, state, and local water laws and regulations is considered in making this approval.

5.1.6.3 Prerequisite Considerations

A permit may require SEPA review if SEPA thresholds are triggered.

5.1.6.4 Application Procedure/Cost

The drainage review process is triggered through the application for other city permits including MUPs and grading permits. Costs for the drainage review are associated with review of other permits.

5.1.6.5 Permit Duration/Extension

The drainage approval is tied to other permits, and thus duration does not apply.

5.1.6.6 Permit Review Process/Timeline

The drainage review occurs concurrently with the grading permit (See Section 5.1.5).

5.1.6.7 Public Process/Appeal

The public process for this permit would occur during the process related to SEPA compliance. Appeals occur through the related MUP decision which can be appealed to the hearing examiner.

5.1.7 Demolition Permit

Demolition permits would be required to remove structures such as the existing viaduct and seawall. Demolition of the AWVSRP would be reviewed for compliance with applicable regulations, including Section 106 of the National Historic Preservation Act, the Seattle Building Code, landmarks and historic district regulations, and environmental regulations. Some of these reviews might be performed in a building permit application, or the demolition might be included in a general MUP approval for the entire project (See Sections 5.3.1, 5.3.2, and 5.3.3). Separate certificates of approval from the Pike Place Market Historic District Commission and the Pioneer Square Historic District Commission are also required to demolish any structures inside these historic districts.

5.1.7.1 Regulatory Authority

DPD reviews the demolition permit under the Seattle Municipal Code (SMC 23.76) or applicable criteria of the building or land use codes.

5.1.7.2 Approval Criteria

Approval is based on compliance with applicable criteria of the land use code or building codes.

5.1.7.3 Prerequisite Considerations

Prior to performing any demolition work, an asbestos and lead-based paint survey must be performed per the regulations of the Puget Sound Clean Air Agency (PSCAA) and Washington Department of Labor and Industries. The asbestos survey must be conducted by an EPA certified building inspector.

If the demolition will affect public or private utilities, then contact with the utility providers is required. This may include contact with Seattle City Light, SDOT, SPU, and private providers of cable, natural gas, and telephone.

Conditions of any applicable MUP must be met and any required SEPA review completed prior to issuance of a demolition permit.

5.1.7.4 Application Procedure/Cost

The demolition permit is applied for through the building permit or MUP process. See Section 5.1.3 for information on cost.

5.1.7.5 Permit Duration/Extension

A demolition permit (issued solely as a demolition permit) is valid for a period of two years. Demolition permits issued as part of a MUP process or building permit are governed by those rules (i.e., either the build permit or the MUP rules).

5.1.7.6 Permit Review Process/Timeline

The process is initiated by submittal of a permit application (see Figures 14 and 15). The City has approximately 28 days to determine if a permit is complete. During that time the City may request additional information. Once the application is deemed complete, the City has approximately 120 days to review the permit (generally, complex permits will take longer). During the review period, the City may also request additional information. Once the City is satisfied that the project has met all the City requirements and any other applicable requirements the permit is issued.

5.1.7.7 Public Process/Appeal

The public process for this permit would occur during the process related to SEPA compliance. Appeals occur through the related MUP decision which can be appealed to the hearing examiner.

5.1.8 Building Permit

Building permits are required to ensure that life safety (e.g., structural integrity, fire prevention, emergency exit, etc.), quality of life (e.g., ventilation, accessibility, and lighting), and building-related code standards (e.g., the International Building Code) are met in the design and construction of new structures and buildings. Building permits are required for all new buildings and freestanding structures and would apply to the structures associated with the AWVSRP.

5.1.8.1 Regulatory Authority

The regulatory authority for the building permit is the Seattle Municipal Code (SMC 22.100).

5.1.8.2 Approval Criteria

Approval of the building permit is based on a project's ability to conform to the various building code requirements found in the recently adopted (2004) International Building Code (See SMC 122.150, 22.300, 22.400, 22.420, 22.450, 22.500, and 22.700).

5.1.8.3 Prerequisite Considerations

SEPA review and any discretionary MUPs associated with the project must be approved before the building permit is approved.

5.1.8.4 Application Procedure/Cost

Application is made through a building permit application and the submission of a series of plans including architectural and structural plans. Other information includes land use code analysis and documentation (if a MUP was issued prior to the building permit [for example, obtaining MUP approval and completing SEPA review before applying for the building permit] conformance with any pre-building permit issuance conditions of the MUP is required), parking information, building code analysis and documentation, means of exiting (egress) plans, floor plans, elevation views, building sections, construction details, and landscape plans.

See Section 5.1.3 for information on cost.

5.1.8.5 Permit Duration/Extension

Building permits are generally valid for a period of 18 months and may be renewed. Permits for major construction projects may be issued for the period of time necessary for the construction up to three years and may be renewed.

5.1.8.6 Permit Review Process/Timeline

The process is initiated by submittal of a permit application (see Figures 14 and 15). The City has approximately 28 days to determine if a permit is complete. During that time the City may request additional information. Once the application is deemed complete, the City has approximately 120 days to review the permit (generally, complex permits will take longer). During the review period, the City may also request additional information. Once the City is satisfied that the project has met all the City requirements and any other applicable requirements the permit is issued.

5.1.8.7 Public Process/Appeal

The public process for this permit would occur during the process related to SEPA compliance. Appeals occur through the related MUP decision which can be appealed to the hearing examiner.

5.1.9 Side Sewer Permit

The Side Sewer Permit for Temporary Construction Dewatering (SSPTCD) is required for any of the following activities:

- Deep excavations (greater than 12 feet)

- One acre or more of land disturbing activity
- If surface and/or subsurface water is encountered during construction activity
- When work takes place in an Environmentally Critical Area (ECA)
- When disposal of contaminated temporary surface and/or subsurface water is required during construction that was not originally expected to occur
- When advised by the Seattle Public Utilities (SPU) and/or the Department of Planning and Development (DPD) that an SSPTCD needs to be obtained from DPD because of known surface or subsurface concerns of the neighborhood or other parties.

DPD typically will identify the requirements for a side sewer permit as part of the building permit review. SPU may be consulted when surface or subsurface water contamination may exist and SDOT may be consulted if temporary dewatering would affect an adjacent public place such as a street right-of-way. The side sewer permit would be triggered for the AWVSRP by the depth of excavation, amount of land disturbance, and the quantity of water that would be encountered during excavation.

