



Climate Change & the Puget Sound: Building a Legal Framework for Adaptation

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May 17, 2011

The background of the slide is a photograph of a coastal scene. In the foreground, there is a sandy beach with gentle waves lapping at the shore. The ocean extends to the horizon under a sky filled with soft, white clouds. In the distance, a dark, forested coastline is visible. The overall tone is calm and natural.

CLIMATE CHANGE & THE PUGET SOUND: BUILDING A LEGAL FRAMEWORK FOR ADAPTATION

The Center for Progressive Reform

May 17, 2011

**CPR Member Scholars Robert L. Glicksman, Alice Kaswan,
Catherine O'Neill, and Robert Verchick and CPR Policy Analyst Yee Huang**

Today's Speakers



Catherine O'Neill
Professor of Law, Seattle University School of Law



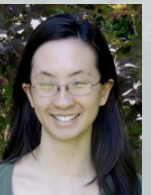
Rob Verchick
Professor of Law, Loyola University New Orleans College of Law



Alice Kaswan
Professor of Law, University of San Francisco School of Law

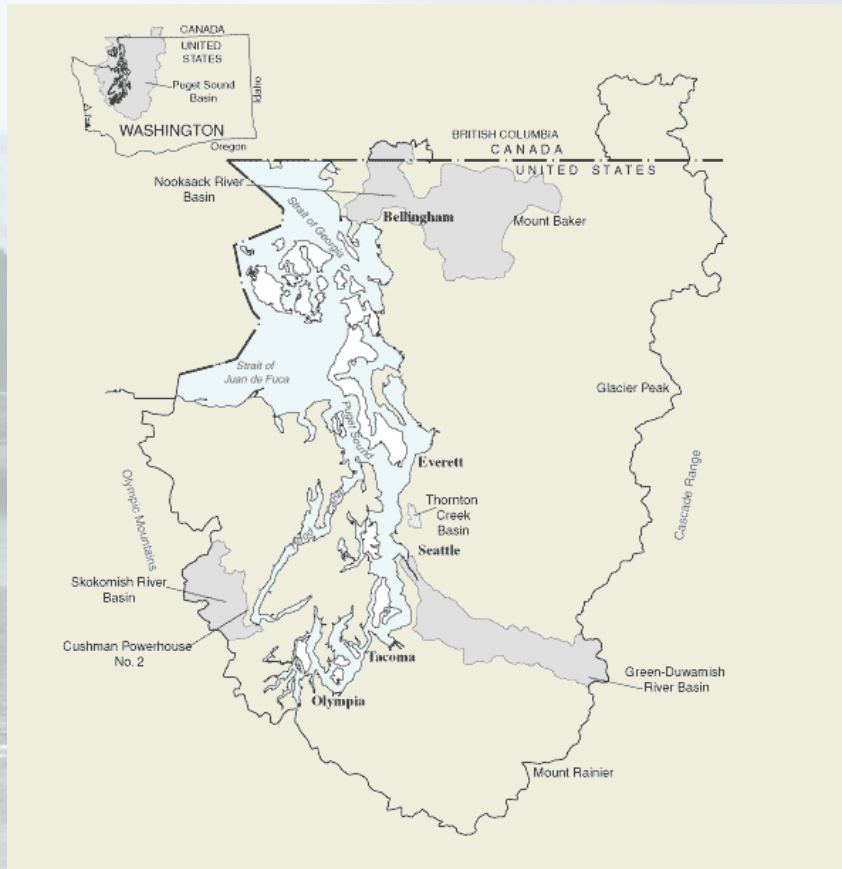


Rob Glicksman
Professor of Law, The George Washington University School of Law



Yee Huang
Policy Analyst, CPR

Webinar Agenda




- Introduction
- What is Adaptation?
- The Legal Framework for Adaptation
- Adaptation Strategies
- Q & A

What is Adaptation?



- The adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects (IPCC)
- Obstacles to Adaptation



“Mitigation will always be required to avoid ‘dangerous’ and irreversible changes to the climate system. Irrespective of the scale of mitigation measures that are implemented in the next 10 to 20 years, *adaptation measures will still be required due to inertia in the climate system.*”

- Intergovernmental Panel on Climate Change

Building the Adaptation Framework

- Acknowledge uncertainty
- Increase resilience
- Rely on natural infrastructure
- Incorporate fairness & reduce personal vulnerability

Building the Adaptation Framework

- Adopt proactive and precautionous strategies
- Select strategies with co-benefits
- Consider long-term scales for adaptation planning
- Avoid maladaptive actions
- Maximize the use of existing legislation and tools

Principled Flexibility

- Freedom to tailor adaptation response to local conditions within certain boundaries
- Features to ensure principled flexibility
 - Planning
 - Scenario-based planning
 - Triggering Mechanisms or benchmarks
 - Periodic review and revision of strategies
 - Redundancy

