CHELAN COUNTY

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LETTER OF EXEMPTION
FROM SHORELINE MANAGEMENT ACT
SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENTS

TO: Mike Kane
Chelan County Natural Resources Department
316 Washington St., Suite 401
Wenatchee, WA 98801

File #: SE 2012-145, Culvert Removal and Bridge Placement, Chumstick Creek

Your Proposal to Undertake the Following Development: The proposed project is to remove six culverts that are fish passage barriers in Chumstick Creek: 3 small culverts at the Johnson/Ott crossing; 2 at the Baumann crossing; and one at the Cann crossing. These six culverts will be replaced with three channel spanning bridges to provide landowner access. Attachment F includes the construction drawings. Attachment G contains photos of the existing culverts and driveway crossing.

During construction of the Ott/John bridge, access to the Hopper and Sauer properties will not be interrupted. Access to the Ott/Johnson parcels will be through an existing driveway on the Schwartz parcel located north of the project area. There is an existing access road along the base of the hillside so temporary access road improvements will not be necessary.

Some vegetation within the construction footprint will be cleared to provide access to the work area and tree removal as specified on the construction plan sheets. For example, excavation limits and tree removal are depicted on Ott Sheet 4. At the Ott site, one alder with several small DBH basal trunks will be removed near the NW corner of the proposed bridge. If possible, larger shrubs will be salvaged, watered and replanted. Where salvage is not possible, shrub and tree vegetation removed will remain on site and be incorporated into the modified stream banks to add bank roughness, provide weed suppression and facilitate revegetation.

Sheet 3 identifies upland staging areas for equipment and material storage. At the Ott site, all construction materials and equipment will be staged in the NE corner of the project area in an upland area.

Coffer dams will be installed upstream and downstream of the work area to isolate the work area (Sheet 3 Ott and Sheet 4 Baumann/Cann). Coffer dams will consist of sand or gravel filled bags wrapped in 10 ml plastic sheeting as detailed on the plans. Fish will be removed from the work area following NOAA de-watering protocols as outlined in the Habitat Improvement Project Biological Opinion. Water will be diverted around the work area. Once the work area is isolated, the culvert and associated fill will be removed using a backhoe or excavator. Once the culvert and surround fill have been removed, equipment will re-shape the stream bed and stream bank to match existing contours. The earthwork area within the stream will be isolated from flows (as described above) during this process to minimize downstream turbidity.

At the Ott site, grading within the stream bed and banks will be limited to 15 feet upstream and downstream of the bridge to match back into existing stream contours (Sheet 4). There will be a rock retaining wall placed upstream and downstream of the bridge abutments to protect the bridge during high flow events. The retaining wall will be built from boulders (or similar sized pre-cast concrete blocks) and it will extend 5-10 feet beyond the abutment up and downstream. The retaining wall will be placed with a backhoe or excavator. The reconstructed channel will be lined with a 12" layer of naturally occurring rounded rock as stream bed gravel material. For more specific details, see the plans for the Ott bridge in Attachment F.

All work will occur within the 100 year floodplain; however, the bridge is designed to pass the 100 year event. The bottom of the Ott bridge deck is 1.5 foot above the 100 year flood elevation.

Bridge footings and abutments will be placed using an excavator or a crane. The abutments will be pre-cast to eliminate any chances of cement entering the creek.

Baumann/Cann Bridge

During construction of the Baumann culvert, the Cann driveway will be used for access to the Baumann property (Sheet 3). Access road improvements through the field will not be necessary since construction will occur during the dry season. During construction of the Cann bridge, the Cann parcel will be accessed through an existing alternative access location on their property to the north.

Some vegetation within the construction footprint will be cleared to provide access to the work area and tree removal is specific on the construction plan sheets. For example, excavation limits and tree removal are depicted on Baumann Street 5, and Cann Sheet 7. At the Baumann site, none of the trees surveyed (<6" DBH) will be removed. However, there will be some shrubs removed including Hawthorne (Crategus douglassii), willow (Salix spp.), red osier dogwood (Cornus sercea) and smaller alders (alnus incana). At the Cann site, trees located between the existing culvert and the road will not be removed, but just filled around the base. Sheet 7 depicts surveyed alder on the north side of the stream that will be removed as a result of construction. In addition, smaller DBH shrubs including blue elderberry, Hawthorne, and shrub-sized alder will be removed within the limits of excavation. If possible, larger shrubs will be salvaged, watered and re-planted. Where salvage is not possible, shrub and tree vegetation removed will remain on site and be incorporated into the modified stream banks to add bank roughness, provide weed suppression and facilitate revegetation.

