



Washington's Hydraulic Project Approval Program Listening Sessions 2016

Meeting notes - August 10, 2016

Introduction

WDFW engaged tribal representatives and stakeholders during the spring of 2016 to hear feedback on what's working and what's not working with the Hydraulic Project Approval (HPA) program. WDFW plans to use these comments to improve program operations, propose statutory and rule changes, and improve outreach with tribes and stakeholders. WDFW's goals for the HPA Listening Sessions were:

1. Improve fish habitat restoration and protection efforts:
 - To get fish populations de-listed (removed from the federal Endangered Species Act list).
 - To support healthy and harvestable fish populations.
2. Achieve improved fish protection while supporting applicants.

WDFW asked tribal representatives and stakeholders:

- **What's most important to you** about WDFW's HPA program work: Fishing? Conserving fish and wildlife for future generations? Protecting habitat from development? Simplifying rules or streamlining permits?
- **What should we do** when values and attitudes collide?
- **What should WDFW be doing better?** What are we doing well?
- **Do you have specific ideas and proposals** for improving WDFW's implementation of the HPA program?
- How should the HPA program be funded into the future?
- What can WDFW do to improve our relationships with tribes, customers and other stakeholders?

Four aspects of the HPA program:

- ✓ HPA statutes (RCW 77.55), which are modified through legislation;
- ✓ HPA rules (Chapter 220-660 WAC), modified by WDFW through a public process;
- ✓ HPA operations and enforcement, which WDFW can modify as funding allows; and
- ✓ Actions we implement as a community to build and maintain relationships and mutual understanding.

HPA Program Considerations

- *WDFW is focusing on the future.*
- *WDFW has difficult management challenges ahead.*
- *WDFW is experiencing rising costs and ongoing budget constraints.*
- *WDFW can't succeed by going it alone - We need your help – and your ideas.*
- *WDFW hopes to strengthen our relationships, to earn and keep your trust.*

Format

Randi Thurston and Teresa Scott toured Washington in the spring of 2016 and held twenty-seven HPA Listening Sessions with 157 participants. WDFW participants also included Jeff Davis and Margen Carlson when schedules allowed. The general format for these meetings was simple - WDFW initiated introductions around the room, provided overviews of the work of the HPA program, and asked participants about what is working well with the HPA program, what's not working, and how we can find solutions that are implementable while still meeting the objectives

for which participants are advocating. Meeting time was apportioned generally 2/3 on comments and 1/3 on solutions. Some meetings followed a different format, especially when participants came prepared with their own list of issues.

A note about the many comments received about HPA jurisdiction above the ordinary high water line (OHW): Early in 2016, WDFW Director Unsworth requested an opinion from Attorney General Robert Ferguson on this topic. The June 3, 2016 opinion (AGO 2016 No. 6) states clearly that the department's HPA authority "is not limited to activities conducted at or below the ordinary high water line." It goes on to say that the determination of whether a project requires an HPA "will depend on the facts in the given situation," including whether the construction activity or performance of work has an effect on the natural flow or bed of state waters and will impact fish life. WDFW is preparing information that clarifies the types of situations where an HPA would apply above OHW, and explains the biological linkages leading to fish life impacts. WDFW does not expect this to be the end of the conversation, however, and looks forward to many future discussions as we work to help people understand the importance of impacts to fish life caused by projects occurring above OHW, and develop materials explaining how decisions about HPA jurisdiction are made.

Following is a summary of comments received during these 2016 HPA Listening Sessions.

1. Environmental Representatives: January 15, 2016 in Mill Creek

Randi Thurston and Teresa Scott of WDFW met with nine people representing environmental organizations or were generally interested in the HPA Program.

General comments and kudos

- Communication about 2015 WDFW drought response was appreciated by stakeholders.
- The HPA Advisory Committee is meeting regularly and will be briefed on outstanding issues/topics.
- A Sediment Removal Subcommittee will be working on new rules that protect fish while streamlining permitting for these projects. It was suggested that the subcommittee should include seats for "the Environmental Coalition" and fishers/fish interest groups.
- Updates to surf smelt spawning area maps are occurring as new information and analyses become available.

General Concerns

- WDFW seems interested in improving the situations and issues we know about, but is not looking forward to detect and solve issues that we don't know about currently.
- Stakeholders are concerned that Forest practice-related permits affecting areas above the ordinary high water line (OHW) and projects in floodplains (above OHW) don't receive enough review by WDFW, and will be excluded from WDFW review under the proposed 2016 bill. [This proposed legislation did not pass during the 2016 session]
- Stakeholders are concerned about structures that are derelict or are degrading in such a manner as to put fish life at risk. This problem will grow as sea level rise takes its toll on marine shoreline structures and outfalls. WDFW does not have HPA authority to require structures be maintained once the two-year timeframe to prosecute a violation has lapsed; DNR has some authority on state-owned tidelands. [This is not an accurate perception.]

WDFW does not have the authority under Chapter 77.55 RCW to require owners to upgrade or remove derelict or degraded structures]

Legislation

There is a bill in 2016 legislature that enables monitoring of small scale mineral prospecting; which stakeholders support. The bill establishes a small scale mineral prospecting advisory committee under the Fish and Wildlife Commission. The bill also requires a scientific study of the effects of motorized mineral prospecting on native fish species and related habitat and establishes a work group to review the data collected. New in 2016 is a bill that establishes a new license for small scale mineral prospecting, which aligns both license and seasons with fishing seasons. This bill contains elements from 2015 bills, including a scientific review and studies. The group discussed how the results from the information collected under these bills would contribute to our collective understanding about fish impacts from motorized mineral prospecting and help us prioritize action steps. [This proposed legislation did not pass during the 2016 session]

- A bill in the 2016 legislature clarifies HPA authority as “at or below ordinary high water (OHW);” this is a concern to stakeholders. Bill impacts ability to adequately protect fish from large-scale projects spanning both in-water and above OHW geographic/hydrologic locations. [This proposed legislation did not pass during the 2016 session]

Jurisdiction

- The sequence of permitting and delegation of authority between Clean Water Act (CWA) and HPA authorities is not clear to stakeholders.
- There is a gap in review and technical assistance (perhaps even permitting) for some types of stormwater and drainage outfalls (very small and/or residential projects) in relation to cumulative impacts from and to marine shoreline development. Cumulative impacts from non-permitted outfalls are degrading the environment.

[It was clarified that WDFW does not have delegated CWA 401 authority from Ecology, but that Ecology has made choices about what types of projects (e.g. small scale mineral prospecting) don't require a CWA 401 permit. WDFW authority when permitting an outfall structure is the design of the structure in relation to fish protection and the flow or bed of the water; WDFW has very limited authority to regulate the water quantity or quality coming out of an outfall structure.]

- HPA statute limits WDFW review to immediate impacts of constructing a particular project; cumulative impacts of multiple projects can't be considered by WDFW. Stakeholders are concerned that the HPA permit is specifically tied to current conditions and impacts of the proposed project on existing habitat. Given this constraint, participants recognize that it is difficult to assess the cumulative effects of multiple projects and determine how effects from climate change can be addressed during project design without statutory authority to look into the future of the project.
- A statute restricts WDFW from exercising authority over single-family bank protection projects, which, like non-permitted outfalls, have a cumulative negative effect on the health of Puget Sound. All bank protection projects need to be structurally sound, provide the intended protection into the future, and protect fish life now and into the future.

- Stakeholders are concerned that WDFW does not appear to have authority to stop work on a project when violations are detected. While WDFW has protocols in place for staff to notify local jurisdictions about construction violations, inability to order work stopped leads to more environmental damage needing mitigation.
- Overall, participants are frustrated that WDFW can't use the authority it does have to effectively regulate for fish protection. Conversations like this one, centering on brainstorming solutions at a level of detail sufficient for implementation, really help not only improve WDFW's credibility (when ideas are implemented) but also fosters positive approaches to problem identification and response.

Fish passage projects

- New information on the effects and design of fish ladders and fishways is needed, along with monitoring criteria. While the authority to act on fishways comes in a section of statute that is separate from HPA authority, updated design and monitoring criteria would help WDFW prioritize projects for technical assistance and/or enforcement action.

HPA Operations

- WDFW should make changes to standard operating procedures (SOPs) for marine bulkhead projects, marine and freshwater overwater structures, freshwater bank protection projects, and all water crossing projects available for public review.
- A suggestion was made that hydraulic project locations be made available using GIS in such a way as to link with other map layers like fish distribution and other permit types. Online availability would help enforcement officers and biologists locate projects in the field, and help interested parties keep informed about active projects. The group was very interested in following up on this suggestion and helping to get it accomplished.

Work windows

- Work windows need to be updated. WDFW should document the origin of work windows ("provide metadata"). Rearing windows should be added. Work windows for stream segments hosting ESA-listed species should be prioritized over other areas. Updates should receive public review before implementation.

Compliance and enforcement

- Stakeholders encouraged WDFW to continue to develop the civil authority granted under hydraulic project statutes, and to develop protocols that will better enable project monitoring under that authority. Stakeholders agree that the more site visits and technical assistance WDFW can provide, the more likely it is that projects will be fish friendly.
- Stakeholders indicated support for a WDFW-proposed pilot program to implement civil enforcement in the Puget Sound area. WDFW provided information about statewide lack of staff capacity for enforcement of permitted hydraulic projects, and explained the difficulty WDFW has in documenting impacts (or lack thereof) from small scale mineral prospecting conducted under the Gold and Fish pamphlet. The pilot enforcement project was proposed to the Puget Sound Partnership for funding in 2016-2018. [The pilot did not receive Partnership funding]

- Participants observed that contact notes in HPAs are not being followed (for example, USFS does not get contacts from mineral prospectors receiving individual HPAs). Stakeholders want WDFW to track contacts. A suggestion was made for WDFW to mail HPAs to USFS when permitted projects occur on national forest lands; WDFW will look into this.
- The group discussed concerns about county prosecutors' unwillingness to move fish and wildlife cases forward through the criminal justice system. The new civil authority for WDFW might improve overall compliance if civil penalties were high enough to deter violators; currently limited to \$100 per day.

Collaboration and communication

- Stakeholders indicated frustration with the lack of availability of roll-up information about permits issued. For example, providing tables or maps showing permits by county or by project type would help the public decide which projects to track. Right now, stakeholders must review each permit to determine project type and where projects are occurring. Participants indicated that WDFW needs to make HPA project locations available to the public using GIS. Participants want WDFW (and other permitting agencies) to implement a coordinated GIS tracking system and improvements to the HPA application management software.
- Stakeholders indicated that WDFW messaging should be improved about how HPA permitting fits into agency climate change adaptation. More information on WDFW climate change actions overall would be well received.
- Look into ways to connect with large state and federal landowners about HPAs permitted on their lands.
- Continue to improve messages about climate change impacts and regulatory adaptation.
- Updates to surf smelt spawning area maps should be made available for public review.

Partnership opportunities

- Hold HPA listening meetings in spring and fall with this group of stakeholders (and not during leg. session, which kept many people from participating). Solicit, propose, and circulate agenda topics for future meetings. Next meeting of this group would be in fall 2016.
- WDFW will work with individuals to identify participants for the sediment removal subcommittee and add members to this coalition from fishing groups and Conservation Northwest.

Follow-up

- Distribute updates to surf smelt spawning area maps
- WDFW will explore ways to map HPAs, and hopefully be able to develop a proposal for the group to review. WDFW will coordinate with Office of Regulatory Innovation and Assistance to discuss ways to make cross-agency permit information widely available.
- WDFW will periodically report progress on SOPS and other issues identified in the "rulemaking follow-up" section.

2. Kitsap, Mason local government on February 18, 2016

Kitsap County Public Works 3rd Floor Conference Room, Port Orchard

Jeff Davis, Randi Thurston, and Teresa Scott representing WDFW met with thirteen representatives of local governments on and near the Kitsap Peninsula. The meeting was set up by Jon Brand at Kitsap County.

General comments and kudos

- It's positive that WDFW recognizes opportunities to collaborate on restoration.
- Can WDFW find ways to be less risk-averse?

Jurisdiction

- WDFW's statutes on single family residence bulkhead are an impediment to positive outcomes; there are conflicting other authorities/mandates.

Fish passage

- List of fish passage barriers is extremely helpful.
- Infrastructure maintenance priorities do not match the highest priority fish passage barrier targets. Want to put mitigation dollars towards the highest priority barrier removal targets. How can we align infrastructure priorities and timelines with barrier removal priorities - talking about all infrastructures including stormwater.
- Mitigation example: Rockaway Beach road maintenance. Beach nourishment required for 10 years (duration, operating costs, and logistics). Costs are very high for beach nourishment that is expensive and of arguable scientific value). Another example is replacing a sewer line.
- Tell local government which are the high value targets (and which are low value). Avoid "it's all the same priority". "Value" can include social considerations like treaty rights and politics.
- Kitsap county passage barriers are generally low priority - unlikely to get state barrier removal funding.
- Want to talk more about general HPAs for culverts in non-fish-bearing areas.

HPA operations

- The early coordination that occurs between local government staff and habitatbiologists is critical - appreciate the technical assistance.
- Relationships with local habitat biologists are good; local government officials are getting the right advice for specific projects.
- Helps to have WDFW as a conduit from local government to the Corps.

Technical Assistance

- Sometimes there are problems with lack of consistency between different staff providing advice.
- Biologists need better awareness (more training) of local government CAO, SMP and other regulatory compliance problems.
- Keep focusing on people skills for local bios.

Pre-application consultation

- Need better cooperation among all regulatory agencies, especially pre-application consultation.
- Clarify what a pre-application process is about (and document the advice provided).
- Need certainty that pre-application advice will endure through permit issuance (sometimes the advice given pre-app is contrary to the requirements of the actual permit).
- Need to document pre-app advice so that both biologist and applicant can access that information.

APPS

- APPS itself is a huge improvement for users.
- Tracking HPAs by parcel number is critically helpful.
- Keep the positive features of APPS.

Mitigation

- Provost pipeline project was a good example of determining the right mix of project benefits/mitigation.
- Need to be able to mitigate on / within the project footprint/site.
- Need criteria for when mitigation is required.
- Put mitigation where it makes the most sense (benefit).
- It's unfortunate to be required to spend mitigation dollars on low-priority/value projects just because the overlying infrastructure failed and needed maintenance.
- HPA biologist should provide multiple mitigation alternatives to the project applicant.
- What would be the criteria for (qualifying project impacts for) mitigation banking.
- What if project applicant was required to get federal permits first so mitigation isn't duplicated or conflicting?
- Does WDFW intend to form local mitigation guidance review committee?
- Can WDFW help identify (low cost) ways for other infrastructure projects to benefit fish (and then bank for later)? Can we identify a framework to enact in legislation to enable these dialogues? Don't want a one-size-fits-all solution because one size doesn't fit all. Do this at smaller geo scales (i.e. not statewide).
 - Idea is to bank (non-required) environmental improvements for that emergency/high priority projects. Build mitigation credits for later use, and/or build mitigation credits toward a specific infrastructure project (that has impacts to lower-value environments).
- Use existing opportunities when reviewing 5-year general HPAs to accomplish the above
 - Possible to use multi-site HPA? General HPAs less used because they are too restrictive.
- Overlap of CAO and HPA mitigations - need to reduce duplication and conflict.
- Concern about retaliation (habitat bios retaliating against local government staff who complain about the HPA program).

- Discussion of the use of Regional Road Maintenance Forums [with their 4(d) exception to ESA take prohibitions] for [in place of] mitigation prioritization coordination. The ESA exemption states that projects must still get a state HPA.
- Clearly define and itemize the impacts (quantifiable area/duration) of a project and the mitigation (if necessary) so that it's transparent that the mitigation is reasonable and understandable. Need to keep in mind the fiscal considerations. Be clear about the linkage between impacts and required mitigation.
- Improve biologists' documentation of their decisions [like why they didn't require x].