5.1.9.1 Regulatory Authority

The SSPTCD is reviewed by both DPD and SPU under Director’s Rule 3-2004, and SPU Rule 02-04. DPD issues this permit via SPU and SPU administers the overall NPDES permits for the City.

5.1.9.2 Approval Criteria

Approval is based on considerations of volume, discharge rates, and the water quality of the discharge and potential impacts on the receiving water body. It is the applicant’s responsibility to meet the discharge requirements that will be specified in the SSPTCD. This includes maintaining discharge rates and volumes below the specified amount, meeting sampling and monitoring requirements, and reporting water quality and volume results to the specified agencies. Water quality requirements are based on federal, state, county and city guidelines and regulations.

5.1.9.3 Prerequisite Considerations

Project sites that have access to a public storm drain system are required to treat and discharge all on-site dewatering to the system unless water cannot be effectively treated to protect the downstream drainage activities. The general point of discharge shall use the existing side sewer piping unless there is no side sewer available. In which case, a temporary discharge may be made to a public facility (as long as any street-use permits required from SDOT are obtained). If no storm system is available, the City may allow connection of the point of discharge to a public

combined sewer or sanitary sewer after review of the temporary dewatering plan. To discharge to a public combined or sanitary sewer system, applicants must obtain a Discharge Authorization Letter from King County Industrial Waste, Department of Natural Resources and Parks Industrial Waste Group (see Section 6.1.1). However, it is not likely that this will be allowed due to system constraints.

A permit may require SEPA review if SEPA thresholds are triggered.

5.1.9.4 Application Procedure/Cost

Application is made through the side sewer permit application form. See Section 5.1.3 for information on costs associated with the permit.

5.1.9.5 Permit Duration/Extension

There is no duration associated with this permit.

5.1.9.6 Permit Review Process/Timeline

The process is initiated by submittal of a permit application (see Figures 14 and 15). The City has approximately 28 days to determine if a permit is complete. During that time the City may request additional information. Once the application is deemed complete, the City has approximately 120 days to review the permit (complex permits will take longer). During the review period, the City may also request additional information. Once the City is satisfied that the project has met all the City requirements and any other applicable requirements the permit is issued.

5.1.9.7 Public Process/Appeal

The public process and appeals for this permit would occur during any SEPA review. There is no appeal associated with this permit.

5.1.10 Seattle Noise Code – Noise Variance

Maximum allowable noise levels with the City of Seattle are established based on the zoning of both the source of the noise and where the sound is heard, the time of day and other variables. For various construction processes these standards are allowed to be exceeded by a certain amount during the day. If a project will further exceed these maximum standards it must apply for a noise variance. Three types of variances can be issued by DPD; temporary, economic and technical. The only one applicable to the AWWSRP is the technical variance. A technical variance from the noise standards is needed when the noise standards will be exceeded for a period longer than 14 days.

5.1.10.1 Regulatory Authority

The maximum permissible noise levels and variance process are established in the Seattle Municipal Code (SMC 25.08).

5.1.10.2 Approval Criteria

Before approval of any noise variance DPD must consider the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public. There must be a finding that the proposed noise level will not endanger public health and safety. For technical variances a finding must be made that there is no practical means known or available for the adequate prevention, abatement or control of the noise involved.

5.1.10.3 Prerequisite Considerations

There are no specific prerequisite considerations.

5.1.10.4 Application Procedure/Cost

There is no established application form for a technical variance.

5.1.10.5 Permit Duration/Extension

For technical variances there is no specific duration but the permit will be limited to the timeframe in which noise standards can't be reasonably met.

5.1.10.6 Permit Review Process/Timeline

The process requires a public hearing and thus it may take up to 30 days to set up and hold the meeting, consider public comments, and issue or deny the variance.

5.1.10.7 Public Process/Appeal

A technical variance requires a public hearing before issuance. Any granting or denial of a variance may be appealed to the Hearing Examiner.

5.1.11 Over the Counter (OTC) Contractor Permits

The following permits are typically obtained by the contractor and many, but not all of these permits may be obtained over the counter or in a relatively quick timeframe. Processing of the OTC permit applications have been streamlined so that no appointment is necessary and applications can be submitted online, mailed or faxed, or accepted by permit technicians at the DPD permit counter. Up to two permits can be taken in at a time from one applicant (more can be taken in at the same time

if the technicians aren't busy). The following permits may be obtained over the counter:

- Mechanical
- Electrical
- Sign
- Elevator (temporary elevators would be required for descending into the tunnel if that alternative is selected)
- Fire Alarms.

5.2 Seattle Department of Transportation (SDOT)

5.2.1 Street Use Permit

The City of Seattle requires Street Use Permits for many activities that affect public streets or other public rights of way. These activities include: 1) permanent improvements such as public sewers, storm drains, water mains, street drainage facilities, curbs and sidewalks, and street or alley 2) special activities such as street fairs and public markets, 3) street and stadium vending; 4) street trees and planting strips and 5) sidewalk cafes. The major Street Improvement Permits required for this project are described below:

5.2.1.1 Street Improvement Permits

Permanent improvements in the City's public right of way, NOT related to new development, are constructed under a Street Improvement permit issued by the Street Use Division of the Seattle Department of Transportation (SDOT) to private parties or to public agencies. Street improvements associated with new development are issued by the DPD in coordination with SDOT.

SDOT issues over 60 different types of Street Improvement permits. The majority of Street Use Permits the AWVRP will be Street Improvement Permits. Typical AWVRSP activities requiring a street improvement permit include the following:

- **Shoring and Excavation**

Shoring and Excavation permits are issued for excavations in or near a public right-of-way that could by the nature of the excavation affect the integrity of the right of way or utilities in the right of way. Shoring is a means of supporting the earth in a trench or vertical cut for construction or other activity.

SDOT performs shoring review in partnership with DPD where the right of way will be affected by an excavation. DPD may initiate a shoring review during their review of a project. SDOT reviews any proposed excavation that would be

greater than three feet deep immediately adjacent to any given public right-of-way.

SDOT staff performs shoring review in partnership with DPD where right-of-way will be affected by an excavation. Properly installed shoring is critical for maintaining the structural integrity of the adjacent roadway and underground utility infrastructure.

