



Apr 27th, 11:30 AM - 1:00 PM

Innovations in Regulatory Permit Processes for Aquatic Habitat Protection and Restoration in Washington

Diane Hennessey

Paul Cereghino

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Kelly Still

See next page for additional authors

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Hennessey, Diane; Cereghino, Paul; Ehinger, Stephanie; Fishman, Sydney; Still, Kelly; Faulkner, Hannah; and Peters, Josh, "Innovations in Regulatory Permit Processes for Aquatic Habitat Protection and Restoration in Washington" (2022). *Salish Sea Ecosystem Conference*. 341.

<https://cedar.wwu.edu/ssec/2022ssec/allsessions/341>

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Speaker

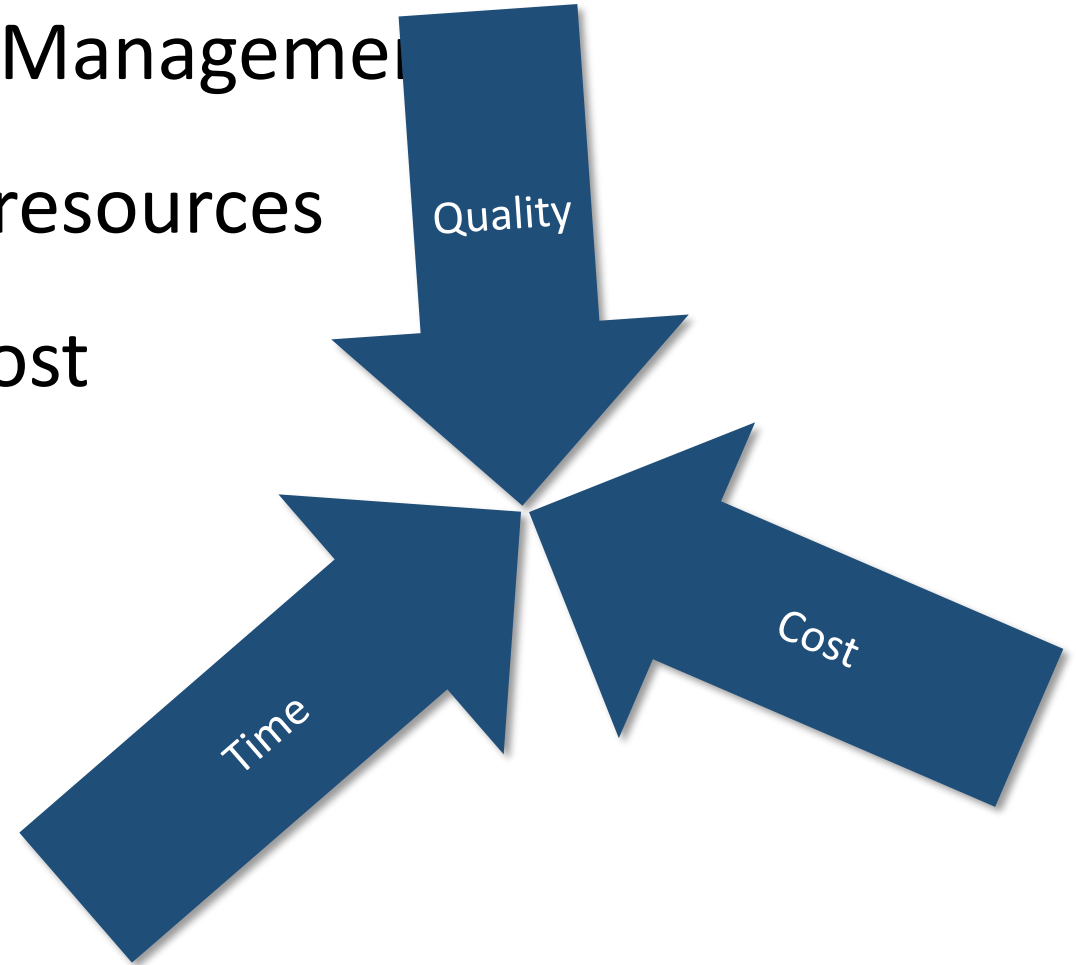
Diane Hennessey, Paul Cereghino, Stephanie Ehinger, Sydney Fishman, Kelly Still, Hannah Faulkner, and Josh Peters

“The Regulation and Mitigation System”

- Our primary protection system
- Has limited capacity for adaptation or improvement
 - **Observation & Science Systems**
may see regulation as insufficiently precise
 - **Planning and Funding Systems**
may see regulation as a barrier to action

“The Regulation and Mitigation System”

- Triple pressures (Like All Project Management)
 - **Quality** - Protect public trust resources
 - **Cost** - Minimize transaction cost
 - **Time** - Do it quickly

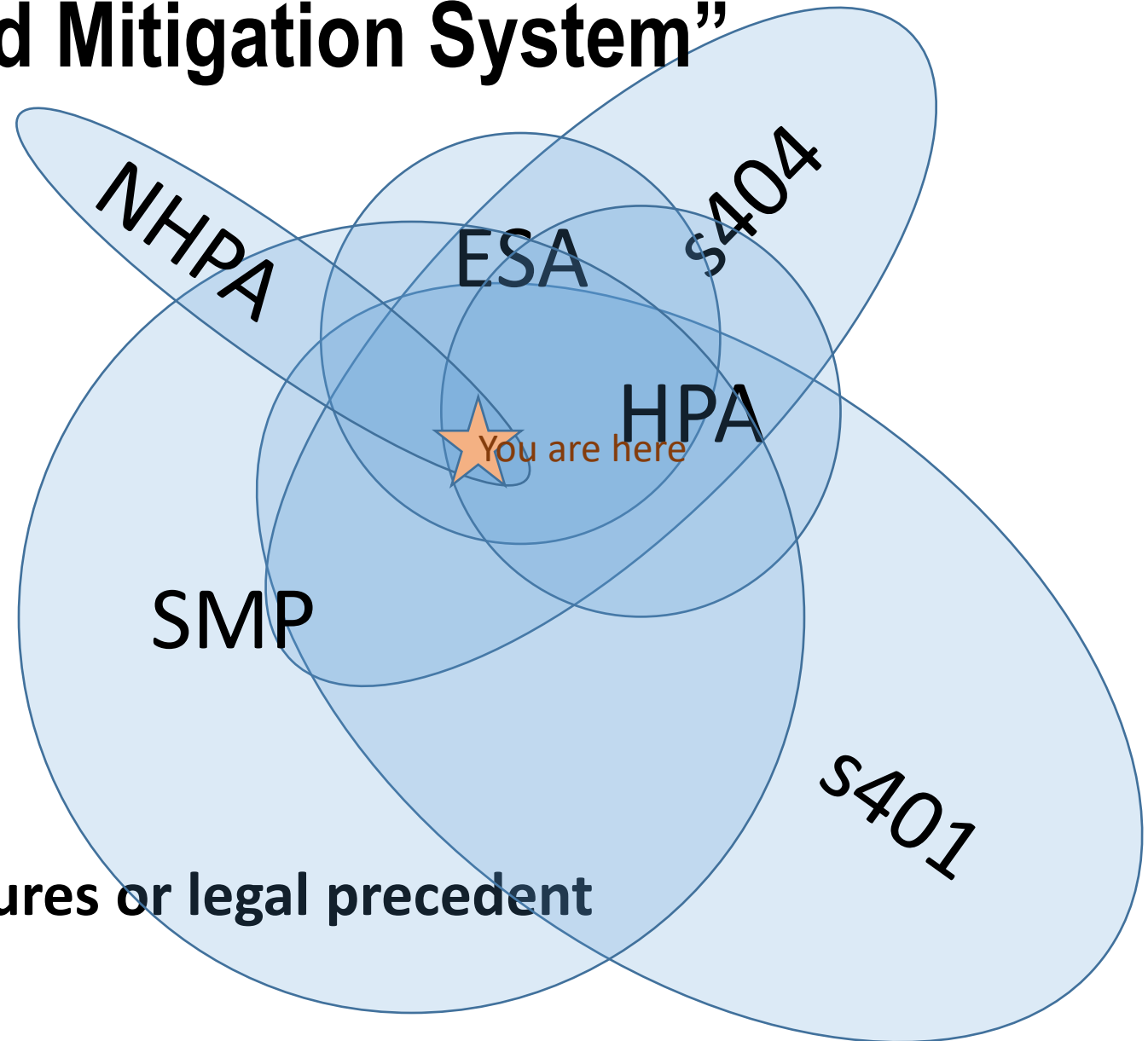


“The Regulation and Mitigation System”

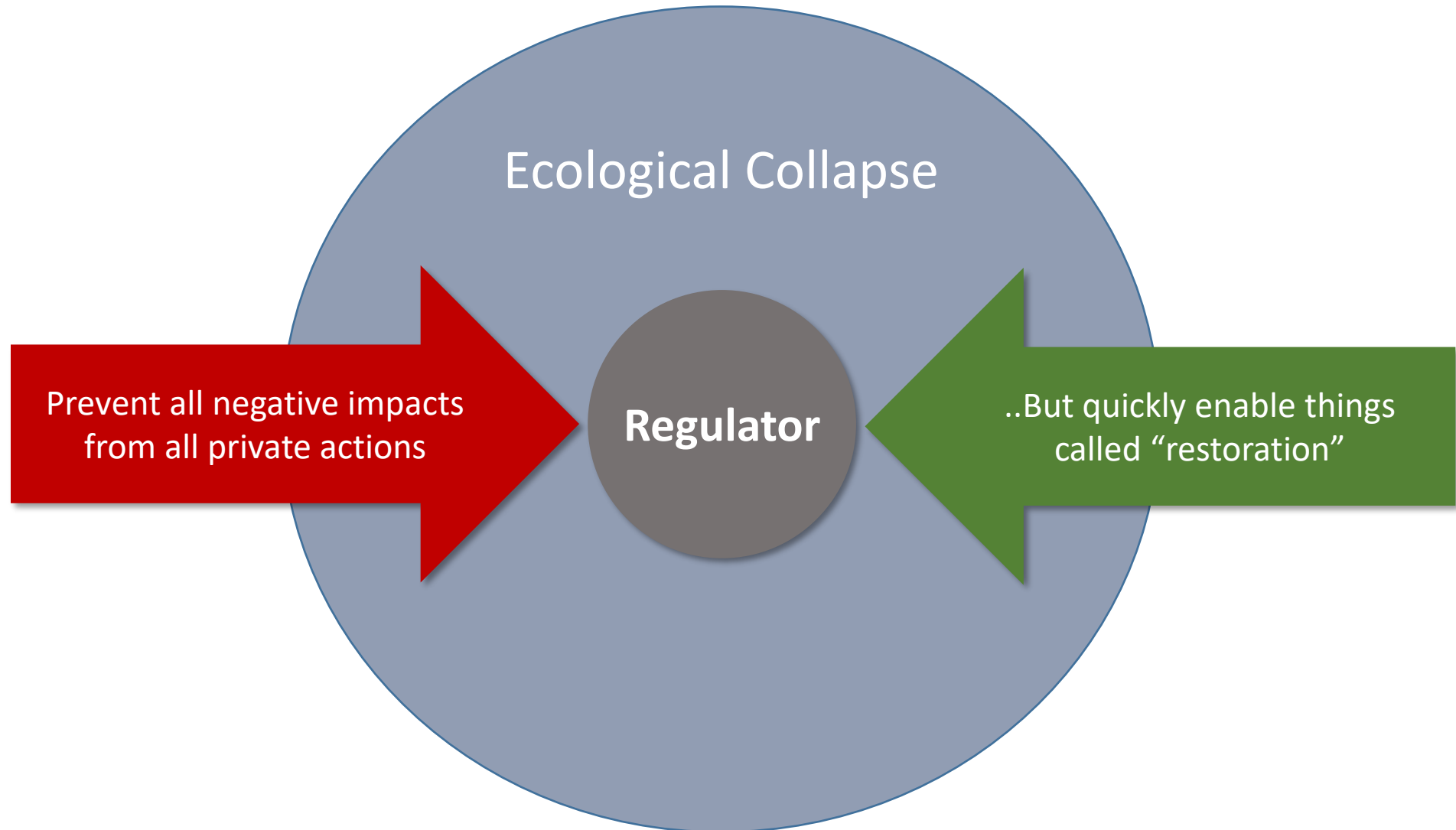
Authorities vary by:

