

From: David Urban [dturban@sbcglobal.net]

Sent: Monday, May 24, 2010 3:50 PM

To: FN-CEQ-Mitigation.Guidance

Subject:NEPA Draft Guidance on Mitigation and Monitoring

Dear Sir or Madam:

I am writing in response to the public notice issued in the February 23, 2010 Federal Register (Vol 75, No. 35) concerning draft guidance on NEPA Mitigation and Monitoring.

I am in support of the strengthening of NEPA in the manner outlined in the Federal Register. Ensuring that mitigation is accomplished through monitoring is an important component in providing for the health and safety of the population and the environment. For too many years, monitoring has taken a backseat to the front end documentation.

In 2001 the National Academy of Sciences (NAS) published a report, "Compensating for Wetland Losses Under the Clean Water Act". This report became one of the key documents used in the development of the 2008 joint U.S. Army Corps of Engineers (the Corps) and U.S. Environmental Protection Agency (EPA) rule on mitigation (33 C.F.R. pt. 332 and 40 C.F.R. pt. 230). Part of the findings for that report was that wetland mitigation, as then practiced, was by in large a failure. The reasons were many, however, lack of monitoring was one of the reasons. I would not be surprised to find that a similar study, focused on any of the areas which NEPA documentation identifies as issues, would find very poor compliance with mitigation measures enumerated in that NEPA document.

The NAS study provided recommendations of how to improve that. When an agency is looking to establish any rule or guidelines to regulate mitigation of natural resources, it would do well to look to the joint Corps-EPA rule and the 2001 NAS study as a guide on how to develop revised natural resource mitigation policy. These recommendations are paraphrased from the original wetland-specific recommendations to the broader restoration field below:

1. Promote sites that meet ecological performance criteria that contribute to the physical, chemical, and biological integrity of the watershed or ecoregion.
2. Consider each restoration activity in the context of broad geography and extended time periods.
3. Initiate an interagency consensus process for setting ecological priorities.
4. Establish and enforce clear compliance requirements.
5. Use a functional assessment protocol to establish restoration requirements.
6. Implement effective compliance monitoring.

7. Emphasize long-term stewardship and self-sustainability.
8. Equip local organizations to be responsible for tracking, monitoring, and managing restoration areas in public ownership or under easement.
9. Commit time for technical training of responsible agency staff.
10. Establish research programs to study restoration sites to determine what practices achieve long-term performance.
11. Develop reference manuals to help design projects that will most likely meet restoration objectives.
12. Encourage third-party efforts to implement mitigation.

These ideas could be incorporated for air, water, land, transportation, environmental justice or a host of other environmental impacts where mitigation is required. Please consider these principles as you move forward with the guidance.

Thank you

David T. Urban

dturban@sbcglobal.net

847-553-8675