Sheet 3 identifies upland staging areas for equipment and material storage. At the Baumann/Cann sites, staging will occur in upland areas located north of the stream and wetland boundaries.

Coffer dams will be installed upstream and downstream of the work area to isolate the work area (Sheet 4 Baumann/Cann). Coffer dams will consist of sand or gravel filled bags wrapped in 10 ml plastic sheeting as detailed on the plans. Fish will be removed from the work area following NOAA de-watering protocols as outlined in the Habitat Improvement Project Biological Opinion. Water will be diverted around the work area. Once the work area is isolated, the culvert and associated fill will be removed using a backhoe or excavator. Once the culvert and surrounding fill have been removed, equipment will re-shape the stream bed and stream bank to match existing contours. The earthwork within the stream will be isolated from flows (as described above) during this process to minimize downstream turbidity.

At the Baumann site, grading within the stream bed and banks will extend approximately 30 feet upstream and 60 feet downstream of the bridge to match bank into existing stream contours (Sheet 5 Baumann plans).

At the Cann site, grading within the stream bed and banks will extend approximately 40 feet upstream and 60 feet downstream of the bridge to match back into the existing stream contours (Sheet 5). In addition, the stream centerline will shift approximately 17.25 feet northwest of its current location to

avoid County right-of-way (see additional explanation in Section 8A). For more specific details, see Sheets 7 and 8 of the Cann plans).

At both the Baumann and Cann bridges, the retaining walls will consist of pre-cast concrete to accommodate the 12 foot deep cut slope which results in steeply sloped banks. If the banks were left at a 2:1 slope, then the slope would extend into County right-of-way and the existing fiber line (see Section 8A for more information). There will be channel re-shaping at the downstream end of each bridge to restore a more natural channel shape. The current channel below each culvert is over-widened due to the exacerbated scour conditions that result from high stream flows releasing from the constricted pipe. The channel bed will be re-constructed using stream bed gravel material, top soil and bioengineered elements. Bioengineering may consist of placing logs and/or rocks in the stream bed for grade control, placing salvaged shrubs and trees within the streambed fill material, using sedge mats staked in along the length of the channel and re-vegetation.

Chelan County Natural Resources Dept; US Bureau of Reclamation and/or USFWS staff will be on-site to guide the contractor for the channel re-construction. Agency staff will use reference reach conditions to design and construct the channel re-location and re-grading to ensure that there will be stable channel dimensions. Stream channel design will follow techniques used on nearby successful projects such as the Lemmons III culvert removal in 2009 and the Schiebler culvert removal and stream bed re-construction in 2011.

Re-vegetation will include placing erosion control fabric, as needed, seeding and installing native trees and shrubs. For more specific details, see Sheets 5-8 of the Baumann-Cann plans.

All work will occur within the 100 year floodplain, however, the bridge decks are designed to span the 100 year event. The bottom of the Baumann bridge deck is 4.5 feet above the 100 year water surface elevation. The bottom of the Cann bridge deck is 5.08 feet above the 100 year water surface elevation.

All bridge footings and abutments will be placed using an excavator. The abutments will be pre-cast to eliminate any chances of cement entering the creek.

Photos in Attachment G document the stream channel constrictions with the existing culverts. The existing culverts are partial fish passage barriers so removing them and replacing them with bridges will improve fish passage in Chumstick Creek. Restoring fish passage to Chumstick Creek started in 2001 and since then 29 fish passage barriers have been removed. Chumstick Creek contains steelhead trout which are listed as endangered under the Endangered Species Act. Thus, restoring access to upper Chumstick Creek provides year around access to over 8 miles of rearing and spawning habitat for resident and anadromous fish species.

The project has been designed to avoid and minimize wetland impacts. All staging and storage will be located in upland areas on site. Grading and clearing has been limited to the minimum amount needed to remove the existing culverts and replace them with channel spanning structures. Grading limits and work areas will be staked or flagged in the field so that work does not occur outside of the designated footprint. Wetland impacts are depicted on graphics included in Attachment F at the end of the site plans.