- Resource protected
- Domain boundaries
- Institutional capacity
- Burden of proof
- Allowed mechanisms

Largely created by legislatures or legal precedent



“The Regulation and Mitigation System”



“The Regulation and Mitigation System”

- **Multi-Agency Review Team (MART)**
Diane (EPA) & Sydney (Ecology)
- **Habitat Recovery Pilot Program (HRPP)**
Hannah (WDFW)
- **Nearshore Conservation Calculator**
Paul (NOAA)

Our Presentation Plan

- We may have time for a few “clarifying questions”
- Hold questions until panel at end
- No heckling the regulators
- Use the question box at any time

Multi-Agency Regulatory Review Team Facilitated, Coordinated Permitting

Salish Sea Ecosystem Conference April 27, 2022, 11:30am - 1pm



US Army Corps
of Engineers®



FEMA



DEPARTMENT OF
ECOLOGY
State of Washington

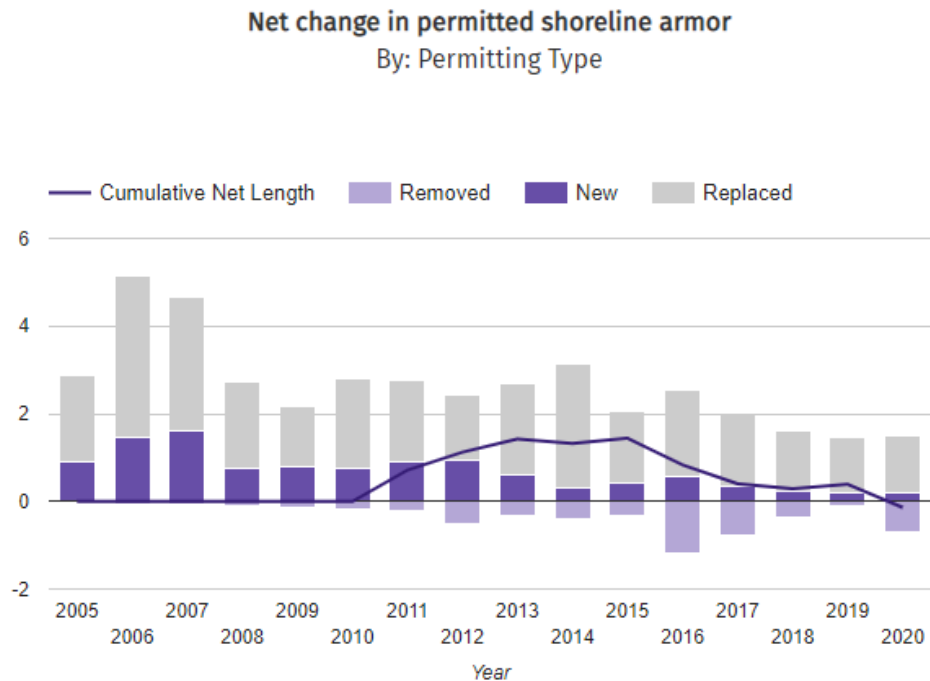


Seahurst South (Phase 1)

by Washington State Department of Ecology

Hugh Shipman, WA Ecology

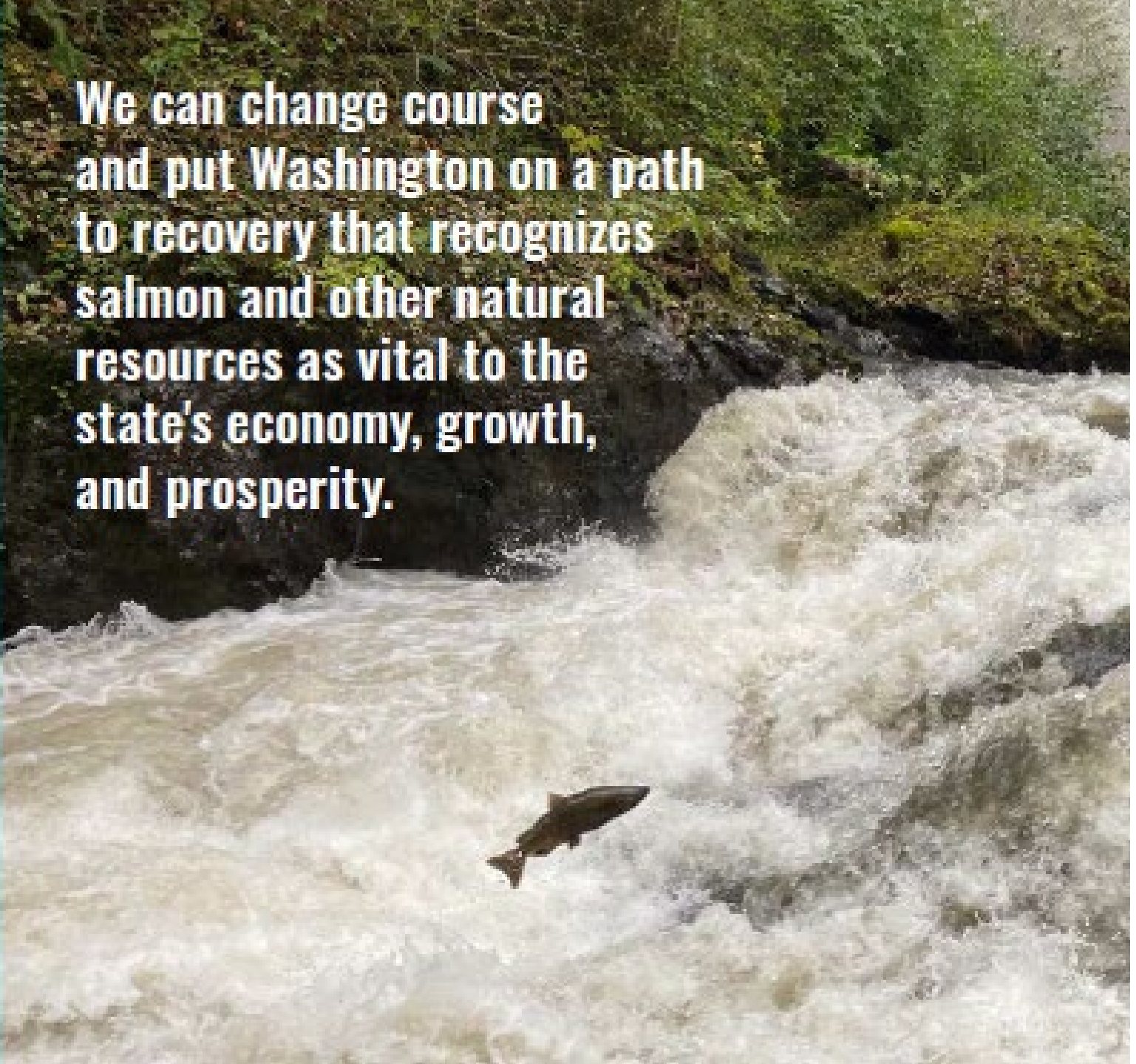
OVERARCHING REASONS TO IMPROVE REGULATORY PERMITTING OF ECOLOGICALLY BENEFICIAL NEARSHORE/SHORELINE PROJECTS



- 26% of Shorelines are armored; trend is slightly improving
- Armor replacement or removal is most common shoreline activity – opportunity to promote removal or soft shore
- Nearshore/beach habitat critical habitat for salmon, juvenile salmon, forage fish
- 50 – 90% of riparian areas - lost or modified in WA
- Often easier to permit a bulkhead replacement than install soft shore stabilization or restore shoreline and beach; but regulations are shifting to requiring soft shore options first
- USACE High Tide Line jurisdiction policy change – more shoreline projects under federal permitting (jurisdiction was MHHW)

NEARSHORE/SHORELINE - KEY TARGET OF RECOVERY

- Northwest Indian Fisheries Commission Salmon Habitat Strategy Key Target
- Western Washington Tribes State of Watersheds Report
- PSP Shoreline Armoring Implementation Strategy
- Governor's Salmon Recovery Strategy
- Federal & State Leaders recently met and permitting efficiency/improvement was a key topic



**We can change course
and put Washington on a path
to recovery that recognizes
salmon and other natural
resources as vital to the
state's economy, growth,
and prosperity.**

WHAT IS THE MART?

