

October 23, 2020

Mike Kaputa  
Chelan County Department of Natural Resources Director / SEPA Responsible Official  
411 Washington Street, Suite # 201  
Wenatchee, WA 98801

**RE: CCC 11.78.110 Habitat Management & Mitigation Plan - Timing and Implementation of Mitigation for Wheeler Ridge, LLC Section 17 Proposed Orchard Development**

Dear Mr. Kaputa,

This letter provides additional information regarding the timing and implementation of the mitigation proposed in our conceptual Habitat Management & Mitigation Plan (“HMMP”) per Chelan County Code 11.78.100 for the Wheeler Ridge Section 17 orchard project (the “Project”). For quick reference, we have attached CCC 11.78.020 (Exemptions) and CCC 11.78.100 below. See ATTACHMENT 2. We respectfully request that the County condition the Project, including the final HMMP, on the proposed mitigation timing and sequence in **Table 1** below.

With regard to mitigation timing, CCC 11.78.100(C) states:

*Mitigation shall be completed prior to granting of final occupancy, or the completion of final approval of any development activity for which mitigation measures have been required. Bonding at one hundred fifty percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. Bonding shall be in effect for a maximum of two years.*

As contemplated in CCC 11.78.100(C), the Project is comprised of multiple “development activities,” including timber harvest, completion of the orchard wildlife fencing, orchard planting, construction of the housing, storage and maintenance buildings (site development) and orchard operations (maintenance, harvest, etc.), each of which has associated impacts and “mitigation measures.” **Table 1** below provides specific details of Development Activities (e.g., timber removal, orchard planting / site development, orchard operations) and associated Mitigation Measures (e.g., removal of illegal roads). The Project’s Development Activities are broken down into four enumerated phases in **Table 1** with corresponding Mitigation Measures. We propose that the County condition the Project such that all proposed Mitigation Measures associated with a Phase must be completed or bonded for prior to commencing the Development Activities associated in the next Phase. Per CCC 11.78.100(C), bonding will be provided in conjunction with Phase 1 and updated as necessary throughout the Project to ensure that all Mitigation Measures will be completed in a timely efficient manner.

The mitigation referenced in **Table 1** is detailed in our November 8, 2019 Critical Area Report Wildlife Mapping & Management Plan conceptual mitigation plan (“Conceptual Plan”), and we have made an effort to cross-reference the Conceptual Plan for ease of reference. Our Conceptual Plan is based on best available science and proposes reasonable measures to avoid or mitigate potential impacts to critical areas, including wildlife habitat, as well as compliance with applicable local, state, and federal regulations. The mitigation in the Conceptual Plan was developed in accordance with the mitigation sequencing requirements in CCC 11.78.015 and the WDWF replacement ratios (*i.e.*, 1:1 on-site on 2:1 offsite) for impacts on both Section 16 and Section 17. See Conceptual Plan, p. 36. These measures will be included in our final HMMP to ensure that there are no significant impacts on wildlife or habitat. Our Conceptual Plan has undergone extensive review and comment by the Washington Department of Fish & Wildlife (WDFW) over the past year. Though not required by code, we collaborated with WDFW on our Conceptual Plan prior to formal submittal to the County, in order to avoid costly and inefficient revisions post-submittal. On March 17, 2020 WDFW sent the attached email supporting our Conceptual Plan with the understanding that specific timing and implementation details would be forthcoming. See ATTACHMENT 1.

Upon issuance of a new SEPA threshold determination for the Project, our team will revise the Conceptual Plan to address comments and SEPA conditions and submit a final HMMP that meets the substantive requirements in CCC 11.78.100(2)(A)&(B). Our project team is currently preparing the final HMMP, and we anticipate submitting it in November 2020, which will commence the formal County review process and (we hope) the 14-day WDFW review period in CCC 11.78.100(2)(B)(iv).