Adaptive Management

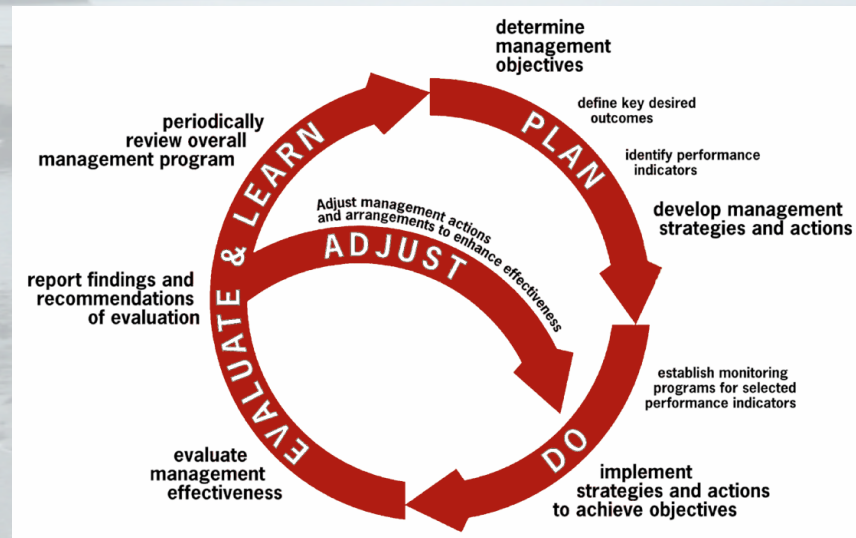


Making Good Use of Adaptive Management

By CPR Member Scholars Holly Doremus, William L. Andreen, Alejandro Camacho, Daniel A. Farber, Robert L. Glicksman, Dale Goble, Bradley C. Karkkainen, Daniel Rohlf, A. Dan Tarlock, and Sandra B. Zellmer, and CPR Executive Director Shana Jones and Policy Analyst Yee Huang




- Benefits in the adaptation context
- Best Practices



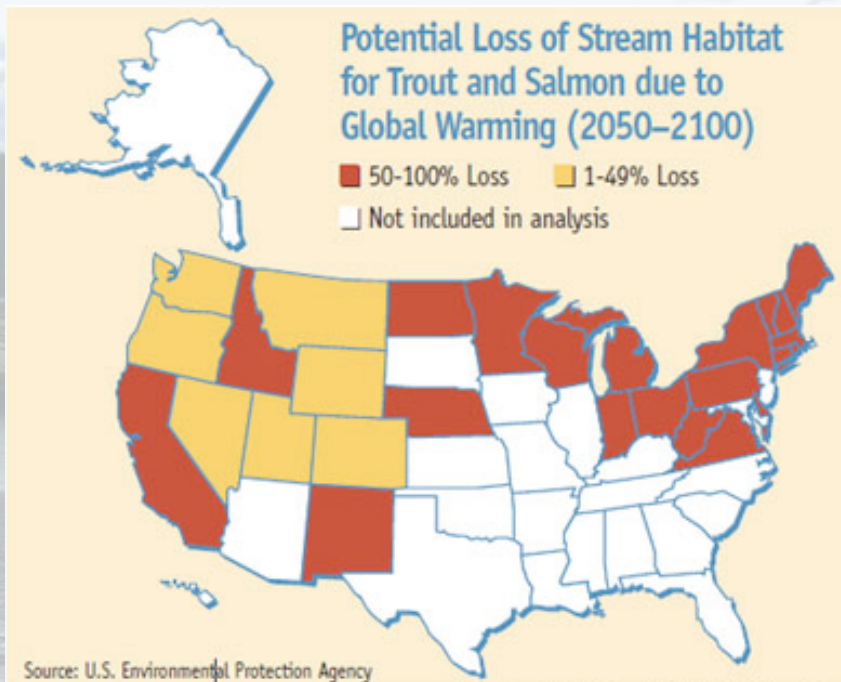
Transforming Decisionmaking

- Recalibrate the allocation of traditional authority
- Integrate decisionmaking vertically and horizontally among agencies and institutions
- Build transgovernmental networks among agency personnel



Building principled flexibility into the existing law is a necessity, and transforming the governance space into a fluid, dynamic web will help communities better respond to climate change.

Changes to the Hydrologic Cycle



The most perceptible and dramatic long-term impact will likely be the shift in *the timing of the hydrologic cycle.*

Changes to the Hydrologic Cycle

General Principles

- Strictly implement and vigorously enforce the Clean Water Act
- Quantify Water Resources
- Integrate science into law by adopting a watershed approach to water management

Specific Strategies

- Reform elements of prior appropriation
- Augment instream flows
- Improve water quality under the CWA
- Assist in species migration

Sea Level Rise

The CIG Report concluded that relative sea level rise in Washington will be greatest in south Puget Sound and the least on the northwest tip of the Olympic Peninsula.