- Federal and State Multi-Agency Permitting Team
- Focused on evaluating and testing facilitated, collaborative, coordinated permitting process for beneficial marine shoreline projects
- Focus on improvements to federal permitting process within the context of the full permitting process

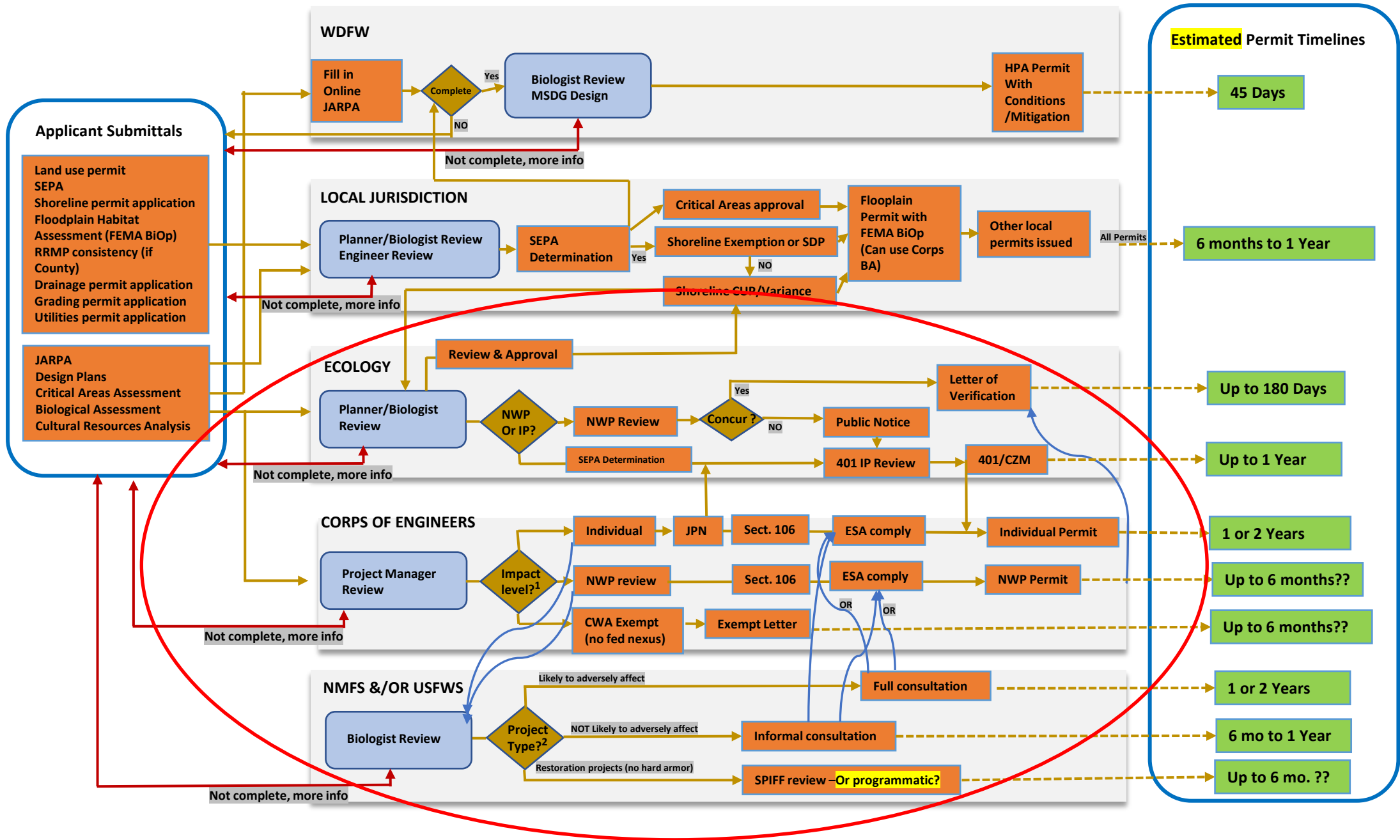


MART ACTIONS

- Prepare a permitting process map
- LEAN Workshop to identify key problems with permitting ecologically-beneficial shoreline projects and solutions; could be addressed within 2-year timeframe
- Evaluate previously permitted beneficial shoreline projects
- Permit and evaluate 3 pilot beneficial shoreline projects



DRAFT Existing Permitting Map for both Hard and Soft Shoreline Armoring or Beach Restoration Projects



Lessons learned



Reasons for permitting delays are varied and can occur both on the applicant side and the agency side

- **Design changes**
- **Delay in applicant submissions**
- **Agency review**
 - **ESA**
 - **Cultural**
 - **Local permits**



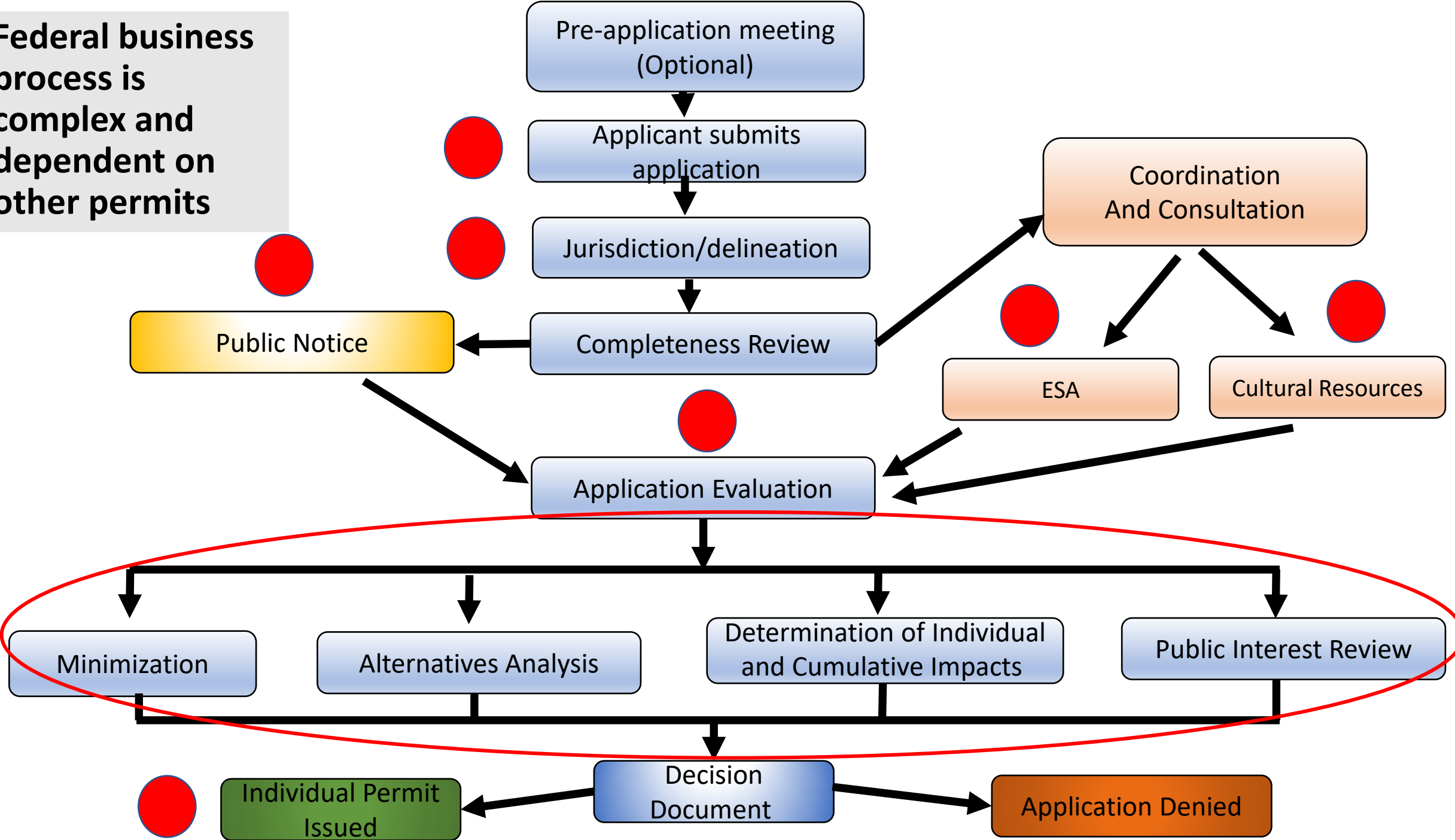
Applicants and MART found collaborative permitting process overall beneficial, with some challenges



