



Connecting Water Quality and Water Quantity in Washington

A Brief Regulatory Perspective

Rob Lindsay – Spokane County Utilities

Spokane River Forum

March 24, 2016



Introduction

- A little about my background



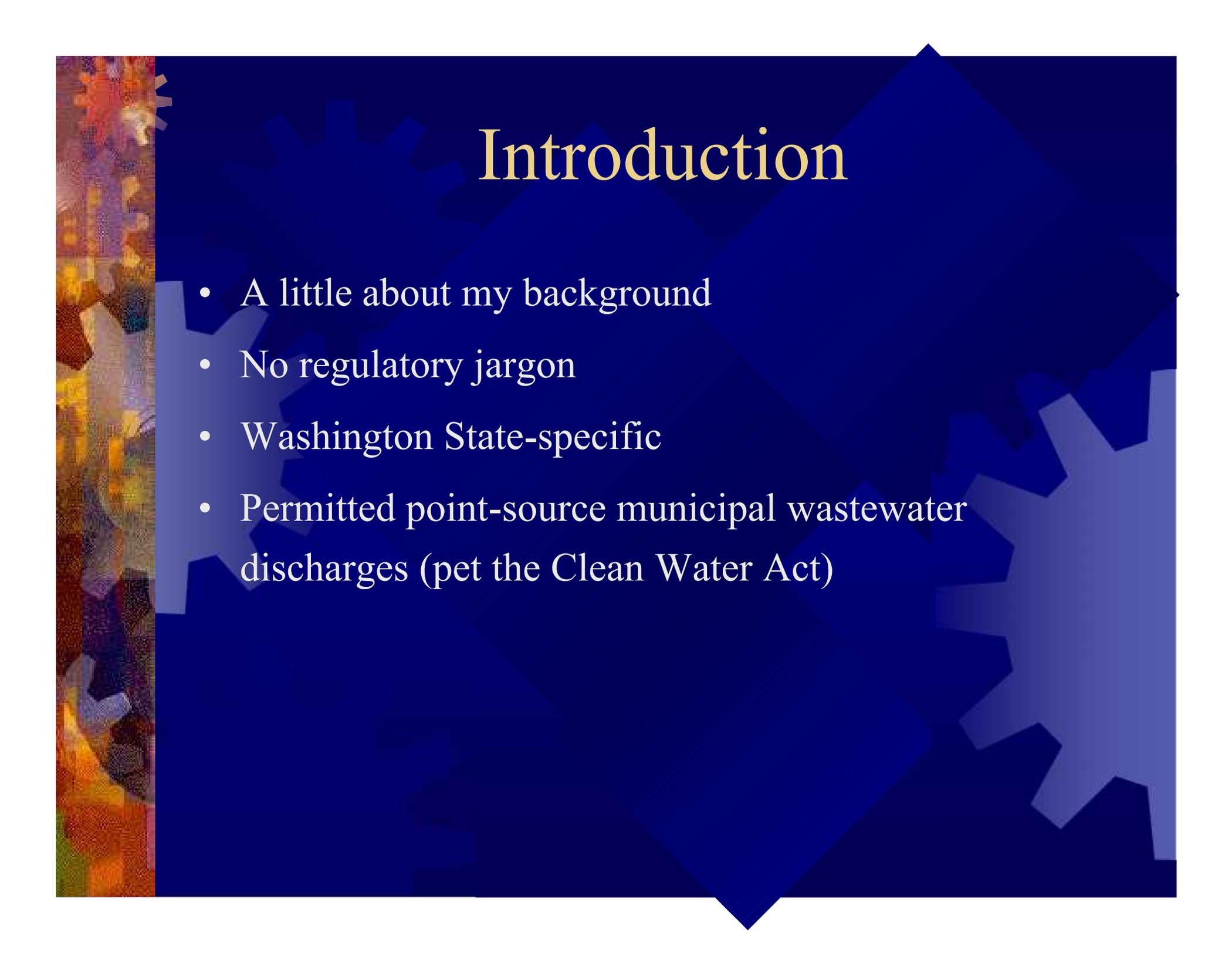
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- No regulatory jargon