Science and monitoring

- Don't want to rely on performance bonds to fund post-construction monitoring. Want to see monitoring happening at a larger scale (regional, watershed).
- Need funding to validate that mitigation worked - seem to want that \$ to come from government, not the project owner.
- Effectiveness monitoring requirements need to make sense in context of the identified impacts (seem to be saying don't make maintenance/rebuild projects pay mitigation for the original road siting or whatever).
- Suggestions/solutions
 - Need a complete barrier inventory and assessment and a central keeper for the GIS.
 - Use regular meetings to help local government to do broader planning; develop regional capital programs; regional monitoring.
 - Incentivize pursuing flexible funds to solve multiple problems.
- How can we better plan for post-construction monitoring cost? (Have been caught without funding for long-term adaptive management of a project).

Compliance and enforcement

- Good coordination on resolving violations.

Collaboration and communication

- Is there any way to coordinate with FEMA on natural disaster mitigation - what's needed to satisfy FEMA might need additional mitigation, but the less impacting alternative might not satisfy FEMA? How does FEMA work with ESA, Corps, and state requirements?
- "Working at the right government levels?" i.e. Do bios understand that some local government regulatory decisions get made in different local government agencies, e.g., land use/residential building permits are different staff groups than public works.

Partnership opportunities

- WSDOT appreciates that the HPA program is open to input and feedback – Agency Advisory Committee, Listening Sessions, etc.
- WDFW needs to understand contexts for projects (variables and constraints) and to educate local government about WDFW context for need for protection.

- Want some “training” and annual refreshers about HPA guidance, processing, timeline, consultations with tribes, criteria. Importance of building and maintaining relationships, sharing values and constraints, learning about HPA operational issues, etc.
- Need more work on stream typing.

3. State Family February 24, 2016 Olympia

Jeff Davis, Randi Thurston, and Teresa Scott representing WDFW met with six members of the state agency family. Everyone brought a list of topics, and WSDOT provided a paper copy of their comments. Puget Sound Partnership (and DNR forest practices) will submit written comments, and WSDOT comments will be revised and sent electronically.

Generally WDFW has four categories for changes to HPA program: statutory changes, rule changes, operations, and enforcement. Relationships are a critical component of operations.

WDFW began the meeting by setting out these four known inadequacies:

- Lack of stop-work authority
- Limitations on HPA authority for single family bulkheads
- Restoration project rules and criteria (project types eligible)
- Lack of clarity about the geographic limits of authority relating to Ordinary High Water (OHW), especially in marine project locations

Legislation and rulemaking

- WSDOT requests that WDFW modify the new definition of “Mitigation” in the WAC. Need to revise the definition so it says, “sequentially avoiding impacts, minimizing impacts, or compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.” This would align it with the statutory definition of mitigation in RCW 90.74.010(5).
- Modify the new definition of “Protection of fish life” in the WAC. Need to revise the definition so it says, “Avoiding, minimizing unavoidable impacts, or compensating for remaining impacts to fish life and the habitat that supports fish life through mitigation sequencing.” This would align it with the statutory definition of maintenance in RCW 90.74.010(5).
- WSDOT requests that WDFW modify the WAC language regarding environmentally acceptable lubricants. Consider revising WAC 220-660-120(5) (d) to limit this requirement to hydraulic fluid. Also consider clarifying or removing the requirement that this apply to equipment being used “near water”.
- Need a statutory change to authorize scope/scale provisions in marine areas, then rules addressing criteria for applying scope/scale provisions.

Jurisdiction

- It’s difficult working together with WDFW on our independent permitting activities when our definitions of OHW and our jurisdiction relative to OHW do not coincide. Can WDFW define when WDFW claims jurisdiction above OHW? How do we resolve the differing interpretations/definitions of OHW?

- WDFW discontinued work with Ecology on a project to develop a joint definition of OHW - can we get back to work together on that definition?
- How does climate change affect how WDFW interprets OHW?
- Can WDFW take the pressure off the large question of OHW authority by working with local governments (particularly public works/road engineers) to solve their specific issues?
- WSDOT and other agencies assert that WDFW does not currently have authority to apply size and scale constraints above OHW for projects in marine areas.

Fish Passage Projects

- WSDOT has worked with WDFW staff to update general contract specifications to address permit provisions, with a goal of eliminating the need for the provision in HPA's for WSDOT fish passage projects.
- WSDOT says there is an ongoing effort to clarify design requirements for fish barrier correction projects – although we are making progress in clarifying what is required to receive an HPA permit, it is also identifying there is an issue with staff understanding what is necessary to include in a design/application, and what is nice to include.
- WSDOT has experienced less flexibility in applying the Water Crossing Design Guidelines (WCDG) to our barrier correction projects than we feel the WCDG afford.
- WSDOT points out that the WCDG do not acknowledge large buried structures, spans ≥ 20 feet.
- Streambed sediment sizing – the material size has been questioned for most designs, leading to additional engineering and, ultimately, it gets turned into a negotiation in order to get through the permit process. As an owner WSDOT is ultimately responsible to provide for fish passage and for the stability of the system and should be able to design accordingly.
- Think about setting up a certification program for engineers designing projects requiring fish passage.

Habitat restoration projects

- There are challenges for permitting the “good” projects (meaning habitat restoration). We need ways to expedite permitting, and for making sure the mitigation is appropriate for the construction impact.
- Small, site-specific restoration projects (“low hanging fruit”) were easy to permit; sophisticated reach-scale projects we are facing now are harder to permit - need more review and involvement.
- We can probably define cases that fall under the “restoration projects” categories for which a pre-app should be “required.”
- How are we monitoring the effectiveness of restoration projects? Can funds for this be incorporated into grants?
- We can probably define cases that fall under the “restoration projects” categories for which a pre-app should be “required.”

HPA Program operations

- It is helpful when WDFW provides input on WSDOT contract provisions and guidance documents (e.g., Temporary Stream Diversion GSP, Complete Permit Application Guidance, and Apps Q & A Document) and updating the WSDOT/WDFW MOA.
- There are many great examples of WSDOT staff and project offices having positive experiences when interacting with WDFW habitat biologists. Typically having the same regulator creates consistency in permit and permit modification processing time. HPA Biologists who have a history with a project, especially larger WSDOT projects, have a good understanding of the project that helps when questions arise about permit conditions and/or getting permit modifications. In these cases the habitat biologist serves as a great resource and facilitates quick response times.
- Return time on phone calls with habitat biologists has not been working well in general. While there are some biologists who are very good at returning calls, there were many examples of others who never returned calls even after multiple attempts to reach them. This has been particularly difficult for situations where a quick bit of information to inform a JARPA was needed or during emergency events.
 - Suggest that a policy be put into place at WDFW to return any calls within 24 hours of a message being left. At a minimum, request that the habitat biologists respond with an email stating when they will be able to return the call. This would help to alleviate concerns about whether or not a message was received.

Technical assistance

- There are times when habitat biologists could provide more stream habitat information during site visits and in writing to WSDOT biologists. This could help save the state money and time on habitat assessments if this information is readily available, including locations of spawning fish.

Pre-application consulting and coordination

- WSDOT indicates that projects involving **early coordination** between WSDOT and WDFW seem to have improved communication flow throughout project development. WSDOT says that early interaction with the local habitat biologist (before permit application materials are submitted) is a key step in the process. It would be great to have a formalized “pre-application” step so that the biologist can understand the project and the applicant can ask questions before the JARPA is completed and submitted. This is often happening informally, but having this step as part of the standard process would save a significant amount of time.
- Projects go more smoothly when all parties (i.e. when local government includes state and feds and vice versa) are involved in pre-application conversations.
- Pre-application consulting helps the applicant understand the different authorities and constraints of the permitting agencies.
- There was some discussion about “requiring” a pre-application consultation for some projects.
- Note that some local governments charge applicants for pre-application consulting, so many applicants don’t engage in a pre-application process.

- Sometimes one permitting authority might initiate pre-application consultation with applicants without including other permitting authorities (preferable for all authorities to participate).
- Can we identify criteria for types of projects that would benefit from pre-application consultation? The example was Grandma’s driveway culvert as not needing a pre-app consultation.
- WDFW suggests the solution should be “close to the ground” meaning established at a local level, could be set into a fixed schedule, and the types of projects “qualifying” or “compelling” pre-application consultation should be well defined. Still requires close coordination among permitting agencies.

APPS

- In general The Aquatic Protection Permitting System (APPS) seems to be working and allows WSDOT to apply for permits online, check status, request modifications, and view HPAs issued to other entities. It also reduces the number of questions that have to be answered in order to obtain an HPA. The questions are straight forward and concise, and the e-mail/Apps correspondence is a great tool for following the permitting process. Applying for an in-water work window extension and the subsequent short turn-around time has been positive and sending invoices to pay HPA fees for applications submitted through Apps helps as well.
- APPS is an improvement, but state agencies have suggestions for improvements. Ecology appreciates movement toward incorporating JARPA.
- WSDOT recommends that the Authorization of Agent Form should be eliminated for State agencies or provide use of an e-signature. Printing, signing, scanning the form seems unnecessary and redundant.
- WSDOT suggests that authorized agents should get all notification emails associated with the HPA application. Sometimes an Authorized Agent isn’t included in all submittal notifications directly from APPS (like with notifications when the permit is issued). Can the preferences be adjusted by the applicant?
- WSDOT suggests that APPS accept the JARPA signature pages instead of requiring APPS signature pages that serve the same purpose. Accepting the JARPA signature pages would reduce duplicative efforts to the applicant and further streamline the process.
- WSDOT suggests that the Apps portal become a singular point of application submittal for all agencies, instead of just WDFW.
- WSDOT says it would be helpful to allow users the ability to enter more than one email address/contact for the authorized agent. It would also be helpful to have a feature that would allow a user to transfer a project from one account holder to another. WSDOT shares permitting work across regions and wants to avoid having to logon as another user to request mods.

Permitting mechanics

- WSDOT and DNR want non-cost permit modifications to work windows in cases where projects are constrained externally (as when hoot owl closures were in effect on fire-prone lands).

- WSDOT says the new requirement for an HPA for sediment sampling has added a layer of complication to the Corps Dredged Material Management Plan (DMMP) process, especially on state-owned lands. Also, the requirement for sampling within the in-water work window has further complicated these efforts and is resulting in significant project delays without being any more protective of the environment. This process largely seems to be a paper exercise.
- How does WDFW handle cultural resources issue with HPAs? [question is whether WDFW has authority to require proof of compliance with cultural resource laws and rules.] Same question for public safety - is this just a check box?

Emergencies

- Most of the time, WSDOT coordination with local biologist on the need for emergency HPA works well
- When an emergency project (or any project?) needs review by an engineer at headquarters, the resulting provisions are unpredictable and do not incorporate an understanding of the WSDOT constraints for a project.
- It's unclear who has the authority to "declare" an emergency, and what situations qualify.
- Consistency of staffing really helps when dealing with emergency permitting.
- WDFW biologists have authority to declare an emergency when resources are at risk; perhaps a set of criteria/check list/key could be devised that would help provide more consistency?
- Check out the Corps' guidance on what constitutes an emergency.
- Emergency HPA notification/verbal HPA process could improve. Multiple WSDOT Regions have experienced instances when the WDFW Hotline number was called, a message was left, and we either did not get a return call or a call in a timely manner. The result was not getting emergency authorizations to complete work when needed. Can we clarify expectations when the hotline is called outside of business hours or during business hours when a biologist cannot be reached for emergency work?
- WSDOT would like to have WDFW develop a standard definition of what constitutes an emergency, similar to guidance the Corps has.
- Update WSDOT/WDFW MOA to specifically address issuance of Emergency HPAs.
- Provide clearer guidance on times when WSDOT does not hear back from the WDFW Emergency hotline.

Permit provisions

- WDFW often applies less flexibility relating to hydraulic project guidance than the interpretations of WSDOT engineers.
- WDFW has been successful applying scope and scale provisions to projects above OHW in freshwater and estuaries.
- WDFW does not have a consistent way of applying climate change expectations to the sizing of projects.

- There is WSDOT guidance for sizing culverts, but WDFW opinions about how to apply that guidance seems to vary from person to person and project to project.
- WSDOT is seeing an increase in permit provisions since the new WACs went into effect. [Note: this might be an artifact of APPS implementation]
- WDFW does not have expertise to provision projects for public safety, but especially for projects for which WDFW is the only permitting agency, we need some “check box” for overall safety review.
- It’s a struggle to balance fish-protection related dock design requirements with ADA requirements.
- State agency project proponents don’t need the hand-holding provisions for how to achieve permit criteria or BMPs that WDFW includes for one-off applicants. Make provisions for “experienced” project applicants performance based (i.e. say that sediment needs to be controlled but don’t need to say how).
- WSDOT is concerned about tree cutting and ultimate disposition of trees – the WAC’s aren’t clear with definitions such as stream corridor, and the limits of tree cutting that can be regulated by WDFW. WSDOT appreciates WDFW’s efforts to develop template HPA provisions, but is still experiencing much variability in how the new Hydraulic Code Rules are being interpreted and incorporated into HPAs. See example below:

WSDOT recently received an HPA provision that requires WSDOT to retain trees impacted by the project (larger than four inches in diameter and taller than six feet) to be placed in the low flow channel or within the stream corridor. The provision states that the trees cannot not be cut into smaller pieces, and root wads must not be removed from the trunk. The provision goes beyond what is required in the new Hydraulic Code Rules. Chapter 220-660-120(4)(d) of the WAC states, “Woody vegetation greater than four inches diameter that must be removed to construct the hydraulic project must be marked in the field by the applicant and approved for removal by the department.” It does not state that all of these trees shall be retained and placed in the low flow channel or within the stream corridor.

- WDFW should find a way to approve BMPs ahead of time and refer to those BMPs in permits (rather than itemizing what those practices are within the permit provisions).
- WDFW could potentially use BMPs to reduce the number of projects needing permits.
- WSDOT suggests that HPA conditions should be performance outcome based regarding how construction should occur (e.g. order of construction, when construction above the OHWM can start, etc.), but these areas don’t necessarily have to do with aquatic impacts. Limit prescriptive language unless absolutely necessary to protect an aquatic area. HPA conditions for the SR 542 High Creek-Fish Passage project is a good example of permit language that did not prescribe specific construction methods.
- WSDOT and WDFW should partner to develop HPA conditions that are clear, predictable, and more easily transferred into contracts for our common activities (e.g. fish passage, etc.).

Work windows

- With the increased restrictions WSDOT is seeing from DNR in high fire season it is putting delivery of the projects within the date windows of the HPA at risk. It would be nice if there

was recognition of this third party issue and for DFW to allow for no cost modifications to the HPA for date restrictions created by another government agency.

- WDFW is allowing some WSDOT Regions to do fish exclusion activities prior to the beginning of the in-water work window. When we have especially tight work windows, this would really help.
- WSDOT General HPA permits should allow work anytime of the year in non-fish bearing streams as long as we can meet water quality standards. In non-mapped/typed streams, WSDOT would need concurrence from WDFW that is non-fish bearing. This would provide WSDOT greater flexibility in scheduling in-water work in non-fish bearing streams and would not require additional HPA applications for WDFW to process. This could be addressed two ways:
 - Give the area habitat biologist the authority to alter windows (via email or phone) based on non-fish use, or
 - Add a provision in the GHPA that allows year round work in non-fish bearing streams.