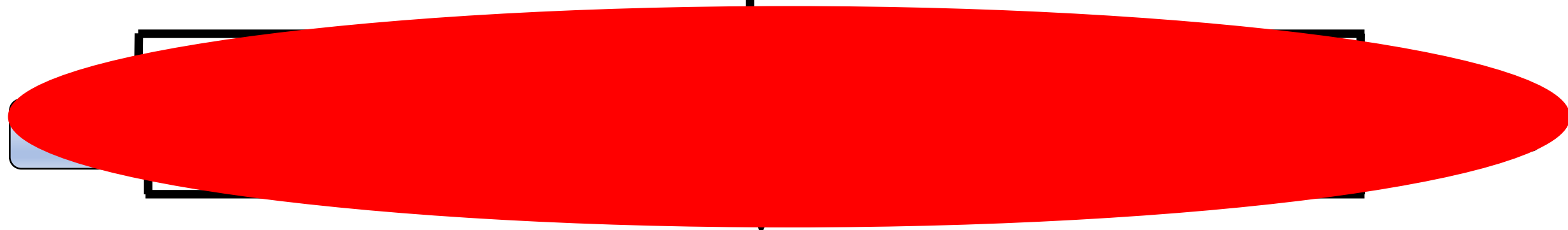
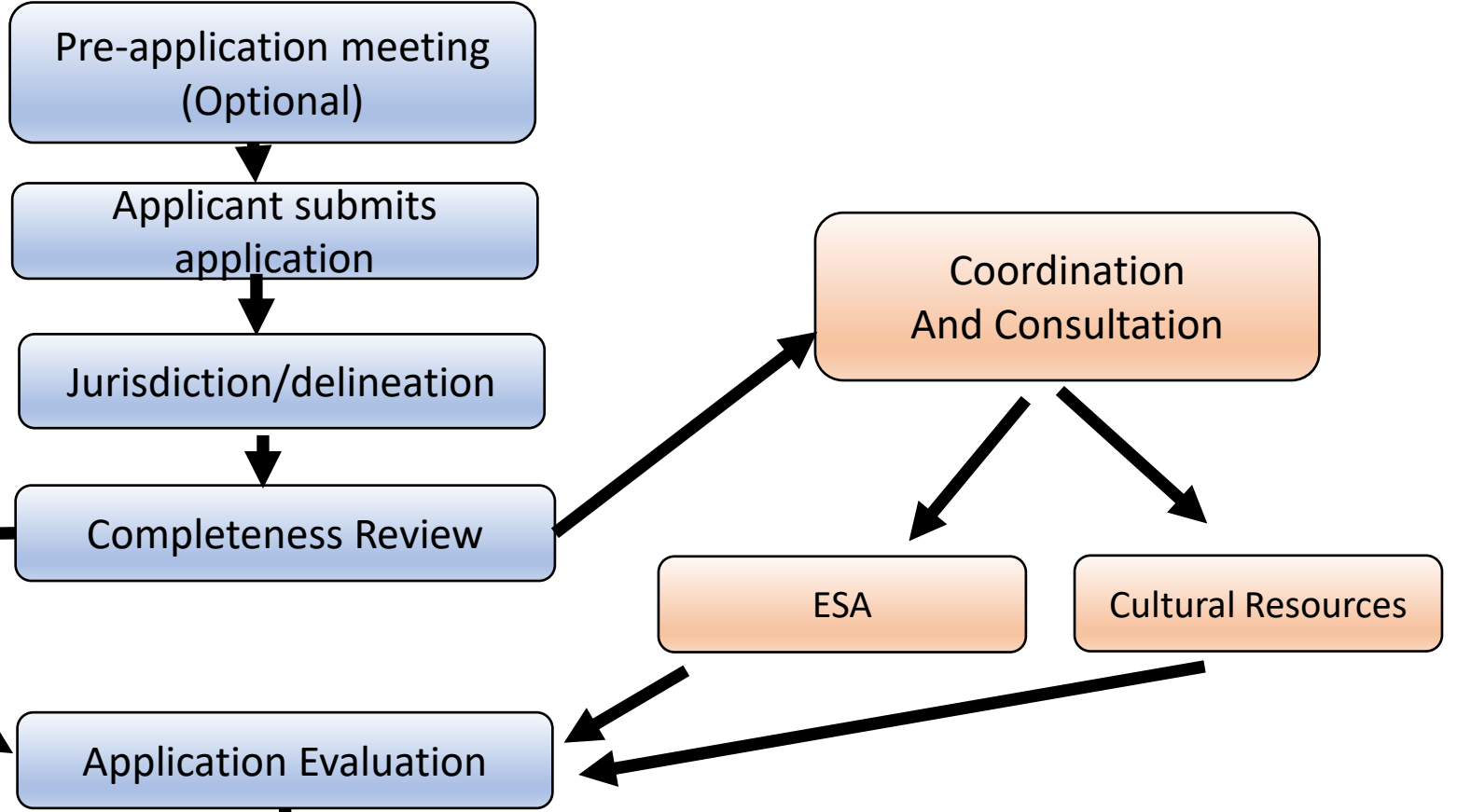
MART facilitator important to expediting collaborative permitting process



Federal business process is complex and dependent on other permits



Nationwide Permits more streamlined; still need ESA, Cultural review



 **Nationwide Permit Issued**

**Inclusion of all
permitting
agencies, including the
local jurisdictions, is
important**



TEAMWORK
make everybody effective



MART would benefit from increased investment in applicant knowledge, awareness, and resources

Other solutions require additional investments & support of funding, staff time, and/or regulatory changes



RECOMMENDATIONS FOR FUTURE WORK

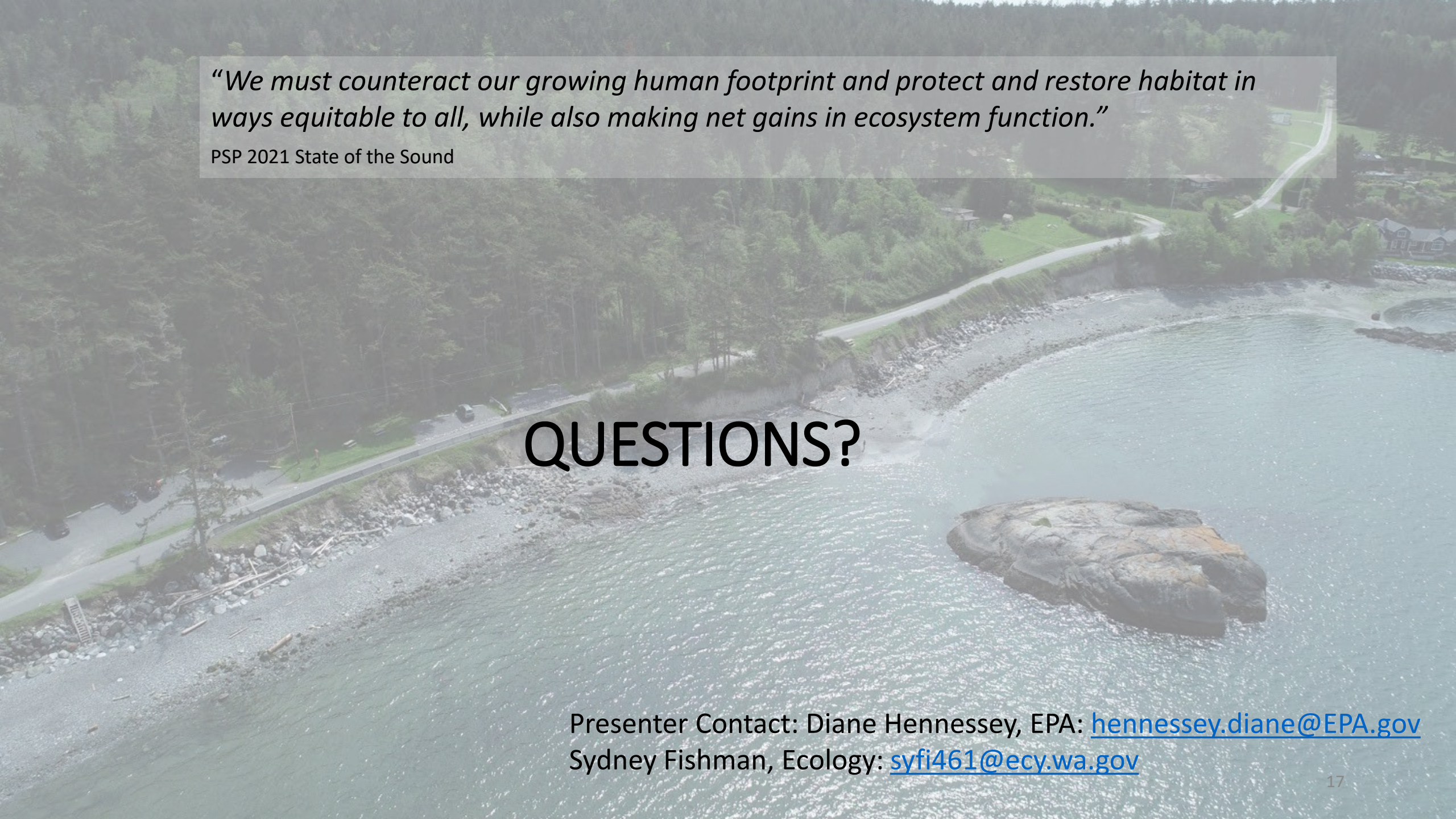
1. Continue MART - moving to implementation phase
2. Invest in regulatory and non-regulatory solutions to MART-identified permitting challenges
3. Strengthen relationships between regulatory agencies & programs like Shore Friendly, or Floodplains by Design & other organizations implementing recovery projects
4. Connect MART with other permit streamlining efforts - e.g., State Habitat Recovery Pilot Program (HRPP).
5. Leverage federal funding, federal participation, and tribal participation in an expanded federal-state collaborative permitting process for habitat recovery projects.

Cornet Bay, DOE,
BEFORE



Cornet Bay, DOE,
AFTER



An aerial photograph of a coastal area. A paved road runs along the top and left sides of the frame. To the right of the road is a dense forest of tall evergreen trees. Below the forest is a rocky shoreline with a small beach. The water is a light blue-green color. In the bottom right, there is a large, flat rock in the water. The overall scene is a mix of natural and developed land.

“We must counteract our growing human footprint and protect and restore habitat in ways equitable to all, while also making net gains in ecosystem function.”

PSP 2021 State of the Sound

QUESTIONS?

Presenter Contact: Diane Hennessey, EPA: hennessey.diane@EPA.gov
Sydney Fishman, Ecology: syfi461@ecy.wa.gov