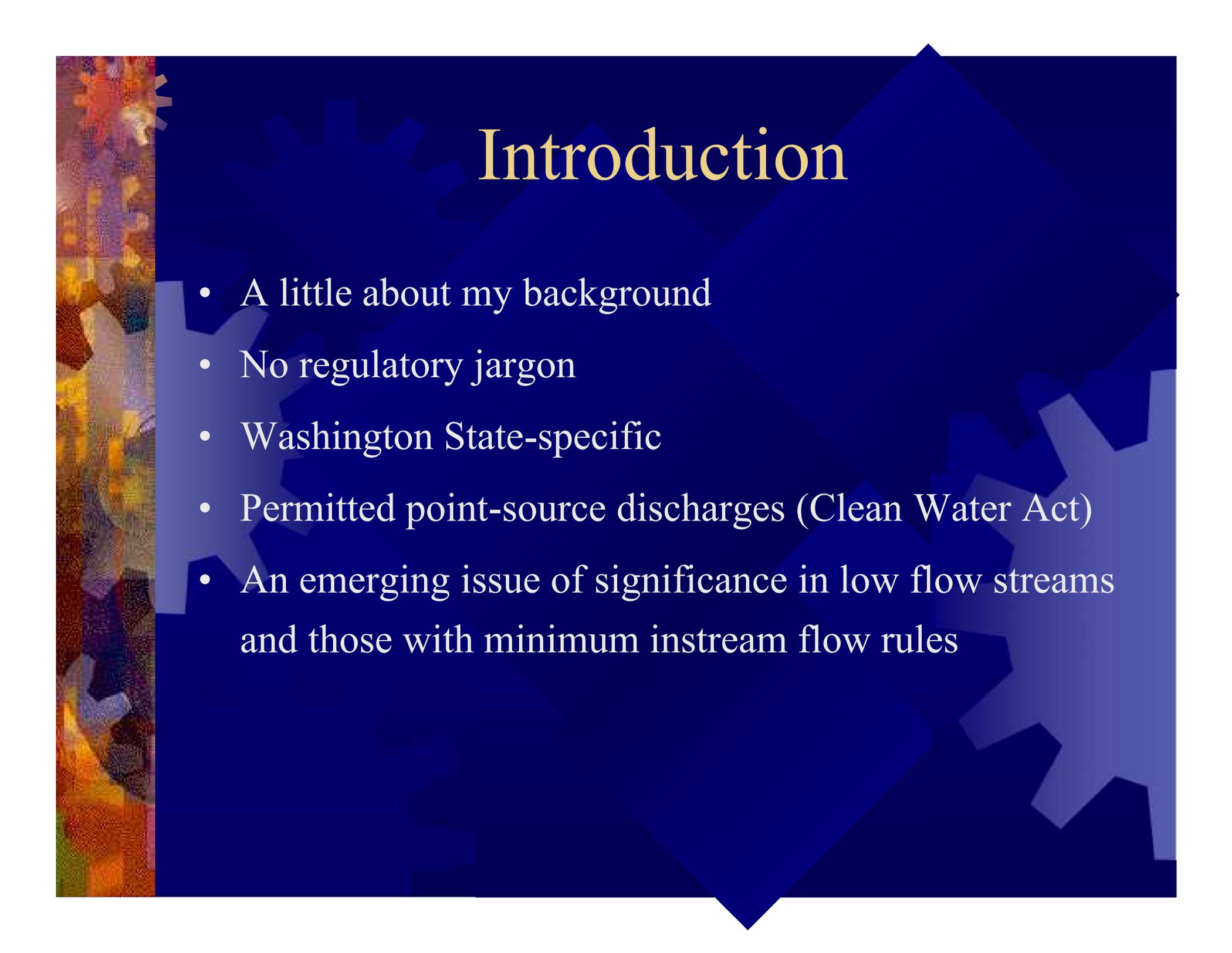
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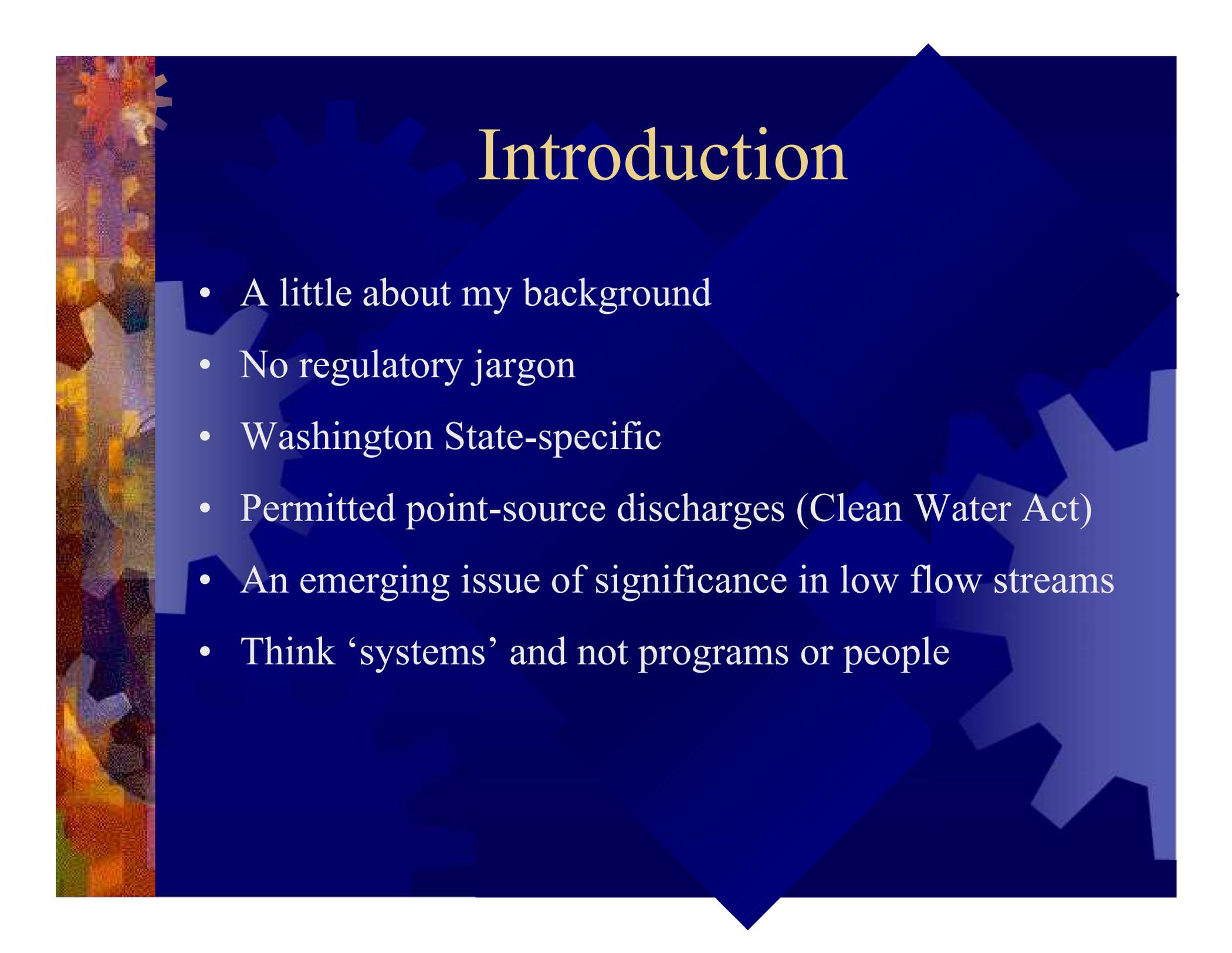
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- Washington State-specific
- Permitted point-source municipal wastewater discharges (per the Clean Water Act)