Mitigation

- There is a clear need to articulate project impacts and provisions/mitigation.
- Mitigation requests should be brought up early on in project coordination and be of reasonable cost, and focused specifically on the project area. The avoidance and minimization process that WSDOT follows to construct an environmentally friendly project from the start should be considered as a mitigation element of the project when issuing an HPA (i.e. mitigation built into the design). Often times, WDFW is focused on out-of-kind mitigation that goes beyond the scope of the intended funding and even beyond project specific impacts. This does not help environmentally friendly projects move forward within proposed budgets (especially with a fish passage project).
- “Mitigation gets out of hand.”

Compliance and Enforcement

- Criminal authority is pretty powerful when applied in “big” cases.
- When a non-permitted project is discovered, permitting agencies work to permit the project so the project can be compliant. WDFW doesn’t write HPAs “after-the-fact” so no fish-related restitution is required, or other agencies are forced to include the WDFW provisions in their permits. Ecology in particular is encouraging WDFW to consider rule/statute changes or a re-interpretation of current statutes that allow WDFW to weigh-in with HPAs for “completing the restitution.”
- WDFW needs a way to participate post hoc in discussions for bringing illegal/unpermitted projects “up to code.”

Science and monitoring

- It’s difficult for other agencies to understand how WDFW tracks pamphlet permits - what are WDFW’s steps?
- WSDOT suggests that WDFW initiate a programmatic HPA for sampling efforts similar to the USACE’s NWP 6 permit where no notification is required when specific protocols are adhered

to. WDFW should also allow sampling to occur at all times of the year when conducted in accordance with the programmatic HPA for sampling.

Collaboration and communication

- WDFW collaborating with WSDOT to provide training and outreach (e.g., New Hydraulic Code Rules, MOA Workshops, Participating in Regional Maintenance Environmental Coordinator meetings, project meetings, and Spring meetings for Maintenance Areas).
- We need better communication about each other's constraints.
- Public disclosure for smaller projects [this was a rambling discussion that started out with the suggestion that we use the SEPA checklist to screen for scope/scale. The group then leaped to a discussion about the importance of public disclosure about projects happening in their area for projects not requiring SEPA review. Part of the discussion was about the problem of well-intended citizens with restoration ideas that really don't qualify for "restoration" expediting].
- WDFW should use the Principals of Correspondence when commenting on other agency actions. WDFW should also apply the "no-surprises doctrine" and share drafts with affected agencies prior to sending final comment letters.

4. Yakama Nation Natural Resources on March 3, 2016 in Toppenish

Jeff Davis and Teresa Scott met with members of Yakama Nation fisheries and habitat staff. This conversation was free flowing around a core of key issues brought by Yakama Nation staff.

General Concerns

- Lack of (or inadequate) critical areas ordinances and other protective ordinances reduces fish protection.
- Illegal water use impacts fish: proliferation of permit-exempt wells that are impacting stream flows in Columbia gorge tributaries.
- Do hydraulic project impacts to fish constitute "take?" [See "taking of treaty-reserved fishing rights," below.]

Tribal trust responsibilities

- The primary Yakama Nation message is treaty rights: HPA affects the tribal trust responsibility.
- Tribal leaders can make a big impact testifying at the legislature.
- The HPA program (and how it is implemented) can have a significant effect on habitat conditions, fish production, fisheries, and treaty rights.
- Weak HPA permitting and/or enforcement actions that allow impacts to fisheries would be considered a "taking" of treaty-reserved fishing rights.
- "Add tribal authority to HPA rules." [Concept is to make clear that HPA rules are one means to enforce tribal authority or protect tribal fishing rights.]

Legislation

- The Gold and Fish pamphlet should refer only to non-motorized activities. Motorized activities should require an HPA.

HPA Program operations

- Application process is onerous for “habitat restoration” projects. YN-sponsored projects are rarely “qualified” for streamlined permitting, and often fall into the crack that exists between HQ and regional HPA review and approval.
- Need a better definition of “habitat enhancement.” Why can’t habitat enhancement be tribally-sponsored?
- The “Pre-application” process can provide a huge improvement in WDFW permit assistance and ultimately speed HPA issuance.
- JARPA is generated too late in the application process to be of much help during permit processing. Generate JARPA at the beginning.

APPS

- Yakama Nation staff would like to receive notification of all HPA applications in their areas.
- Would it be possible to automate notification via email? A person signs up to be notified and indicates counties (or WRIAs) in which projects are of interest. [DNR has such a notification system for FPAs; APPS also has this feature.]

Permitting mechanics

- Emergencies (and Emergency HPAs) provide the highest risk of fish impacts.
- Concerned about provisions (commonly used) for mining, agriculture and irrigation, and forestry.
- Primary objective of the HPA program needs to be to protect fish life, including fish production for both sport and tribal fisheries.

Permit Provisions

- There is opportunity to coordinate among agencies and City of Spokane so that the “habitat plan” required by the city through CAO incorporates provisions, concerns, and follow up required in the HPA.

Mitigation

- Acknowledging the low numbers of HPA staff, Yakama Nation staff believe they can help ensure that hydraulic projects are properly mitigated.
- Generally, mitigation is inadequate in situations where no HPA was sought or issued for a project. Mitigation after the fact (remediation) is inadequate relative to the damage that was done.
- Would like to see HPA mitigation work more like wetlands mitigation (with established ratios, for example).
- Wetlands mitigation (creating new wetlands as mitigation for filling existing wetlands) is not effective; please hold the line against filling wetlands.

- YN staff would like to review WDFW draft mitigation policy when it comes available.

Compliance and enforcement

- Concern that no one is available to respond to reports of an illegal hydraulic project.
- Prosecution rates locally are very low.
- 33,000 commercial rafting trips per year [in the Columbia Gorge tributaries]; rafters are taking out large woody material, some of which has been placed deliberately and some of which represents natural recruitment. How can we better educate and enforce against removing large woody material?
- WDFW civil penalties are too low to represent a deterrent to developers.
- Civil enforcement will be superior to criminal enforcement once penalties are high enough to matter to project developers.

Collaboration and communication

- YN would like to see more collaboration with WDFW on Yakama Nation restoration projects.
- Educate the public about why HPA is important.

5. Spokane, Pend Oreille, Stevens, Lincoln Local Governments on March 16, 2016 in Spokane

Randi Thurston and Teresa Scott met with representatives from Spokane, Lincoln, and Pend Oreille counties, and from City of Spokane and the Governor's Office of Regulatory & Innovation Assistance.

General comments and kudos

- Local biologists are good to work with, helpful, responsive in emergencies

General concerns

- Difficulty getting from NEPA to SEPA compliance - some NEPA is inadequate.
- When project is NEPA-exempt, should also be SEPA-exempt.
- Local biologists don't know about HPA listening sessions
- Poor notice for this meeting. Work through local biologists to get contact names/numbers.
- Use APPS for names/contacts for HPA listening sessions
- Need materials for these meetings (and announcements) on the DFW public web site

Jurisdiction

- WDFW needs to do a better job explaining the differences between HPA jurisdiction and Corps jurisdiction.
- Corps seems to have jurisdiction that overlaps with SMA and HPA.

Road Maintenance General HPA

- Can't get the same provisions as had in previous 5-year permits (volume dredged, e.g.) want to expand quantities (volume dredged)
- Want to expand activities covered by the General HPA to include activities have done in the past for maintenance.

- Template/model for General HPA using Kitsap as a model was a good idea, but WDFW needs to make allowances for differences in “routine maintenance” among local areas. What’s routine in Kitsap might not be routine in eastern Washington and vice versa. E.g., 20-foot limit (road right-of-way?) versus 50-foot limit. Like 50-foot better.
- Length of time to achieve 5-year maintenance agreement means work gets postponed or work gets done without HPA.
- General HPAs need more flexibility with fish work windows
- Want to work on non-fish bearing streams outside fish work windows.
- Getting a two-year general maintenance permit was fine (easy to do); why can’t they get a five-year permit? It’s not clear what the problem is; why the standards are different.

Restoration projects

- Would like to expand definition of projects falling under this “simplified” permit process.
- Not sure the “simplified process” is actually an improvement or time-saver for applicants because JARPA is still required from the Corps.
- Don’t like paying the HPA application fee for these projects.
- Restoration and fish passage projects are “self-mitigating”
- Some counties are replacing failing (blocking) culverts and trying to do the right thing. However, culvert sizes derived out of the current criteria mean the culvert is very much more expensive than a same-size simple replacement. Means fewer projects can get done, etc.
- Provide training for local governments (in Spokane - not Yakima). DFW is working on fish passage training - how can Randi/Teresa help local biologists with this activity?

Miles-Creston bridge

- Lincoln County Miles-Creston bridge crossing Hawk Creek: HPA has taken over 700 days and is still not issued. Speaker is frustrated that NEPA is not sufficient for SEPA (according to Ecology) and the Corps has not responded to his Corps application. [We suspect that the HPA is being held up because of these issues].
- Lack of written communication explaining why the HPA is not issued.

Technical Assistance

- There are HPA inconsistencies among biologists
- Cited local (WDFW) inconsistencies with HQ management policy concept.
- Turnover in staff is difficult for repeat applicants - established relationships, then have to start over.
- Turnover - new biologist not familiar with local constraints; inconsistent approaches to the project (new bio not honoring former bio’s approach)
- Have gotten conflicting provisions when a project is taken over by a different biologist, and/or get different provisions for similar projects permitted by different biologists.
- Need to figure out how to permit under a “design/build” model - these are becoming more popular.

APPS

- On APPS, it's difficult to tell when an application is "complete"
- Not saving time on projects that also require JARPA - it's actually more work, because have to do JARPA plus fill out APPS.
- Can't get JARPA out of APPS. [APPS does produce a JARPA]
- No idea what's next when an HPA is issued - when does the project start? When does a drainage plan need to be submitted? Will failure at any of these notification steps invalidate the permit?
- Users want to be able to set up accounts in APPS for invoicing. (i.e. save credit card number or use Paypal)

Permitting mechanics

- What constitutes an emergency? Who can declare an emergency?
- How long does an emergency HPA last? 30 days is not long enough to address all projects after a major event. [need to provide better info about emergency situations; we need to understand local government needs during emergencies]
- Poor communication among permitting agencies means it takes longer to issue the permits
- When a local shoreline permit is not needed (project is exempt), it's difficult and confusing to figure out what additional permits are needed. For our information, City of Spokane requires a letter of exemption; many other jurisdictions provide other means of local authorization, even when project is SMA-exempt. For example, a grading permit might be needed under local ordinances, even if the project is shoreline exempt. WDFW should be looking for this when considering the sequencing of permit actions.
- Some counties use the "simplified" permit application for minor projects - others find the "simplified" method useless.
- Pre-application coordination among the multiple permitting agencies helps serve the applicant better - expedite process.
- Minimize the effort needed by the permittee to submit a modification.
- WDFW should re-think what's major v. minor for modifications - which need fee. Want fewer project modifications to require a fee.
- Sequencing of agency decisions is unclear.
- Bridge Replacement Advisory Committee: Permit delays on a single project in the state/regional project funding sequence can impact funding to projects coming later in the sequence - might lose funding for those later projects.

Permit Provisions

- What is bankfull-width, how is it calculated; need consistency?
- Want to discuss methods to determine culvert sizing. One method doesn't fit all circumstances.

Mitigation

- Not clear what impact is being mitigated, and how the proposed mitigation addresses that impact. [Need to document this]
- We should look for opportunities to coordinate the mitigation we require with the mitigation being required by other agencies so the total package is cohesive.
- Compensatory mitigation (especially off-site mitigation) is not at the appropriate scope or scale for the site impact. Need better justification for the scale of off-site mitigation
- Need to understand that highway funds can only be used within the highway right of way. Can't do restoration outside of right-of-way.
- Like "fee in lieu" instead of mitigating outside right-of-way
- It's not clear who is responsible to determine harm to fish. Is applicant supposed to know which of his/her construction steps is harmful? Need clarity about what the impact is - WDFW should provide this.
- DFW requires mitigation for repairs (like road repairs) - needs to justify this or add flexibility for circumstances.

Compliance and enforcement

- Inability for HPA written after the fact (situation where a dock project on a local lake received no permit prior to construction).
- Need statute change or civil compliance protocols to employ when a project was completed without an HPA.

Collaboration and communication

- DFW staff needs to understand that when local governments are using federal highway funds for a project, the timelines are much tighter than any other project type and delays in permitting can have dire consequences. How can HPA accommodate this?
- Human health and safety is not an HPA function, but sometimes see HPA provisions for HHS or threat to life and property.
- WDFW does not demonstrate good understanding about project and/or funding constraints. This is especially a problem when mitigation is required outside the highway right of way.
- Difficult to get Corps staff to engage directly on projects; especially difficult to get site visits. DFW and Ecology both show up for site visits. In general, the Corps staffing constraints and/or work prioritization is not meeting the needs of the regulated community in eastern Washington.

Collaboration and communication

- Education/outreach on fish protection - make it easier for permittee to comply by providing more materials and more clarity on fish needs (what is the impact, how does the required mitigation solve the impact). Help permittees understand what it is we're concerned about and why.
- Partner with Ecology for outreach - use Ecology web sites and social media posts.

- WDFW should take advantage of the fact that DNR, Corps, and Shorelands Division are co-located in Spokane.

Maintaining Partnerships

- WDFW should provide more materials so local government planners can explain issues to applicants. Explain differences in permits, roles, provisions, targets for protection.
- Please provide training to local governments about fish passage projects and culvert sizing.
- Training for local government engineers and maintenance department. Send new design standards to engineers - might get more cooperation.

6. North-Central Washington Local Governments on 17 March 2016 at Rama Inn, Ephrata

Randi Thurston and Teresa Scott were available in Ephrata for an HPA Listening Session for north-central Washington local governments. At least forty-four invitations were distributed, yet no one showed up for this session. WDFW revisited our notification/invitation approach after this experience.

7. Mineral Prospectors Eastside on March 17, 2016 at Quality Inn, Ellensburg

Randi Thurston and Teresa Scott met with representatives from several mineral prospecting organizations to get their input on the HPA Program. The standard listening session protocol was set aside in favor of a more free-flowing discussion. Notes were approved by participants as they were projected on the screen to ensure that WDFW captured the correct thought or comment.

What is the HPA Program doing right?

- Like these meetings – more discussion = more understanding
- It's good that WDFW is providing help for newer biologists

General questions

- Why does WDFW regulate claims?
- How does mining work impact salmon?
- Peshastin Creek: Skeptical that steelhead are spawning where biologists say they are spawning. Can WDFW document that fish spawn there? Not enough water up in the higher elevations for fish to spawn.
- Planting non-native fish upstream of PIT arrays? Want to know what's up with this.
- What is the impact to habitat? No clear definition of habitat and no clear description of how the activity impacts habitat.
- Does WDFW post minutes from the HPA advisory board (Hydraulic Code Implementation Citizens Advisory Group)? (Yes, at: <http://wdfw.wa.gov/about/advisory/hcicag/>)

General concerns

- It's not so much about the rules but how they are implemented.
- All biologists need more information to understand miners' needs.
- HPA should not be required for beach mining.

- Not trying to harm fish; dredge tailings make good fish spawning habitat.
- Certain biologists are biased against mining.
- Fish bypass artificial spawning channels - substrate is too hard for fish to use for spawning.
- Dredges provide holes that help fish – usually HPA requires prospectors to fill these in.
- Fishing license is a license to kill fish, but HPA does not provide “license” to kill fish.

