

DOS & DON'TS: [û] Follow Environmental Work Plans Submitted to the Government



When engaging in work that could impact the environment or violate environmental laws, such as performing construction near fish habitats, your company may be required to submit a plan detailing how that work will be performed to the appropriate government agency. The purpose of the plan is to demonstrate the measures you'll use to protect the environment. If the government approves your environmental work plan, make sure that you actually implement the measures you said you'd use in that plan. If you stray beyond the confines of the plan, you could face liability—especially if you impact the environment as a result. That's what happened to a railway company in BC.

The company needed to maintain its rail lines, which were near a creek that provided fish habitat for several fish species, including coho and chum salmon, and cutthroat trout. The company's environmental consultants provided Fisheries and Oceans Canada with a proposed plan for the work. But the company didn't follow this plan. The work:

- Strayed outside of the pre-determined area;
- Wasn't completed within the appropriate timeframe when fish weren't present;
- Modified the local vegetation; and
- Involved more than double the volume of rip rap rock to control erosion than was outlined in the work plan.

As a result, the company pleaded guilty to one violation of the *Fisheries Act* for the harmful alteration, disruption or destruction of fish habitat. The court fined it \$5,000 and ordered it to pay \$70,000 to the Environmental Damages Fund [BNSF Railway Company, Federal Govt. News Release, March 26, 2014].

Insider Says: For more on the consequences of disregarding the recommendations of environmental consultants, see 'Traps to Avoid: Ignoring Advice of Environmental Consultants.' And for more on consultants in general, see 'Environmental Consultants: How to Prevent Liability Risks to Your Company.?'