The wetlands and the downstream end of the Baumann and Cann bridge are present because of high water scour releasing from the constricted pipe. The soils are also compacted due to cattle grazing and watering in the creek. This project will restore more natural stream bed morphology in this area.

There will be 996 square feet (0.02 acres) of earthwork in wetlands resulting from this project. Floodplain wetland areas will remain jurisdictional areas; however, they will be converted to stream habitat. The bridge footings will be placed within the existing road fill footprint so the removal and fill within wetlands and waterways is just to restore the natural stream channel. Following completion of earthwork, all impact areas will be graded to match adjacent contours. The project itself is mitigation

because it improves fish passage in Chumstick Creek and restores natural hydrologic function. This project will remove stream bed fill under the road footprint and create approximately 1,200 square feet (0.027 acre) of additional stream bed where the culvert is removed and the stream habitat is opened up to a free flowing stream bed.

There will be no wetland fill associated with the replacement of the Ott culvert with a bridge. The wetland fill associated with the Baumann and Cann bridges will restore natural channel shape and function. Currently, floodplain/riparian Wetlands D and F are present due to scour where constricted stream flow releases from the undersized culvert. Materials placed to restore the natural channel shape consist of stream bed gravel.

To replace the Ott culvert with a bridge will require 1 cubic yard of removal within the streamside wetland. Materials consist of stream bed gravels and native floodplain soils.

The project has been designed to avoid and minimize impacts to Chumstick Creek. All staging and storage will be located in upland areas on site. Grading and clearing has been limited to the minimum amount needed to remove the existing culverts and replace them with channel spanning structures. Grading limits and work areas will be staked or flagged in the field so that work does not occur outside of the designated footprint.

The Baumann and Cann bridges were designated to avoid bridge placement within County right-of-way and the "clear zone distance" of the road. The reason for this is to avoid requirements for guard rail and the related issues that this causes for the project. The current guard rail is sub-standard and to replace the guard rail up to today's standards will require replacing it for a much longer length than just within the project corridor. Guardrail installation methods will impact the national fiber optic line that runs between Chicago and Seattle and it is located within the County right-of-way under the Chumstick Highway shoulder. Any construction close to the fiber optics requires extensive design, review and on-site inspection. In addition temporary relocation or replacement is unacceptably expensive.

All areas where vegetation is removed for construction will be re-planted; see the second Sheet 6 of 6 in the Ott plan set. In addition, CCNRD has funds from Department of Ecology to plant native riparian vegetation in a larger area than the impact area. In total, 1.66 acres of riparian area will be planted on the Ott, Baumann and Cann parcels. Riparian areas will be planted with 1280 native shrubs and trees including alder; cottonwood; Hawthorne; willow; dogwood; blue elderberry; snowberry and rose. There is a graphic depicting the location of riparian plantings and the number of each species at the end of the plan sheets in Attachment F.

Fill will consist of the following materials: retaining walls will consist of boulders or pre-cast concrete blocks. Stream bed material backfill will consist of 12" of streambed gravel with the gradation specified on Sheet 5 Ott, Sheet 6 Baumann and Sheet 8 Cann. There will also be backfill at the base of the concrete bridge footings that consists of Class A gravel backfill.

Stream bed excavation will be backfilled as described above. Stream bed excavation will be completed with an excavator and dump trucks. Material will be disposed in upland areas off-site.

Described In JARPA and Plans Received: June 12, 2012.

Upon The Following Shoreline of Statewide Significance: The proposal is located within the Rural Residential/Resource 5 (RR5) zoning district. The project is located adjacent to Chumstick Creek, which is a fish bearing stream. From Leavenworth, drive north on Chumstick Highway (SR 209) for approximately 8 miles. The Johnson/Ott driveway is the first driveway on the left after crossing under the railroad bridge. The Cann driveway is just past the Baumann driveway.

According to the Shoreline Substantial Development Permit Requirement of the SMA/CCSMP per WAC 173-27-040 (1):

(a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
(b) An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.
(c) The burden of proof that a development or use is exempt from the permit process is on the applicant.
(d) If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
(e) Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and the local master program.