Legislation and rulemaking

- Who did WDFW listen to when making HPA rules
- Prospectors feel they were restricted from the recent rulemaking (timing window changes)

Gold and Fish Pamphlet

- Gold and Fish pamphlet doesn’t specify details that are provided in individual HPA.
- Difficult when pamphlet versions change and people couldn’t keep up with the right version
- Have to call Olympia to get a copy of the Gold and Fish pamphlet or print own copy off internet. Printing their own copy is a problem for some people, WDFW should provide them. Period.
- Pamphlet is not understandable – not “plain talk.” Provides good detail but hard to get the overall message.
- Gold and Fish pamphlet is contradictory within itself – restrictive in some places (methods/tools not stated), permissive in other places. Pretty confusing. (one participant offered to mark up the Gold and Fish pamphlet to highlight inconsistencies) [WDFW agreed to consider the suggested clarifications]

Permitting mechanics

- Need SOPs
- WDFW needs to be clearer about what information we need – terse comments not appreciated. “Not enough information” but not saying what it takes to fix it.
- Describing work areas needs to be consistent.
- WDFW staff painted rocks to delineate area – concern about impact of paint, and inconsistent with Gold and Fish etc.
- Waterfall on Peshastin Creek (look at this).

Permit provisions

- Unreasonable HPA provisions.
- It’s a problem for prospectors to condition HPAs for notice to Forest Service.
- Notification should be same for all permits.
- Diving in deeper holes – inconsistent / unreasonable restrictions.
- Call-in (to notify HPA biologist of start-of-work) is sometimes unreasonable. Why are there notice requirements? What do they accomplish? If have an HPA that identifies the time the work starts, why call in?

- Other project types are being treated differently in HPA provisions e.g., screening requirements are different for road projects and irrigation diversions.
- Inconsistencies among jurisdictions.
- Concerned that HPA conditions do not accommodate the stream changes that occur naturally.
- It's not good enough for WDFW to tell miners can't do stuff because "there might be fish".

Work Windows

- [Mineral prospecting HPA covers work period outside of the Gold and Fish work windows; generally work is beginning April 1 into February.]
- [Individual HPA might provide a more specific timing window (or not).]
- Timing restrictions inconsistent and unfair – sites in proximity have different timing windows – want justifications for timing restrictions.
- WDFW is providing 5-year permits but work windows too restrictive – or inconsistent between HPAs on the same creek.
- WDFW needs to demonstrate why the restrictions we are imposing are needed.
- Pamphlet timing windows are for entire stream, not specific reaches.

Compliance and enforcement

- Enforcement officers interpretations of Gold and Fish pamphlet requirements differ
- There are a lot of other "recreational" activities occurring that impact fish, disturb habitat.
- Miners are trying to comply with laws – it's frustrating to see others trashing nature.

Collaboration and communication

- Mineral prospectors and clubs remove the lead and monofilament line left by fishers.
- Videos on YouTube aren't reflective of Washington rules. It would be better to video local operations.

Partnership opportunities

- Extensive clean-up work parties, remove garbage etc. [Wondering how to encourage and partner with this activity]
- Biologists don't understand how the equipment works - prospectors want to help provide this information to staff. Wants to demonstrate – invite agency staff to see how operation works.
- Demonstration in Olympia (during the last legislative session) was not well attended. [WDFW indicated we need more notice and would be interested in participating.]
- Demonstration in August at the Liberty townsite on Blewett Pass and the 9th-10th of July Naches River at Halfway Flats campground. Would be pleased to have WDFW staff attend these events.
- Another opportunity to learn about mineral prospecting is at a rendezvous on June 11 in Puyallup.
- March is best for local club visits; 3rd weekend August miners' rally at Liberty.

Follow-up

- Teresa will get information about the extent of spawning in Peshastin, and where rearing occurs. Distribute to participants. Especially above blocking waterfall.
- Invite someone from the mineral prospectors to make a presentation or demonstration to biologists at a quarterly meeting (fall or winter).
- Review language about spills.
- High bank gas powered – look at whether these are required to get HPAs.
- Investigate fisheries science work in Chiwawa, Peshastin in 2015 and share information.

8. Yakima, Benton, Klickitat County Local Governments on 18 March 2016 at Selah Fire Department

Randi Thurston and Teresa Scott met with a Yakima County staff person.

HPA Program is doing well

- WDFW staff responds well during local emergencies
- WDFW staff are responsive to site circumstances
- Understanding one another's' constraints is critical in working through the project review and mitigation process.

Questions

- How does WDFW choose what restoration projects to work on? Can WDFW work with local governments to identify hot spots that can benefit fish (but might not have the people benefit profile needed for local government funding alone)?
- What kinds of farm/ranch practices are currently exempt but should be regulated? Solutions come through cultivating relationships.

General HPA

- Yakima County general seems to be going OK; 5-year permit means conversations are less frequent and sometimes relationships suffer as a result.
- It's difficult for counties when flooding impacts are concentrated but long-term solutions would require a broader scope or area. County feels constrained to solve flood response problems at the extreme local scale instead of pursuing larger-scope fixes. This takes a lot of community coordination - there is some frustration that either WDFW is not willing to engage at this broader scale or is not willing to lead the coordination effort.
- County might be interested in harvesting gravel from the middle of Rattlesnake Creek (and Naches) where sediment build-up is a concern. How can we move this forward?

Technical assistance

- WDFW doesn't (have capacity to) comment on SEPA for a project but brings up issues later during the HPA permitting process. How can DFW respond to SEPA as a pre-application conversation? Can we figure out how to get more capacity to review SEPA?

Permitting mechanics

- Can WDFW build-in engineer backup review for tough projects? [This fits well with other comments received about providing higher-level support for local biologists on high-profile projects, and comments about how fees might be increased and the value-added]
- Why does the statute require SEPA to be complete before HPA is issued?
- Need to make sure the required “checkoffs” (providing assurance that other permit process and notification processes have occurred/are completed) are relevant to the protection of fish life. Sequencing permits is a nightmare.

Permit provisions

- Riprap isn’t always evil - is sometimes the best approach in specific circumstances/locations.
- WDFW is regulatory and should be project focused. Sometimes staff have an attitude or approach that is not project focused.

Mitigation

- Consistency in evaluation of impacts and mitigation required is critical.
- WDFW is sometimes asking for too much mitigation without justifying it - feels like WDFW is beyond their authority.
- Scale and scope of mitigation solution should match the impact, especially for maintenance projects.

Appeals

- 30-day appeal deadline is onerous [is there a provision for extending that deadline while a resolution is sought?] WDFW should keep negotiating instead of taking a defensive posture (in anticipation of appeal)
- Washington State Association of County Engineers has a dispute resolution/mediation process that is perhaps not well known - this could be a mechanism to work through disputes rather than going through the appeal process.

Partnership opportunities

- Technical assistance/training for local governments - think about this as “continuing education”

Follow-up

- Share the dispute resolution process and make sure both applicants and permit bios understand that appeals can be deferred while we are seeking resolution. WDFW should avoid taking a defensive posture too early.

9. Association of General Contractors on March 22, 2016 in Olympia

Randi Thurston met in Olympia with representatives of the Association of General Contractors.

General comments

- AGC canvassed their members regarding issues/concerns with the HPA Program. AGC did not receive any comments from their members.

- AGC will let their members know that they can still submit comments on line through our website.

Legislation and rulemaking

- AGC is willing to work with WDFW on changes to statute, rules or operations.

Permit provisions

- WDFW should focus more resources and time on staff training to eliminate rogue biologists. These are biologists that require mitigation that is inconsistent with the statute, rules or department policy.

Partnership opportunities

- AGC is willing to coordinate future outreach opportunities with members.

Follow-up

- WDFW will send AGC the list of Marine Contractors/Consultants invitees so AGC can ensure we didn't miss any key businesses.

10. Washington Farm Bureau on March 22, 2016 at NRB in Olympia

Jeff Davis, Randi Thurston, and Teresa Scott met in Olympia with a spokesperson for the Farm Bureau.

HPA Program is doing well

- Farm bureau staff noted the improvements seen in the HPA program in recent years. Emphasis on staff training is paying off.
- It's also helpful that WDFW and Farm Bureau/members are supporting each other's messages about how the HPA program, SMA, land acquisitions are helpful to the Ag community.
- Although horror stories, fears, and beliefs from past difficulties are hard to overcome, keep doing good work and those bad memories will fade.

General comments

- Success for members of the agricultural community is retaining property rights and maximizing the use of the land.
- Relationships and demonstration of understanding of what agriculturists are trying to accomplish are important to Ag stakeholders.

Jurisdiction

- The agriculture community is concerned about the upward extent of HPA jurisdiction. If WDFW could clarify which project types were subject to jurisdiction above OHW, this would help.
- Would like to continue to work with us to define that OHW jurisdiction in the agriculture/ranching context by reviving the "workgroup."

Mitigation

- Mitigation requirements need to be more seamless (consistent) across the state, and/or region.
- Basis for mitigation should be clear (what are the impacts requiring mitigation?)
- There should be no surprises in requirements for HPA

Science and Monitoring

- WDFW needs to monitor the effectiveness of the current mitigation requirements and report the results to stakeholders.
- Riparian buffers are better as leases instead of easements; this keeps the landowner's options open.
- Simplify what we are asking for; "Site potential tree height" is an example of an ineffective term.

Communications & Relationships

- Don't use climate change as the starting point for actions; speak to the underlying function.
- Promote and strengthen messages around helping the environment provide benefits to landowners. Convey "ecosystem services" messages using plain talk terms.
- WDFW should tell stories in a non-confrontational way; e.g., story about upstream restoration providing more water downstream.
- Take advantage of other WDFW staff local relationships (e.g., wildlife conflict specialists).

Partnership opportunities

- Washington Farm Bureau annual meeting is in November - invites WDFW to have a presence there.

11. Washington Public Ports Association on March 23, 2016 at WPPA office in Olympia

Jeff Davis, Margen Carlson, Randi Thurston, and Teresa Scott met in Olympia with the Executive Director of the WPPA.

Jurisdiction

- When does OHW make a difference? WDFW should identify project types or the range of circumstances when OHW jurisdiction applies.
- Perception is that the agency doesn't speak with one voice about OWH, so there is a lot of uncertainty about what requirements an applicant will receive.
- WPPA believes we can accomplish habitat protection without WDFW and the HPA program.

Mitigation

- Inconsistent mitigation requirements are a credibility killer. This is probably the number 1 issue consistently across ports.
- Need consistency and accountability.

Communications and relationships

- Most issues for ports depend on the biologists they are working with - most are great to work with.

12. Forestry Industry on March 24, 2016 at Washington Forest Protection Association, Olympia

Jeff Davis, Randi Thurston, and Teresa Scott met in Olympia with representatives from WFPA and private forest industry.

Doing well

- Forest industry appreciates the work of WDFW.
- Forest Industry is proud of the strong early action taken by Forests and Fish initiative.
- Very happy with the support and technical assistance WDFW provides for Forest Practices Application (FPA)/Hydraulic Project Approval (HPA) integration (FPA/HPA integration).
- WDFW staff help bridge and buffer issues between industry and other regulators/reviewers.
- Loss of this support would have a huge impact for the forest industry.

General concerns

- Forest industry folks are concerned that other sectors are not rising to the level of protection provided by Forests and Fish.
- Incremental additional restrictions of the forest industry are not being equaled in other sectors.
- Examples are catch-release mortality rates and the damage being done by marine mammals like sea lions and harbor seals.

Road Maintenance and Abandonment Plans

- Great progress has been made; we are now getting to projects that were not high priorities. It's going to be difficult to define the cost/benefit of these last projects - reasonable deferment of marginal habitats.
- There is concern that early Road Maintenance and Abandonment Plans (RMAP) culvert replacements (that met specifications at that time) might not meet current specification - how are we going to handle this?
- Would like to trade these marginal-benefit projects for off-site habitat improvements with better benefits; e.g. mitigation banking.

Technical assistance

- DNR didn't get enough support from WDFW when the HPA authority was handed off.
- WDFW should be training DNR on HPA provisions = a structured training program is needed.
- Training should be integrated and include industry as trainers and trainees.
- Suggested a small group gather to discuss integrated/cross training.
- Industry is harmed when WDFW and DNR can't work together.

Consistency

- Application of the Hydraulic code varies by DNR region and forester.
- Need consistency across biologists and regions.
- Need upgrades to the Forest Practices Board Manual Section 5; WDFW, DNR, and industry should partner to get this accomplished.

Collaboration and communication

- Industry would like to plan a strong finish to the RMAP program and celebrate our successes. Need to celebrate places where fish have returned because of RMAP fish passage projects.
- All parties can leverage RMAP successes to increase support for correction of downstream (non-forest) passage barriers.
- Would like to pursue selling ecosystem benefits of working forests to urban dwellers.
- Change the messaging: Instead of fighting the image of the negative future, message about working toward a positive future.

Partnership opportunities

- Consider briefings or tours with both the Forest Practices Board and Fish and Wildlife Commission.

Follow-up

- Group would like information about fishing catch-release mortality rates.
- Report back on what NOAA is doing to control marine mammals.

13. Building Industry Association of Washington on April 12, 2016 at BIAW Office, Olympia

Randi Thurston and Teresa Scott met in Olympia with the director of the Building Industry Association of Washington, who shared several observations and suggestions.

General comments

- Believes WDFW has lost a huge resource by eliminating project-type-specialists.
- With respect to stormwater-related projects: There are many Low Impact Development methods and builders are getting smarter about what works well under what circumstances. Specific methods or solutions should be site-specific and market-driven, not one-size-fits-all mandates. One-size-fits-all can lead to failures when applied inappropriately.
- Think about who has liability for failures or about the societal costs of failures and who pays those costs. Size mitigation accordingly.

Permit provisions

- Industry prefers performance goals instead of prescriptions.
- Model ordinances are helpful to provide consistency across local governments; this concept could also provide consistency in HPA provisions.

Partnership opportunities

- WDFW provides and should continue to provide training for local governments - project-type-specific training is a good idea for both the agency specialist and to help local governments.
- Consider a project/budget request to develop and implement HPA-specific training for local governments.

14. Western Washington Agriculture Association on April 14, 2016 at WWA office in Mt. Vernon

Randi Thurston met in Mt. Vernon with a representative of the Western Washington Agriculture Association.

Jurisdiction

- Clarify WDFW jurisdiction regarding dike repairs.

Drainage and Fish Initiative

- Reviewing federal agencies are hindering a lot of good work. Corps reviewers are also affecting the Voluntary Stewardship Program in Skagit County.
- Permitting the 5-year maintenance plan has been in-process for 3-years.
- Reduce red-tape for dredging channelized streams especially non-salmonid streams.
- Have the ability for a diking district to designate an authorized agent programmatically instead of requiring for each individual application.

Technical Assistance

- Can WDFW provide work area isolation and fish removal training/certification to diking district contractors? This would save the districts the time and cost of hiring consultant biologists.
- Can WDFW provide information/study results on the Skagit River water balance? Specifically, the effect of pumping 20 cfs of water from the tidally influenced section below the forks and municipal water withdraw.
- Clarify what is a functioning versus non-functioning hydraulic structure.

Mitigation

- WDFW staff should specify the impacts and how mitigation requirements will offset impacts.

Collaboration and communication

- Local WDFW staff understands local agricultural community and fish resource issues. Staff help inform the Tribes and other state and federal agencies on resource issues to improve the working relationship with these entities and the diking districts.
- There is a healthy working relationship between the diking districts and WDFW staff.
- No major problems working with the APPS system.

15. Hydraulic Code Implementation Citizens Advisory Group on April 20, 2016 at Mill Creek WDFW Region 4 Office

Randi Thurston and Teresa Scott met in Mill Creek with the Hydraulic Code Implementation Citizen Advisory Group. The meeting format was altered to take advantage of the broad representation of stakeholders on this group.