Habitat Recovery Pilot Program

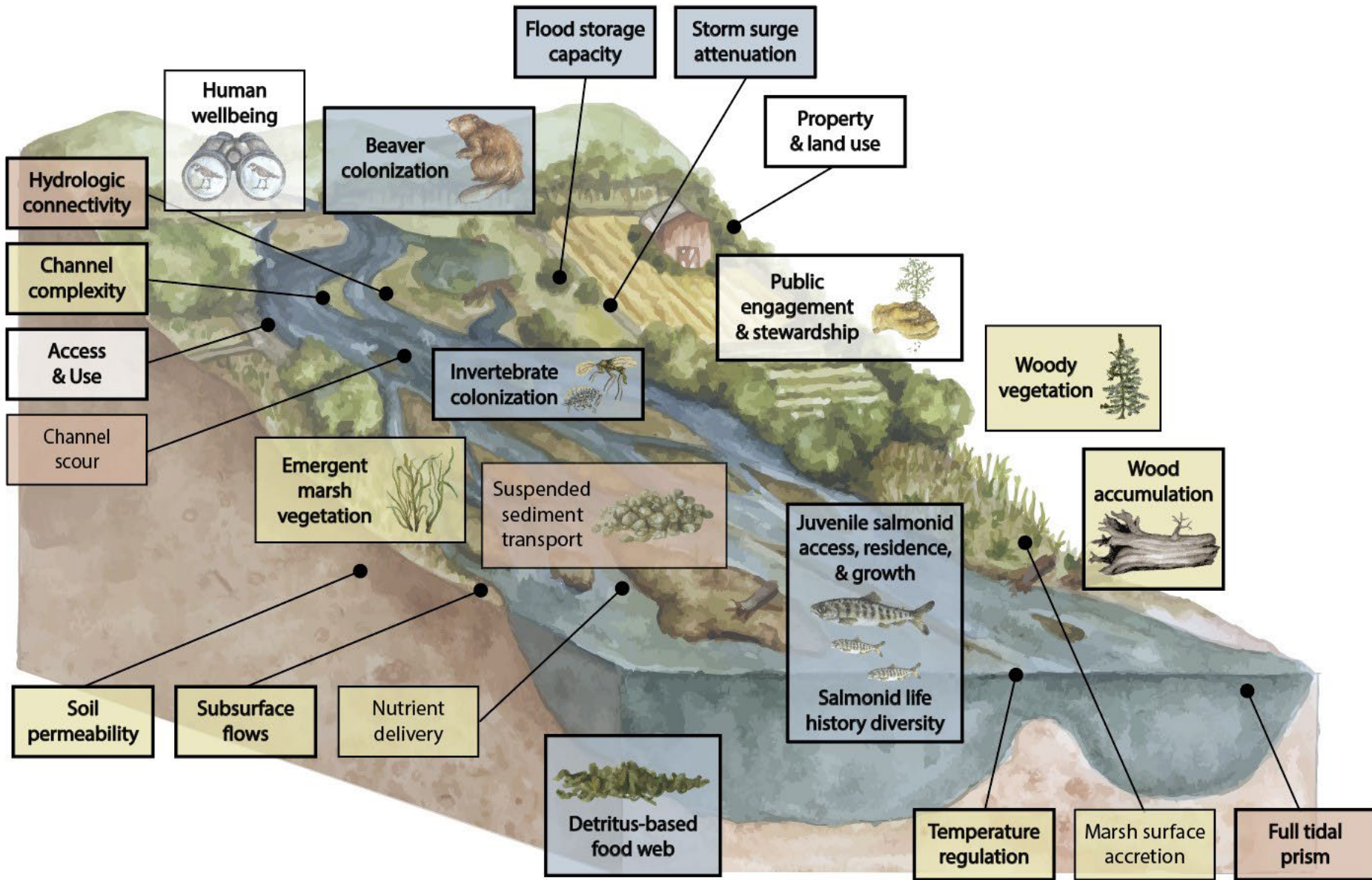
An introduction and orientation

Presented at the 2022 SSEC

Hannah Faulkner, HRPP Coordinator

WA Dept. of Fish and Wildlife





Restoring Delta Ecosystem

*illustration by Dr. Simone des Roches
from the 2022 Nearshore Restoration Summit Proceedings*

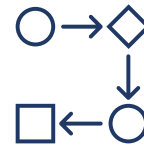
Habitat Recovery Pilot Program (HRPP)



Context



Qualifications



Process



Next steps



House Bill 1382

“The legislature finds that, particularly in times of economic hardship, it is in the interest of the citizens and natural resources of the state to **promote and implement habitat restoration** projects that have been determined to contribute to the **recovery of watersheds** throughout the state. The legislature further finds that habitat recovery projects that contribute to the **recovery of orca, salmon, steelhead, bull trout, rock fish, and other fish species and habitat they rely on** are particularly valuable. It is the legislature's intent that these projects advance to construction as quickly and efficiently as possible, thereby creating jobs and further bolstering the natural resources and natural resource economy of Washington.”



House Bill 1382

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Habitat Recovery Pilot Program (HRPP)

a permit streamlining process



RCW 77.55.480

Qualifying Projects require:

- Hydraulic Project Approval (HPA) permit

Qualifying Projects do **not** require:

- SEPA review
- Other local and state permits*

* except permits minimally necessary for participation in a federal program

Habitat Recovery Pilot Program (HRPP)

a permit streamlining process



RCW 77.55.480

Qualifying Projects require:

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Streamlined permitting programs

Existing

Fish Habitat
Enhancement
Project
(FHEP)

RCW 77.55.181

New

Habitat
Recovery Pilot
Program
(HRPP)

RCW 77.55.480



Streamlined permitting programs

FHEP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA

HRPP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA

* except permits minimally necessary for participation in a federal program



Streamlined permitting programs

FHEP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA
- Limited project types

HRPP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA

*except permits minimally necessary for participation in a federal program



Streamlined permitting programs

FHEP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA
- Limited project types

HRPP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA
- No project type limits

*except permits minimally necessary for participation in a federal program



Armor Removal at Edgewater Beach
Image copied from PRISM



Streamlined permitting programs

FHEP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA
- Limited project types

HRPP

- ~~SEPA review~~
- ~~Other local and state permits*~~
- HPA
- No project type limits
- MAP Team

*except permits minimally necessary for participation in a federal program



Streamlined permitting programs

Multi-Agency Permitting (MAP) Team:

- Washington Department of Fish and Wildlife
- Department of Ecology
- Recreation and Conservation Office
- Governor's Salmon Recovery Office
- Department of Natural Resources
- Puget Sound Partnership

How does
a project
qualify
for the
HRPP?

- Intent
- Funding
- Consistency
- Review
- Authorization





HRPP qualifications

A project must:

1. Benefit freshwater, estuarine or marine fish, or their habitat



HRPP qualifications

A project must:

1. Benefit freshwater, estuarine or marine fish, or their habitat
2. Reviewed, approved or funded by selected restoration programs



HRPP qualifications

Selected restoration programs:

- i. The Bonneville Power Administration Restoration Program
- ii. The Brian Abbott Fish Barrier Removal Board
- iii. The Estuary and Salmon Restoration Program
- iv. The Floodplains by Design Program
- v. The Office of Chehalis Basin Aquatic Species Restoration Program
- vi. The Office of Columbia River Habitat Recovery Projects
- vii. The Puget Sound Acquisition and Restoration Fund
- viii. The Puget Sound National Estuary Program
- ix. The Salmon Recovery Funding Board
- x. The Washington Coast Restoration and Resiliency Initiative
- xi. The Yakima Tributary Access and Habitat Program
- xii. Fish recovery projects sponsored by a federally recognized tribe
- xiii. Fish acclimation facility projects sponsored or operated by a federally recognized tribe



HRPP qualifications

A project must:

1. Benefit freshwater, estuarine or marine fish, or their habitat
2. Reviewed, approved or funded by selected restoration programs
3. Document consistency with local, state and federal flood risk reduction requirements
 - *Department of Ecology is state authority on floodplain management guidance and assistance (86.16 RCW)*



HRPP qualifications

A project must:

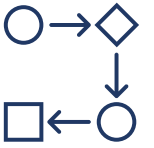
1. Benefit freshwater, estuarine or marine fish, or their habitat
2. Reviewed, approved or funded by selected restoration programs
3. Document consistency with local, state and federal flood risk reduction requirements
4. Reviewed by the Dept. of Archaeology and Historic Preservation (DAHP) including affected federally recognized tribes
 - *Site surveys*
 - *Document consistency*



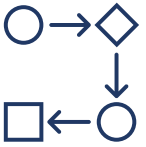
HRPP qualifications

A project must:

1. Benefit freshwater, estuarine or marine fish, or their habitat
2. Reviewed, approved or funded by selected restoration programs
3. Document consistency with local, state and federal flood risk reduction requirements
4. Reviewed by the Dept. of Archaeology and Historic Preservation (DAHP) including affected federally recognized tribes
5. Apply to the Dept. of Natural Resources (DNR) **if** on state-owned aquatic land



What is the
application
process?



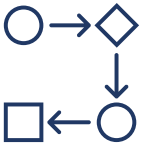
Application process

RCW 77.55.480(5)

No local or state government may require permits or charge fees other than the HPA¹*

¹ No fee for HPA

*except permits minimally necessary for participation in a federal program.



- Coordination
- Outreach
- Training
- Capacity

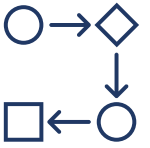


July 25, 2021
HRPP
established

March 1, 2022
HRPP coordinator
hired

1st application!

July 30, 2025
HRPP
expires

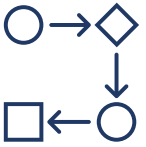


Application process

Before application

With application

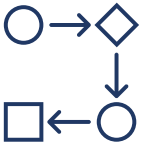
After application



Application process

Before application

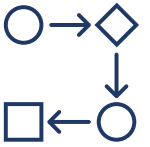
- **Meet program qualifications:**
 - Eligible restoration programs
 - Local floodplain review
 - Cultural resources review
 - DNR application



Application process

With application

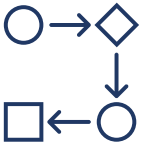
- **Document consistency with:**
 - Eligible restoration programs
 - Local floodplain review
 - Cultural resources review
 - DNR application
- **By way of:**
 - Supplemental form
 - WDFW's Aquatic Protection Permitting System (APPS)



Application process

With application

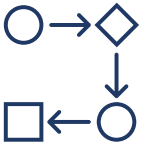
- **Copy application to:**
 - Local government
 - MAP Team
 - Affected federally recognized tribes



Application process

After application

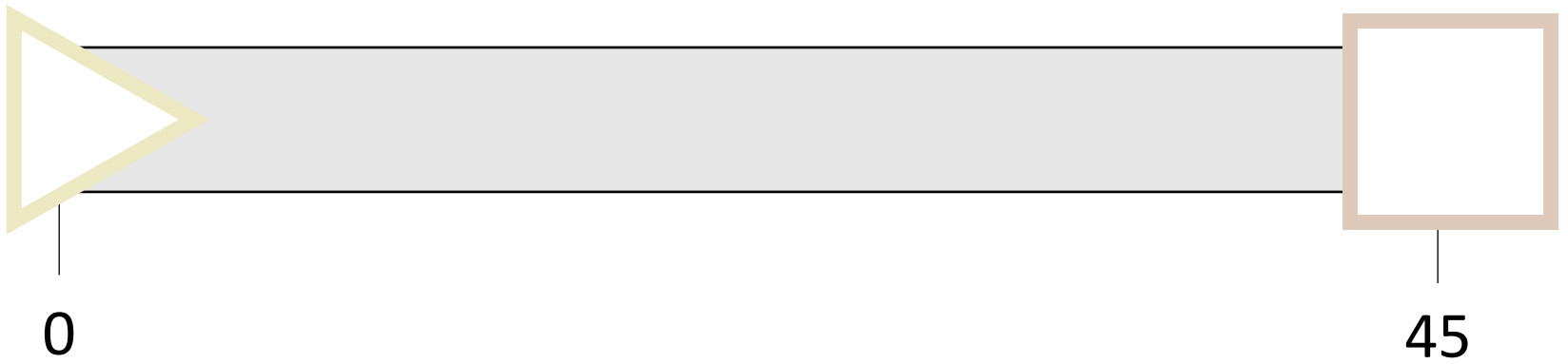
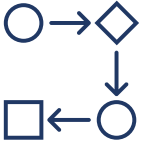
- WDFW makes determination
 - Incomplete – *if documentation of consistency is lacking*



