

Notes on Forthcoming NEPA Guidance

Mitigation and Monitoring

The mitigation guidance made sense to me from a federally-constructed facilities perspective, but I am having a hard time envisioning how it would work in the context of EDA grant-making. My understanding is that EDA frequently issues a FONSI with conditions attached, and I would assume at least some (if not all) of those are for the purpose of mitigation. While we can monitor implementation of those commitments during construction, monitoring their effectiveness in mitigating environmental impacts seems like a heavy lift.

- Goals: 1) Consider mitigation throughout NEPA process and make binding commitments; 2) Create monitoring program to ensure implementation, measure effectiveness, and improve decision-making; and 3) Public disclosure of and access to mitigation monitoring and reporting.
- Monitoring includes both the enforcement of mitigation commitments and the effectiveness of those commitments on environmental impacts.
- If mitigation does not achieve the environmental protection goals, agency must take further action. An EA where mitigation led to a FONSI may need an EIS if the mitigation is found to have been unsuccessful.
- Reports on mitigation and monitoring activities should be proactively made available to the public.

This guidance provides advice to agencies on ways to improve mitigation monitoring.

EDA already considers environmental mitigation throughout the NEPA process, by coordinating with Federal and State environmental agencies. This coordination is documented in the EA and mitigation measures are included as Special Conditions in the FONSI. These mitigation conditions are included with the Special Terms and Conditions in the grant award.

Monitoring of mitigation conditions is accomplished by EDA's Project Engineers in coordination with the Regional Environmental Officer. Mitigation and monitoring are also documented in Memorandum of Agreements and/or Deed Restrictions.