- **Utilities**

Utility permits are issued for the installation of underground and overhead utility mains and services in the public rights of way. They include power, communication, gas, steam, water, sewer, drainage, and privately owned facilities such as oil pipelines. Also included in the utility permit arena are permits issued to other governmental entities such as the Port of Seattle, King County and the State of Washington. The applicant must submit an application and plan detailing the proposed utility. When the proposed utility is constructed it will be inspected for location, depth, materials and restoration of the affected right-of-way. An as-built record will be created for inclusion on utility maps.

To construct a utility in the right-of-way a Street Use permit is required. The applicant must submit an application and an as-built plan detailing the proposed utility. When the proposed utility is constructed it will be inspected for location, depth, materials and restoration of the affected right-of-way. A database of the utilities in the right-of-way is maintained by SDOT and the applicant's as-built record is stored in the database. SCL, SPU, and King County utilities will need to be relocated prior to construction of the AWVSRP work taking place. In addition, there are many privately owned utilities that will need to be moved. One of the critical aspects of the utility work will be to coordinate the relocation of the multitude of public and private utilities prior to and following construction.

It is the policy of the Seattle Department of Transportation to require the removal of underground storage tanks located in street and alley rights-of-way when the Permittee is no longer in compliance with Title 15, Chapter 15.04 of the Seattle Municipal Code. Where the majority of a tank lies beneath the area behind the curb (area between curb and the property line), the portion of the tank lying deeper than eight feet (8') may be abandoned in place. Any removals of underground storage tanks may need to be coordinated/permitted with Ecology (See Section 4.1.4).

- **Use of Street and Sidewalks for Construction and Other Purposes**

There are many circumstances that require use of the right-of-way to facilitate construction for public and private property. Street Use permits are issued for temporary use of the rights of way during construction such as material storage,

scaffolding, crane placement or crossing curb and walk with heavy equipment. Other types include private uses of the right of way such as planting trees, block parties and other special events, or signs. These permits are considered temporary in nature and are revocable within 30 days. Permits may also be granted for use of the streets for both metered and non-metered parking areas.

- **Driveways**

Property owners are responsible for providing a temporary or permanent driveway so that vehicles do not drive over sidewalks, planting strips or curbs. The construction of driveways requires a Street Use Permit, issued by the DPD.

A temporary driveway is an asphalt driveway installed where there is no curb constructed. It requires a permit issued by Street Use and a field review by an inspector for approval.

- **Sidewalk Repairs**

Property owners are responsible for maintaining the sidewalks adjacent to their property. They must ensure that snow, ice and debris do not pose a hazard to pedestrians. They must also repair cracks and other damage. The property owner of record is notified by the district Street Use inspector of the repairs or action needed. If there is an unsafe condition and you want to repair the sidewalk, apply for a sidewalk permit.

5.2.1.2 Regulatory Authority

The regulatory authority for the Street Use permit is SMC 15.04 and 15.32 for street uses not associated with new development. Street improvements associated with new development is subject to SMC 23.53

5.2.1.3 Approval Criteria

Street use permits are approved based on the public health and safety of adjacent land uses, fire access, utilities, the environment, approved plans, and the paramount purpose of streets for travel and transportation.

5.2.1.4 Prerequisite Considerations

For Street Improvement Permits associated with new development, a SEPA checklist may be required prior to the issuance of a MUP.. .

5.2.1.5 Application Procedure/Cost

The 2-page Street Use Utility application form is used to apply for the Franchise and Utility Street Use permit. The Street Use Shoring Review is performed in conjunction with DPD and is applied for through the building permit. For projects

involving improvements such as public sewers, storm drains, water mains, street drainage facilities and curbs, sidewalks, and street or alley paving, the Street Use street improvement permit application form is used.

See Section 5.1.3 for information on costs associated with the permit.

5.2.1.6 Permit Duration/Extension

In general the duration of a street improvement permit will be for the life of the project in coordination with the building permit. Additionally each permit will have a certain “shelf life” between approval of the permit package and beginning of construction. All Street use permits are revocable upon 30 days notice if it is determined that the activity poses a public safety concern (SMC 15.04.070).

5.2.1.7 Permit Review Process/Timeline

The schedule for permit review is initiated by submittal of a permit application although there may be pre-application coordination. After submittal of an application SDOT has 12 weeks to verify the completeness of the application, conduct site visits and circulate the application for comments and corrections. At the end of this period SDOT will provide the applicant with comments and/or corrections on the application package.

The applicant then responds to comments and finalizes the permit application and receives an approved Street Improvement Plan from SDOT. During this time the applicant also prepares a Bond Package. Upon submittal of the Bond Package and finalized improvement plans, SDOT has two weeks to process/establish a Construction Bond and issue the final permit. Within one week of the Construction Bond being established and final permit issued a pre-construction meeting is held with SDOT and the applicant. After this meeting SDOT has three weeks to coordinate survey activities before construction can begin.

Throughout the process there is 18 weeks of SDOT review time and likely at least several weeks of time needed for the applicant to respond to comments and prepare the bond package.

5.2.1.8 Public Process/Appeal

Street Use Permits not associated with new development are categorically exempt under SEPA. There is a specific appeal related to the shoring permit (SMC 15.44.140).

5.2.2 Construction Traffic Approvals

There are several permits/approvals related to construction that would be required from the City. These include detour routing approval, permits for construction related traffic traveling through the Downtown Traffic Control Zone, and concrete

truck approval. It is likely that SDOT will also require a Traffic Control Plan for AWVSRP construction related traffic.

- *Detour Routing Approval* – An approval from SDOT is required for detouring traffic – this approval is associated with the Street Use permit described above.
- *The Downtown Traffic Control Zone (Ordinance 108200)* - The City has designated an area of downtown from Yesler Way on the South to Lenora Street on the North bounded by 9th Avenue on the east and 1st Avenue on the west as a "Downtown Traffic Control Zone". The requirements for vehicle movement within this zone are:
 - Legal vehicles (30 feet long and longer) require a permit to move within this area from 9 am to 3 pm and 7 pm to 6 am Monday through Saturday. Curfews are in effect from 6 am to 9 am and 3 pm to 7 pm except Saturdays and Sundays. A permit is not needed for travel on Sundays.
 - Over-legal vehicles (i.e., over width, over height, or over length) cannot travel in this zone from 6 am to 7 pm. They can move in this zone from 7 pm to 6 am with a permit. This is an over the counter permit and the traffic control zone map can be found on the SDOT website: <http://www.seattle.gov/transportation/overvehicleloads.htm>.
 - Concrete Truck Approval – A special approval is required for concrete trucks to travel through the downtown traffic control zone.

