

REAL ESTATE



ANN M. GYGI

999 THIRD AVENUE,
SUITE 4600
SEATTLE, WA 98104

ANN.GYGI@HCMP.COM
206-470-7638

HCMP
Law Offices

Hillis
Clark
Martin &
Peterson

Q | Will my project require a Hydraulic Project Approval (HPA) if all of the work is outside of a stream on the property?

A | With few exceptions, work below the ordinary high water mark (OHWM) of a stream requires an HPA, but you are not necessarily relieved from that requirement by staying above the OHWM. The Washington Department of Fish and Wildlife (WDFW) administers HPAs, and a recent Washington Attorney General opinion supports WDFW's authority above the OHWM. If your project includes construction or work that will use, divert, obstruct, or change the natural flow or bed of the stream, then it falls within WDFW's asserted jurisdiction. It is not the location but the effect of work in or near the water that triggers the HPA. Importantly, however, WDFW can only condition or deny the HPA to protect fish life. Work with your consultants to evaluate whether your project requires an HPA.