Application process

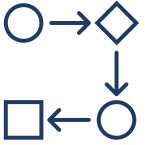
After application

- WDFW makes determination
 - Incomplete – *if documentation of consistency is lacking*
 - Complete – *all materials provided*
 - *WDFW notifies local government, affected federally recognized tribes and the MAP Team*



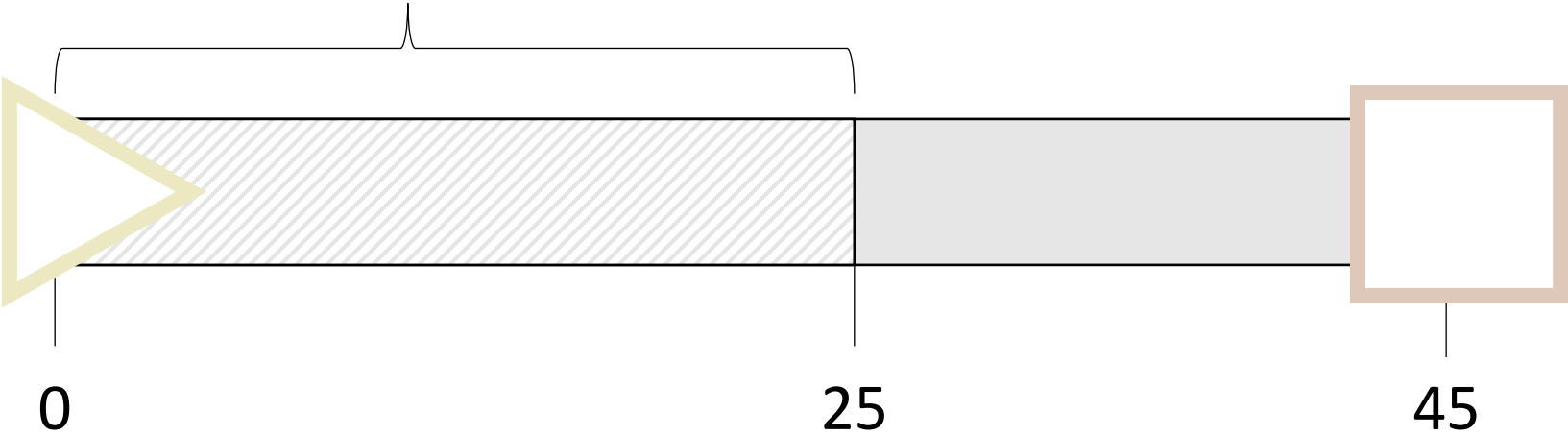
**Application
determined
complete**

**Application
decision
deadline**



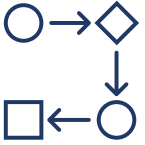
Is there a concern for?

- Public safety
- Human health
- Environment
- Scope and complexity



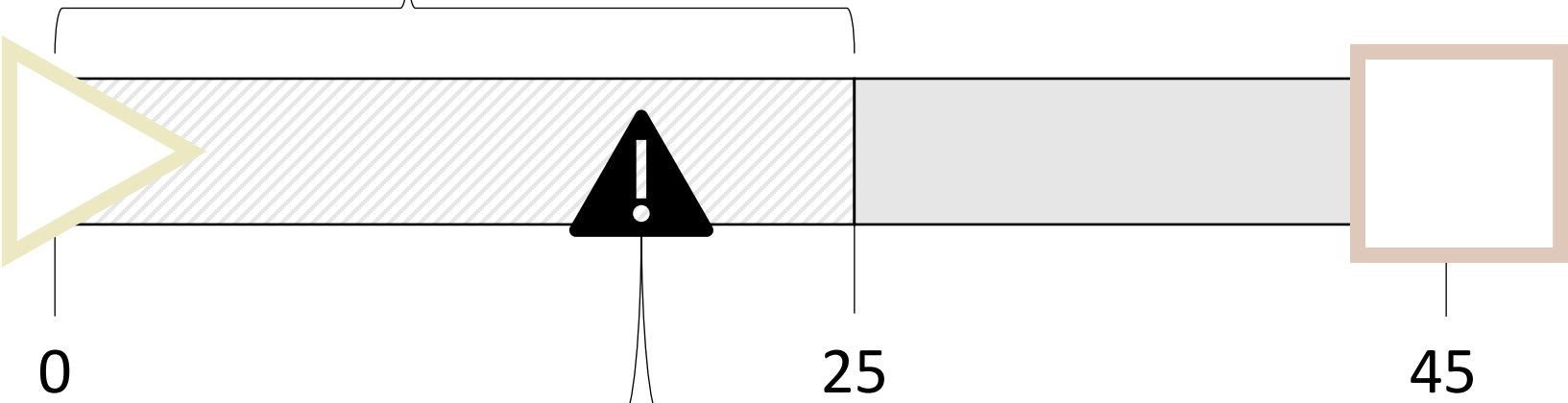
**Application
determined
complete**

**Application
decision
deadline**



Is there a concern for?

- Public safety
- Human health
- Environment
- Scope and complexity



0

25

45

Application determined complete

Review and evaluate concern
(not to exceed 45 days)

Application decision deadline



What are
the next
steps?



Restored tidal channel of the Skykomish River
Image copied from ESRP photo slider map

Licenses & Permits

Fishing and shellfishing licenses

Hunting licenses

Construction and environmental permits

Parking and access passes

License plates

License dealers

Commercial licensing

Roadkill salvage permit

Habitat Recovery Pilot Program

Webinar for local governments: We hosted an informational webinar on Jan. 19, 2022 for local government staff involved with environmental permitting, including shoreline/critical areas protection and floodplain management.

[Watch the recording and review meeting materials.](#)

The Habitat Recovery Pilot Program is designed to streamline the environmental permitting process for habitat recovery projects. Eligible restoration projects must benefit freshwater, estuarine, or marine fish, or their habitats. This program was established by law in 2021 and will end June 30, 2025.

Learn more about the pilot program in the frequently asked questions below.

Before initiating the pre-qualification process or filing an application, project proponents are encouraged to contact Habitat Recovery Pilot Program staff [via email](#) for guidance.

Members

[Multiagency Permitting Team](#)

Contact

Habitat Recovery Pilot Program
HPApilotprogram@dfw.wa.gov

What is the Habitat Recovery Pilot Program?





Fir Island Farm Reserve

Thank you!

Presented by **Hannah Faulkner**
HRPP Coordinator
WDFW

hpapilotprogram@dfw.wa.gov





NOAA
FISHERIES

Puget Sound Conservation Calculator

Paul Cereghino, NOAA Restoration Center
Stephanie Ehinger, NMFS Protected Resources

What is the Calculator?

Area-based functional rapid assessment tool

Quantifies change in habitat conditions

ESA-listed Chinook and chum critical habitat

Yellow cells indicate user entry fields.
Green cells contain additional explanations and resource links.
Orange cells contain summary values.

Puget Sound Nearshore Conservation Calculator				
Prepared on: 01/11/2022			Version: 2/17/2022	
This calculator estimates conservation points for the Puget Sound nearshore.				
		Conservation Credits/Debits	DBAs	Notes
Overwater Structures	Debit	0	0.00	
	Credit	0	0.00	Includes credits from creosote removal
	Balance	0	0.00	
Shoreline Armoring	Debit	0	0.00	
	Credit from Arroyo Removal	0	0.00	
	Credit from Creosote Removal	0	0.00	
Balance	0	0.00		
Maintenance Dredging	Debit	0	0.00	
	Balance	0	0.00	
Boatramps, Jetties, Rubble	Debit	0	0.00	
	Balance	0	0.00	
Beach Nourishment	Conservation Credit	4	0.04	
Riparian Enhancement/Degradation	Conservation Points	0	0.00	
SAV Planting	Conservation Credit	0	0.00	
Total Points		4	0.04	

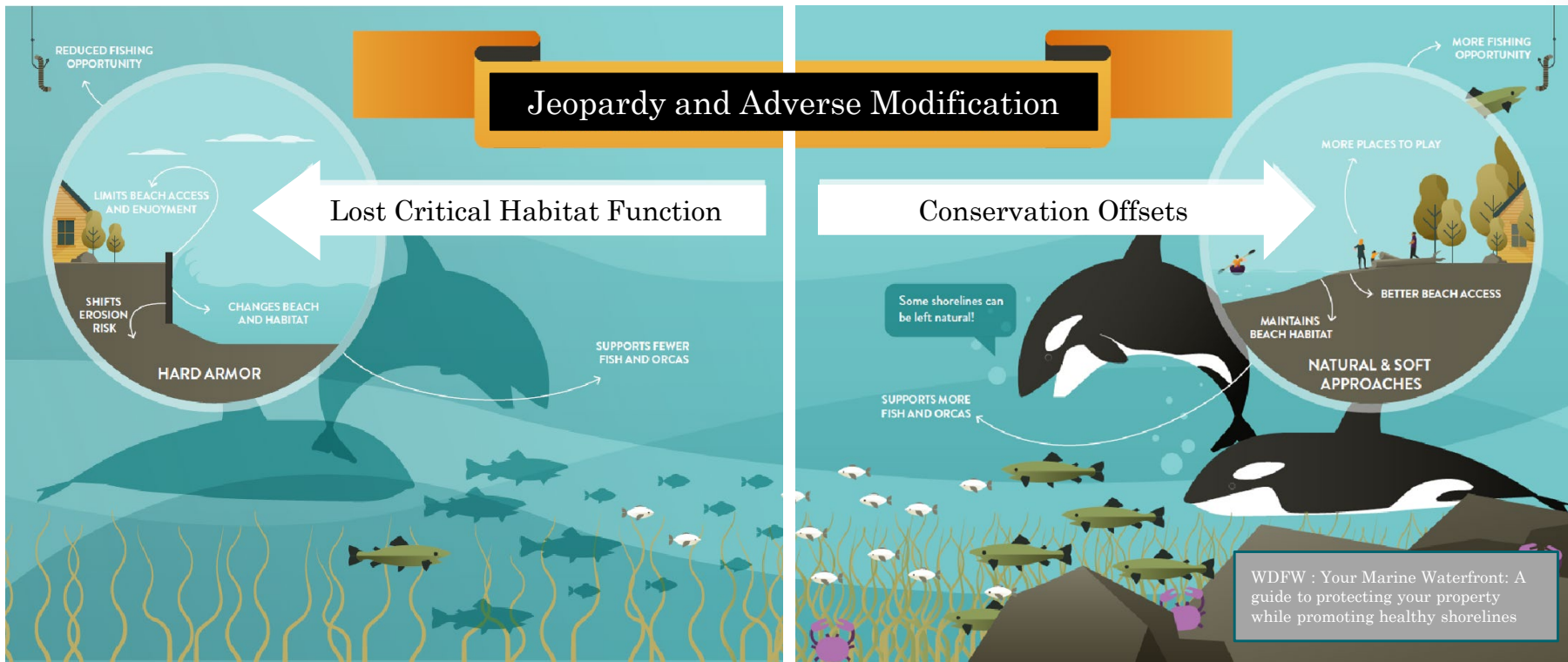


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Jeopardy and Adverse Modification

Lost Critical Habitat Function

Conservation Offsets



- ~50 projects “Jeopardy/Adverse Modification”
- Condition of opinion includes offsets for all impacts (after avoid/minimize)



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What Is the Calculator?

