

USACE Final Evaluator and Panel Final Backcheck Responses to Final Panel Comments

Independent External Peer Review of the Decision and Implementation Documents for Environmental Mitigation for West Bank and Vicinity, New Orleans, Louisiana, Hurricane and Storm Damage Risk Reduction System

Task Order: 0067

Final Panel Comment 1

The purpose and content of the PDD are in conflict, and the document lacks a clear description of the actual amount of remaining work required to fully understand, evaluate, and make decisions about the WBV mitigation programmatic elements.

Basis for Comment

The PDD states (p. 3) that its intended purpose is to present a TSMPA that will provide compensatory mitigation for HSDRRS project-related impacts. This statement implies that its purpose is to put forward for evaluation the entirety of the TSMPA. However, once the entire PDD has been read, it appears that its actual primary purpose is the recommendation to purchase mitigation bank credits as part of the TSMPA. The seemingly conflicting purpose statements in the PDD may lead to expectations of more rapid implementation of the TSMPA than is actually possible.

For example, in several places in the PDD and Programmatic Individual Environmental Report (PIER) #37, reference is made to significant uncertainties in the acceptability, scaling, and additional documentation required for programmatic elements of the WBV mitigation. While the PDD does state that additional documentation is required for each of the programmatic elements, it may understate that significant additional work is required to finalize the TSMPA. Examples of additional work include rescaling, potential renegotiation of sites, field studies, and modeling. Delays as additional work is performed may result in a temporal loss of wetlands functions and values as elements of the HSDRRS move forward. Projected costs may be underestimated, including ongoing operation and maintenance costs to be borne by the non-Federal sponsor.

Significance – Medium/Low

The completeness of the documentation is affected by the absence of an early, clear description of the PDD's purpose, and an adequate explanation of the volume of additional work required prior to finalization and implementation.

Recommendations for Resolution

1. Describe early in the PDD that the purpose of the document is to recommend purchase of mitigation bank credits as part of the TSMPA, and that the programmatic elements require more analysis and evaluation.
2. Explain in greater detail the additional steps required to arrive at the TSMPA and the schedule for completing these steps (negotiations with the National Park Service, field studies, modeling, and development and publication of a tiered Individual Environmental Report [TIER] for each element).
3. Address the effects on the PDD of existing uncertainties such as delays and costs associated with ongoing analysis, evaluation, and documentation (e.g., the temporal loss of wetlands function and values) and how these effects will be compensated for.
4. Describe any other potential impacts that may result from changes to the programmatic elements of the TSMPA.

PDT Final Evaluator Response (FPC#1):

 **Concur** **Non-Concur**

Explanation: Language identifying the programmatic portion, or the TSMPA, of the mitigation project will be added to articulate that programmatic portions of the documents require future analysis. A current schedule for the programmatic items will be added. A brief discussion of the current status will be added as identified in the response to recommendations below.

Recommendation #1:  Adopt Not adopt

Explanation: Brief statements describing that approval of the PDD only allows for the purchase of mitigation bank credits with programmatic features requiring additional analysis and subsequent MSC approval will be added to the executive summary and section 5. Project Purpose and Need.

Recommendation #2:  Adopt Not adopt

Explanation: The intent is to provide a brief and concise overview of the project with supporting documentation contained within the appendices. It is important to remember that a PDD is not a feasibility report. However, a current schedule can be provided for the completion of WBV mitigation. Additionally, a statement can be added as a footnote to the NPS mitigation projects that negotiations with the NPS are ongoing and will be discussed in future documentation as those projects are developed and agreed to.

Recommendation #3: Adopt  Not adopt

Explanation: The complete impacts to the wetlands from the construction of the HSDRRS project were assessed, and this impact is the bar set for the compensatory mitigation to provide. Additional temporal loss of wetlands function and habitat value stopped when levees and other protection systems were built on top of these wetland areas (i.e., that habitat was permanently removed from the ecosystem). As mitigation alternatives are developed for the programmatic features, additional wetland valuation of the habitat targeted for mitigation will be conducted to ensure an equitable and compensatory replacement of wetland value (by habitat type) is realized.

Recommendation #4:  Adopt Not adopt

Explanation: A couple of brief statements can be added outlining potential courses of action in the event programmatic elements or mitigation projects must be changed from what is described in both the PIER#37 and this PDD.

Panel Final BackCheck Response (FPC#1):

Based on the PDT response above, the Panel has provided the following response.

- Concur
- Non-concur

Final Panel Comment 2

It is not clear if and/or how the stated position of the National Park Service has been resolved regarding mitigation projects outside versus inside the park.

Basis for Comment

In PIER #37 (Appendix R, Agency Comments), the National Park Service, in a letter dated May 2, 2014, states that the TSMMPA does not reflect mitigation options that were “agreed upon in the past.” The letter also implies that continuing negotiations are in progress. However, no further information is provided, leading to uncertainty that may impact schedule, construction costs, and estimated operation and maintenance costs to be borne by the non-Federal sponsor.

Significance – Medium/Low

Without more information on the nature of ongoing negotiations with the National Park Service regarding proposed mitigation sites, the Panel cannot currently analyze or assess the TSMMPA.