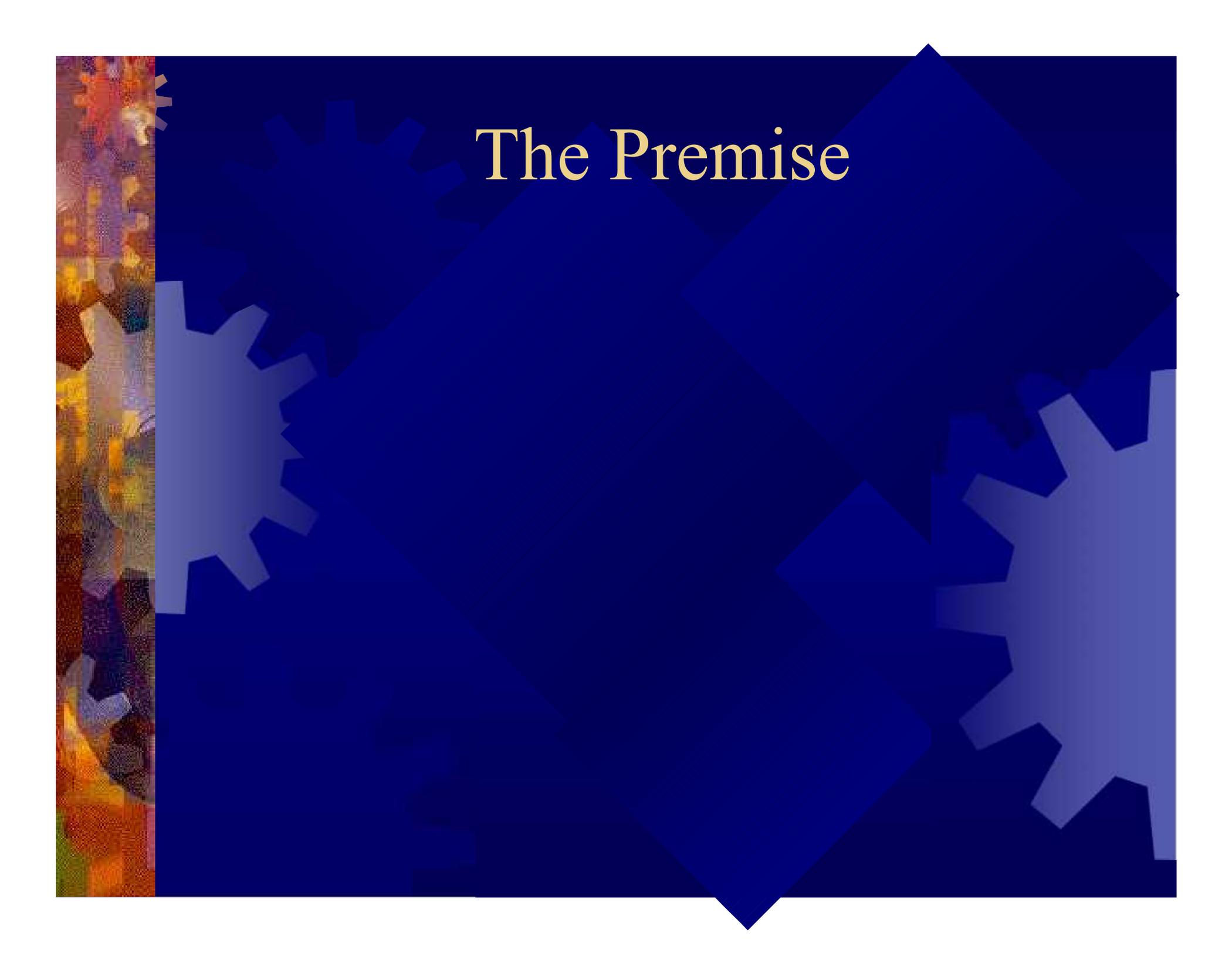
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- Permitted point-source discharges (Clean Water Act)
- An emerging issue of significance in low flow streams and those with minimum instream flow rules