5.3 Seattle Department of Neighborhoods

5.3.1 Pioneer Square Historic District Approval

Projects that affect buildings within the Pioneer Square Historic District must undergo a special review process. The Pioneer Square Preservation Board reviews any proposed new buildings and structures, or changes to buildings/structures within the historic district. This includes demolition, changes to the exterior of any structures, new construction, a new sign or changes to existing signs, and any change in public rights-of-way including public spaces such as sidewalks. Any new structure must be approved by the Pioneer Square Preservation Board and Director of Neighborhoods before any other permits are issued by the City. A Certificate of Approval is required for any work that results in changes to the exterior of any Pioneer Historic District structure (SMC 23.66). The AWVSRP would also be subject to Section 106 requirements (see Sections 3.4.2 and 4.4.1).

5.3.2 Pike Place Market Historic District Approval

This approval is similar to the Pioneer Square Historic District approval described above. Pike Place Market has a Historic District Commission that reviews any proposed new buildings and structures, or changes to buildings/structures within the historic district. Any new structure must be approved by the Commission and Director of Neighborhoods before any other permit is issued by the City. A Certificate of Approval is required for any work that results in changes to the exterior of any Pike Place Historic District structure (SMC 25.25). The AWVSRP would also be subject to Section 106 requirements (see Sections 3.4.2 and 4.4.1).

5.3.3 Landmark Building Approval

The Seattle Department of Neighborhoods and Landmarks Preservation Board must be consulted regarding landmarks that may be affected by the project (SMC 23.47). A similar process to the Pioneer Square Historical District is required for this approval (i.e., Certificate of Approval).

Review criteria include:

- The physical characteristics of the emitted sound
- The times and duration of the emitted sound
- The geography, zone, and population density of the affected area
- Whether the public health and safety is endangered
- Relative interests of the applicant, other owners or possessors of property likely to be affected by the noise and the general public
- Whether the sound source predates the receiver(s)
- Whether compliance with the standard(s) from which the variance is sought would produce hardship without equal or greater benefit to the public.

5.4 Seattle City Light

Seattle City Light (SCL) has internal guidelines and standards related to changes or improvements to the electrical system. These include standards for utility relocation and substation modification. Additionally permits will be required when transmission lines are temporarily shut down.

5.4.1 Clearance Permit

The electrical utility relocation work will require that the transmission lines be temporarily shut down in places. This process is called a clearance permit. This clearance permit would be requested by SCL and go through the regional

transmission authority, the Northwest Power Pool (NWPP). The Bonneville Power Administration (BPA) often performs the processing and review of transmission line clearance applications for NWPP. Typically, it is necessary to make transmission clearance requests well in advance of the planned work. Seattle City Light recommends 12 months advance application in all cases. Requests are granted on a first come, first served basis.

The distribution feeder clearance approval is controlled internally by SCL's system operations center. This approval is required to maintain safety and proper operational characteristics of the distribution feeder system. Typically, it is necessary to make distribution clearance requests well in advance of the planned work. Generally, SCL recommends a 6 to 9 months advance application for distribution feeder clearances. For a major project such as the AWVSRP with complex tunnel/highway and utility construction factors, a 12 month advance application for feeder clearances is advisable. Requests are granted on a first come, first served basis.

Please refer to the following table for an overview of electric transmission and distribution clearance permit requirements and procedures.

Table 1 Transmission and Distribution Clearance Permit Process

Process	Transmission Clearance Permit	Distribution, 13 kV Network Clearance Permit	Distribution, 26 kV Radial Clearance Permit
Regulatory Authority	NWPP, WECC, BPA, SCL, SOC	SCL, SOC	SCL, SOC
Approval Criteria	Safety, regional power grid reliability and security	Safety, reliability and security	Safety, reliability and security
Prerequisite Consideration	See Evaluation Criteria in Appendix D of this report	See Evaluation Criteria in Appendix D of this report	See Evaluation Criteria in Appendix D of this report
Application Procedure and Cost	Applications are made to SCL. SCL and SOC review and process the application. SCL/SOC then submit the application to NWPPA for their review (this is typically performed by BPA).	Applications are made to SCL. SCL and SOC review and process the application.	Applications are made to SCL. SCL and SOC review and process the application.
Permit Duration and Extension	Duration outage permitted depends on the operational significance of the line.	The permit is good from hours to weeks depending on the specific case.	The permit is good from hours to weeks depending on the specific case.
Permit Review Process	Submit application to SCL/SOC 12 months in advance of desired clearance start date.	Submit application to SCL/SOC 12 months in advance of desired clearance start date (can be processed in less time, but use 12 months for project scheduling purposes).	Submit application to SCL/SOC 12 months in advance of desired clearance start date (can be processed in less time, but use 12 months for project scheduling purposes).
Public Process and Appeal	There is no public process associated with this approval.	There is no public process associated with this approval.	There is no public process associated with this approval.

Source: Seattle City Light Transmission and Distribution Permit Matrix.xls

NWPP – Northwest Power Pool

WECC – Western Electric Coordinating Council

BPA – Bonneville Power Administration

SCL – Seattle City Light

SOC – Seattle City Light System Operations Center

6.0 Other Permits and Approvals

6.1 King County

6.1.1 Discharge of Construction Dewatering to Sanitary Sewer

King County operates the West Point treatment plant where flows from the Elliott Bay Interceptor are treated. Portions of the AWVSRP corridor currently flow to the Elliott Bay Interceptor. To discharge construction dewatering from the AWVSRP into the Elliott Bay Interceptor, an approval from both the City (SPU) and King County would be required.

6.1.1.1 Regulatory Authority

Regulatory authority for discharges of construction dewatering or contaminated stormwater to the King County sanitary sewer is through the King County Code (KCC 28.84), Public Rule PUT 8-14 – Discharge of Construction Dewatering to the Sanitary Sewer, KC Code Title 28, and the NPDES permit (RCW 90.48 and WAC 173-220 and 173-226), as well as City requirements under SPU (see Sections 5.1.6 and 5.2.2).

6.1.1.2 Approval Criteria

Discharges would be required to demonstrate compliance with the discharge standards and limitations set by Seattle and King County and the conditions of the NPDES permit. For example, any discharge of wastewater would have to contain less than 7 milliliters per liter of solids capable of settling. They may also require self monitoring for specified substances, and place limits or prohibit certain materials (such as sand, grass, and gravel). Discharges of construction dewatering may also be limited or prohibited during the wetter winter months because there is less capacity. Also required, is an explanation of why discharges of 25,000 or greater cannot be discharged to surface water along with proof of denial of an NPDES permit by Ecology.