Recommendations for Resolution

1. Describe in the PDD the current status of negotiations with the National Park Service regarding proposed mitigation sites.
2. Describe in the PDD the process that will be used to satisfy the National Park Service’s concerns regarding the acceptability of the TSMMPA.
3. Explain in the PDD the potential effects of changing or adding more mitigation sites to the TSMMPA on the schedule, project costs, and operating and maintenance costs, as well as any other possible impacts.

PDT Final Evaluator Response (FPC#2):

Concur **Non-Concur**

Explanation: Brief statements or discussions, as described in FPC#1, will be added to the PDD.

Recommendation #1: **Adopt** **Not adopt**

Explanation: A statement will be added as a sub-section to the NPS mitigation projects that negotiations with the NPS are ongoing and will be discussed in future documentation as those projects are developed and agreed to.

Recommendation #2: **Adopt** **Not adopt**

Explanation: A brief description of ongoing and future negotiations will be added as a sub-section for NPS projects.

Recommendation #3: **Adopt** **Not adopt**

Explanation: Brief statements will be added in a separate section at the end of the document. Besides the current mitigation project schedule and without knowing the final disposition of what a changed plan or additional mitigation might do the schedule, operations and maintenance costs, or any other possible impacts is not known. Projects costs are limited to a maximum dollar amount so every effort is being made to stay at or below that hard cost.

Panel Final BackCheck Response (FPC#2):

Based on the PDT response above, the Panel has provided the following response.

Concur

Non-concur

Final Panel Comment 3

The 12-page PDD is not comprehensive enough to serve as a standalone document.

Basis for Comment

The Panel needed to refer to the appendices and the PIER to obtain sufficient detail to fully understand the project and respond to the charge questions. The 12-page PDD does not contain enough information from a Civil Works perspective. In addition, the PDD does not include enough references as to which appendix should be consulted for more information, making it challenging to find it. A modest increase in the amount of information in the PDD would improve understanding of the Alternative Evaluation Process (AEP), weighting, objectives, and projects (considered and justified).

Significance – Low

The lack of detail in the PDD affects the understanding of the report.

Recommendations for Resolution

1. Provide a rationale for why the PDD was limited to 12 pages.
2. Provide references in the PDD to the appendices.
3. Consider adding text to the PDD that explains more fully the process, projects, and objectives.

PDT Final Evaluator Response (FPC#3):

Concur **Non-Concur**

Explanation: By non-concur, this does not mean the following recommendations will not be addressed. The nature of a PDD is to be brief and concise. Even more so for mitigation. The only actionable item is the purchase of mitigation bank credits which does not require much detail or in-depth discussion. The remaining features or projects are programmatic so they do not require as much attention to in the PDD. The goal is brief and concise with the appendices providing the additional information that renders the document comprehensive.

Recommendation #1: **Adopt** **Not adopt**

Explanation: A brief statement will be added to the executive summary.

Recommendation #2: **Adopt** **Not adopt**

Explanation: Additional cross-references to the PDD appendices will be added.

Recommendation #3: **Adopt** **Not adopt**

Explanation: The PDD is not a feasibility report. It is intended to provide a brief and concise description of the proposed project. It does provide information to support a decision by an authorized individual - the Commanding General of Mississippi Valley Division. Because of this, other previously developed PDD's in the HSDRRS program will be checked to verify the level of process description provided is consistent with others PDDs. Supporting documentation explaining more fully the process, projects, and objectives is included in Appendix A to the PDD, mainly in the Programmatic Management Plan for the HSDRRS program.

Panel Final BackCheck Response (FPC#3):

Based on the PDT response above, the Panel has provided the following response.

Concur

Non-concur

Final Panel Comment 4

The weighting criteria of the AEP and the exclusion of the within-park projects are not fully explained.

Basis for Comment

The AEP is an acceptable method to screen the alternatives and the explanation of its usage is more than adequate. However, additional detail on the weighting process would have allowed better understanding of the internal prioritization process.

In addition, in the June 19 kickoff teleconference with USACE (facilitated by Battelle), USACE mentioned that the within-park projects were not included in the AEP. The reasoning behind not including them was not made clear in the PDD or on the teleconference.

Significance – Low

The lack of detail in explaining the weighting process and why the within-park projects were not evaluated using the AEP affects the understanding of the project.

Recommendations for Resolution

1. Identify the reasons why within-park projects were treated differently and were not part of the AEP.
2. Provide additional detail on the weighting process for the AEP.

PDT Final Evaluator Response (FPC#4):

Concur Non-Concur

Explanation: In regards to the NPS, a footnote will be added explaining the exclusion of the NPS from the AEP. However, information is provided and referenced to in the PDD to the AEP process and weighting criteria.

Recommendation #1: Adopt Not adopt

Explanation: A footnote will be added to those parts of the PDD describing the NPS projects explaining the AEP exclusion.

Recommendation #2: Adopt Not adopt

Explanation: The AEP weighting is described in great detail in the appendices. Adding this explanation to the PDD does not serve the purpose of the PDD and would be redundant.

Panel Final BackCheck Response (FPC#4):

Based on the PDT response above, the Panel has provided the following response.

Concur
 Non-concur