For the final HMMP, the proposed timing and implementation of substantive mitigation activities in **Table 1** will ensure that mitigation is integrated in a balanced, logical manner so as to avoid, minimize, and mitigate associated impacts as they arise and “prior to . . . the completion of final approval of any development activity for which mitigation measures have been required,” per CCC 11.78.100(C). For example, in Phase 2 the proposed mitigation planting and habitat restoration within Section 17 will be integrated and occur contemporaneously with orchard planting as materials, equipment, labor and seasonal considerations for both activities are highly similar. Conversely, it would not make sense to do mitigation planting or habitat restoration in areas that might be disturbed by Phase 1 Development Activities such as timber harvesting or installation of irrigation facilities and utilities. In turn, the associated Mitigation for Phase 2 will be completed or bonded for per CCC 11.78.100(C) prior to commencing the Phase 3 Development Activities, which are limited to areas within the Project’s fenced orchard polygons and thus will not disturb the restored habitat areas outside of the fenced orchard units.

**Table 1. - Wheeler Ridge Section 17 Orchard Project Habitat Management & Mitigation Plan Timing & Sequence**

Development Activities	Mitigation Measures <sup>1</sup>
<p><b>Phase 1:</b> Conduct maintenance / repair/ operation of existing County roads in Section 16 and Section 17 to remove 1,460 mbf of timber on Section 17; remove 30 mbf of timber on Section 16 within recorded easements to install utilities, irrigation pipelines and make road improvements; install 12-inch buried irrigation pipeline and 8-inch buried irrigation pipeline from Section 9 within the Section 16 easement to Section 17; install three buried power distribution utility line and associated vaults within the Section 16 easement to connect to the shop / storage building / seasonal housing / fuel station on Section 17; install two 15-inch culverts in existing private roads on Section 17 per WDNR requirements; and conduct rock extraction / crushing from private rock pit on Section 9 and / or Section 17 for maintenance of existing County roads.</p>	<ul style="list-style-type: none"> <li>• Stake out habitat restoration areas identified on Section 17 in HMMP prior to commencing any site-disturbing activities</li> <li>• Install Habitat Management Areas Signs on Section 17</li> <li>• Delineate / mark critical area buffers with wildlife fence stakes in Section 17</li> <li>• Close ~5,200 linear-foot illegal road heading Southwest from the East Section 16 / Section 17 boundary line toward the perennial stream located between orchard polygon units #1 and #3 (pp. 28-35)</li> <li>• Install no trespassing signs and a locked gate to prevent vehicular access to closed illegal road</li> <li>• Post bonds for mitigation plantings to be installed in Phase 3 per CCC 11.78.100(C)</li> </ul>
<p><b>Phase 2:</b> Prepare ground for orchard planting; construct 9.9 acre foot reservoir; construct road improvements in existing roads in Sections 16 and 17; re-route and construct portion of County road in Section 17; install irrigation pumping facilities; relocate 1,500 linear feet of existing non-motorized trail within Section 17; and complete construction of 8-foot tall wildlife fence around each orchard polygon per WDFW's design requirements.</p>	<ul style="list-style-type: none"> <li>• Smooth out ruts, rehabilitate soil, and de-compact approximately 42-acres of degraded wetland and meadow habitats (pp. 30-31)</li> <li>• De-compact ~5,200 linear feet of illegal roads and prepare same for restoration and native plantings (pp. 28-35)</li> <li>• Complete 8-foot wildlife fence around the orchard development to avoid human-wildlife conflict and crop damage (WDFW requirement)</li> <li>• Preserve elk and other wildlife permeability via wildlife corridors that provide direct access to protected wildlife habitat on Section 16 and Section 20 (pp. 31)</li> <li>• If necessary, update bonds for mitigation plantings to be installed in Phase 3 per CCC 11.78.100(C) to ensure two year requirement is met</li> </ul>

<sup>1</sup> The Mitigation Measures identified below are listed in the SEPA Checklist and the Conceptual Plan. All references to page numbers refer to the Conceptual Plan. References to HMMP in the Mitigation Measures refer to the approved HMMP.