6.1.1.3 Prerequisite Considerations

In addition to the approval from King County, permission must also be given by the City of Seattle SPU (see Section 5.1.6).

6.1.1.4 Application Procedure/Cost

A permit application submitted to the King County Industrial Waste Program and to SPU is required to obtain this approval. For the King County approval there is a 90-day time schedule and fee associated with obtaining an industrial waste permit (see

Section 5.1.6 for a discussion of the SPU approval). Fees include issuing of the permit, operation/maintenance of the sewer and capacity charge (if applicable).

6.1.1.5 Permit Duration/Extension

The permit is issued for the duration of the discharge to the sanitary sewer.

6.1.1.6 Permit Review Process/Timeline

The general process of review involves submittal of the application, King County review by the Industrial Waste Program staff, and issuance of a permit, discharge authorization, discharge authorization letter, or verbal approval. The type of approval is determined by the volume discharged, the nature of the discharge, and the potential risk to the treatment plant.

6.1.1.7 Public Process/Appeal

There is a public process comment period associated with this permit.

6.2 Burlington Northern and Santa Fe Railroad

6.2.1 Right-of-Way Use Approval

Several portions of the AWVSRP improvements would need to use or affect the Burlington Northern and Santa Fe Railroad right-of-way, such as the utility relocation. This approval requires submitting a letter of intent to Burlington Northern and Santa Fe, which requests permission to use the right-of-way and describes the potential construction activities including the timing and duration of the construction. Construction activities would need to be coordinated with the train operations. In addition, if there are improvements within the right-of-way that require ongoing maintenance, an agreement is necessary with Burlington Northern and Santa Fe that describes who would be responsible for this maintenance.

6.3 PUGET SOUND ENERGY (AND BONNEVILLE POWER ADMINISTRATION)

6.3.1 Electrical Transmission Outage Request

Puget Sound Energy (PSE) operates electric transmission and distribution power lines in the region. Bonneville Power Administration (BPA) operates electric transmission lines in the region. No PSE or BPA electric power lines will be shut down as part of the AWVSRP. BPA and PSE will be notified of SCL's clearance applications and will have the opportunity to comment prior to issuance of all clearance permits.

7.0 References

Fitzpatrick, K. 2005. Personal communication of 9-29-05 with Kevin Fitzpatrick, Ecology Water Quality Program Director.

PSRC. 2004. Destination 2030 Progress Report. Puget Sound Regional Council, Seattle, WA.

Appendix A

Summary Permit Matrix

Table A-1. Summary Matrix of Permits/Approvals in the Permitting Strategy Report

Permit/Approval	Issuing Agency	Code Authority	Trigger Activity	Location in Report
NEPA/SEPA/404 Merger Process	Signatory Agency Committee (for the AWVSRP it will be the RALF)	N/A	FHWA sponsored, federal funding, and required NEPA EIS.	Section 2.1 and 2.2
NEPA	FHWA	42 USC§4331	Federal action or federal funding triggers compliance with NEPA.	Section 3.1.1
Transportation Act Section 4(f)	FHWA	49 USC§1653 49 USC§303 23 CFR§138	FHWA actions affecting significant park and recreation lands, wildlife and waterfowl refuges, and historic sites.	Section 3.1.2
Clean Water Act Section 404	USACE	33 USC§1344 33 CFR§323 40 CRR§230	Placing a structure, excavating, or discharging dredged or fill material into waters of the United States.	Section 3.2.1
Rivers and Harbors Act Section 10	USACE	33 USC§401 33 USC§403 33 CFR§320 33 CFR§322	Placement of structures and discharge of material into navigable waters of the United States.	Section 3.2.1
Endangered Species Act/Magnuson Stevens Act	USFWS and NMFS	16 USC§1531 50 CFR§402 Public Law 265	Activities funded, authorized, or carried out by federal agencies.	Section 3.3.1
Marine Mammal Protection Act	USFWS and NMFS	16 USC§1361	Activities funded, authorized, or carried out by federal agencies.	Section 3.3.2
Clean Air Act Air Quality Conformity	PSRC	42 USC§7401 40 CFR§51 40 CFR§93	Federally funded transportation projects may not contribute to air quality degradation.	Section 3.4.1
National Historic Preservation Act Section 106	ACHP	16 USC§470 36 CFR§800	Activities affecting historic resources (may be direct or indirect effects).	Section 3.4.2
Clean Water Act Section 401 Certification	Ecology	33 USC§1341 RCW 90.48 WAC 173-225 WAC 173-201	Federally permitted projects must comply with Section 401.	Section 4.1.1
Coastal Zone Management Act Certification	Ecology	16 USC§1451 15 CFR§930	Federally funded or permitted projects must comply with CZMA.	Section 4.1.2
NPDES Construction Stormwater Permit	Ecology	33 USC§1342 40 CFR§122-124 RCW 90.48 WAC 173-220 WAC 173-226	Projects that disturb (e.g., clearing, grading, etc.) one or more acres of soil.	Section 4.1.3
NPDES Individual Wastewater Discharge Permit/State Waste Discharge Permit	Ecology	RCW 90.48	Discharges of water to waters of the U.S. including groundwater.	Section 4.1.3

