

MITIGATION THAT WORKS FORUM

SCOPING RECOMMENDATIONS ON REGULATORY PROCESS

Based on Forum deliberations to date, interviews and research of previous efforts, this document describes potential recommendations related to a shared vision of successful mitigation and the regulatory process. Bullet points under each potential recommendation describe the key elements of the recommendation.

The purpose of this summary is to allow Forum members to deliberate more fully and refine (or replace) these potential recommendations so that draft recommendation text can be developed for Forum consideration.

1. Reinforce and Strengthen the Importance of Avoidance and Minimization

- Placeholder for details based on Forum deliberations in February

2. Develop a Shared Vision of Successful Mitigation

Approach

- It is informed by a watershed characterization or similar “watershed-scale” understanding of environmental opportunities and constraints
- It takes advantage of existing information from watershed and salmon recovery planning efforts, where appropriate
- It provides options for use of a well defined, broadly available set of tools including, at a minimum, banking, in-lieu fee, advanced mitigation, and other programmatic approaches at all levels--local, state and federal
- It has the ability to address multiple resources and multiple regulatory requirements
- It is integrated with species restoration/recovery efforts wherever possible
- It is rare, that is, avoidance and minimization are emphasized
- It is supported by sufficient human and financial resources
- Other?

Process

- Includes coordinated planning at the local and watershed level to identify conservation priorities (e.g., Birch Bay type information/effort)
- Involves agreements between agencies to create more predictability about how differing implementation responsibilities will be coordinated at the planning and at the project levels

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- Allows restoration/recovery efforts to be considered and implemented as mitigation for development impacts where appropriate (perhaps also through Agency agreements) Provides more specific information and support on best practices, or other resources, for local governments / planners
- Improves level of monitoring, enforcement and other follow up to ensure success and adjustment if needed
- Other?

Results

- Documented achievement of full replacement of ecosystem functions
- Improves overall health of watersheds over time
- Timely
- Local planners have more tools/options to recommend to developers
- Fewer mitigation decisions made solely at the project/permit level
- Other?

3. Establish a Watershed Based Approach to Mitigation

- Define “watershed based” simply (can Forum define?).
- Identify strategies for encouraging local adoption of watershed characterization approaches and/or identify criteria for which areas in the state should have a characterization.
- Create the tools necessary to integrate watershed-based planning for mitigation with local GMA Comprehensive Planning (may need regulatory changes to facilitate this).
- Ensure mitigation leverages existing watershed planning information, define a process and/or criteria for when/how existing plans (WRIA WMPs and salmon recovery plans) can be implemented in a mitigation context.

4. Develop a More Coordinated, Predictable Approach to Reviewing Mitigation Projects

- Explore expanding or more routinely applying a “lead agency” concept, so project proponents have a central point of contact and coordination.
- Explore regulatory reforms to enable a single set of mitigation regulations.
- Document agency coordination approaches in memorandums of understanding or other agreements.
- Track and monitor agency coordination and whether coordinated approaches are working to make mitigation projects more efficient.
- Work with local governments to understand and provide what they need to increase the predictability of mitigation project review.
- Special solutions / approaches may be appropriate for smaller projects (e.g., more standard or programmatic approaches depending on the type of project and/or type of impact).
- Other?

5. Encourage Appropriate Use of Compensatory Mitigation Tools

- Create a well-defined set of options for mitigation (e.g., banking, in-lieu fee, programmatic mitigation, advance mitigation).
- Create simple guidelines (decision criteria?) for when different options might be appropriate.
- Work with local jurisdictions to help them establish policies, regulations and processes for using alternative tools.
- Track and monitor use of alternatives to on-site mitigation to make adjustments as needed.
- Other?

6. Support Mitigation Efforts with Compliance Monitoring and Enforcement

- Develop a suite of basic/standard evaluation metrics (to be supplemented with project specific metrics) and more standard approaches for monitoring success.
- Explore opportunities for cooperative monitoring and enforcement involving local, state and federal agencies.
- Explore options for enabling more third-party implementation of mitigation and monitoring
- Track whether performance standards are being met to understand if ecosystem functions are being replaced.
- Allow for adaptation/adjustments in mitigation efforts as needed (may need regulatory changes to facilitate this).
- Other?