



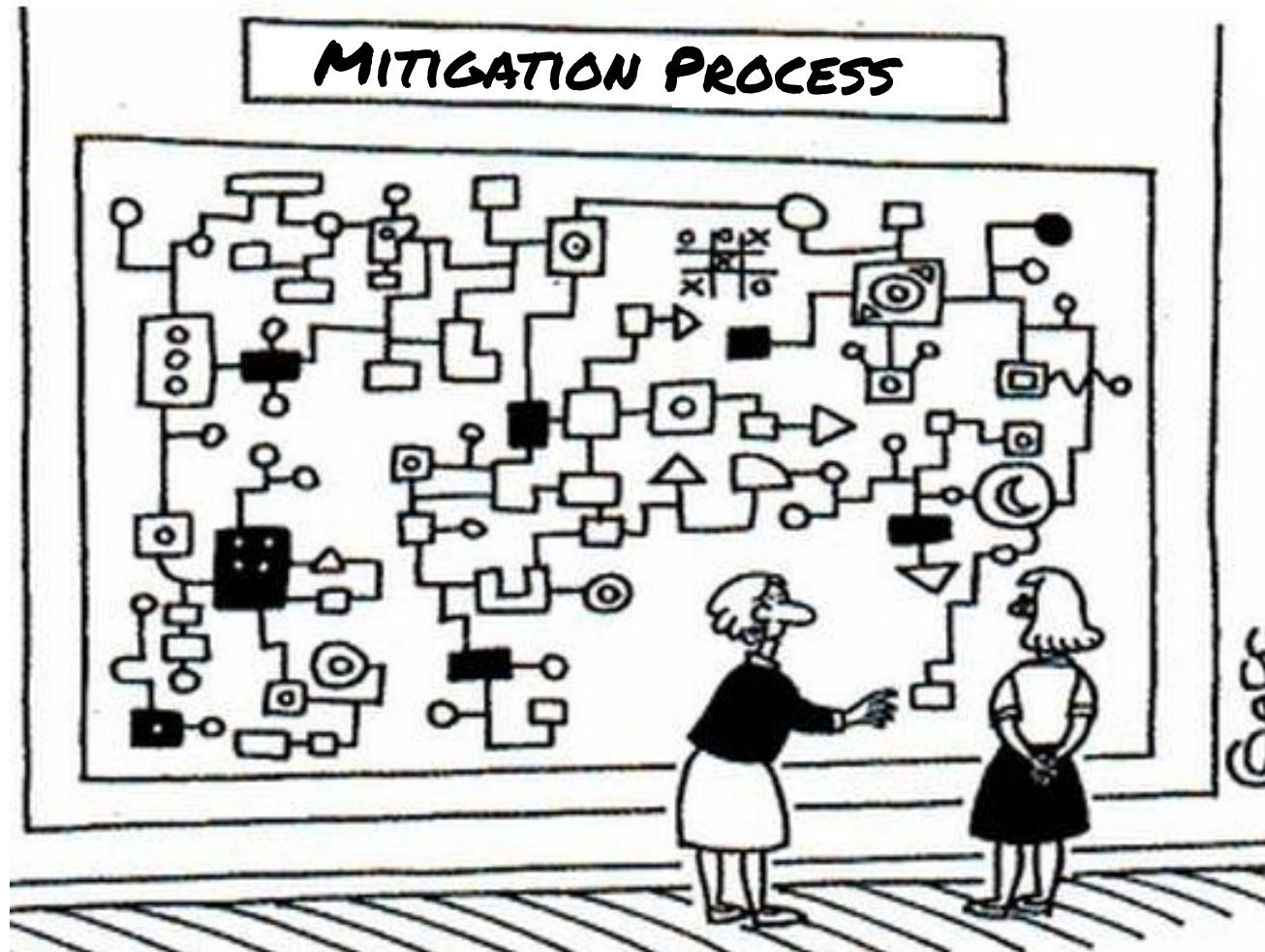
# Association of State Wetland Managers

Advanced Topics in Compensatory Mitigation – Oversight and Compliance

October 24, 2019

## Challenges and Potential Solutions for Mitigation Compliance: Project Sponsor and Consultant Perspective

# Mitigation is Complicated



# Key Factors to Project Sponsors

CLARITY

EFFICIENCY

CERTAINTY

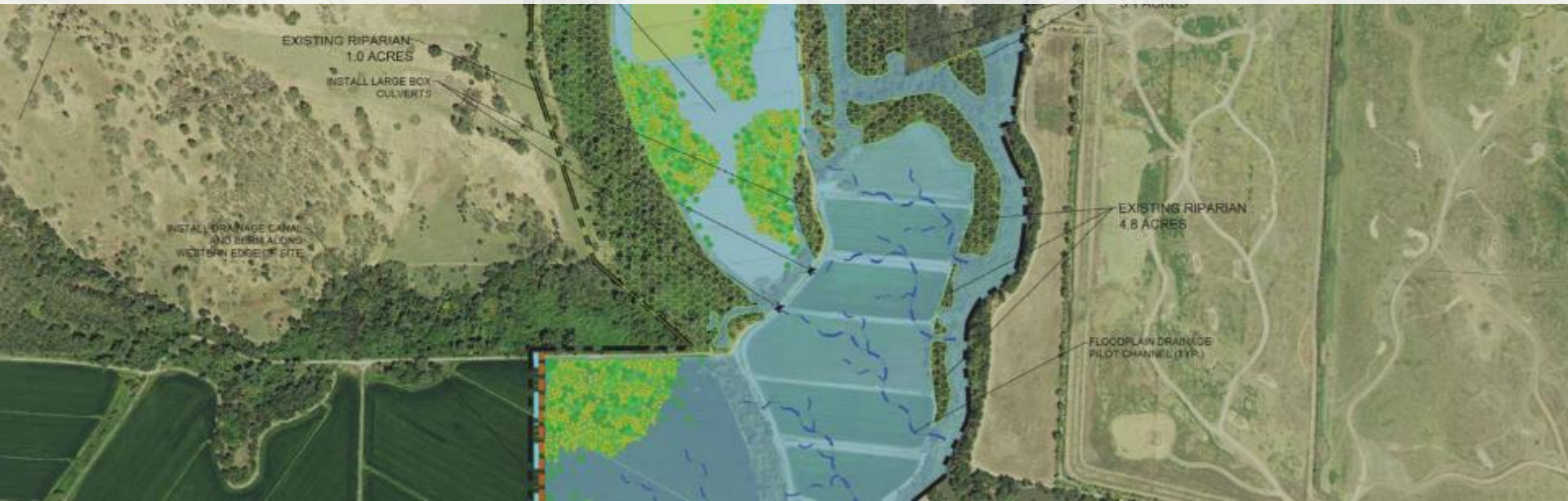
PARITY

CONSISTENCY



# DEVELOPMENT AND PLANNING

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# Collaboration between Project Sponsor Team and Regulators on Restoration Design

## Challenge

Lack of collaboration and clear communication on design → many costly and time consuming iterations



# Collaboration between Project Sponsor Team and Regulators

## Solution

- Frequent working group meetings
- Engage regulatory experts on relevant topics
- Discuss changes/approaches with regulators before resubmitting a document



# Form vs. Function

## Challenge

Should designs focus on form or function?



Credit: River Partners

# Form vs. Function

## Solution

- Consider long-term development of site
- Utilize a process-based restoration approach that allows for dynamism
- Some approaches may be necessary to increase likelihood of performance





A yellow CAT motor grader is shown in a construction or agricultural setting, working on a dirt field. The machine is positioned in the center of the frame, facing right. The background features a clear blue sky with wispy white clouds. The ground is a mix of brown dirt and gravel. A semi-transparent white banner with a blue underline is overlaid across the middle of the image, containing the word "IMPLEMENTATION" in a bold, blue, sans-serif font.

# IMPLEMENTATION

# Conflicting Objectives

## Challenge

Conflict between restoration objectives and other objectives and/or regulations like Stormwater Pollution Prevention Plans (SWPPP)



# Conflicting Objectives

## Solution

- Better coordination among agencies
- Increased consideration of regional ecology and historical conditions → keep big picture in mind