**Table A-1. Summary Matrix of Permits/Approvals in the Permitting Strategy Report
(continued)**

Permit/Approval	Issuing Agency	Code Authority	Trigger Activity	Location in Report
Removal of Underground Storage Tanks	Ecology	RCW 90.76	Removal of USTs.	Section 4.1.4
Hydraulic Project Approval	WDFW	RCW 77.55 WAC 220-100	Activities that use, divert, obstruct, or change the natural flow or bed of state waters.	Section 4.2.1
Aquatic Lands Use Lease Approval	WDNR	RCW 79.90 WAC 332-30	Using state owned aquatic lands (includes harbors, state tidelands, shorelands, and beds of navigable waters).	Section 4.3.1
National Historic Preservation Act Section 106	WDAHP	16 USC§470 36 CFR§800 RCW 27.53 WAC 25-12 WAC 51-19	Activities affecting historic resources (may be direct or indirect effects).	Section 4.4.1
Environmental Critical Areas Review	DPD	SMC 25.09	Activities that occur in or near designated critical areas (includes steep slopes, wetlands, streams, liquefaction prone areas, floodplains, mines, fish and wildlife habitat areas, and aquifer recharge areas).	Section 5.1.1
Tree Protection	DPD	SMC 25.09.320 and SMC 25.11	Tree removal in ECAs or removal of Exceptional Trees.	Section 5.1.2
Master Use Permit	DPD	SMC 23.76	Any land use development within the City.	Section 5.1.3
Shoreline Substantial Development Permit	DPD	RCW 90.58 WAC 173-14-18 SMC 23-60	Development or construction activity occurring within 200 feet of waters of the State with a value of \$5,000 or more.	Section 5.1.4
Grading Permit	DPD	SMC 22.800	Alteration of grades by more than 3 feet and (1) involve more than 100 cubic yards of earth disturbance, or (2) grading would result in slopes steeper than 3 to 1.	Section 5.1.5
Stormwater and Drainage Control Review	DPD	SMC 22.800	Any land disturbing activities or construction of new impervious surface over 750 square feet.	Section 5.1.6
Demolition Permit	DPD	SMC 23.76	Required for demolition of structures.	Section 5.1.7
Building Permit	DPD	SMC 22.100	Construction of new buildings or structures.	Section 5.1.8
Street Use Permit	DPD	SMC 15.04 SMC 15.32	Any work within the public right-of-way (includes street and utility improvements, landscaping, and lighting).	Section 5.1.9
Noise Variance	DPD	SMC 25.08	Construction noise that exceeds City noise standards.	5.1.10
Over the Counter Permits	DPD	International Building Code	New mechanical equipment, electric work, new or altered signs, fire alarms, and new elevators.	5.1.11

**Table A-1. Summary Matrix of Permits/Approvals in the Permitting Strategy Report
(continued)**

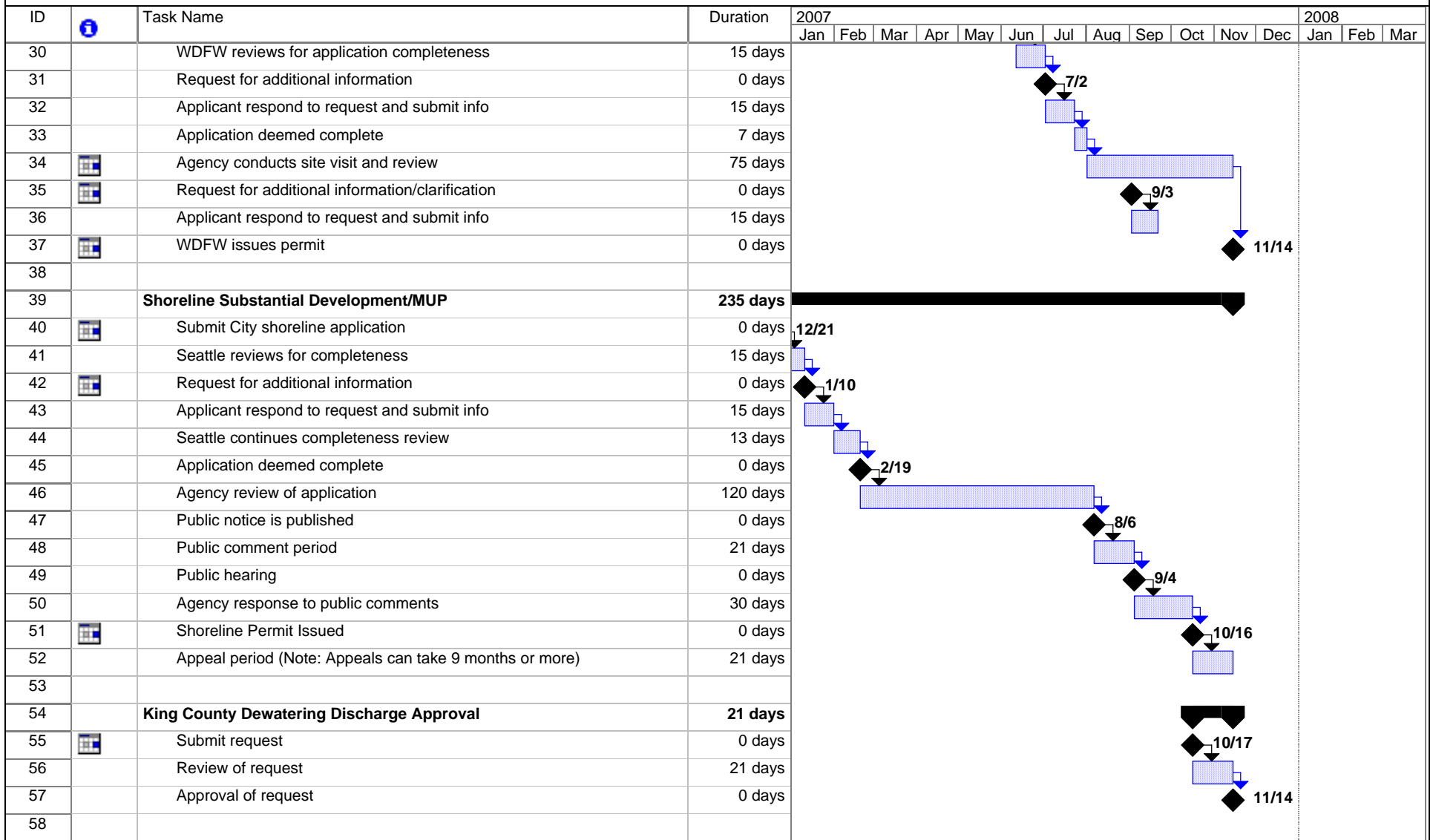
Permit/Approval	Issuing Agency	Code Authority	Trigger Activity	Location in Report
Street Use Permit	SDOT	SMC 15.04 SMC 15.32	Any work within the public right-of-way (includes street and utility improvements, landscaping, and lighting).	Section 5.2.1
Side Sewer Permit	SDOT and SPU.	Director's Rule 3-2004 and SPU Rule 02-04	Temporary construction dewatering and discharge of dewatering to the sanitary sewer system.	Section 5.2.2
Removal Abandonment of USTs	SDOT	SMC 15.04	Removal or abandonment of an underground storage tank.	Section 5.2.3
Construction Traffic Approvals	SDOT	Various Codes and Ordinances.	Detour routing, travel in downtown traffic control zone, concrete truck use and removal of required parking.	Section 5.2.4
Pioneer Square Historic District	Seattle Department of Neighborhoods and Pioneer Square Preservation Board	SMC 23.66	Alterations to historic structures or new structures within the district.	Section 5.3.1
Pike Place Market Historic District	Seattle Department of Neighborhoods and Pike Place Market Historic District Commission	SMC 25.25	Alterations to historic structures or new structures within the district.	Section 5.3.2
Landmark Building Approval	Seattle Department of Neighborhoods and Landmarks Preservation Board	SMC 23.47	Alterations to designated landmarks.	Section 5.3.3
Clearance Permit	Seattle City Light	N/A	Utility relocation, substation modification, transmission outage request, and feeder clearance permit.	Section 5.4.1
Discharge of Construction Dewatering	King County	KCC 28.84	Discharge of construction dewatering to the sanitary sewer system.	Section 6.1.1
Railroad Right-of-Way Use Approval	Burlington Northern and Santa Fe	N/A	Use of the railroad right-of-way.	Section 6.2.1
Electrical Transmission Outage Request	Puget Sound Energy	N/A	Temporary shut down of the regional electrical grid.	Section 6.3.1