Doing right

- Good partnership with WDFW, good local understanding of ditch maintenance work.
- Most important to salmon recovery stakeholders is that WDFW protect fish.
- Look to WDFW to protect, want WDFW to have resources to do that.
- WDFW partnership on salmon recovery issues is appreciated (need more WDFW involvement in San Juan Islands).
- These listening sessions are definitely a positive step for WDFW.

General concerns

- HPA program should go away or be completely re-tooled. Majority of RCW 77.55 exempts everything.
- No one is here (Hydraulic Code Implementation CAG) representing homeowners.
- Primary concern is protection of habitat; this is not happening in marine areas/Salish Sea.
- Problem that no HPA application is denied.
- Salmon freshwater habitat has better protection than other species of fish (esp. marine fish).
- Has diversification been evaluated? WDFW needs to have HPA biologists specialized to project type and/or ecosystem (freshwater only, marine only type specialization); fostering expertise rather than general knowledge.

Jurisdiction

- OHW water mark – verification using Ecology? Some way to get consistency between agencies.
- Local governments want “Public Works Managers” to have authority to declare an emergency. Context is for emergency responses to flooding (for example) by county road maintenance staff - difficult to get HPAs needed to do the broad scope and number of emergency projects.
- There is currently no protocol for after-the-fact permits – ways to correct impacts, make it right; Post-violation permits should be more costly.
- WDFW should find ways to use already- established programs and protocols (other agencies, e.g., DNR FPP) to improve/simplify permitting.
- License structures (buildings, docks, bulkheads) when they get HPAs, so enforcement/compliance officer can scan to determine whether project is permitted. Concept is similar to bridge or boat licensing. Would need “grandfathering” for structures built before the license went into effect.

Shoreline armoring

- Do better: regulate hard armoring; more data exists on effects of armoring.

- Need to figure out how to better protect natural shorelines.
- Armoring provisions need to be applied consistently and appropriately – soft armoring not right for every project; soft armoring required “when biologist can get it” and this isn’t consistency. Should be based on site conditions.
- Need examples of soft armoring projects that are still working as designed. There are a number of older “soft” armoring projects (along the Columbia River) that have failed and these remain in the collective memory.
- There is a perception that WDFW is requiring soft armoring everywhere.

Technical assistance

- Attitudes and values – WDFW needs to get all staff on the same page, even when staff turnover occurs.
- Guidance versus policy – use of the guidance should be clearer – need flexibility.
- Better training for biologists on Gold and Fish; there was supposed to be an “assigned” biologist for Gold and Fish projects.
- Need training to improve consistency between biologists.
- Training & hiring protocols for (to prioritize) people & relationship skills.

APPS

- APPS invoicing system is needed
- APPS signatures more programmatic – district able to assign signature for more than one permit.
- Many support WDFW moving on from the APPS application; others really like APPS as an improvement over HPMS. Some people still do their applications on paper because the bugs in APPS make it too difficult to use.
- Suggest WDFW consult with stakeholder representatives when updating APPS - applicant needs are different than agency needs in this area.
- Many participants support the concept of a “Turbotax-like” application that branches seamlessly based on applicant responses. [Whether an application is simplified/streamlined would be invisible to the user - only routes to relevant application questions and sections.]
- APPS replacement: should consider an integrated “Turbotax” system that steps applicant through state, federal, and local application information. One-stop permitting portal.
- An ideal system would be one that starts at the statewide level, and then drills down to the local government level so the applicant only experiences one application process for the multiple permits that are needed for a project. State should pay to develop this system.
- Heard about several specific APPS bugs; “email HPA staff” sends email to the APPS NRB staff, not to the specific HPA biologist.
- Name APPS is misleading. Really isn’t about aquatic protection.
- APPS system should automatically send reminders (to WDFW and owners) for maintenance.
- Stakeholders who review applications would like GIS map of application locations.

- JARPA signature page should be allowed to be valid for HPA signature so that property owners don't have to sign multiple signature documents.
- Consider allowing digital signatures.

Permitting mechanics

- \$150 is not enough; application fee should have no exceptions.
- Want more project types to fall under "streamlined" fish habitat enhancement permitting.
- More incentives including lower fees for projects that help fish.
- Need to provide a free/easy restoration permit for marine, freshwater, lakes, all.
- Fees: would loss of fees result in delays in permits?
- Permit modification/extension: might be better for environment to extend permit in the current season rather than start work again next season.
- Need permit/info about extension flexibility.
- WDFW can't tell applicants they are required to get other permits. Can't require notice of intent (to forest service).
- WDFW needs to be able to notify other permitting authorities, and needs to ensure other permits/SEPA are obtained/achieved.
- There's no end-of-project sign-off/notice of completion.
- WDFW should notify USFS (for [mineral prospecting] permits issued within national forests).
- Notice (to USFS) is unreasonable, yet required on mineral prospecting HPAs.

Standard Operating Procedures & agency policies

- There were concessions and commitments made by policy groups when developing 2009 Gold and Fish rules - prospectors want WDFW to honor those commitments. Lack of trust.
- Some stakeholders support agency SOPs; others are concerned that SOPs should be codified in rule.
- Publishing SOPs online, available to applicants, helps applicants meet the criteria set forth in the SOPs.
- WDFW policies should be available online to the public.
- How is SOP different from the HPA manual?
- Permitting limits restoration projects; maybe programmatic permitting for certain types of projects.
 - like Corps SPIFs
- As develop SOPs and changes, need to be aware that there are changes in technology that are not covered under current definitions.

Permit provisioning

- Looking for innovative solutions; more positive methods (more carrot, less stick); incentives for "green" projects.
- Flexibility about fish removal provisions for maintenance projects when (we know that) fish aren't present.

- Ways to respectfully challenge and work through issues. Two-way street.
- Many small local governments don't have biologists, rely heavily on WDFW biologists. Loss of WDFW biologists disproportionately burdensome to small jurisdictions.
- Bankfull width difficult to measure – need more consistency to this metric.
- There should not be work windows or provisions when no protected species is present or there are blockages downstream.
- Inconsistency between biologists; Need training for consistency.
- Provisions not consistent with impacts.
- Consistency: consistent protocols between biologists (measurements).
- Concerned about lack of consistency in forest practices project provisions from biologist to biologist, between DNR and DFW agencies, and region to region.

Work Windows

- Work windows – consistency with NMFS, Oregon.
- Want longer work window – especially for complex projects.
- Work window flexibility and length of the work window; permits don't show what flexibility is available.
- Standards, work windows, should be different for “less important” species.

Mitigation

- Better explain impacts and the mitigation needs.
- Fish mitigation bank. NMFS OK with this but WDFW is resistant. Banking mitigation credits to offset future needs or can sell.
- How can permittees question/challenge required mitigation.
- Requiring mitigation for deep-water dredging is a concern.
- Over-reliance on idea of compensatory mitigation; needs to be more avoidance and minimization.
- A lot of compensatory mitigation is inappropriate and insufficient to mitigate for the impacts.

Compliance and enforcement

- Civil enforcement – helping with compliance; build in process considerations.
- Protocols protect both WDFW and citizens when there are compliance issues.
- Important that conditions/provisions are followed up on and followed.
- Need SOPs for biologists/enforcement officers dealing with violations – compliance, enforcement. Important for strong coordination between habitat bios and enforcement; training for enforcement officers.
- HPA violations hotline:
 - Need violation hotline for all jurisdictions; help reporting party figure out how to make meaningful reports.
 - Currently WDFW hotline numbers don't appear relevant to HPA violations.

- Campaign to help people understand what to report and where to report it; what's a violation.
- Multi-jurisdiction: e.g., pollution reporting (Ecology) and coordinating across agencies as well as across programs within WDFW.
- Mapping HPAs:
 - WDFW and public should be able to look at maps for permitted projects. Need ability to access permit info based on "license," plaque, or GPS.
 - Need GIS system with public access.
- Need stop work order authority. Need administrative process around appeals, etc.
- 2-year limitation of criminal authority; gap in enforcement with non-permitted projects.

Science and monitoring

- More monitoring: biological impacts; effectiveness of permits provisions.
- Need better evaluation of the success of HPAs in protecting freshwater and marine habitat.
- WDFW needs a good budget in order to protect and to measure protection.
- Has WDFW done a gap analysis on budget shortfalls in terms of activities needing more funding?
- Monitoring environmental conditions is important (context of drought conditions and related closures - need data before can close).
- Cumulative impacts of permitted activities. If going to have "no net loss" then need to understand cumulative effects.

Collaboration and communications

- Habitat Program should use press releases to announce meetings, rule changes.
- Difficult for homeowners to understand permitting, need for HPA,
- Need to educate on the difference between "repair" versus "replacement"

Partnership opportunities

- Educate – help people understand the impacts of work
- Better outreach to clubs/individuals about HPA purposes and ways for projects and activities to be less impactful.

16. Mineral Prospectors on 20 April 2016 at Mill Creek Region4 Office

Randi Thurston and Teresa Scott met in Mill Creek with mineral prospecting stakeholders. Some comments made by the prospectors' representative at the HPICAG meeting were reiterated during this meeting in order to add emphasis to the concern.

General concerns

- HPA program should go away or be completely re-tooled. Majority of 77.55 exempts everything.
- Notice (to USFS) unreasonable; prospectors are asking about the purposes for (3-day advance) notification and whether there are alternatives.

- There were concessions and commitments made by policy groups when developing 2009 Gold and Fish rules - prospectors want WDFW to honor those commitments. Lack of trust.

Permitting mechanics

- It's a hassle to have to get separate HPAs for each basin/stream (especially when provisions differ).
- WDFW should look at multi-basin HPAs – prospectors want to investigate ways to avoid getting multiple HPAs for the same operation in different locations.

Permit Provisions

- Mineral prospectors want a pre-permit mechanism to respectfully challenge and work through issues. Two-way street.
- There should be consistency for prospecting HPAs in the same general location/same stream. Right now there is inconsistency among biologists on provisions for same project types or same locations.
- Prospectors don't believe that the provisions are consistent with impacts.
- Current denials based on future (passage) conditions, not current conditions. HPA biologist is requiring special provisions for mineral prospecting on the Sultan based on fish habitat use that will not occur until after fish passage is opened on the Sultan.
- WDFW doesn't have authority to tell applicants they are required to get other permits. Can't require notice of intent.

Licenses versus HPAs:

- Licensing: Mineral claims are applied for and granted annually from County Auditor offices or BLM. Fees are paid annually for every claim (beach or freshwater, anywhere). So prospectors are not anxious to pay additional annual WDFW license fee. (Prospectors are currently exempt from paying the HPA permit application fee.)
- Prospectors are willing to get individual HPAs to expand work windows (as opposed to license-linked work windows, which prospectors think would be more restrictive).

APPS

- APPS: Doesn't accept USFS as landowner on standard application; don't need landowner signature on public land.
- APPS times out on page 2.
- APPS won't complete the application without SEPA; finicky about this.
- There are two versions of the APPS "help" document on the web site; need to take one down.
- WDFW should provide stakeholder participation and review of APPS replacement.

Work Windows

- There should not be work windows or provisions when no protected species is present or there are blockages downstream.

- Timing windows changed in 2008 without discussion; Current windows are based on temperature units.
- Definitely want to work on work windows. Confusing message when standard HPA is issued with broader work windows than the narrower windows that are available through the pamphlet.

Beach Prospecting

- Sea shore conservation area (defined in statute) but definition is not consistent with the rules.
- Confusion about what the low/high boundaries are on ocean beaches; would be easier if rules said “High-to-low water line” (page 16 Gold and Fish).
- Prospectors are reporting use of manual hand dredge to harvest ghost/sand shrimp for bait – the problem is that mineral prospectors are not allowed in that same area. “Ghost shrimp line”

Science and Monitoring

- Monitoring environmental conditions is important (context of drought conditions and related closures - need data before can close).
- Prospectors will work with WDFW to collect the on-site water temperature data that is needed.
- Are there reports about water temp; temp units; fish emergence? Get this information available to the public.
- Hearing concern that wild fish data are being extrapolated from hatchery information.
- Look into what study was occurring on the Chiwawa middle of July last year?

Collaboration and communication

- Are there reports about water temp; temp units; fish emergence? Get this information available to the public. Provide information about how WDFW monitors temperature - equipment and how equipment is calibrated.
- WDFW should look into printing the “rules” document on newsprint and selling advertising, and any other ways to cut costs so WDFW can provide printed copies (rather than expecting prospectors to download and print).
- Habitat should use press releases to announce meetings, rule changes etc.

Partnership opportunities

- Better outreach to clubs/individuals about HPA purposes & ways to be less impactful.
- Better training for biologists on Gold and Fish; “assigned” biologist for Gold and Fish.
- Training for staff on standardizing GPS coordinates.
- Winter is better for club meeting presentations/interactions.

Follow-up:

- Look at APPS re: Sultan; new fish ladder (barrier removal).
- Find out about how temperature meters are calibrated.

- Get the list of bodies of water that prospectors care about, WDFW can prioritize data collection.
- Look into what study was occurring on the Chiwawa middle of July last year.
- What are the opportunities for working with prospectors to collect the on-site data needed; water temperature, maybe turbidity. What else?

17. Marine Contractors and Ports on April 22, 2016 at Center for Urban Waters in Tacoma

Randi Thurston and Teresa Scott met in Tacoma with members of the marine contractor's community. Dr. Timothy Quinn presented the findings of a study of forage fish shoreline utilization. The study results have been used to develop alternatives for new development restrictions on forage fish spawning beaches. The group asked several clarifying questions about how the new information would apply to proposed new development sites. This discussion naturally led into listening session remarks, starting with observations about mitigation.

General comments

- WDFW is the best permitting agency to work with.
- WDFW and DNR are experienced issuing permits and are easy to work with (or maybe predictable) because of this. Local governments, Corps, etc. are more difficult to work with because they are less experienced with the types of project done by these contractors.
- WDFW should provide education to local governments about marine shoreline and subtidal projects.
- WDFW's "Salmonscape" web map should have forage fish - used to show this but doesn't now.

Technical assistance

- Contractors don't like staff turnover because need to "train" new staff about their project needs and constraints.
- Want consistency in advice received from biologists.

Permitting mechanics

- The sequence of agencies reviewing a project is often a problem (WDFW, Corps, NMFS, SEPA)
- APPS hangs at the SEPA step for SEPA-exempt projects.
- Consider a simplified permit or "statewide" permit for sub-tidal work using low-impact methods (anchors/moorings). Permitting should be simpler for sub-tidal projects.
- Permit fees should be tiered based on the scope of impacts (by project types).

Permit provisions

- Regarding beach replenishment material - sometimes the volume of material required causes long-term changes to the site's characteristics. Is this intended? Is this good for fish?
- Concerns about certainty in the provisions/requirements that will apply to a project. This uncertainty makes it difficult for contractors to develop successful bids for projects.

- It's important for project design engineers to know ahead of time whether the project site encompasses "occupied" or "adjacent" habitats. Please don't change this mid-project (referring to outcomes from pre-project sampling). Response is that information gathered from pre-project site sampling is used to change work windows, and maybe to change mitigation, but is not used to change project design once the project is permitted.
- Contractors would prefer options for inspections/sampling rather than an out-and-out closure. Ability for inspection/sampling provides better work opportunities.

Work windows

- Sometimes forage fish spawning tests end up extending into salmon work windows (closure periods). Need more efficiency and certainty once the project is staged.
- Sometimes salmon protection requirements narrow the work window to an unacceptably short period
- Contractors need more flexibility on work windows. One suggestion was to allow work at certain tides.
- Salmon work windows need to be longer.