Is Exempt From The Shoreline Substantial Development Permit Requirement of the SMA/CCSMP per WAC 173-27-040(2) (p): A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

(i) The project has been approved in writing by the department of fish and wildlife;
(ii) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and
(iii) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows:

(A) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (p)(iii)(A)(I) and (II) of this subsection:

(I) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

- **Elimination of human-made fish passage barriers, including culvert repair and replacement;**
- Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department of fish and wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(II) A fish habitat enhancement project must be approved in one of the following ways:

- By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW;
- **By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;**
- By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project;
- Through the review and approval process for the jobs for the environment program;
- Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;
- **Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and**
- Through other formal review and approval processes established by the legislature.

(B) Fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW43.21C.030 (2)(c).

(C)(I) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department of fish and wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department of fish and wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.
(II) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.

(D) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(A) of this subsection and that are reviewed and approved according to the provisions of this section.

This Exemption Shall Comply With The Following:

1. Prior to commencement of this project, the applicant shall obtain any necessary aquatic permits from agencies with jurisdiction which may include, but is not limited to: the Washington State Department of Fish and Wildlife, the Army Corps of Engineers, and the Washington State Department of Ecology.

2. The entire project, throughout its duration, shall comply with the Shoreline Management Act (RCW 90.58), the Washington Administrative Code, the Chelan County Shoreline Master Program (CCSMP), and Chelan County Code, Title 11.
3. A copy of this exemption and attached conditions shall be kept on-site and provided to the contractor, and all others working within the shoreline/project area at all times. The applicant, contractor, machinery operators and all others working within the shoreline/project area shall have read this exemption and attached conditions and shall follow its conditions at all times.
4. The applicant shall ensure that Best Management Practices are followed during the entire length of the Upper Chumstick Creek fish passage project.
5. If the design and implementation plan change in any way after the signing of this exemption, the final design plans and an explanation of the changes shall be submitted to Chelan County Community Development, prior to commencing the upper Chumstick Creek fish passage project.
6. Any waste materials generated by this project shall be transported and disposed of at an appropriate upland site, outside shoreline jurisdiction, as well as outside any wetland and associated buffers.
7. At all times, the applicant/contractor shall ensure that no cement, silts, runoff water, form oil, or other deleterious materials enter the creek during this investigation. Proper control measures shall be taken to prevent foreign matter from entering Chumstick Creek.
8. Prior to this activity, all materials used near the creek shall be cleaned of mud, dirt, and other material that could temporarily degrade water quality within the project area.
9. Prior to entering the project area, all equipment shall be checked for leaks and cleaned free of any external petroleum products, hydraulic fluid, machinery coolants, dirt, weeds both aquatic and terrestrial, weed seeds, and/or any other deleterious materials. Equipment shall be maintained throughout all stages of construction/installation and the duration of the project.
10. The applicant shall comply with all work as described within the JARPA and the detailed site plan date stamped June 12, 2012, within the file of record for SE 2012-145.
11. If the applicant or his agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/agent shall immediately stop work and notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
12. This exemption shall be valid, for the activities described within the JARPA dated June 12, 2012 only, through July 2014.

The Proposed Development Is Consistent ~~Or Inconsistent~~ With:

	CONSISTENT	INCONSISTENT
Policies of the Shoreline Management Act	(X)	( )
The Chelan County Shoreline Master Program	(X)	( )

DATE: August 2, 2012

Jeffrey S. Wilson, AICP
Shoreline Administrator

NOTE: This activity does not require a Shoreline Substantial Development Permit from Chelan County; it is exempt. This activity is categorically exempt from the State Environmental Policy Act (SEPA) requirements. Shoreline Exemptions are based only on the plans and application materials, noted above, received from the applicant. Any changes shall be reviewed by this department to ensure continued compliance with the goals, policies and requirements of the Shoreline Management Act and the Chelan County Shoreline Master Program and to ensure that the exemption is still valid. The applicant is responsible for circulating his/her application materials to jurisdictional agencies and obtaining and complying with all federal, state and local permits required.

Cc: Constance Iten, Washington State Department of Fish and & Wildlife
David Martin, U.S. Army Corps of Engineers
Joanne Gardiner, U.S Army Corps of Engineers
Gary Graff, Washington State Department of Ecology
Cindy Preston, Department of Natural Resources
Dave Woody Yakama Nation
Camille Pleasants, Colville Reservation