Appendix B

Summary Permit Timeline

The summary permit timelines in Appendix B are the meant to generally show the timeframes for obtaining permit and to show some of the interrelationships between permits. The timelines for the utility relocation are set up to end with permits in hand on February 1, 2008; the approximate timeframe for needing to start the utility relocation work. The timelines do not account for any extended appeals of permits or approvals. The seawall test section timeline is set up to end on November 14, 2007; the approximate timeframe for beginning this work. Similar to the utility relocation, this timeline does not account for any appeals. This schedule is not as yet tied to the actual project schedule (this is one of the next steps). As the design progresses and it becomes clear how the project will be constructed, the permit schedule can be revised to reflect how permits will be obtained for the actual construction sequencing.

Seawall Test Section Permit Timelines



Date: Wed 4/12/06	Task		Milestone		External Tasks	
	Split		Summary		External Milestone	
	Progress		Project Summary		Deadline	

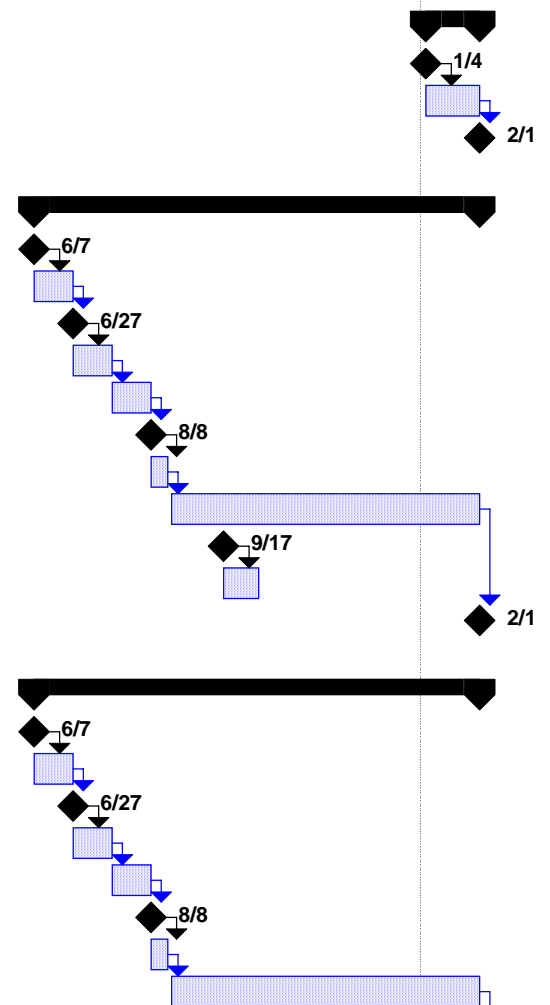
Seawall Test Section Permit Timelines

ID	Task Name	Duration	2007												2008		
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
59	Seattle Side Sewer Permit	187 days															
60	Submit application	0 days															
61	Review application for completeness	15 days															
62	Request for additional information	0 days															
63	Applicant respond to request and submit info	15 days															
64	Completeness review continues	15 days															
65	Application deemed complete	0 days															
66	Public notice	7 days															
67	Permit review	80 days															
68	Request for additional information	0 days															
69	Applicant respond to request and submit info	15 days															
70	Permit review continues	40 days															
71	Permit issued	0 days															
72																	
73	Seattle Street Use Shoring Review	187 days															
74	Submit application	0 days															
75	Review application for completeness	15 days															
76	Request for additional information	0 days															
77	Applicant respond to request and submit info	15 days															
78	Completeness review continues	15 days															
79	Application deemed complete	0 days															
80	Public notice	7 days															
81	Permit review	80 days															
82	Request for additional information	0 days															
83	Applicant respond to request and submit info	15 days															
84	Permit review continues	40 days															
85	Permit issued	0 days															
86																	
87	Seattle Street Use Utilities Permit	187 days															

Date: Wed 4/12/06	Task		Milestone		External Tasks	
	Split		Summary		External Milestone	
	Progress		Project Summary		Deadline	

Utility Relocation (In-Water Work) Permit Timelines

ID	Task Name	Duration	2007												2008			
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
117	Permit issued	0 days																◆ 2/1
118																		
119	King County Dewatering Discharge Approval	21 days																◆ 1/4
120	Submit request	0 days																◆ 2/1
121	Review of request	21 days																
122	Approval of request	0 days																
123																		
124	Seattle Side Sewer Permit	172 days																
125	Submit application	0 days																
126	Review application for completeness	15 days																
127	Request for additional information	0 days																
128	Applicant respond to request and submit info	15 days																
129	Completeness review continues	15 days																
130	Application deemed complete	0 days																
131	Public notice	7 days																
132	Permit review	120 days																
133	Request for additional information	0 days																
134	Applicant respond to request and submit info	15 days																
135	Permit issued	0 days																◆ 2/1
136																		
137	Seattle Street Use Shoring Review	172 days																
138	Submit application	0 days																
139	Review application for completeness	15 days																
140	Request for additional information	0 days																
141	Applicant respond to request and submit info	15 days																
142	Completeness review continues	15 days																
143	Application deemed complete	0 days																
144	Public notice	7 days																
145	Permit review	120 days																