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- An emerging issue of significance in low flow streams
- Think ‘systems’ and not programs or people



The Premise

The background is a dark blue field with several large, semi-transparent gears of varying shades of blue. On the left side, there is a vertical strip with a colorful, abstract, textured pattern in shades of orange, yellow, and brown. The title 'The Premise' is centered at the top in a gold-colored serif font.

The Premise

“With integrated water resource management, you can’t talk about water quality without talking about water quantity.”

The background of the slide is a dark blue field filled with several large, semi-transparent gears of varying shades of blue. On the left side, there is a vertical strip with a colorful, abstract, and textured appearance, possibly representing water or a natural environment. The title 'The Disconnect' is centered at the top in a large, yellow, serif font.

The Disconnect

- Water quality regulations and water resource policies and practices are distinctly separate regulatory mechanisms



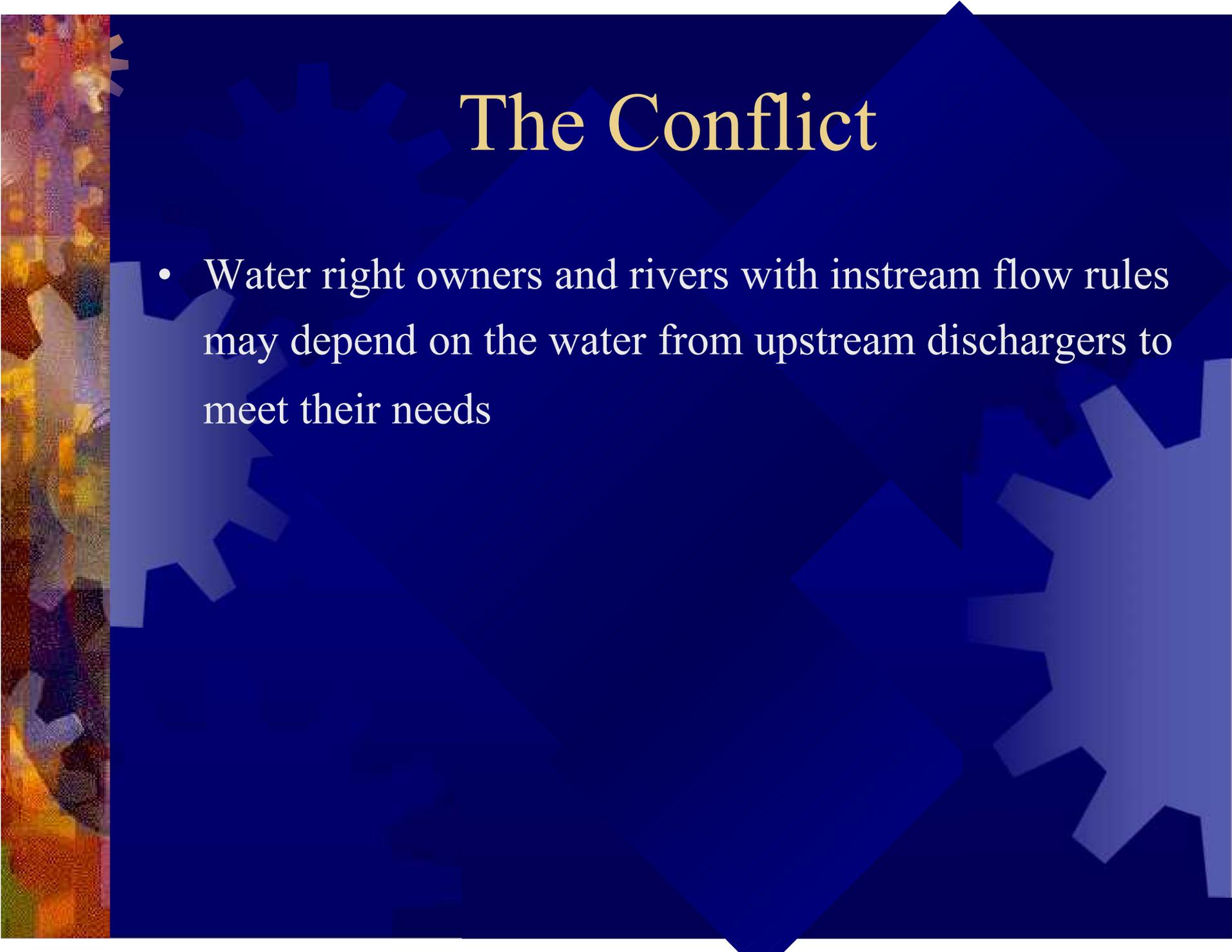
The Disconnect

- Water quality regulations (i.e., TMDLs) are dynamic, generally becoming more stringent over time, and are not always achieved. They are based on the federal Clean Water Act.



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- Water resource practices (i.e., water rights, instream flow rules) are legally established rights that do not change over time and are enforceable. They are based on the doctrine of prior appropriation.