Uses Habitat Equivalency Analysis (HEA)

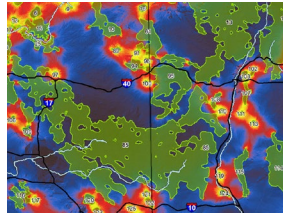
Rational Accounting System

“Discounted Service Acre Years” (DSAYs)

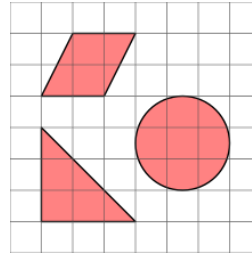
Accrual



Service Value



Area



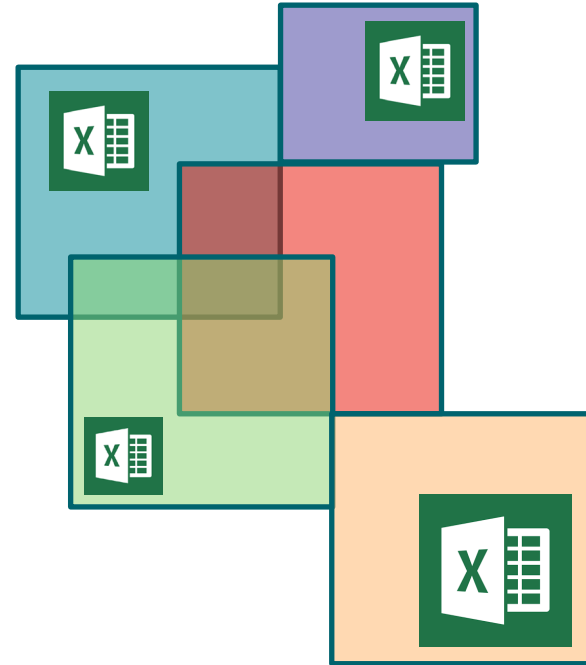
Time



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Why Habitat Equivalency Analysis?

- History
- Transparency
- Efficient Accountability
- Modular Adaptability



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Status of the Nearshore Calculator?

Currently used to review shoreline development under federal review

Working towards streamlined programmatic use

Improve through annual update cycle



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Status of the Nearshore Calculator?

- Avoid, minimize, compensate/offsets.
 - On Site
 - Within-Basin
 - Third Party Offsets
 - Blue Heron Conservation Bank (Snohomish Estuary)
 - Puget Sound Partnership In Lieu Fee
 - Hood Canal In Lieu Fee
- Applicant can predict general scale
- Interpretation verified by consulting biologist



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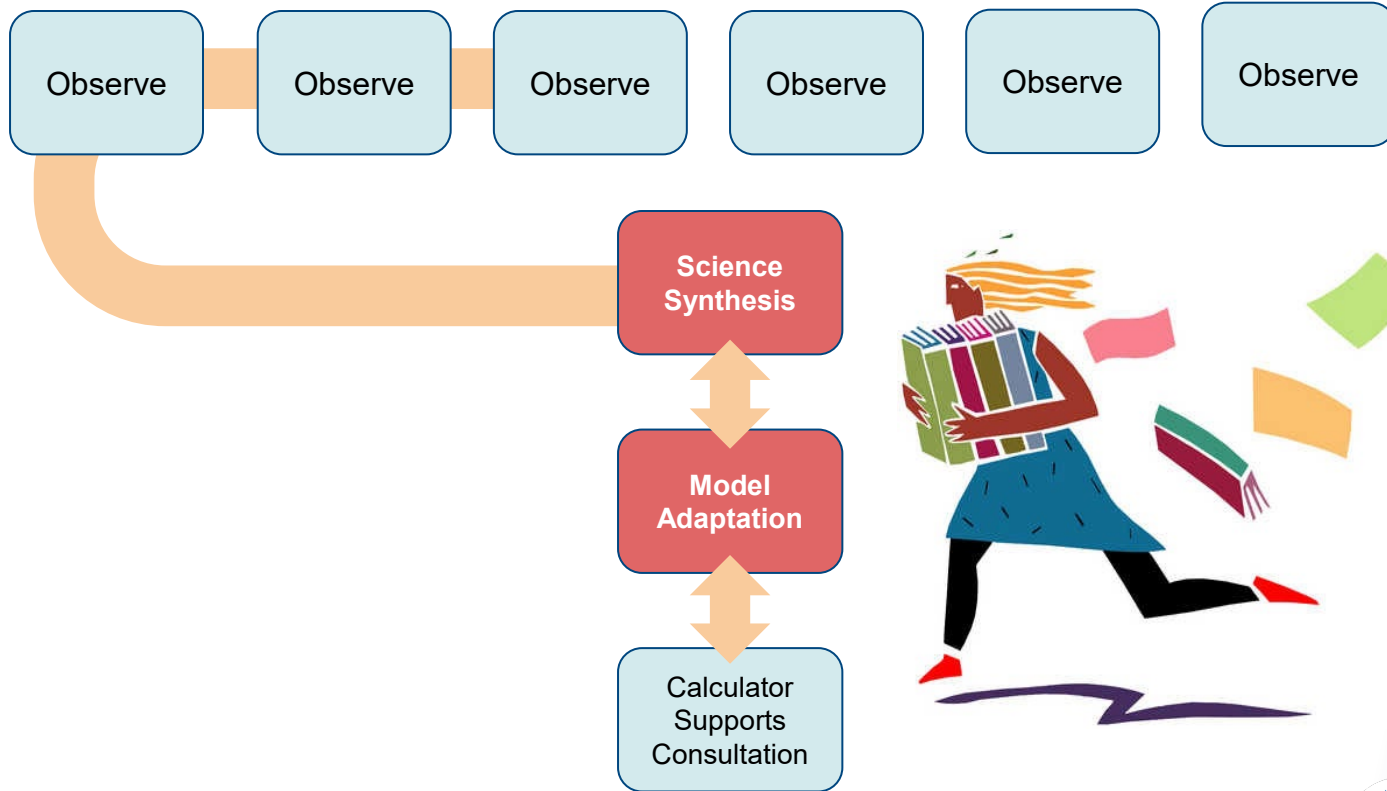
Continuous Process Improvement

How do we adjust and expand ecosystem service quantification over time so that it incorporates best available science ?



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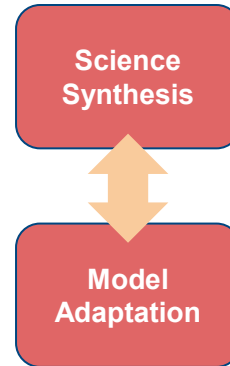
What is Continuous Improvement?



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What is Continuous Improvement?

Ensure protection
Best available science
Accountability
Increase efficiency
Maximize use

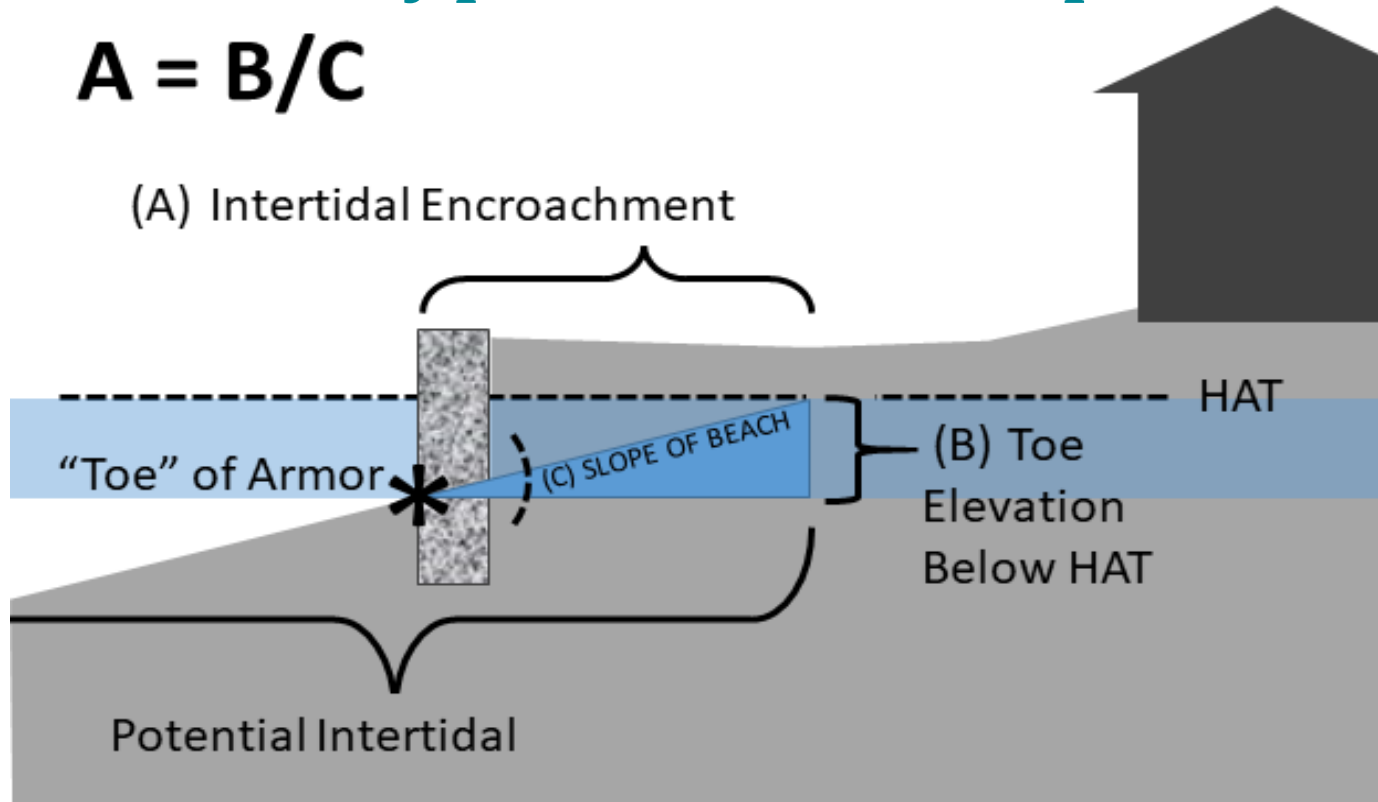


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What is typical beach slope?

