Mitigation that Works
November 16, 2007 Meeting Summary

Introductions and Opening

Josh Baldi welcomed Forum members and thanked them for their participation. He described the opportunity for the group to create a common understanding of and expectations for effective mitigation in Washington State. Each Forum member then introduced him/herself, briefly and described what each hoped to address and achieve through the Forum process. Throughout the discussion, several key themes/ideas emerged, as follows.

1. Dimensions of what individual Forum members see as successful mitigation
- Mitigation that achieves no net loss and moves toward net gain
- More mitigation options that produce better environmental results while meeting other needs of Washington State citizens, such as ensuring a successful agriculture environment and implementing transportation improvements
- Mitigation that focuses on the functional values of wetlands, habitat, etc.
- Continued emphasis on avoidance and minimization, so mitigation occurs infrequently
- Mitigation that works for a wide array of applicants, provides options and creates incentives to do the right thing
- A mitigation process that incorporates consistency, certainty, flexibility, accountability, and is quicker from an administrative perspective
- A mitigation process supported by the appropriate level of resources
- A process that ensures effective mitigation by incorporating monitoring, tracking and reporting of results
- A broad approach to defining successful mitigation including a discussion of how to incorporate mitigation into population growth planning/discussions, and/or how to build ESA recovery into the mitigation process.

2. A desire to examine, expand, if appropriate, and optimize mitigation "tools" such as banking, fee in lieu and advanced mitigation.

3. Interest in developing an understanding what is known about the current state of the environment (baseline)
   - A need to develop a common base of knowledge regarding the status of wetlands in Washington State. (E.g., Types of wetlands, location of wetlands, number of wetlands, status of ongoing wetland work and associated timeframes for completion, etc.)
   - A general understanding, to assist in Forum discussions, regarding what information currently exists, what type of information is going to be developed and within what timeframe.

4. Interest in coordinating various mitigation agencies and approaches.

5. Interest in ensuring that local government agencies have the support they need to be effective advocates for a range of effective approaches to mitigation.

Discussion with Jay Manning, Director, Washington State Department of Ecology

Jay Manning joined the meeting to discuss with participants what the Department of Ecology hoped to achieve through the Mitigation That Works Forum. He explained that the Forum was convened for several reasons, noting that the current mitigation process is flawed, but if fixed, could result in a win-win scenario with a quicker and more predictable process, resulting in greater environmental benefits. He observed that Washington State currently has a 50% success rate with wetlands mitigation, which is only halfway to meeting the "no net loss" standard.

Director Manning then described his vision of a successful mitigation process.

1. A project proponent proposes a plan that will impact wetlands and those impacts are clearly identified. Director Manning clearly stressed that some proposed projects probably should not be approved because of the nature, extent, etc. of their impacts.
2. Identified impacts are avoided to the extent possible.
3. Identified impacts are minimized to the greatest extent possible.
4. If there are remaining impacts, a project proponent has a suite of mitigation options available. For example, when mitigation is appropriate, tools such as fee-in-lieu, banking, advance mitigation, and others would be available. He noted that the details of tools such as these are not simple, and that the tools must work and have the intended results. There must be real rigor in the process, however, it should not be so difficult that project proponents opt not to do it.
5. Specific institutions would be responsible in perpetuity for ensuring that the mitigation is effective.

He explained that such a process would require all implementing entities to have a common understanding of the process, the tools and the definition of success. He recognized the resource challenges at every level, but again highlighted the potential for success, for both the regulated and regulators, if an effective mitigation process were in place. He then stressed that nothing about the Forum process would change the overall permitting process.

Director Manning described the Mitigation That Works Forum as the center of the mitigation discussion in Washington State. He recommended that the Forum have a schedule for completion and a clearly identified and defined list of products it hopes to produce.

Scope

In light of their discussion with Jay Manning, the scope of the effort as described in the draft Mitigation That Works Charter *(Attachment 1),* and their own goals for the process, Forum members discussed what their effort should encompass.

The scope discussion had three main elements: (1) should the Forum discuss all mitigation processes (e.g., habitat including wetlands) or is the Forum work limited to wetland mitigation; (2) is the Forum addressing the avoidance and minimization parts of mitigation programs or only the mitigation element; and (3) to what extent is the Forum process oriented around developing recommendations on specific mitigation tools such as banking.

With respect to all mitigation versus only wetland mitigation, Forum members discussed the need to focus their deliberations while, at the same time, addressing key interests on the Group who are more interested in broader mitigation concepts. Ecology's vision for the effort is that it be broad enough to encompass watershed-based mitigation, including wetlands. One Forum member observed that many

of the issues with respect to mitigation and the mitigation process, such as the types of tools and techniques that might improve results, are the same regardless of what type of habitat the mitigation is addressing. Overall, Forum members converged around an approach that starts with and builds on wetlands mitigation to (a) improve that particular process and its outcomes and (b) as a way to provide lessons / ideas about collateral improvements to mitigation for other habitats. That is, the Forum will start with wetlands initially as a way to focus their deliberations with an eye towards developing (1) a coordinated approach to all the various authorities that govern efforts to minimize and/or mitigate environmental impacts and (2) a package of tools and techniques that could apply to all such efforts as appropriate.

With respect to the avoidance and minimization parts of mitigation, the Forum converged around the idea that this effort is focused on the mitigation component of the broader permitting process. The avoidance and minimization elements of the process remain the same. It was suggested that if Forum members deem it appropriate, the Group could comment on improving the overall permitting process, including stressing the importance of the avoidance and minimization steps; however the goal of the effort is to improve the mitigation step of the overall process.