Date: Wed 4/12/06	Task		Milestone		External Tasks	
	Split		Summary		External Milestone	
	Progress		Project Summary		Deadline	

Utility Relocation (In-Water Work) Permit Timelines

76 Seattle Master Use permit

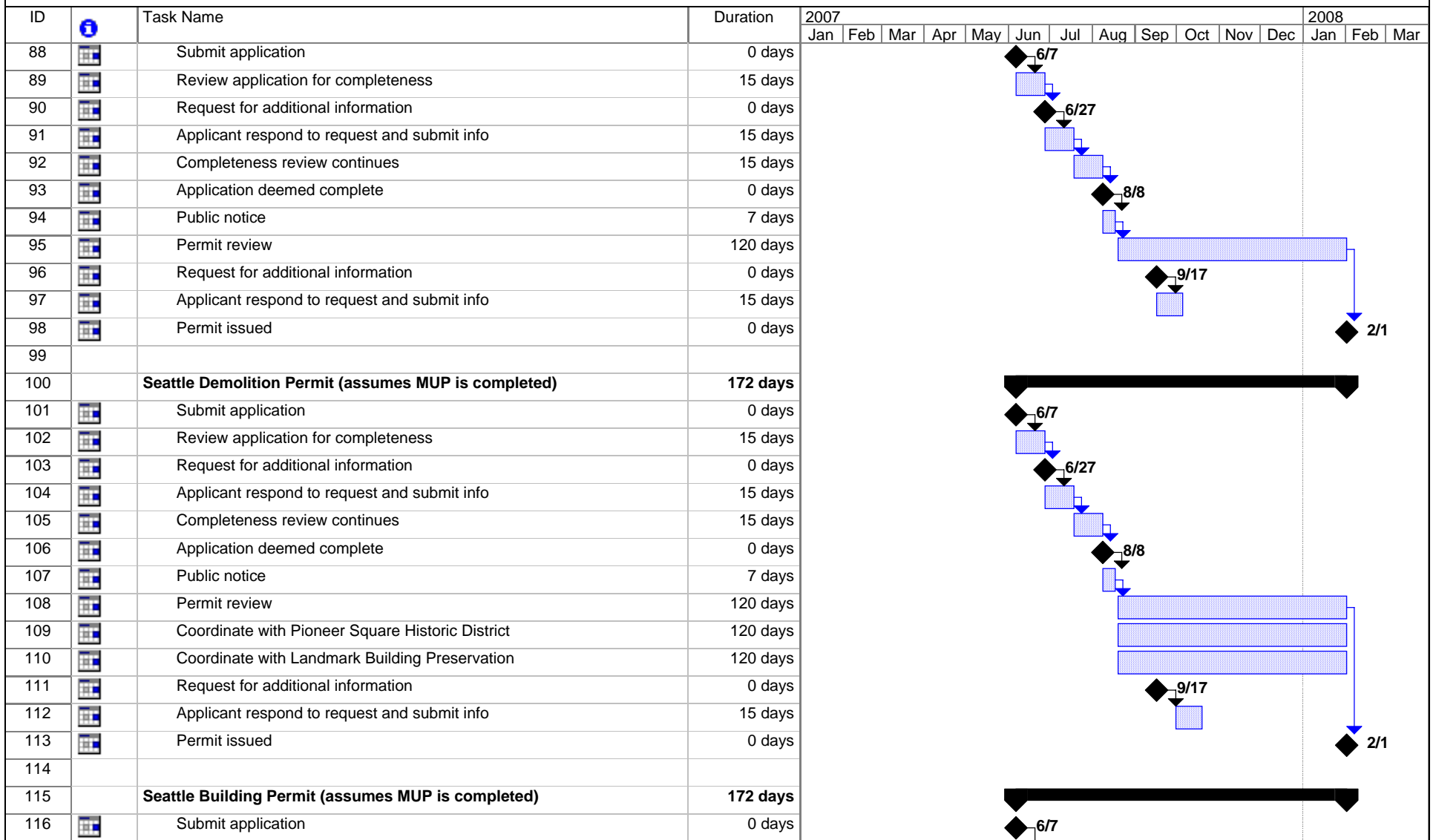
Note: The MUP process can be performed in two ways: (1) It can be done independently of other permits, for example, to complete SEPA and the MUP process and then come in later to submit other permit applications, or (2) It may encompass other City permits such as building and demolition in the MUP review, in which case the timelines for those permits as listed in this timeline do not apply.

Utility Relocation (No In-Water Work) Permit Timelines

ID	Task Name	Duration	2007												2008				
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar		
59	Approval of request	0 days																	◆ 2/1
60																			
61	Seattle Side Sewer Permit	172 days																	
62	Submit application	0 days																	
63	Review application for completeness	15 days																	
64	Request for additional information	0 days																	
65	Applicant respond to request and submit info	15 days																	
66	Completeness review continues	15 days																	
67	Application deemed complete	0 days																	
68	Public notice	7 days																	
69	Permit review	120 days																	
70	Request for additional information	0 days																	
71	Applicant respond to request and submit info	15 days																	
72	Permit issued	0 days																	◆ 2/1
73																			
74	Seattle Street Use Shoring Review	172 days																	
75	Submit application	0 days																	
76	Review application for completeness	15 days																	
77	Request for additional information	0 days																	
78	Applicant respond to request and submit info	15 days																	
79	Completeness review continues	15 days																	
80	Application deemed complete	0 days																	
81	Public notice	7 days																	
82	Permit review	120 days																	
83	Request for additional information	0 days																	
84	Applicant respond to request and submit info	15 days																	
85	Permit issued	0 days																	◆ 2/1
86																			
87	Seattle Street Use Utilities Permit	172 days																	

Date: Wed 4/12/06	Task		Milestone		External Tasks	
	Split		Summary		External Milestone	
	Progress		Project Summary		Deadline	

Utility Relocation (No In-Water Work) Permit Timelines



Date: Wed 4/12/06	Task		Milestone		External Tasks	
	Split		Summary		External Milestone	
	Progress		Project Summary		Deadline	

Utility Relocation (No In-Water Work) Permit Timelines

26 Seattle Master Use permit

Note: The MUP process can be performed two ways; (1) It can be done independently of other permits, for example, to complete SEPA and the MUP process and then come in later to submit other permit applications, or (2) It may encompass other City permits such as building and demolition in the MUP review, in which case the timelines for those permits as listed in this timeline do not apply.