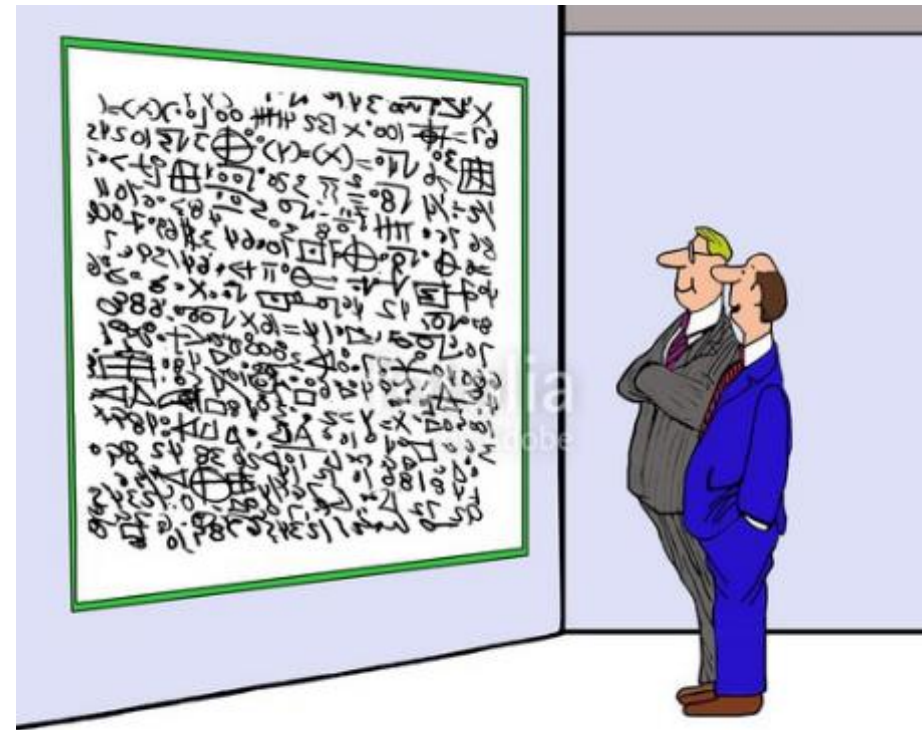
# MONITORING AND PERFORMANCE

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# Overly Complex or Poorly Worded Performance Standards

## Challenge

- Issues with implementation and interpretation
- Performance standard may only be clear to author
- More isn't always better → consider actionable information



**“When you put it like that, it makes complete sense.”**

#88046591

# Overly Complex or Poorly Worded Performance Standards

## Solution

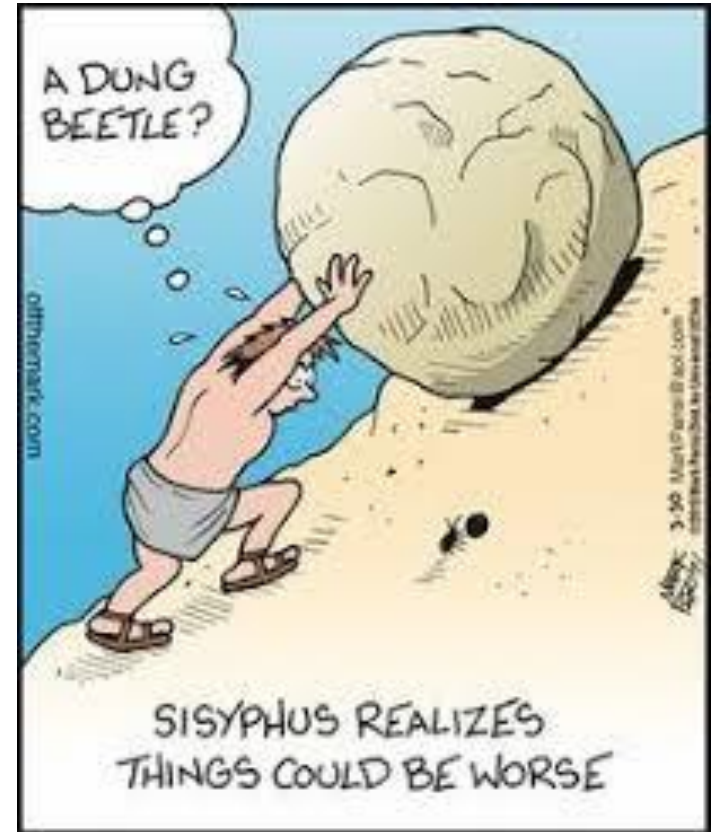
- Use straightforward monitoring techniques
- Coordinate performance standard selection and timing of monitoring across agencies
- Be explicit in how monitoring is to be performed and how to interpret data



