

4.0 OVERCOMING CHALLENGES

>>C. Humphrey: All right. So regional mitigation is an emerging concept within the BLM. So naturally, it comes with challenges. Now, Gloria, can you talk a little bit about the challenges and how to address them?

>> G. Tibbetts: Yeah, absolutely. Before we move into the case study, we wanted to provide a brief list of potential challenges that should be kept in mind as mitigation measures are developed.

First, a determination must be made as to **when an adverse impact triggers the need for mitigation**. The BLM NEPA Handbook clarifies that mitigation must be considered for adverse impacts, even when they're determined not to be significant. Rather, they must be developed when it is feasible to do so. Further, as Kerry mentioned at the beginning of the broadcast, reasonable mitigation must be identified in the NEPA document even if it is outside the BLM's jurisdiction. It can be analyzed with a discussion of the likelihood of implementation as part of the description of its effectiveness. However, these measures would not be committed to in the BLM decision.

The BLM NEPA Handbook states that the anticipated **effectiveness** should be clearly described in the NEPA document. The description should be tied to verifiable data which may come from results of similar past projects, scientific research, or some other reliable information source. One of the challenges is that this can be especially difficult for offsite mitigation because there needs to be a certain level of specificity and a clear nexus between the action and the proposed mitigation. The regional mitigation manual explains that the BLM must identify a reasonable relationship that is roughly proportional between the resources and the values affected by the authorization and the resources and values benefited by the mitigation. This relationship should be clearly documented in the discussion of effectiveness in the NEPA document.

Another challenge identified is **managing monetary contributions**. These can be a great option when other methods of mitigation are limited or unavailable. But they need to be treated appropriately to ensure their defensibility. First, it is important to identify what specific projects or types of projects the funds will be spent on. It is also important to ensure that the amount of compensation is relative to the expected impact and the calculation is justifiable. Financial obligation agreements should be established, especially when dealing with partners, to identify key aspects of implementation such as timelines and project selection. Finally, it is important to remember that even when we're working with partners, the BLM retains responsibilities for ensuring the adequacy of mitigation.

Gordon mentioned the importance of monitoring, which raises another challenge that many offices deal with, which is the **ability to actually conduct the necessary monitoring** once the project is approved. Prior to approval, staff limitations should be considered to ensure that time can be devoted to site visits, reviewing reports and anything else that is needed. Also, when mitigation involves partners or implementation on land that is not managed by the BLM, it is very important to ensure that proper agreements are established and will actually occur in compliance with the decision that has been issued.

One resource that has been successfully used on many BLM projects is the use of a third party compliance inspection contractor and other compliance contractors to supplement BLM staff oversight during project construction and offsite mitigation actions. These contractors can be paid for by the proponent and can serve as the BLM's eyes on the ground to ensure compliance required by the decision, including mitigation in some cases.

>> C. Humphrey: Thanks, Gloria. Those are some good ideas on where to start with some of the more common challenges to mitigation. And it was an even better job since our Teleprompter went down and you did a great job, so here we are. We're back up.