Mitigation

- Marine contractors are concerned that they already do on-site mitigation for WDFW, but also have to pay in-lieu fees to the Corps and/or NMFS. Why can't the three agencies coordinate so mitigation is not duplicative and provides the most benefits for impacted species?
- Contractors would prefer to pay in-lieu fees instead of replanting impacted ground - plantings as mitigation is expensive and there is a lot of post-project maintenance that is not under the contractor's control.
- In general, contractors like in-lieu fees because this offers a more consistent approach to off-site/out-of-kind mitigation. WDFW should work with Corps and NMFS to standardize in-lieu fee programs.
- There are not enough studies and/or there are conflicting results about impacts of projects and work methods. Need studies specific to the places and ways projects are done. For example, study of barge impacts. Contractors think regulators can allow more work using specific methods if study results show impacts are lower.
- Need more studies about the impact of shade under piers. Shade is good for some species and bad for others - how does WDFW decide what drives provisions or mitigation?
- Has WDFW studied the impacts of aquaculture on forage fish?
- WDFW should ask the legislature for more money to do these types of studies (following on the forage fish spawning study)
- Many agreed that mitigation funds should be used to support new science.
- Would better controls over stormwater outfalls reduce the need for construction restrictions?
- There should be a better balance between impacts and mitigation.

- Should allow mitigation (instead of closure) during non-peak spawning times and/or mitigation based on egg density.
- Permit biologists are reluctant to apply flexibility because of the repercussions of (or threat of) appeals.
- WDFW's mitigation program should provide incentives (or tier mitigation required) for low impact methods such as helix anchors or "restoration" like soft armoring.
- There should be more incentives to "do the right thing" to protect fish. For example, some landowners install DIT (Divers Institute of Technology?) boat moorage/anchors rather than seek an HPA because the HPA process is daunting. Streamlining subtidal permits (especially for projects using known-low-impact methods) would actually improve fish protection because more people would actually get permits.
- Should be able to get mitigation credits for removing hard armoring and/or making site conditions better than they were before the project. (Better for fish.)
- Some people hoard their "mitigation creditable" projects such as piling removals.

Appeals

- What is the success rate of appeals? There should be a fee for third-party appeals.
- Appealing parties have no consequences or "skin in the game;" might help to define "standing." WDFW should find ways to deflect appeals away from certain project types.
- Don't like APPS because it exposes more people to information about projects, which leads to more appeals.

Compliance and enforcement

- Need to be enforcing violations; need to remove "bad actors" from the contractor pool.
- Need to implement civil compliance program to help people comply.
- Enforcement is awkward when permit is in landowner's name but contractor commits the violation. This is especially a problem after a project is completed.
- WDFW should do post-project inspections and issue gold, silver, and bronze stars for good work (see "certification").

Science and monitoring

Forage fish science questions

- How would the new information apply to the locations where I work? How does the new information apply to different beach types?
- What is the threshold to determine "occupancy" (e.g., is it one egg?)
- The no-action alternative is preferred by some; others like either alternative 5 or 7.

Partnership opportunities

- Contractors would like WDFW to implement a contractor certification program.
 - Would need to be deliberate about the kinds of qualifications WDFW would require for "certification."

- Contractors should get “compliance credits” (proverbial gold stars for number of compliant projects, which would attract potential customers)
- There should be a pre-qualification for contractors wishing to do salmon recovery type projects.

18. Skagit System Cooperative on March 25 at SSC Fisheries Office in La Connor

Randi Thurston and Teresa Scott met in La Conner with staff representing the Skagit System Cooperative (SSC).

General concerns

- Participants indicated that the HPA program doesn’t go far enough to protect fish life.
- WDFW does not effectively use all its existing statutory authority to protect fish life.
- WDFW uses its regulatory discretion to reduce fish protection.
- SSC has commented and participated in advice-giving to WDFW, but WDFW has not implemented SSC advice. WDFW was/is unresponsive to SSC comments, especially during rulemaking, or changed draft after language was “agreed.” Several specific examples were provided about comments made by SSC that were disregarded by WDFW.

Permitting mechanics

- The definition of “protection of fish life” adopted in the new rules is toothless. Definition of “maintenance,” “repair,” “replacement” need to be more precise.
- Removal of channel-spanning log jams should not be permitted; mitigation has been inadequate and inappropriate to the scope of impact of the project.
- WDFW has an over-reliance on general and simplified HPAs.
- WDFW needs to require decent plans and specifications.
- It’s difficult for tribes to comment on individual HPAs.
- Agree it would be good to improve protections from single-family residence bulkheads.

Permit provisions

- How does WDFW decide the method employed to determine mitigation?
- WDFW allows dredging; participants expressed overall concern for the work of “ditch maintenance” by drainage districts. Worked on provisions for dredging small streams.
- Why does WDFW not require StreamSim? [WDFW allows alternative methods that are equal to or better than StreamSim; there are 11-12 different methods available now.]
- HPA has weak large-woody-debris removal provisions.

Enforcement and compliance

- WDFW does not enforce HPA provisions or follow up on compliance with permit conditions.
- WDFW does not pursue enforcement of egregious violations.
- WDFW should follow DNR’s example: next forest practices permit is not issued if there are outstanding violations on a current/past permit.
- No records are kept on enforcement effort and results.

- WDFW needs to implement civil penalties.
- WDFW should not hesitate to access private property without landowner permission.

Science and monitoring

- WDFW should be doing HPA compliance and effectiveness monitoring. There are funds available from NEP to do this.
- WDFW should not permit projects if WDFW can't afford to monitor compliance / effectiveness.
- Be specific in the permit about what WDFW expects the required mitigation to achieve.

Partnership opportunities

- WDFW needs to invite the right people (technical experts) to help shape new policies and rules. Be specific about the topic and technical questions and the process that will be followed before soliciting tribal participation. Say what we are proposing that is different this time, and say what the consequences are of not being able to come to decision.
- Suggestion: use the above advice to work with 2 or 3 tribes on 2 or 3 topics on which we can actually make progress together.

Follow-up

- Send SSC information about how many permits are denied each year; how many times WDFW HPA program asked for enforcement; how many penalties were issued.
- Consult Tim Hyatt and other stakeholders about APPS replacement; e.g. can't get summary information from APPS but could get this from HPMS.
- Take Tim Hyatt's advice on provisions for small-stream sediment removal.
- Larry will send Randi/Teresa a list of "bad culverts."

19. Local Governments of Skagit, Whatcom, San Juan, and Island counties, cities, and ports on March 25, 2016 at Port of Skagit near Mt. Vernon

Randi Thurston and Teresa Scott met in Mt. Vernon with representatives of Skagit and Island Counties and Port of Bellingham.

HPA Program is doing well

- Generally, this group appreciates working with WDFW.
- Permits are issued quickly once all materials have been provided.
- WDFW provides good engineering technical assistance and should continue to do so.

Fish passage projects

- Island County has an inventory of around 80 culverts greater than 8-feet deep, primarily in ravines. As these fail, replacement options based on fish passage criteria (culvert sizing) are often limited to bridge structures, which are cost prohibitive for the county. How can WDFW work with the county to look at priorities and cost/benefits for these replacements?
- Local governments need alternative solutions for maintenance/fish passage when requirements are cost-prohibitive, or state should pay to fulfill those huge requirements.

How can WDFW make allowances in locations with lower protection/restoration priority?
Example is protection/restoration of small amount of potential cutthroat habitat.

- Can WDFW relax requirements when passage is also blocked upstream and downstream of the project location (i.e. project would restore minimal habitat)?
- Basically, counties want permit biologists to have tools and alternatives to solve these types of culvert problems.

Technical assistance

- Pre-application consultation (that might include a third party) is not pursued in many cases because it is perceived that biologists are not available or do not prioritize this work. Meetings are hard to schedule.
- On the other hand, the support provided by WDFW and tribal biologists during pre-application site visits is very valuable.

Permitting mechanics

- Local governments/drainage districts are frustrated about HPA provisions when there is not direct connectivity with fish bearing water. Why is an HPA required when no fish are present (or ever intended to be present)?
- Counties would like to pay only one fee during (flooding) emergencies.
- It would also be good if could get one emergency (flood emergency) permit for multiple projects if they are similar. The county gets between three and ten emergency road projects within the 1-3 days after a flood emergency.
- Who makes the final call about whether a habitat restoration project qualifies for streamlined processing?
- Presence of smelt eggs on the shoreline prevented county from completing a ramp maintenance project during a low-use period; had to close the ramp a year later during a high-use period in order to get the project completed. This impacted citizen access to the water for fishing, etc.
- Local governments [in this area] have avoided general maintenance HPAs because of the influence of third-party commenters.

APPS

- APPS currently requires a complete application before a JARPA can be printed, but many local government maintenance projects are SEPA exempt. APPS should not require complete SEPA for SEPA exempt projects. [Likely this is a bug we have already corrected.]

Mitigation

- Is there a way for WDFW to allow restoration work in the nearshore as mitigation for some of these deep-culvert replacements?
- Port would like to remove old overwater structures now and bank these mitigation credits against future development projects. What does it take for WDFW to implement this approach? Additional training? [guidance for advance mitigation]

Partnership opportunities

- Local governments would like WDFW to provide training (with engineering support) for how to design fish-protective projects.

20. NWIFC members on April 28, 2016 at NWIFC, Lacey

Jeff Davis, Margen Carlson, Randi Thurston, and Teresa Scott met in Lacey with staff from NWIFC and several member tribes. The format of this meeting included a discussion of the relationship of the HPA program with “Treaty Rights at Risk,” what changes tribes would support in legislation, and a discussion of other creative solutions. Communication was the key theme of the meeting.

HPA and Treaty Rights at Risk

- We (Tribes and conservation agencies) are getting ahead in habitat restoration; how do we break through (Treaty Rights at Risk context)
- WDFW’s “No Net Loss” policy is not working - the hydraulic code needs to go beyond No Net Loss. Current code won’t de-list species, and allows continued degradation.
- Tribes are skeptical that WDFW can ever overcome inertia on the HPA program.

Jurisdiction

- Tribes are interested in the highest astronomical tide datum for the Corps of Engineers as a replacement for “Ordinary High Water”.

Legislation and rulemaking

- WDFW will have draft legislation in mid-June, and will meet with tribes then to talk through the elements and strategies to support the package.
- Attendees were supportive of Stop-Work and higher penalty amounts; Supportive of repealing single family residential bulkhead section;
- Tribes want to see (bill?) language on General HPAs
- Can statute require that all external permit requirements be met?
- Tribes need transparency on how the changes we propose are evaluated because the current statute doesn’t project fish life and tribal trust obligations. There are deficiencies in HPA Program in protecting fish life.

HPA Program operations

- Staff training: A lot of HPA biologists are not fish biologists and just don’t care. Additional training is required, especially of Forest and Fish biologists (specifically for water typing training).
- Staff “diversification” has degraded protection.
- Tribes want WDFW to target emergency declarations, especially in winter in Nooksack. [For staff attention and follow-up?]
- Suggestion re: emergency projects: state could require a performance bond on emergency projects to ensure that mitigation (done after the fact) actually occurs. Suggesting this as a way to make sure there is adequate mitigation for the loss of habitat from rip rap.

- Other participant's road maintenance staff screens locations with a high probability of failure; don't think rip rap is bad for fish.

Technical Assistance

- Lots of kudos for individual HPA bios.
- Biologists need to seek WDFW engineering support when reviewing and conditioning culvert projects, and not rely on the county/city engineer's advice.
- SalmonScape and DNR hydro layer are not accurate - have not been updated.
- Fish distribution mapping needs more follow-through in order to get agreement to change the distribution map.
- Some tribes have capacity to track HPA applications; others don't, and want to be able to rely on the local HPA biologist to call and alert local tribal bios.
- New WDFW staff don't have a culture of tribal coordination compared to staff who have been around for a while .
- Tribal staff person sees a marked increase in the willingness in WDFW HPA bio staff doing site visits - kudos.
- Education of local governments is essential
- Tap tribal expertise to plan local government / contractor training; especially regarding bypassing fish.

Permitting mechanics

- "Gorilla in the room:" habitat biologist will permit [culvert maintenance/replacement] projects that would not be permitted by the Corps. Concerned about not using StreamSim all the time, and not taking tribal input and advice on fish passage projects.
- HPA is supporting maintaining structures (by allowing placement of rip rap) that were built in harm's way; shouldn't be perpetuating these projects.

Permit provisions

- Projects are getting accepted without mitigation and without SEPA. Some bios confuse shoreline exemptions with SEPA exemptions. (King County issues shorelines and SEPA in one document)
- Is WDFW taking into account the need to up-size culverts to accommodate climate change effects?

Mitigation

- Basically, tribes see WDFW's unwillingness to press for StreamSim-type designs on culvert projects as not supporting, even undermining, the power of the injunction.
- WDFW's statutory restriction (not authorized to improve conditions for fish) is conflicting with No Net Loss policy of WDFW.
- "Betterment" could be linked to mitigation banking or credits.
- [WDFW said we are trying to shift the HPA program's culture to say "no" when it's appropriate; need to be sure we are adequately documenting our thought processes and justifications. Need to do a better job showing our work.]

Science and monitoring

- Does the hydraulic statute prevent WDFW from post-project compliance monitoring? [Jeff lays out the ideal level of compliance monitoring and talks about lack of capacity to implement].
- Need to follow up post-project to ensure the project is working as expected.
- Regarding mitigation and need to do better:
 - How is WDFW assessing cumulative effects?
 - How well are HPA provisions working?
 - We should partner on HPA monitoring.
 - “Tell the truth” about impacts.
- SalmonScape and DNR hydro layers need updating.
- Fish distribution mapping needs more follow-through in order to get agreement to change the distribution map

Compliance and enforcement

- Tribal staff aware of several HPA violations, several under a central Puget Sound county’s GHPA. WDFW staff have indicated an unwillingness on the part of WDFW to enforce these violations. No contact with the regional habitat program managers has been made.
- What is WDFW’s violation reporting and response protocol?
- WDFW needs to look for habitat violations using remote sensing. Example is people removing large wood (cutting firewood) off gravel bars.
- Counties pay violation penalty-fees to themselves.

Collaboration and communication

- The Corps is working on a management plan that needs re-doing; really old-school stuff. State and tribes can work together with the Corps to update this plan.
- There is (or should be) a mandate from the top for HPA staff to talk to tribes about HPA applications; some staff are good about this, others aren’t.
- Comment from a central Puget Sound tribe that there is poor communication with half the biologists in that area.
- To what degree does WDFW share innovative ideas and new science in-house? [Talked about doing webinars as a way to share innovations]

Partnership opportunities

- Need special emphasis on education and support for Whatcom County and City governments.
- Need to prioritize the outreach work in areas (in north Puget Sound) where better understanding can reduce conflict.
- There is a North Sound annual meeting, at which WDFW HPA bios would be welcome, and at which tribes and WDFW can talk about the larger issues.
- TFW meetings work well for tribal/state coordination.

- Tribes want to:
 - Work with WDFW on legislation.
 - Work with WDFW on mitigation data collection (i.e. monitoring); can meet, but what is the agenda and what do we want to accomplish with the monitoring?

21. Lewis, Cowlitz, Pacific, Wahkiakum County local governments and ports on May 4, 2016 at Port of Longview

Randi Thurston and Teresa Scott met in Longview with representatives of Ports, industry, and local governments.

Legislation and rulemaking

- How often are rules updated? When was code adopted?
- Topics for potential rule changes: Definitions, correct provisions, work windows
- What happened with comments made during the HPA rulemaking? Should WDFW look at those comments? Folks will email Teresa if they want their rulemaking comment letters included as part of this record.
- Definition of natural flow? Engineering definition – not affected by human disturbance – doesn't occur here any longer.
- During floods, get told OHW is where the creek is (during the flood). Concerned about this interpretation - we need to figure this out. Mitigation is required by WDFW even when fix is placed within the original project footprint.