<p><b>Phase 3:</b> Plant three orchard polygons totaling 260 acres with internal orchard roads and grass planted between each row; construct loading docks within Section 17; and construct 24-person seasonal housing, 5,000 sf shop / storage building / fuel station in 2-acre area of orchard polygon # 1 per site plan.</p>	<ul style="list-style-type: none"> <li>• Plant native vegetation in the restored road, wetland and habitat restoration / improvement areas per HMMP (pp. 28-35)</li> <li>• Plant ~42 acres of native plants known to be nutritious to elk and other wildlife for habitat enhancement (p. 35)</li> <li>• Replant areas disturbed during site preparation with “like” native species per HMMP (p. 35)</li> <li>• Install stabilization and erosion control measures for wetland and Ns stream areas identified in Monitoring &amp; Evaluation Plan (p. 35)</li> <li>• Record conservation easement on 360-acre portion of Section 17 outside of orchard polygons upon completion of mitigation plantings thereby establishing Conservation Area</li> </ul>
<p><b>Phase 4:</b> Orchard Operations &amp; Maintenance (ongoing for life of project): harvesting fruit each summer; pruning; weed control; compost application and fertilizing; and maintaining existing roads.</p>	<ul style="list-style-type: none"> <li>• Implement Monitoring and Evaluation Plan (“M &amp; E Plan”) per HMMP to adaptively manage Conservation Area to enhance elk habitat, elk use and other wildlife use (<i>i.e.</i>, provide watering troughs and increase forage areas)</li> <li>• Adaptive management will be the result of site-specific studies on Section 17 and design work to gain an expert understanding of vegetation community management and wildlife needs (pp. 31-32; 35)</li> <li>• In wetland and Ns stream areas where erosion control measures were installed in Phase 3, ensure that not more than 15% bare soil surface or gully erosion persists after year 5 (p. 35)</li> <li>• Conservation Area Management will be provided in the HMMP but generally includes managing native forest plant communities to increase cover by meadows for foraging; ensure appropriate cover for elk calves to hide (3-4 weeks after birth); thin forested areas to increase total number of acres for “Green-Up”; and reduce fire risk to wildlife by applying USFS/WDNR forest health recommendations</li> <li>• M &amp; E Plan performance standards will require any replanted areas to achieve 80% cover by natives plant species (including canopy layers) by the end of the 5-year monitoring period (p. 35)</li> <li>• During calving season (May-June), orchard management activities are minimal. Orchard staff will be educated about the purpose and function of the Conservation Area to avoid / minimize inadvertent wildlife disturbances during calving season (p. 32)</li> <li>• Wildlife cameras will be deployed strategically throughout Section 17 to document spring / summer annual elk and other wildlife use for a 5-year period (p. 35)</li> </ul>

We note that some of the activities associated with the Project (e.g., timber harvest, construction of pumping stations and irrigation facilities, maintenance / repair / use of existing roads, and implementation of our proposed mitigation) fall within the following exemptions from the HMMP requirements per CCC 11.78.020:

*(1) Those activities under the regulation of the Forest Practices Act (Chapter 76.09 RCW, WAC Title 222) on which the county cannot condition a forest practice application;*

*(2) The maintenance or construction of pumping stations and irrigation facilities.*

...

*(5) Maintenance, reconstruction, repair or operation of existing streets, highways or roads; [and]*

....

*(16) Restoration/rehabilitation of fish and wildlife habitat which meets the approval of the Washington State Department of Fish and Wildlife.*

We understand that these activities may nevertheless be subject to SEPA mitigation but are not required to be part of the final HMMP, though the HMMP may have the effect of mitigating such activities. We highlight this solely to ensure that mitigation required for such activities is not required to be part of the HMMP and that activities that are exempt from CCC 11.78.100 may commence prior to issuance of the HMMP, subject to compliance with applicable regulations, SEPA conditions and the issuance of any required permits.

In sum, our proposed HMMP mitigation plan will integrate habitat protection and restoration activities concurrent with the Project's Development Activities. This approach was developed to address a variety of natural resource concerns while ensuring the Project moves forward efficiently. Our team understands that in order to implement any component of the Project, Wheeler Ridge will need to obtain all necessary permits and comply with various laws and regulations. We thus respectfully request that the County condition the Project, including the final HMMP, consistent with this letter.

Please do not hesitate to contact me at (509)669-0729, if you have any follow up questions.