# Unrealistic Performance Expectations

## Challenge

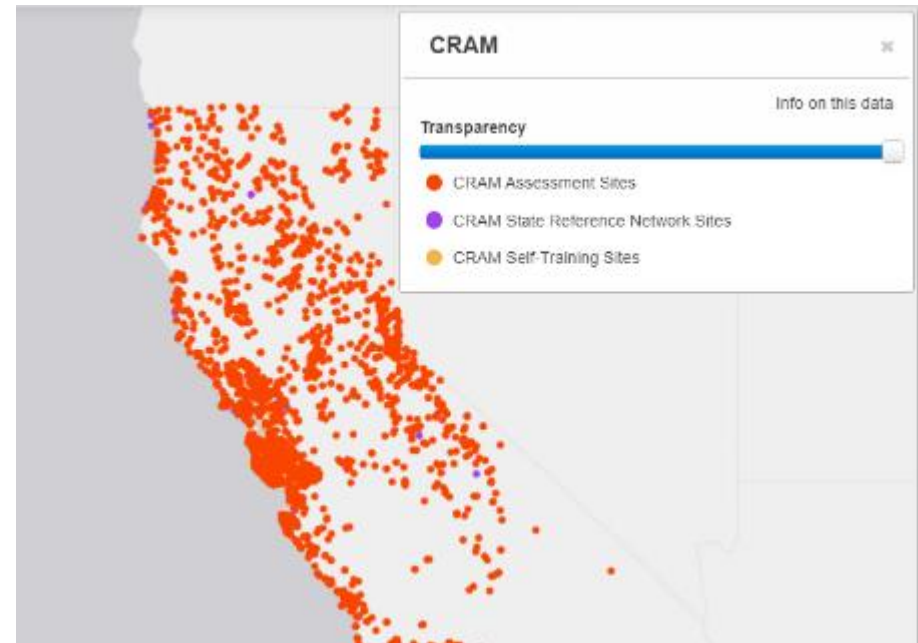
- Don't reflect what uplift is actually possible on site → too ambitious
- not achievable within the monitoring timeframe even if project is on positive trajectory



# Unrealistic Performance Expectations

## Solution

- Use reference sites
- Set interim performance targets
- Develop tools and resources for mitigation/restoration projects





# LONG-TERM MANAGEMENT

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# Disparity in Endowment Requirements Across Projects

## Challenge

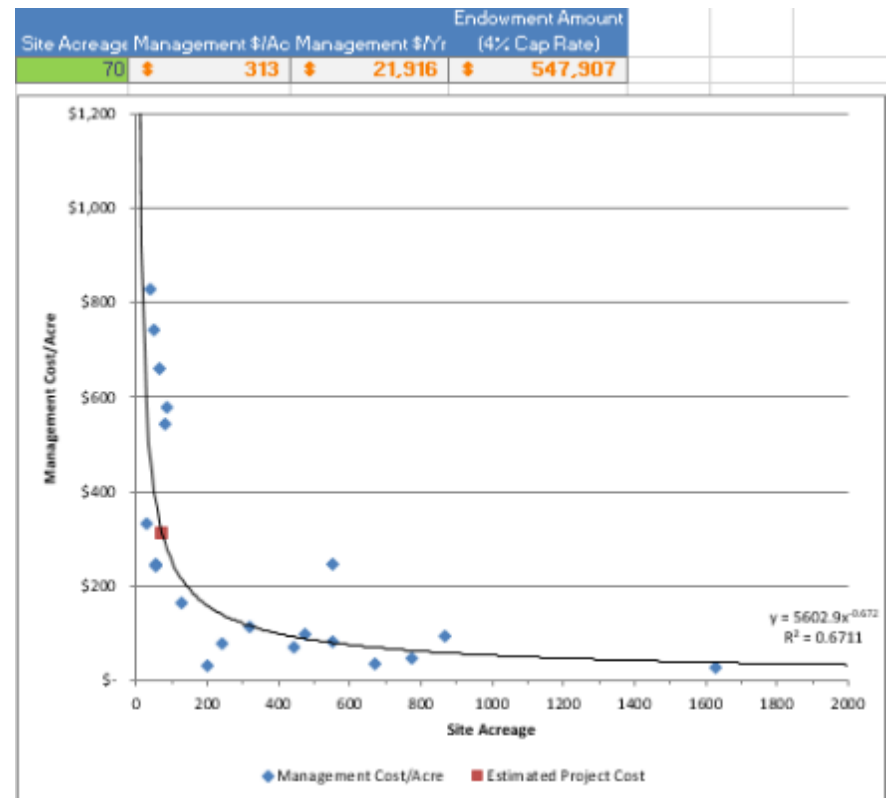
- Significant variance among endowment amounts
- Permittee-responsible projects, mitigation banks, and ILF projects often treated differently