With respect to specific mitigation "tools," the group agreed it would be useful to look at existing mitigation tools to determine which of those tools are working, which are not and why, and to offer ideas to optimize tools that seem useful. For example, many Forum members noted the difficulty associated with establishing successful mitigation banking and suggested that banking as a tool be examined more closely for impediments, missed opportunities, specific strengths, etc.
Forum members reiterated the need for information about the characterization of wetlands and the status of efforts within those wetlands (e.g., what types, where are they located, how many are there, what wetland work is ongoing, when will it be completed, etc.). However, the group acknowledged that the Mitigation That Works process is likely not the appropriate forum for developing the actual characterization data. Forum members did think it might be useful for the group to have a sense of what information exists, what type of information is going to be developed and within what timeframe.

Within the context of the scope discussion, Forum members briefly discussed who the audience might be for any final products produced by the effort. They identified the following potential audiences:

- Implementing entities, including local government, and applicant/project proponents
- Forum member interests
- Mitigation decision-makers such as the Department of Ecology and US Army Corps of Engineers.
- Other interests depending upon what type of mitigation options the Forum identifies and what its final recommendations might be.

<u>Birch Bay Effort</u>

Margaret Clancy of ESA Adolfson presented information regarding a Whatcom County effort to characterize the Birch Bay Watershed and to identify priority areas for protection and restoration. She explained that the objectives for the effort included identifying important ecosystem relationships and creating a better framework for coordinated planning. In order to meet these objectives, the effort includes four key steps: 1.) analyze the landscape and its wetlands, 2.) prescribe solutions, 3.) take actions, and 4.) monitor results. Margaret noted that the process is currently engaged in the first two steps of the process. She explained that implementation of such a process should result in: accelerated restoration, increased mitigation effectiveness, more sustainable development, predictable permitting, and more community participation in stewardship goals. *(Please see Attachment 2 for presentation slides.)*

Wrap-up

Josh Baldi thanked the group for its efforts and participating. Elizabeth McManus also thanked everyone for their participation and asked the group to consider a few issues prior to its next meeting, including:

- The scope and groundrules as described in the Forum's Charter and Groundrules document, in particular, whether it would be beneficial to form an Executive Committee comprised of a smaller number of Forum members to assist in meeting direction, material review, etc.
- The nature and extent of the information that would be most helpful to the Forum in its discussions. For example, is it useful for the Forum to have a sense of the existing baseline watershed information, the type of information that will be developed and when? Forum members should think about how to best define what information they need to do their work.
- What types of products the Forum should produce.

Next Steps

- Remaining interviews with Forum members will be scheduled and as many as possible completed prior to the December 18 Forum meeting. She noted that the interviews will assist in defining a clear scope for the Forum and will allow the group to share as much information as possible regarding what efforts are already occurring, what approaches are working and not working, and what other approaches might exist.

- The Department of Ecology will produce a brief summary of current mitigation efforts and work with the project support team to frame / produce additional background information.

- E-mail addresses will be collected for all Forum members and the current Forum Member address list updated. Meeting materials will be distributed electronically at least one week prior to scheduled meeting dates.

- Future meeting dates will be identified and circulated to all Forum Members. The following schedule was proposed:
    - Tuesday, December 18, 2007, 8:30am-2:00pm
    - The 3rd Tuesday of every month, January 2008 through September 2008. I. e.,
        - January 15, 2008
        - February 19, 2008
        - March 18th, 2008
        - April 15, 2008
        - May 20, 2008
        - June 17, 2008
        - July 15, 2008
        - August 19, 2008
        - September 16, 2008

Attending Forum Members

Dee Arntz, Washington Wetlands Network
Josh Baldi, Washington State Department of Ecology

Beth Coffey (for Muffy Walker), US Army Corps of Engineers
Michelle Connor, Cascade Land Conservancy
Rich Doenges, Washington State Department of Natural Resources
John Grettenberger, US Fish and Wildlife
Steve Landino, NOAA Fisheries
Faith Lumsden, Governor's Office of Regulatory Assistance
Doug Peters, Community Trade and Economic Development
Dave Remlinger, Skykomish Habitat, LLC
Bill Robinson, The Nature Conservancy
Ron Shulz , Washington State Conservation Commission
John Stuhlmiller, Washington Farm Bureau
Jodi Slavik, Building Industry Association of Washington
Michael Szerlog, Environmental Protection Agency, Region 10
Megan White, Washington State Department of Transportation

Forum Members Not in Attendance
Sam Anderson, Master Builders Association of King and Snohomish Counties
David Dicks, Puget Sound Partnership
Jim Fox, Washington Recreation and Conservation Office
Mike Grayum, Northwest Indian Fisheries Commission
Eric Johnson, Association of Counties
Eric Johnson, Washington Public Ports
Bob Kelly, Nooksack Tribe
Chris McCabe, Association of Washington Business
Rick Slunaker, Associated General Contractors of Washington
Tim Smith, Washington State Department of Fish and Wildlife
Dave Williams, Association of Washington Cities

Audience Members
Gary Cooper, Washington State Department of Ecology
Lauren Driscoll, Washington State Department of Ecology
Susan Grigsby, Washington State Department of Ecology
Dana Mock, Washington State Department of Ecology
Stephen Stanley, Washington State Department of Ecology
Gordon White, Washington State Department of Ecology

Project Support Team
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