

ANALYSIS OF HB 2802

House Agriculture & Ecology Committee

January 28, 1998

BACKGROUND:

Any person who conducts a commercial or industrial operation which results in solid or liquid waste material being discharged into the waters of the state, and any county or municipal corporation operating a sewerage system which results in the disposal of waste material into the waters of the state must obtain a waste disposal permit from the Department of Ecology. The Department of Ecology is required to send notice of all permit applications to the Director of the Department of Fish and Wildlife and the Secretary of Social and Health Services. A permit may not be issued if the Department of Ecology finds that the disposal of waste will pollute the waters of the state in violation of the state's policy to insure the purity of all waters of the state consistent with public health and public enjoyment of the water, and the propagation of wild life, birds, game, fish, and other aquatic life, and the industrial development of the state.

The federal Clean Water Act requires discharges of pollution into water from a point source to be made pursuant to a national pollution discharge elimination system (NPDES) permit which puts limits on the effluent. These permits are to assure water quality is maintained so that there is protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow for recreational uses in and on the water. The Department of Ecology is responsible for administering the provisions of the federal Clean Water Act, including enforcing water quality standards.

In general, any construction of a hydraulic project or the performance of any work that will use, divert, obstruct, or change the natural flow or bed of any fresh or salt water in the state requires the approval of the Department of Fish and Wildlife. The bed of fresh or salt water is defined as the land below the ordinary high water line of state waters.

The Department of Fish and Wildlife may only consider the protection of fish life as a ground upon which to deny or condition the approval of the hydraulics permit. The Department may not unreasonably withhold approval of the project or work. The exemptions from obtaining a hydraulics permit do not include work requiring a NPDES permit or wastewater discharge permit.

SUMMARY:

Hydraulics permits are only required for work located below the ordinary high water mark of state waters.

Any work located below the ordinary high water mark which requires a national pollution discharge elimination system (NPDES) permit under the federal Clean Water Act or a wastewater discharge permit from the Department of Ecology under the water pollution control

laws does not require hydraulics permit approval from the Department of Fish and Wildlife.