Sincerely,



Ben Alworth, Wheeler Ridge, LLC

Cc: Kyle Mathison, Member of Wheeler Ridge, LLC  
Ken Harper, Chelan County Legal Counsel, MJBE  
Camie Anderson, The Shockey Group Planner  
Aaron Laing, Wheeler Ridge, LLC Legal Counsel  
Charity Duffy, SCJ Alliance Planner

## ATTACHMENT 1

### March 17, 2020 WDFW EMAIL

#### Alworth, Ben

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**From:** Alworth, Ben  
**Sent:** Tuesday, March 17, 2020 10:57 AM  
**To:** Andonaegui, Carmen (DFW)  
**Cc:** Moore, William R (DFW); Charity Duffy; John Lehmkuhl; Pentico, Eric D (DFW)  
**Subject:** RE: [External]Re: S17 WDFW Meeting Notes - 2020-03-16 Phone Conferences

Thank you for responding so quickly Carmen, I will let you know if I have any questions. I did make a correction to my email below regarding the date of the response letter, should be 3/12/2020, not 3/16/2020 that was originally input.

#### BEN ALWORTH

KMO - Director of Support Operations

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**From:** Andonaegui, Carmen (DFW) <[Carmen.Andonaegui@dfw.wa.gov](mailto:Carmen.Andonaegui@dfw.wa.gov)>  
**Sent:** Tuesday, March 17, 2020 9:42 AM  
**To:** Alworth, Ben <[Ben.Alworth@Stemilt.com](mailto:Ben.Alworth@Stemilt.com)>  
**Cc:** Moore, William R (DFW) <[William.Moore@dfw.wa.gov](mailto:William.Moore@dfw.wa.gov)>; Charity Duffy <[charity.duffy@scjalliance.com](mailto:charity.duffy@scjalliance.com)>; John Lehmkuhl <[jlehmkuhl@nwi.net](mailto:jlehmkuhl@nwi.net)>; Pentico, Eric D (DFW) <[Eric.Pentico@dfw.wa.gov](mailto:Eric.Pentico@dfw.wa.gov)>  
**Subject:** [External]Re: S17 WDFW Meeting Notes - 2020-03-16 Phone Conferences

Thanks for these meeting notes, Ben. I'd like to provide clarity on just a couple of statements in the notes.

I apologize if I was unclear about the need for enhancements. I do think that should be a CV part of your mitigation plan. Enhancements can be used to compensate for the loss of habitat and habitat functions being converted to agricultural use. To the extent that the lost or affected habitat provided habitat security, nutrition, or cover or consisted of habitat that provided relatively flat, complex habitat, enhancements of habitat, following mitigation sequencing, may compensate for those losses. That is the concept behind proposed enhancements in your proposal.

I do support your proposed approach to identifying the impacts to elk habitat using the modeling approach developed by the WA Conservation Institute. I also support, in concept, your proposal to conserve habitat in place and in kind in the form of a conservation easement at a minimum 1:1 ratio and with enhancements. It is the cross-walk of affected habitat functions and values with proposed actions to mitigate for those impacts, that we consider when evaluating the appropriateness of a mitigation plan. I do not, however, have a role in "accepting" or "approving" a mitigation plan. This is part of the County's permitting and SEPA process.

What WDFW is attempting to do is to be responsive to your requests to review your revised mitigation plan, which is a response to our comments, I consider this responsiveness to part of our agency's objective to provide a public service to the extent we have capacity to do so.

I hope these clarifying statements are helpful, Ben.

Carmen Andonaegui  
Region 2 Habitat Program Manager  
Direct Ph.# 509.457.9333  
Cell: 509.431.0339

On Mar 17, 2020, at 8:38 AM, Alworth, Ben <[Ben.Alworth@stemilt.com](mailto:Ben.Alworth@stemilt.com)> wrote:

Good Morning Carmen and Will,

Thank you for making yourselves available to discuss our Section 17 project yesterday. Please find the following notes from our meeting,

**Meeting Notes:**

Follow-up call with William Moore, Biologist II, WDFW Ungulate Expert at [3/16/2020 at 2:00pm]. He had no further questions to the March 12, 2020 response letter we provided to his January 22, 2020 comments on our proposed elk mitigation plan. He agreed with our approach to monitor and evaluate the effectiveness of the habitat enhancements within the CE.

Call with Carmen Andonaegui, WDFW Region 2 Habitat Manager at [3/16/2020 at 3:00pm]. Carmen had discussed our March 12, 2020 response letter with William prior to our follow-up call. William had no further questions to the response letter we provided.

Carmen agreed to our conceptual mitigation approach, including enhancing the wildlife corridors and notes this enhancement is beyond the requirements of necessary mitigation. Carmen will stand by our approach. We discussed "next steps" to developing a site-specific Habitat Management and Mitigation Plan, now that we have confirmation that our conceptual approach has been accepted by WDFW.