Jurisdiction

- Jurisdiction: Opinion that HPA jurisdiction does not extend above OHW line.
- When will AG Opinion be out?

Technical Assistance

- Appreciate regional biologist here; explains things, returns calls. Formerly biologists did not return calls.
- In past, engineering help was out of scale with the fix needed and timeline for project.
- Calling-in WDFW engineer difficult to schedule.
- Guidance to staff on correspondence should be online.
- Training and consistency among staff is important to applicants.
- Glad to get suggestions that are helpful to getting projects done; e.g., adding debris removal to application.

APPS

- APPS seems redundant when already have JARPA filled out; have APPS take info from JARPA.
- APPS running smoothly otherwise.
- Recent change to online APPS and fee. Requiring a fee adds a whole realm of unneeded bureaucracy. Taking a credit card – helpful.

Permitting mechanics

- 5-year statutory limitation on standard HPAs; develop criteria and circumstances to extend that 5-year period. Sometimes a renewed HPA has new/additional provisions (e.g., change in staff); working with Corps on dredging. Need programmatic approach. Disposal sites already approved by DNR aquatics (20 years).
- Re-permitting disposal sites every 5 years wastes money and time when provisions have been established for a significantly longer period, 20 years.
- Local ports provide disposal sites (purchasing/easements) and related local permits; rest of the program is federal process.
- Boat launch extension asked for new SEPA determination, but SEPA/NEPA has already been done for the project. Have been asking for documentation of exemption.
- Best if HPA didn't require SEPA to issue an HPA.
- Dredging in general is complicated for permitting; it's necessary, and usually based on a long-term plan, but getting local permit is problematic. Deepening channels is difficult to get HPA for. Inconsistency between WDFW and feds in terms of fish species protected under different laws. Need to be clearer what impacts (to what species) are; and what the mitigation is for (how the mitigation addresses the impact).
- Maintenance/repair of dolphins/pilings. Current "general" HPA covers maintenance. (Limited to 50 cubic yards for dredging).

Permit provisions

- Industrial docks and piers – need to accommodate current needs and future conditions.
- Debris in Cowlitz – less lower river dredging, so sediment from upstream causes problems downstream.
- Understanding about small-scale fix versus long-term (larger scale) project.
- Bridge scour, new armoring requires mitigation.
- Armoring using rip rap (long term fix) versus woody debris (shorter-term fix). Requiring woody debris as bank protection on banks isn't a good permanent fix. (Decaying organic matter.) If can provide upper bank "hard" protection (e.g., rip rap) then OK to place wood closer to water's edge for fish habitat.
- Like idea of flexibility; sometimes permit strictly interprets "protection;" having mitigation options would be helpful to project proponents and could provide for better fish habitat protection/restoration.
- Culvert sizing – flexibility to base specs on local benefits to fish life (smaller if less value).
- Scour issues: soft solutions won't work in most local channel scour situations. Maybe we can articulate criteria where we won't require soft solutions. In industrial zones and/or industrial uses/areas, soft isn't appropriate. Sometimes required re-planting doesn't survive.
- Issues around maintaining county roads that were poorly-located 100 years ago. Help counties who have to maintain these roads.
- (Local governments are) Incorporating (designing for) climate change adaptation in planning for some projects; others, like road maintenance, are more difficult.

Work Windows

- Important for biologist to be able to modify/extend work windows.
- Mainstem: get flow and wave action from ships constantly.
- Work windows conflict between agencies. Usually makes a shorter work window for the project. (Common work windows WDFW, NOAA, Oregon, Corps).
- Good experience working on a marina rehab project. Helpful to be able to do the overwater and upland work outside of the work windows. This helped.

Mitigation

- Consider cost-benefit of the mitigation.
- Concern about overlaps in authority and for mitigation required. Cumbersome responding to Corps, NOAA, WDFW, etc., and want HPA to focus on HPA jurisdiction (only).
- Shallow water maintenance dredging permits: Had been working under Corps permit, but now have to get an HPA permit to maintain the facility. Waiting 5 years to get HPA, and lots of costly provisions and mitigation. Mitigation was “bring me another rock” (20 proposed mitigation projects). Very difficult to find locations to provide mitigation. Are there ways to make mitigation easier for this project type. No in-lieu mechanism. Would help if the mitigation zone could be expanded.
- Removal of Berth 4 project – worked with WDFW, NOAA, and Corps to do advance mitigation. Very positive outcome.
- Donating non-cresote pilings; wonder whether WDFW can receive donations and distribute to people/groups who need those materials. Also get debris coming downstream. Can donate to another agency but difficult to convey to habitat restoration groups. Can set aside materials if know there is an eventual destination. Can we get advance mitigation credits for donating pilings, trees, debris that are removed/recovered? Good opportunity here.
- Critical Areas Ordinances permits: mitigation is required that spans shoreline zones.

Collaboration and Communication

- WDFW comments on SEPA when there is no HPA jurisdiction. How can WDFW shape SEPA comments to comment on impacts but leave the mitigation to the responsible agency. Comments phrased as technical assistance? Maybe more guidance to staff about how to review/comment on SEPA. Uncomfortable when SEPA review is done by same staff member who is responsible for issuing HPA.
- WDFW should only ever be commenting on projects (SEPA, local ordinances, provisions under other agencies’ authorities) from the perspective of WDFW’s regulatory authority.
- Appearance that staff is coordinating with local non-regulatory groups to develop comments on SEPA.
- Just got a SEPA comment that portrayed the opposite situation than others within WDFW (earlier advice). So sometimes it’s difficult when someone different from the HPA biologist comments on a project; wonder how much internal communication exists. Internal communication, esp. between energy staff and other WDFW biologists. WDFW should strive

for “no surprises” in comments on projects. If there are surprises, WDFW staff should talk to proponent before send in a comment letter.

- Last fall’s open house at water center – this was a nice event, appreciated this opportunity to comment to WDFW.
- Participants are having positive professional discussions with local regional office. Hold up (delay in permitting) is almost never WDFW.

Partnership opportunities

- Would help to get “training” from WDFW staff and engineers about bank protection.

Follow-up

- New staff at Corps – Margaret Chang – opportunity to re-start work window discussions. Shandra O’Halleck.

22. Clark and Skamania County local governments and ports on May 4 at Vancouver WDFW Region 5 Office

Randi Thurston and Teresa Scott met in Vancouver with Kevin Tyler representing Clark County. This session focused on Mr. Tyler’s list of issues.

General Comments

- Provided letter during Wild Future - will send.
- Good relationships at this time.

Jurisdiction

- Clarification of OHW; Don’t think (WDFW authority) above OHW is necessary, mainly because local CAO plus shorelines provides environmental protection above OHW. Might be project types for which protection of fish life is important. (Side channels, dikes/levies)
- Main jurisdiction issue is around bridges. Maintenance/repair of existing structures, minor changes to homes, segmented projects. So might be possible to articulate conditions under which local requirements take care of some HPA issues.

Technical Assistance

- Concern about consistent application of the rules among staff.
- Knowing that permit fees pay for staff, and that staff respond in reasonable time frames; (project proponents know that) time (getting staff technical assistance) is more important than fees.
- See some personality, work ethic/lack of responsiveness, attitude (conflicts with WDFW staff). See changes and accountability coming down from the top (so keep it coming).

Permitting mechanics

- Side-channel restoration might fit under streamlined.
- Making restoration projects go through local (HPA) permitting might be duplicative to the review needed to approve funding the project in the first place.

- Make sure that projects using streamlined permit still get public safety/FEMA and cultural resource review.
- SMP/HPA - difficult to apply for shoreline exemptions for restoration projects (90.47?) because SMP requires HPA approval and HPA requires paperwork for exemption so Catch-22.
- Expanding streamlined HPA for restoration projects; agree should be consistent across the board, but it's currently too narrow (project types).
- Should HPA require SEPA compliance? Probably enough backstops in place that it's not necessary. Maybe ask if getting local government permits then not require SEPA.
- Modifications to HPAs; situations where new fee is required - should not have to pay to extend work windows (to the next year).

23. Snohomish County local governments and ports on May 5 at Mill Creek City Hall

Randi Thurston and Teresa Scott met in Mill Creek with representatives of Snohomish County, Port of Everett, City of Mill Creek, Sea Grant and the regional road maintenance forum.

General Comments/Kudos

- Staff are responsive answering questions; especially during emergencies;
- "Your marine waterfront" is high quality and well respected.
- Emergencies: Good response, expedited and verbal.
- WDFW is one of the only agencies that sticks to [local government] permit timeframe. Staff helps meet the timeline. Permit timeline is predictable.

Concerns

- Want it to be easy to determine jurisdiction, and need consistency.
- Define term "near".
- County is concerned that WDFW is requiring permits in places (above OHW?) where HPAs not required previously.
- Does WDFW still recognize "unified drainage conditions"?

Jurisdiction

- Maintenance on existing levee 30-feet from OHW. Issue is whether levee or road surface is above OHW. Sometimes roads built on top of dikes and levees. Want to know what the intent for fish protection is for regulating these.
- What is the potential to replace ("synergize") the existing local jurisdiction's shoreline permitting with the HPA permit (for the issues covered by HPA)? However, HPA can't optimize for fish beyond scope of project, but SMA can and does.
- NMFS might be looking at some sort of streamlining "checklist".

Legislation and rulemaking

- [WDFW shared that RCW/statutory changes are done through legislative bills, governor's signature.]

- Counties are concerned about fees increasing.
- Possible RCW proposal (in addition to fee extension) is to expand list of projects eligible for streamlined permitting; remove current language about single family bulkheads; stop work authority, increase violation penalty.
- Local Shoreline Exemptions cost \$500.
- WAC rule changes: formal rulemaking process. E.g., “plus-or-minus”
- Rule changes require economic analysis - does this include looking at impacts to local governments? SBEIS and cost/benefit rolled into one document for last (2014-15) rulemaking.
- WDFW should provide a summary of the HPA rule changes. High-level overview.
- HPA definitions should be made consistent with other federal and state definitions; having different definitions is confusing and potentially costly. E.g., differing definitions of “maintenance” across the permitting agencies.
- WDFW should review all existing (and developing) MOAs to determine whether there are commonalities among MOAs that could be fixed using rulemaking.
- Concise explanatory statement is very difficult to read and reconstruct the comments and responses. Block paragraphs are hard to follow, and there are incomplete sentences. There should be a document that allows people to track the changes. The previous “change” documents are not still online.

Technical Assistance

- Are the new protection guidelines going to be used by all Habitat biologists? [Current statute requires different considerations for single family bulkhead. Can’t ask for a justification under this statute.]
- WDFW guidelines adopted after most recent county shoreline rule, then the guidelines aren’t referenced in the rule.
- Is WDFW going to review for consistency of guidelines for all local SMPs?
- Are the new marine guidelines applicable to non-residential? Can the rigorous analysis that is currently used for non-residential be applied to residential - create consistency between residential and non-residential. Current residential bank protection section should be repealed.

APPS

- Like APPS - it’s worked out; Helpdesk staff are very helpful.
- Good access to review other permits.
- Modifications in APPS - inconsistent whether require additional fee. Need to be clearer when need new fee - “minor plan modification” Inconsistency whether proposed project will be covered under GHPA or need a new application.
- Especially conflicts when projects that external reviewers would want to review are permitted by biologist under existing HPA.
- Need to provide online receipt for payments made (so reimbursement can be pursued).

- APPS: When there are multiple permittees (different county staff) for a project, APPS/WDFW doesn't accept it. E.g., if applicant for attached JARPA is different from HPA applicant. Person who applies in APPS has to be the same person as signed the JARPA.
- Does WDFW require individual names or would a generic log-on work? Probably this is an unanticipated quirk to correct in replacement application.

Permitting mechanics

- When would the civil authority fine start - after notice of violation?
- GHPAs aren't turning out to be as useful as previously anticipated. Project scopes are smaller than in previous GHPAs.
- Changes and corrections that are provided directly to construction crew do not make it to the permit responsible person. How does this happen in APPS? How would permit holder be notified?
- Why isn't WDFW issuing GHPAs for culvert maintenance on fish-bearing streams? Currently allow extremely limited maintenance (other counties without GHPAs probably a worse issue).
- Off-right-of-way surveys: can't cross private land without landowner permission. E.g., upstream BFW landowner denies permission. WDFW requirements and expectations outside the right-of-way.
- Need to have temporary repair options for failing culverts - short-term replacement needs to be allowed while long-term fix is being designed and permitted.
- How can "need" be demonstrated?
- Restoration permits: Needs to be clarification and consistency in the definition of what types of projects qualify for streamlined restoration project permitting. Local definitions and WDFW definitions - conflict between local and WDFW criteria for "streamlined," "expedited."

Mitigation

- Installing wood with bank stabilization in emergency situations is not helpful in addressing the immediate problem.
- Consistency across agencies difficult for mitigation. WDFW permitting done first, so opportunities for conflicting mitigation requirements.
- Sequence of permitting can compound mitigation requirements beyond the scope and scale of the impacts.
- Inconsistency between staff members between projects that are generally similar - require different mitigation and design changes. (Design changes based on personal preference.)

Science and monitoring

- What kind of monitoring and tracking of shoreline protection projects is done?
- How are we accepting information into databases that can be shared among proponents and jurisdictions? Look at WDFW's process and ensure information being taken in is available and usable.

- Non-permitted projects - how does WDFW capture information about non-permitted projects? [Current information is general, e.g., “HPA violation”]. Also want to tie permitted (and non-permitted) actions to outcomes.
- Jurisdictions need to collect information - can WDFW set prototype for data collection protocols?

Compliance and Enforcement

- Important to continue to improve rate of permitted projects (reduce number of non-permitted projects).

Collaboration and communication

- Better integration on shoreline stabilization issues, standards, review between and WDFW and local jurisdictions.
- WDFW can write letters supporting individual projects being exempted from shoreline substantial development permit.
- County has WRDA agreement with Corps that includes meeting bi-monthly to coordinate permitting, training, relationship building. Would like to meet with WDFW HPA biologists like this.
- Need to share geotechnical expertise and review between WDFW, County, Corps (regulating agencies).

Partnership opportunities

- Find out about Shoreline Planners Forum - who should be attending?
- [Legislature gave funds to Washington State Association of Counties to develop MOA with WDFW to work out remaining rulemaking issues.]
- WDFW should offer staff training on basic general construction methods and plan reading.
- Are there opportunities for training from local governments?

24. King County local governments and ports on May 5 at Issaquah Salmon Hatchery Education Center

Randi Thurston and Teresa Scott met in Issaquah with representatives of King County, cities, SeaGrant, and contractors.

General comments and kudos

- There have been improvements in HPA permitting in Bellevue since [a new staff person] started working here.
- Soft shoreline bank protection has worked well in Bellevue.
- Encourage WDFW to look for innovative, streamlined solutions like GHPAs and model HPAs - opportunities to reduce workload for predictable projects.

Jurisdiction

- What is the jurisdiction issue for WDFW HPA program? “above OHW” versus “effects flow or bed of state waters”.

Technical assistance

- WDFW staff (are willing to) come out to the site and this helps move the project forward.

APPS

- APPS works really well.
- APPS word limit can be problematic.
- Confusing whether to default to JARPA format or APPS. WDFW prefers using APPS.
- APPS review team in Olympia is very helpful. Turnaround time is good.
- APPS “authorized agent” box - how is this verified by the formal applicant. [signature page both landowner and agent must sign]

Permitting mechanics

- HPA/APPS requires SEPA completion for a complete application - this is pretty inconvenient. Biologists are requiring folks to wait until the SEPA comment period is closed. Maybe WDFW should review our “completed application” screen at HQ.
- SEPA requirement is in statute. Not a concern for this group, as long as accept letter with categorical exemption.