$$A = B/C$$

(A) Intertidal Encroachment



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Science Sprints

Different Authorities Use Same Evidence

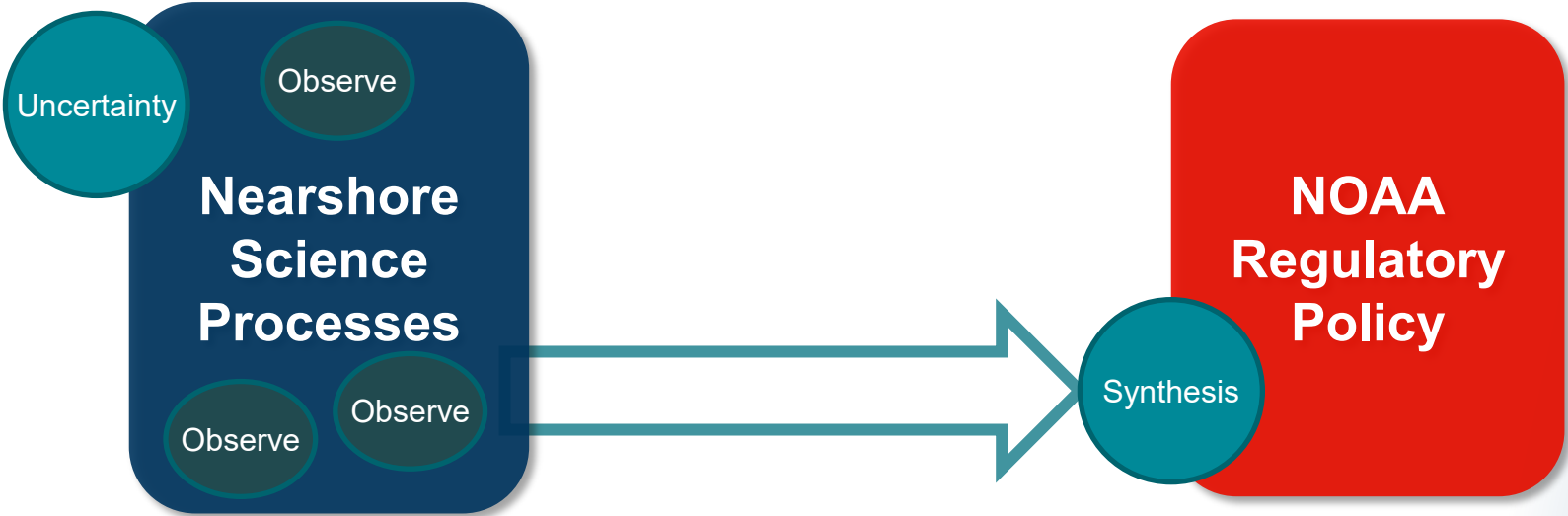
Rapid Updates

Align Science with Regulatory Questions

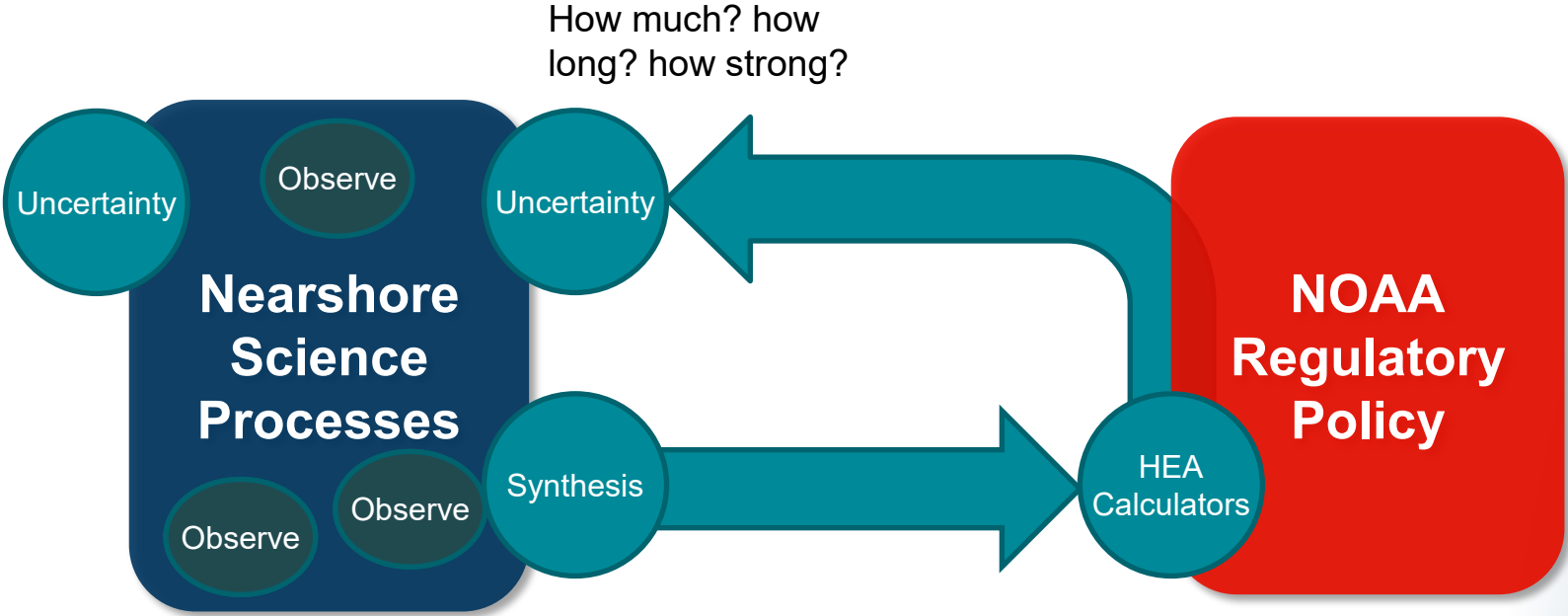


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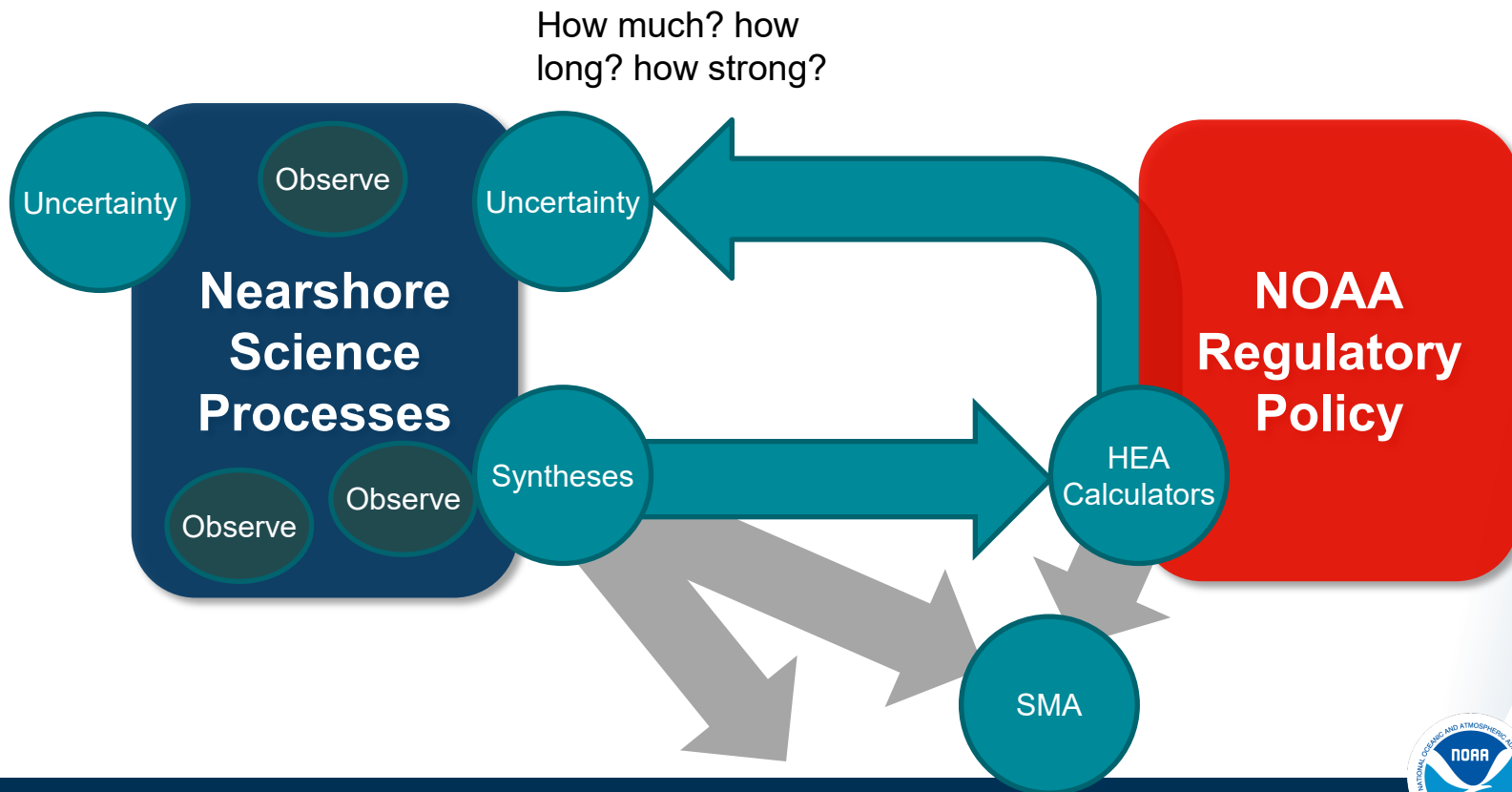
Science Sprints



Science Sprints



Science Sprints



Science Sprints Topics?



Washington
Department of
**FISH and
WILDLIFE**



FALL 2022 – Beach Nourishment Synthesis

SPRING 2023 - ?

Google “Science Sprints Salish Sea”
<https://salishsearestoration.org>



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Thank you!

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