Charity noted that the following Chelan County Code section generally applies to the development of the Plan:

<https://www.codepublishing.com/WA/ChelanCounty/#!/Chelco11/Chelco1178.html#11.78.100>  
<<https://nam05.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.codepublishing.com%2FWA%2FChelanCounty%2F%231%2FChelco11%2FChelco1178.html%2311.78.100&data=01%7C01%7CBen.Alworth%40stemilt.com%7C24250129b4074cc86ba108d7ca7a0712%7C5f06e711afbe4a47b487dd369d203434%7C0&sdata=0iZEpWczecQmp62%2Fiyil%2BkXIndZtMTD%2BPYFcVkiLZPI%3D&reserved=0>>

The pasted section below specifically applies to coordination with WDFW on development of the Plan:

**CCC 11.78.100**

*(1) If required, this plan shall identify how the impacts from the proposed use or activity will be avoided or mitigated consistent with the purposes of this section. The Washington Priority Habitat and Species data as now or hereafter amended, other priority habitat and species publications, and consultation with a habitat biologist from the Washington State Department of Fish and Wildlife may be used as the basis for the plan.*

*The Washington State Department of Fish and Wildlife shall respond in writing to the administrator with review comments or a request for additional time for review within fourteen days from the date of mailing of a draft habitat management and mitigation plan. The administrator may grant an additional seven days for an agency to provide review comments. If review comments or a request for additional time to provide review comments is not received in the prescribed time frame, the state review comments on the habitat management and mitigation plan shall not be considered.*

*The administrator shall have the authority to approve or deny habitat management and mitigation plans or require additional information based upon criteria within this section and*

*review comments from relevant agencies. The administrator shall base his or her decision on written findings of fact and conclusions. The administrator's written decision shall be forwarded to the Washington State Department of Fish and Wildlife, other agencies or tribal entities which provided comments to the department and to any other agency/individual(s) who request a copy of the written decision.*

Please let me know if you have any questions or comments on the meeting notes and thank you for your continued coordination with us on our project.  
Stay healthy out there!

<image001.png>

**BEN ALWORTH**  
KMO - Director of Support Operations

<image002.png>

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**ATTACHMENT 2**  
**CHELAN COUNTY CODE CHAPTER 11.78 EXCERPTS**

**11.78.020 Exemptions.**

The following uses within fish and wildlife habitat conservation areas are exempt from the requirements of this chapter; provided, that said activity is conducted consistent with the standards and requirements of this chapter, and all other applicable laws and regulations. All exempted activities shall use all reasonable methods to avoid potential impacts to critical areas. Any substantial damage to a critical area that is not a necessary outcome of the exempted activity shall be restored. Best management practices regarding clearing and grading may be obtained from Chelan County and the Chelan County Conservation District.

(1) Those activities under the regulation of the Forest Practices Act (Chapter 76.09 RCW, WAC Title 222) on which the county cannot condition a forest practices application;

(2) The maintenance or construction of pumping stations and irrigation facilities;

(3) Education, scientific research, and use of nature trails;

(4) Maintenance, repair, or operation of existing legal structures, facilities or improved areas;

(5) Maintenance, reconstruction, repair or operation of existing streets, highways or roads;

(6) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, riparian habitat impacts should be avoided and/or minimized and disturbed areas shall be immediately restored;

(7) Passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling, provided the activity does not alter the riparian buffer by changing existing topography, water conditions or water sources;

(8) One access/view corridor per parcel, twenty feet or less in width; provided, that clearing is done in a manner that prevents erosion;

(9) Fire management within fish and wildlife habitat conservation areas where required by a county, state or federal agency in consultation with the Chelan County fire marshal;

(10) Ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, and temporary construction ponds of less than three years' duration;

(11) Riparian habitat restoration/rehabilitation projects by a public or private agency whose mandate includes such work which is unassociated with the mitigation of a specific development proposal;

(12) The maintenance of drainage ditches;

(13) Legal lots of record within the riparian buffer, which are separated from being adjacent to rivers, streams or lakes, by an intervening legal lot of record; and provided, that such intervening legal lot of record is a buildable lot adequate in size for the purposes of the placement of a single-family home or cabin or other structures of similar size or greater; or the legal lot of record is utilized as a public or private road or railway;

(14) Noxious weed control using best management practices;

(15) Boundary line adjustments;

(16) Restoration/rehabilitation of fish and wildlife habitat which meets the approval of the Washington State Department of Fish and Wildlife;

(17) Modification of a legally constructed single-family residence; provided, that no new construction shall be closer to the critical area and does not increase the square footage of primary residence to be modified by more than twenty-five percent of the existing square footage. (Res. 2007-97 (part), 7/2/07; Res. 2000-129 (part), 10/17/00).

