PHASE IA SCOPE OF WORK

A. INTRODUCTION

This scope of work pertains to the First Phase (1A) of a potential Eight-Phase undertaking of investigation, analysis, fundraising, permitting, and on-site work related to the potential modification of the Permanente Creek–Stevens Creek diversion channel to allow the migration of steelhead (*Oncorhynchus mykiss*) into the upper sections of Permanente Creek. In no way does this Agreement bind the Parties to complete future stages of work (Phases 1B-7) Phase I includes the preparation of an initial scope of work and budget to identify the study elements required to analyze the feasibility of returning steelhead to Permanente Creek. The results of Phase I are designed to form the basis of a fundraising proposal (Phase 3) to conduct a full-blown feasibility study designed and implemented in Phase 4.

B. DESCRIPTION OF PHASE 1A.

Task 1: Steelhead: Identify Study Elements Required to Determine Salmonid Habitat and Whether or not there are Factors that would Limit Salmonid Production

If the diversion channel is modified to provide for salmonid migration, is there sufficient habitat and access to rearing and spawning areas upstream of the diversion channel to sustain a steelhead population? In Task 1, the following Sub-Tasks will be undertaken:

- Task 1a: Review available information/data/reports, regarding the Permanente Creek Watershed;
- Task 1b: Conduct a reconnaissance-level site visit (no more than a day) to creek areas within the Watershed;
- Task 1c: Contact up to three(3) agency personnel who are familiar with the issues and fisheries biology of the Permanente Creek Watershed;
- Task 1d: Identify types of studies required to determine whether or not Permanente Creek, upstream of the diversion channel, provides sufficient habitat conditions and access to rearing and spawning areas to sustain a steelhead population. While consultant may identify the scope required for other studies, at a minimum, the report will include suggested scope to answer the following issues:
    - The extent of existing and/or potential habitat between the diversion channel and the top of the Lehigh property;
    - The effect on steelhead restoration in Stevens Creek if steelhead are diverted to Permanente Creek;
    - Expected water and sediment quality in Permanente Creek upstream of the diversion channel; and,

- Flow and water temperature conditions in Permanente Creek and the flow and water temperature conditions that would mostly likely "move" steelhead upstream.

Task 2: Developing a Phased Scope of Work to complete a feasibility study to determine whether or not re-introducing a steelhead fishery is a worthwhile endeavor.

As various groups have been looking at the Permanente Creek Watershed over the years, a number of questions have been raised which need to be answered. There are a multitude of issues surrounding the re-introduction of steelhead migration to Permanente Creek. A negative answer to any one of the issues may significantly reduce the chances for success of returning a migrating steelhead population to Permanente Creek.

The purposes of Task 2 are to identify the process, prioritize the needed studies, and develop a program under which feasibility can be studied in a logical progression. In this way, the supporting groups can limit their funding exposure and make the best use of precious limited conservation dollars. To complete Task 2 the following sub-tasks will be completed:

- Task 2a: Develop a diagrammatic display of the feasibility study, indicating the types of studies required to determine the feasibility of returning steelhead to Permanente Creek. In addition to the studies identified in Task 1, consultant will identify non-fish elements, such as recreation; cost, maintenance and operational impacts to the diversion channel to maintain current levels of flood protection if the diversion channel is modified; property ownership and legal access; educational potential; stakeholder input; and agency jurisdiction to be considered as part of the feasibility analysis;
- Task 2b: Develop a timeline and priority program to identify the logical sequence of defining studies to determine feasibility. The timeline will indicate which studies should start first, and/or in parallel, and, which studies should be dependent upon positive outcomes of prior studies. The timeline will also identify milestones that will determine whether to continue or not continue the effort to achieve re-introducing steelhead; and,
- Task 2c: Develop budget ranges for the necessary studies and to guide the decision of whether or not re-introducing steelhead is a worthwhile endeavor.

Task 3: Letter Report

Prepare a Letter Report summarizing our findings, and outlining the process and steps including studies identified in the diagrammatical form in Task 2a. The letter report will include the suggested approach to Phase 1B and subsequent phases. The letter report will also summarize the timeline and budget ranges.

C. FUTURE PHASES 1B to 7

Phase 1B: Meet with representatives from the interested and relevant parties to get together to brainstorm and understand the process, confirm expectations for the Feasibility Analysis, identify potential funding sources, and develop a sales approach to be used during the fundraising effort. It is anticipated that this may take several meetings and discussions. The précised scope and extent of the effort can be determined after the report from Phase 1A is delivered.

Phase 2 Fundraising to pay for the Feasibility Analysis (i.e., to conduct the studies/answer the questions identified in Phase I and agreed upon in Phase 2)

Phase 3: Implementation of Studies, Perform Analyses, and Write Reports including fish studies and reports, legal analysis, channel modifications, creek restoration and other relevant reports

Phase 4: If Phase3 results in the conclusion that there is a viable steelhead fishery to be had upstream of the diversion channel, then identify diversion channel modification alternatives and select the most viable alternative. Conversely if Phase 3 results indicate that re-introducing steelhead is not likely to be successful, the proponent groups should identify what other steps or non fish projects they may be interested in pursuing.

Phase 5: Prepare a funding plan to design, permit, and construction diversion channel alternative

Phase 6: Design, permit, and construct the chosen alternative

Phase 7: Post-Project monitoring to determine relative success of modifications to the diversion structure and any other creek restoration which becomes a part of the project.