Sea Level Rise

General Principles

- Integrate sea-level rise into planning and decision-making
- Use “green infrastructure”
- Identify critical impacts on other sectors such as public health and transportation
- Address the needs of historically disadvantaged communities

Specific Strategies

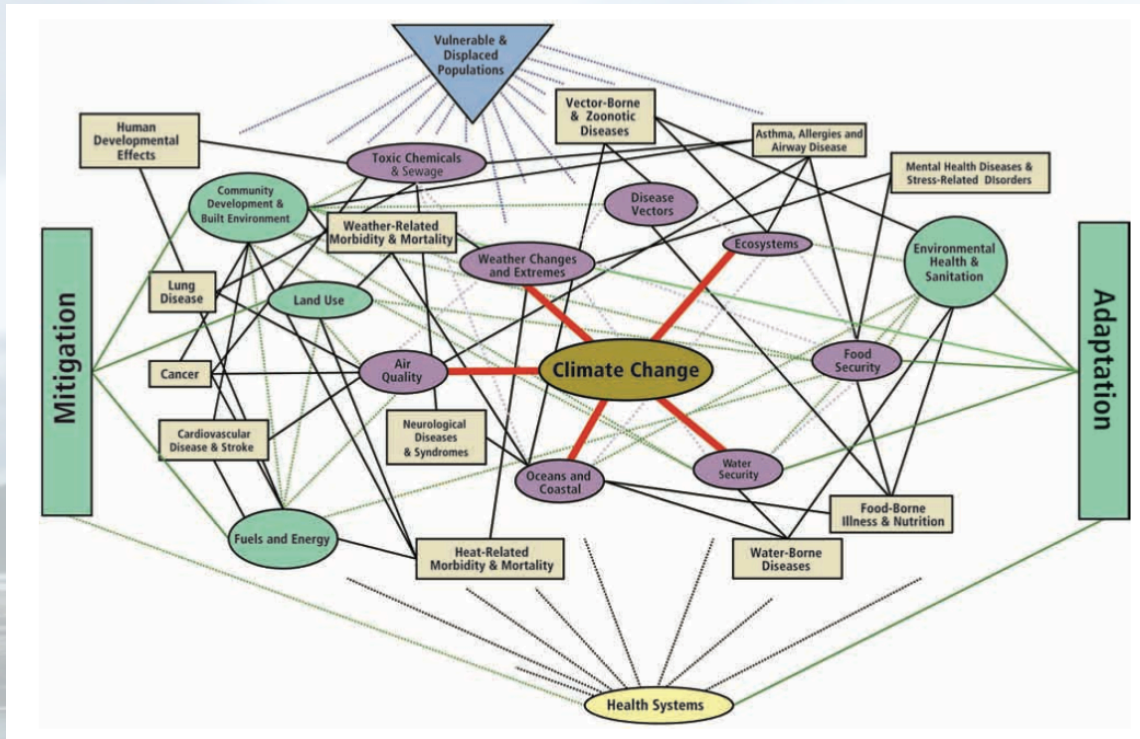
- Define coastal hazard areas and require appropriate land-use planning and coastal resilience plans
- Use the Shoreline Management Act to prepare for rising seas
- Manage retreat from the shoreline, including rolling easements and the public trust doctrine

Increased Average Temperature & Extreme Weather Events



July 2009 Heat Wave

Climate change is likely to have serious and long-term consequences for public health, including increased morbidity and mortality related to heat and worsening air quality.



Interactions between climate change adaptation and mitigation and public health

Increased Average Temperature & Extreme Weather Events

General Principles


- Adopt an integrated, holistic approach to increase resilience
- Consider underlying disparities that affect recovery and adaptation capacity
- Adopt strategies with co-benefits

Specific Strategies

- Disaster Planning: Engage in planning that reflects future climate change, specific community features, and adopts a long-term and inclusive vision
- Clean Air Act: Assess attainment status based on anticipated future, not past, air quality

Questions?

- To send a written question, type your question into the chat box
- To ask a question over the telephone, click on the “raise hand” button below the chat box
 - To UNMUTE your telephone line, press *7
 - To MUTE your telephone line, press *6



Facing tough policy questions now and laying the foundation for responding to climate impacts are among the best adaptation strategies that Washington and communities in the Puget Sound Basin can take to ensure **environmentally protective and socially equitable** adaptation to climate change.

Thank you for participating

- Audio and slides for this webinar will be archived on CPR's website, www.progressivereform.org/pugetsound.cfm.
- When the publication is available online later this month, we will send an announcement by email.
- Additional questions or comments? Please contact Yee Huang, yhuang@progressivereform.org or 202.747.0698, ext. 6.



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