Work Windows

- Work window restrictions are restrictive to getting work done. Work windows were developed in 1990; they need to be updated. Need work windows to be more realistic.
- Need more information about basis for work windows. Need to update work windows to account for current salmon use.
- It would help if permit biologists can provide more information about the restrictions/work windows (species, life history stage).

Mitigation

- Conflicts about infrastructure underground beneath culverts (currently blocking) - need to be deep enough so that culvert replacement can occur. WDFW working on MOA with utilities. Need a mechanism to work through solutions; e.g., agree to coordinate when culvert replacement eventually occurs. Currently attaching agreement to HPA file at bio’s request.
- Similar issue to requiring passage when there are still downstream blockages (how likely is the downstream barrier removal in the foreseeable future?). Applicants are getting different answers under similar situations.
- Is it possible to provide incentives for doing the [culvert replacement project] at the same time as the utility project?

Compliance and enforcement

- Contractors see non-permitted work; frustrated that enforcement is unlikely.
- [Is there an opportunity to partner with local government to find or investigate compliance issues?] Look into this for King County and cities.
- What happens when violations are reported to WDFW? [WDFW responds that if work is in progress, officers will usually respond right away.]

Science and monitoring

- Multi-site/General HPAs, what are the reporting requirements? Providing reporting on multi-site/General HPAs is labor intensive, and it's not clear what WDFW is expecting. There is no standard for what WDFW requires - consider a standard form (or standards by project type). Can WDFW at least identify what's needed.
- "request" versus "require"

Partnership opportunities

- Look opportunities to partner with local governments in King County and cities to find or investigate compliance issues.
- Regional Road Maintenance Forum would like to be contacted by WDFW; could provide future contacts.

25. SE Washington (Asotin, Benton, Columbia, Franklin, Garfield, Klickitat, Walla Walla counties) local governments and ports on May 12, 2016 in Walla Walla

Randi Thurston and Teresa Scott met in Walla Walla with Tony Garcia of Walla Walla County. The format for this meeting was driven by the participant's list of issues.

General comments / Kudos

- Working with the local bio is great - very responsive and understands [Walla Walla County's] project constraints
- Local HPA bios are always clear about the reasons for HPA requirements - good communication.
- When we distributed the meeting notice, it was hard to see who did and didn't get the notice because used bcc. Use "to" for these, and folks will spread the word.

Technical assistance

- Would like better coordination between local bios and other agencies (and with WDFW headquarters)

Permitting mechanics

- Sometimes there is conflict or confusion about the difference between a channelized stream and a ditch. The distinction is important for HPA.
- Sequencing permitting is difficult, especially when a Corps permit or Federal Highway Administration (FHWA) funding is involved. How can WDFW staff help this?
- Part of the sequencing issue is that FHWA drives design, etc., and conduct ESA consultations (and cultural resources compliance).
 - Sometimes there are conflicts between SEPA requirements and federal NEPA that is done for these projects.
 - Usually a design is committed to even before an HPA application is submitted; this makes it hard to adapt design and add mitigation for HPA requirements.
 - Sometimes there are differences/conflicts between FHWA and HPA conditions.

- Work windows are generally a negotiation.

Collaboration and communication

- Really need bios to review county multi-year (road) plans and flag projects [notify county staff] with potential for concern. All local government plans are compiled by WSDOT and published online [so they should be easy for staff to find for review].

Partnership opportunities

- Would like to receive annual training for water crossing projects and the basics of HPA permitting. There have been and will be a lot of retirements and turnover, so planning training now (in the coming year) is good timing.
- Training should include multiple agencies, and include local habitat enhancement groups. Also, could include WDFW training during the annual WSDOT LTAP-funded training - NEPA round table.
- Would be nice to have multi-agency pre-project meetings [these could be facilitated by ORIA], especially early on FHWA projects.

26. Pierce, Thurston, Grays Harbor local governments and ports on May 18, 2016 at NRB in Olympia

Randi Thurston and Teresa Scott met in Olympia with representatives of Pierce County and Port of Tacoma.

Concerns

- Why can't some of our input be incorporated into rules/guidelines.
- Want some areas of conflict to be handled at the policy level not the project level.
- Working waterfront is a unique situation.
- MOA being developed with counties - [should it be] something like Corps nationwide permits that expands the GHPA section.

Legislation and rulemaking

- Industry can support higher fees - sliding scale OK; but keep current scope (don't expand jurisdiction).
- E.g., can't get funding for a FHWA project (bridge) that exceeds the length of the federal guidance. Didn't incorporate this in overwater guidelines.
- Feel that the new rules need to be put on hold until a conversation can take place about why county comments were not incorporated.

Jurisdiction

- Road maintenance above OHW, expedited issue. Differing interpretations about whether projects above the water.
- County has GMA-based protections, critical areas, buffers, SMA, and also ESA. Now that we have all these measures, it's not clear what the data gap is that's being filled by the HPA.

- Especially need to understand this for projects that are above OHW. Multiple duplications between HPA and CAO, for instance.
- Is WDFW working with Ecology on definition of OHWL. [if Ecology's definition comes out different to the WDFW statutory definition, would need to ask legislature to standardize]
- [OHW isn't a datum, whereas MHHW is]
- Would like MOU that hydraulic code is met when CAO and SMA conditions are met. [would provisions from HPA be included in every county permit?]
 - Example: for wetlands, there is a specific schedule for mitigation. Would be helpful to have the work windows and/or fish impact mitigation "schedule" to be incorporated into county permitting. If there are data/permitting gaps, WDFW would provide that information to the county so this information could be provided in the county permit.
 - Appeals to county permit go to appeal examiner, so would need statute change to accommodate this.

APPS

- Love APPS process. Works well for application and tracking.
- [Corps often asks for HPA as part of Corps application] but APPS doesn't create JARPA until a permit is completed.
- Haven't been able to submit application that says "see JARPA" because APPS or reviewers reject.

Technical Assistance

- Habitat Bios timely reviews (especially since APPS) - good permit completion time
- Local bio is awesome to work with; engages early, does site visits and provides advice
- Excellent working relationship with local HPA biologist.
- Bios willing to meet on site to look at situations; receptive and responsive to emergencies; reception and willing to engage early in project planning process.

Permit provisions

- Definition of qualified professional (biologist) is ambiguous. Need to look at this. [new rule says "may require"]. The new rules on this caused a big reaction at the county. Would have helped if the rule specified the circumstances under which a qualified professional is needed]
- Regional Road Maintenance 4(d) rule. Is there any way to include WDFW under that rule. All the BMPs are already in the 4(d) rule; but some BMPs are different than what WDFW requires in an HPA - can't see why there should be anything beyond those BMPs.
- Possibly separate performance-based provisions, or set list of activities/BMPs [could be established]. HPA provisions are more prescriptive than BMPs; need to look at the instances where they conflict.
- Work with ports, counties, WSDOT to work on "model HPAs" to resolve these prescription conflicts. Look at nationwide permit model.

Permitting mechanics

- Goal to get through federal ESA consultation first, before Corps permit and HPA.

- End up with 3 separate expiration dates - sometimes this is a problem.
- Seems to be suggesting that it would help if the Corps permit was issued before HPA, then HPA can address the data gaps/fish issues not protected by the corps/ESA permit.
- [“general” = “programmatically?” consider clarifying these terms]
- Lot of maintenance work is same work over time. Pulling pilings, repair work on outfalls.
- What is the documentation that WDFW will want to see that supports the span width design. Do we need a tech memo? How does the county certify/document that a biologist made the measurements? [objective of the bank protection provision is to ensure that the proponent understands the cause of erosion.]
- Want GHPA for culvert maintenance in fish-bearing streams.
- Model HPAs - most Washington ports would be interested in developing streamlined approach - participate in advisory groups.

Work Windows

- What are/will work periods be above OHW?

Mitigation

- Learn what the mitigation will be earlier in the process so can plan for costs and activities
- In past, determining mitigation has been inconsistent.
- Surprises for WDFW mitigation/work windows after other permits attained.
- LWM as mitigation (see above)
- In past, have had issues with what to do about conflict situations (disagreement on mitigation); elevating has been easy but resolution sometimes not satisfying.
- Sometimes the basis for mitigation is not clear or well documented.
- Also have experienced biologist-specific inconsistencies in mitigation.
- [Some HPA biologists have required mitigation because the project is] “Extending the life of an impact” (not heard this recently).
- A lot of time/\$/effort get spent on projects that don’t yield ecological benefit.
- Working waterfront (engineered slopes and rip rap) doesn’t have/need the same level of protection as more “natural” areas. Want to build mitigation in the areas where the fish are; most of the time that’s off-site. So on-site mitigation in Blair Waterway doesn’t have ecological benefit, but still expensive and time consuming. Want it easier to use a bank or in-lieu fee program. Port is building a bank (working with Ecology and corps). Would want in-lieu fees to apply towards something relevant to the project area (not always forage fish).
- Have success with building mitigation at the waterward ends of piers, which is where fish can (and do) use. Build variety of habitats (shallow, mid - etc.). Tools already available and used by other agencies to develop mitigation (HEA model).
- WDFW should reconsider always preferring on-site mitigation. (New rules provide more flexibility)
- Having a consistent model for feds and state would increase efficiency and predictability.
- [model adopted in IRT process should be sufficient for WDFW]

- Habitat biologists asking for mitigation for concrete pour outside the work windows, even though there was no impact to fish.
- Would be good if biologists documented in writing why mitigation is needed and how the requested mitigation addresses the impact.
- Delays associated with negotiations on mitigation [have been] pushing project into next construction period (year). Had to get federal permits to meet a state requirement for impacts of working outside the work window.

Appeals

- Want fees or bond for appeals. [standing?] Ways to discourage appeals that are unlikely to prevail yet still cause lost project time and associated added costs. Encourage “reasonable cause” for appeal.

Collaboration and communication

- On projects that have federal ESA consultation, a lot of this is duplicative with the WDFW HPA authority - would like Feds and WDFW to create some consistency (streamlining?) to ease this; make sure feds and WDFW are talking.
- WDFW could take back seat to ESA in cases where the two would apply. E.g., no Dungeness crab concerns for most projects.
- Get Corps to get concurrence with WDFW for any corps permits.
- [WDFW’s] Responses to comments submitted previously [on rulemaking] has been inadequate; sense of collaboration is lacking between county and WDFW.

Partnership opportunities

- Pierce County 6-year transportation improvement plan [opportunity to review and flag projects of concern]

27. Utilities on May 18, 2016 at Washington Public Ports Association in Olympia

Randi Thurston and Teresa Scott met in Olympia with representatives of public electric and water utilities and corporate electric utilities.

Legislation and rulemaking

- Fee should be scaled to project size/complexity
 - Don’t understand how fee is used [explained]

Jurisdiction

- Jurisdiction: want consistency and clarity in description of WDFW HPA jurisdiction.
- How will WDFW implement the AG opinion? If the opinion conflicts with statute, is it possible to resolve that conflict in statute? Are there other ways we could clarify jurisdiction in statute? [Expressing interest in better communication about how WDFW implements the opinion.]

Fish passage

- What does WDFW need in order to accept a “Plan” for local government barrier prioritizing; what substance, format?
- Fish passage mitigation; it’s still vague how fish passage conditions are set.
 - Generally the fish passage mitigation angst occurs when habitat biologists require fish passage standards be met based on speculative future passage (downstream blockages removed) rather than the actual current situation. Requiring applicants to meet fish passage design standards seems burdensome when there are poor prospects for improved future passage conditions. This is especially true in urbanized areas.
 - When it’s not feasible to (ever) get fish passage, proponents still are required to either bring the repaired section up to passage standards or mitigate offsite. There’s no guidance on what impact is being mitigated and how the mitigation addresses the impact.
 - Oregon has a mechanism to get a waiver for fish passage requirements under certain conditions and when the mitigation plan is approved. Net benefit of the mitigation is based only on priority fish species, not all fish life.
 - Don’t seem to care what the basis is as long as there is some basis. Example is miles of habitat blocked translating into a set amount of mitigation (i.e. quantifiable) versus what WDFW does now, which is more like assessing the “value [impact?] of perpetuating the blockage.”
- Need clear guidelines and increased direction on how to mitigate for fish passage.
 - Example was the 90-foot repair on the 3000 foot culvert under the lower Duwamish area. WDFW/tribes want the 90-foot repair to be built to passage design standards, but this doesn’t make sense when there are 2910 feet of non-passable culvert below. Are also being told that if don’t make the 90 feet passable now, will have to come back and do that (or mitigate again) when the next segment repair project is submitted. In this case, the tribe has asked for in-lieu.
 - Local governments/utilities want an agreement that mitigates once for the whole project/program and not need to get a new HPA and mitigate for each segment separately.

APPS

- The group appreciates APPS, both for the application process and for its access to online record of past permits.
 - Want invoicing capability in APPS.
 - Still not clear what the process is after submit in APPS. Where does the permit application go and what happens to it. Sometimes feel caught in the bureaucracy.
- SEPA: utilities see an expansion of SEPA authority statewide and are very sensitive to appearances that we are attempting to expand SEPA authority. Would prefer WDFW not require SEPA for HPAs.

Mitigation

- Get different answers from different biologists in the field; want consistency and support WDFW developing SOPs.
- It would be helpful if environmental regulators could coordinate environmental requirements; sometimes Corps and WDFW permit provisions are different or openly conflict. Sometimes WDFW requires mitigation that necessitates re-opening the (completed) Corps permit (e.g. when WDFW requires beach nourishment).
- Sometimes it appears WDFW abrogates authority to tribes to set mitigation conditions.

Compliance and enforcement

- Had a discussion about the current regulatory situation around unpermitted projects. Generally this group supports the ability for WDFW to pursue project changes and/or mitigation when a non-permitted project is found post-construction.

Collaboration/communication

- Want improved coordination among regulatory agencies. An example is that WDFW and Corps have different work windows.
- Large utilities typically get their Corps permit before the HPA or simultaneously. Get more coordination or synchronicity when simultaneous.
- King County schedules pre-application meetings with feds and invites WDFW; WDFW seldom participates, due to lack of staff capacity.
- Regarding the PSE MOU, Randi has been great to work with.
- It would be good to be able to extend GHPAs past the 5-year limitation. Suggested possible additional authority to develop MOUs for longer periods on unique projects, with adaptive management provisions to re-open if conditions change (e.g., downstream barrier removal).

Partnership opportunities

- Want to know when/how WDFW will share draft bill language with key stakeholders, so we need to communicate back about what the process will be this summer.
- Also need to specify the process we will take to incorporate or respond to the AG opinion on jurisdiction.

Follow-up

- Look for the Oregon mechanism to get a waiver for fish passage requirements under certain conditions and when the mitigation plan is approved. ... based only on priority fish species, not all fish life
- Consider MOUs or other mechanism to enable pieces of large projects to move forward without piecemeal mitigation.

28. Glossary

CAO - Critical Areas Ordinance under Growth Management

Corps – U.S. Army Corps of Engineers

ESA – Endangered Species Act
FHWA – Federal Highway Administration
GHPA – General Hydraulic Project Approval
GMA – Growth Management Act
HPA - Hydraulic Project Approval (construction permit)
HB – Habitat biologist
HQ – Washington Department of Fish and Wildlife Headquarters in Olympia, WA
LWM – Large woody material
MOA – Memorandum of Understanding
NEPA – National Environmental Policy Act
OHWL – Ordinary High Water Line
PSE – Puget Sound Energy
SEPA – State Environmental Policy Act
SMA – Shoreline Management Act
SMP – Shoreline Master Program
SOPs – Standard Operating Procedures