# Disparity in Endowment Requirements Across Projects

## Solution

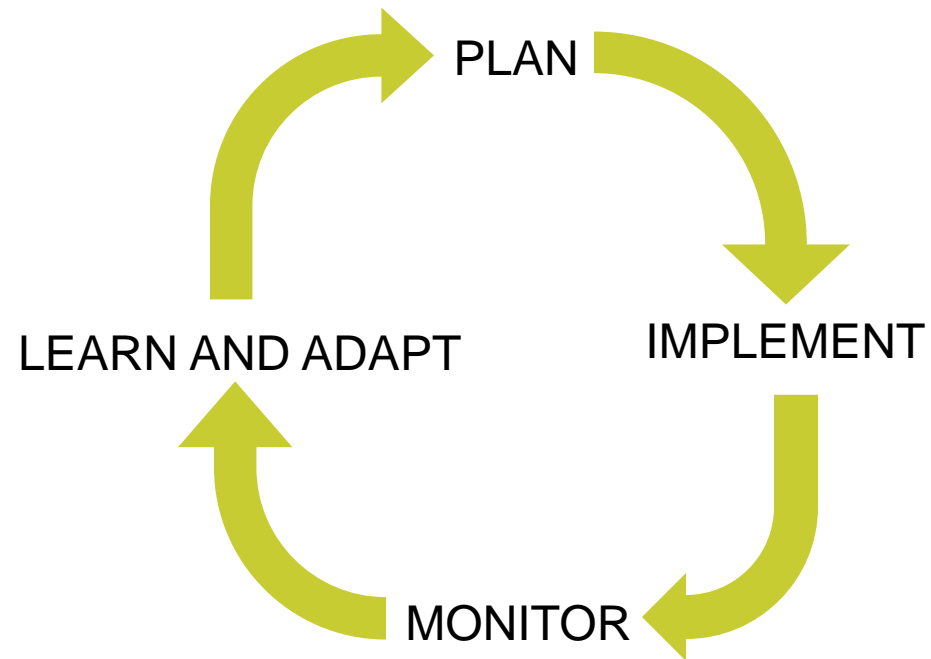
- Ensure sufficient endowment funds are required for all mitigation projects
- Increase regulator training in endowment review
- Focus on long-term monitoring that provides actionable information



# Finding a Common Understanding of “Adaptive Management”

## Challenge

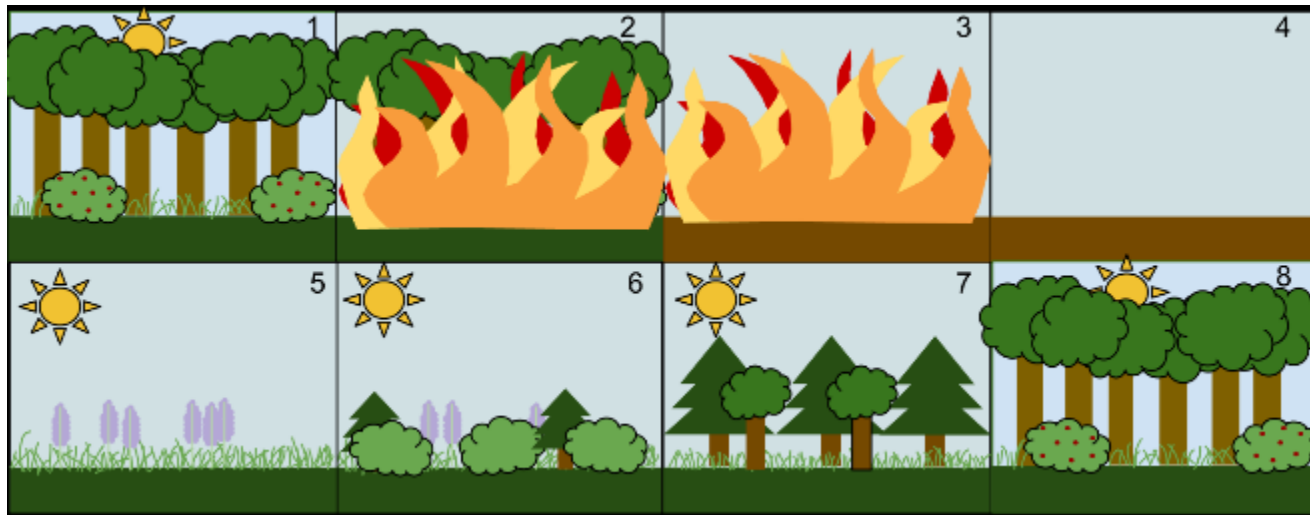
- Range of detail from no adaptive management plan to highly detailed plan
- What are really managing for?
- How do we budget for the unpredictable?



# Finding a Common Understanding of “Adaptive Management”

## Solution

- Don't be overly prescriptive
- Helpful to establish thresholds where adaptive management actions should be considered
- Build in allowances for some changes over time



# Closing Thoughts

- Help us help you, assume best intentions
- Project sponsor teams are predominantly concerned with clarity, efficiency, certainty, parity, and consistency
- Simpler is usually better
- Many issues can be avoided or solved by more and better communication
- Focus on process-based restoration approaches and performance standards → allow for dynamism



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