#### **11.78.100 Habitat management and mitigation plan.**

(1) If required, this plan shall identify how the impacts from the proposed use or activity will be avoided or mitigated consistent with the purposes of this section. The Washington Priority Habitat and Species data as now or hereafter amended, other priority habitat and species publications, and consultation with a habitat biologist from the Washington State Department of Fish and Wildlife may be used as the basis for the plan.

(2) The habitat management and mitigation plan shall be approved or denied in writing by the administrator and shall contain but not be limited to the following information:

(A) A map(s) prepared at an easily readable scale (at least one inch equals two hundred feet) showing:

(i) The location of the proposed site;

(ii) The relationship of the site to surrounding topographic and built features;

(iii) The nature and density of the proposed use or activity;

(iv) Proposed building locations and arrangements;

(v) A legend which includes:

(a) A complete and accurate legal description. The description shall include the total acreage of the parcel,

(b) Title, scale and north arrow,

(c) Date;

(vi) Existing structures, improvements and landscape features including the name and location of all water bodies;

(vii) Location of priority habitat types and priority species point locations, including nesting, roosting and den sites, winter range areas, riparian zones and migration corridors.

(B) A report which contains:

(i) A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such a land use change upon identified wildlife habitat including the proposed amounts of excavation, grading, and vegetation disturbance.

(ii) An analysis of the effect of the proposed use or activity upon fish and wildlife species and their habitats, identified within the priority habitat and species program.

(iii) A plan which explains how the applicant will avoid, minimize or mitigate adverse impacts to fish and/or wildlife habitats created by the proposed use or activity. Mitigation measures within the plan may include, but are not limited to:

(a) Establishment of buffer areas;

(b) Preservation of critically important plants and trees, preferably in consolidated areas;

(c) Limitation of access to habitat area;

(d) Seasonal restriction of construction activities;

(e) Clustering of development and preservation of open space, if permitted by the underlying zoning district;

(f) Signs marking habitats or habitat buffer areas;

(g) Title notice or plat dedication warning statements;

(h) Conservation easements;

(i) Preserve and introduce native plant species which serve as food and shelter from climatic extremes and predators and structure and cover for reproduction and rearing of young for critical wildlife;

(j) The use of native species or species recommended by the Washington State Department of Fish and Wildlife in the revegetation or landscaping of disturbed or developed areas and in any enhancement of habitat or buffers.

(iv) Review comments by a habitat biologist from the Washington State Department of Fish and Wildlife will be required.

The Washington State Department of Fish and Wildlife shall respond in writing to the administrator with review comments or a request for additional time for review within fourteen days from the date of mailing of a draft habitat management and mitigation plan. The administrator may grant an additional seven days for an agency to provide review comments. If review comments or a request for additional time to provide review comments is not received in the prescribed time frame, the state review comments on the habitat management and mitigation plan shall not be considered.

The administrator shall have the authority to approve or deny habitat management and mitigation plans or require additional information based upon criteria within this section and review comments from relevant agencies. The administrator shall base his or her decision on written findings of fact and conclusions. The administrator's written decision shall be forwarded to the Washington State Department of Fish and Wildlife, other agencies or tribal entities which provided comments to the department and to any other agency/individual(s) who request a copy of the written decision.

(C) Mitigation shall be completed prior to granting of final occupancy, or the completion of final approval of any development activity for which mitigation measures have been required. Bonding at one hundred fifty percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. Bonding shall be in effect for a maximum of two years.

(3) Any person aggrieved by the administrator's decision can file an appeal of the decision in conformance with Chapter 11.95 of this title. (Res. 2014-38 (Atts. A, B) (part), 4/15/14; Res. 2007-97 (part), 7/2/07; Res. 2000-129 (part), 10/17/00).