The Conflict

- Water right owners and rivers with instream flow rules may depend on the water from upstream dischargers to meet their needs



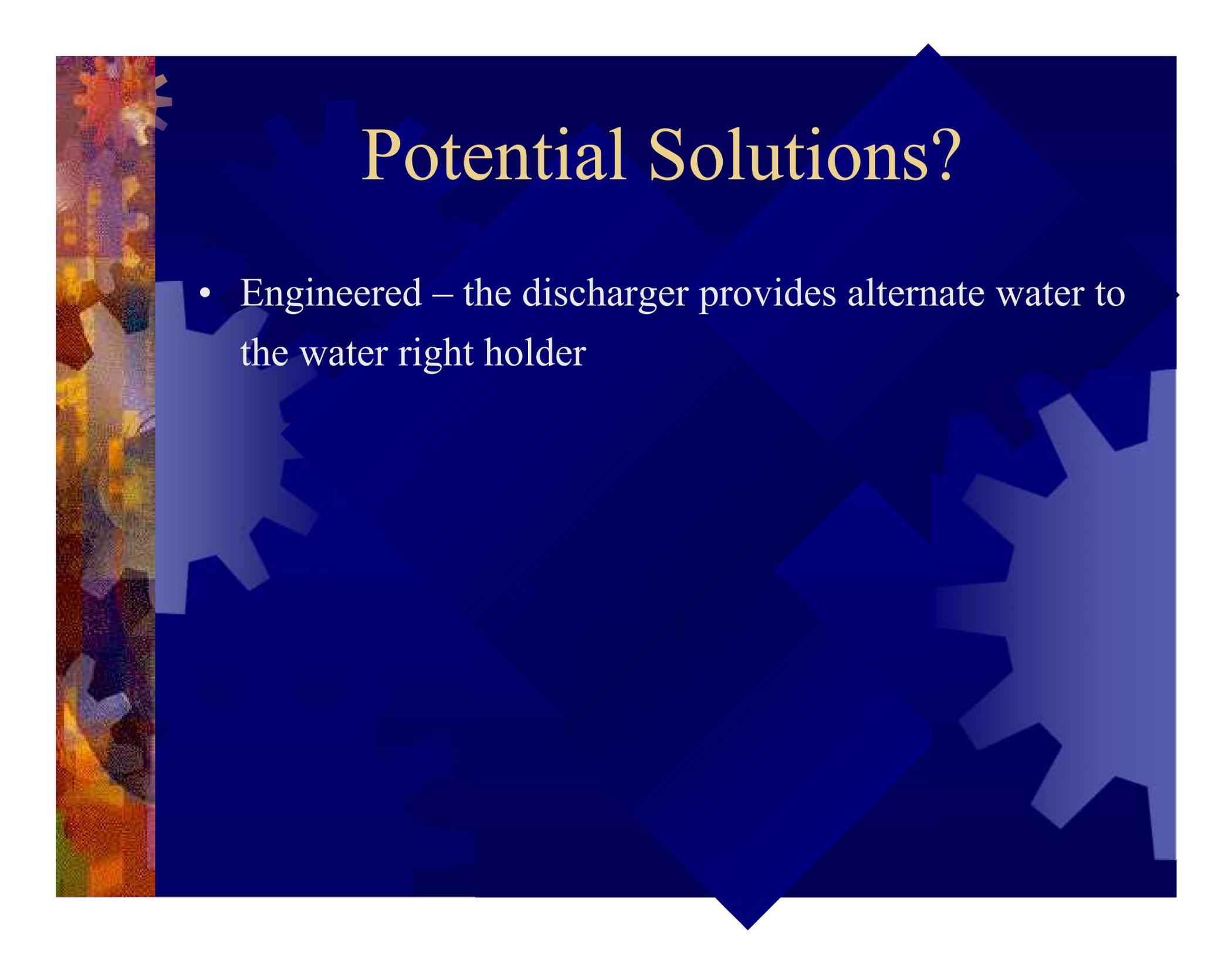
The Conflict

- Water right owners and rivers with instream flow rules may depend on the water from upstream dischargers to meet their needs
- Dischargers may be unable to achieve increasingly stringent water quality standards



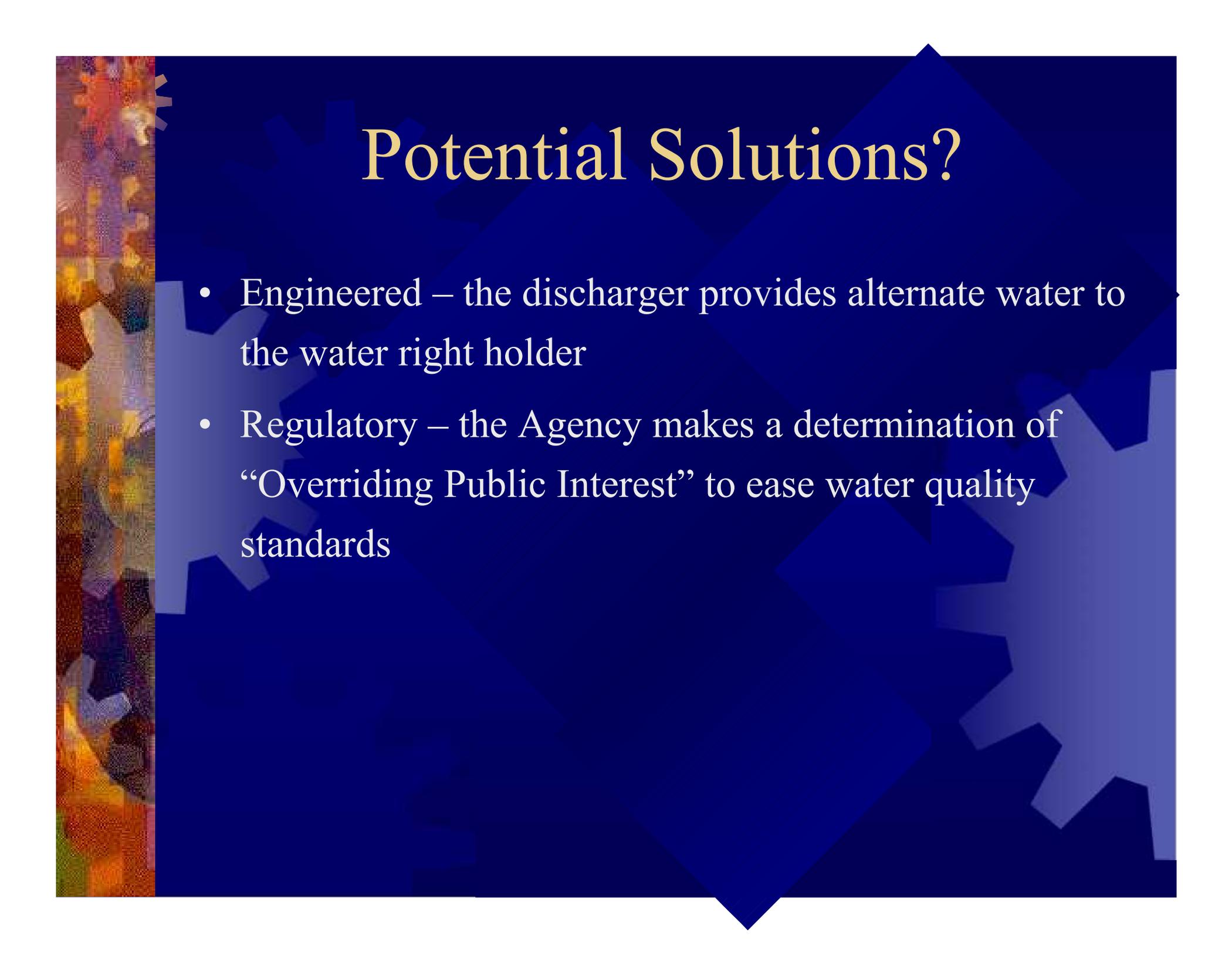
The Conflict

- The Discharger Dilemma:
 - Stay in the river and risk a 3rd party ‘private right of action’ per the Clean Water Act
 - Get out of the river and risk legal action by the downstream water right holder



Potential Solutions?

- Engineered – the discharger provides alternate water to the water right holder



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- Regulatory – the Agency makes a determination of “Overriding Public Interest” to ease water quality standards



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Like most natural resource matters – these issues will be most likely be resolved in the court room



The Message

In an environment of increasingly stringent water quality standards and fully allocated water basins, sometimes something has to give...



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In an environment of increasingly stringent water quality standards and fully allocated water basins, sometimes something has to give...

Because

You can't have your cake and eat it, too.



Thank You

Questions?