

G MITIGATION MONITORING AND REPORTING

This ~~Draft~~ Environmental Impact Report (EIR) includes a mitigation monitoring, compliance, and reporting program (MMCRP) for the mitigation measures proposed for the project. This section provides the recommended framework for effective implementation of the MMCRP by the California Environmental Quality Act (CEQA) lead agency, ~~and~~ the California Public Utilities Commission (CPUC), and it describes the roles of responsible parties in carrying out and enforcing adopted mitigation measures.

G.1 Authority for the Mitigation Monitoring, Compliance, and Reporting Program

The California Public Utilities Code confers authority upon the CPUC to regulate the terms of service and the safety, practices, and equipment of utilities subject to its jurisdiction. It is the standard practice of the CPUC, pursuant to its statutory responsibility, to protect the environment, to require that mitigation measures stipulated as conditions of approval are implemented properly, and monitored and reported on. In 1989, this requirement was codified statewide as Section 21081.6 of the California Public Resources Code (PRC) (CEQA). Section 21081.6 requires a public agency to adopt an MMCRP when it approves a project that is subject to preparation of an EIR and where the EIR for the project identifies significant adverse environmental effects. CEQA Guidelines Section 15097 (14 CCR 15000 et seq.) was added in 1999 to further clarify agency requirements for mitigation monitoring or reporting.

The purpose of an MMCRP is to ensure that measures adopted to mitigate or avoid significant impacts of a project are implemented. The CPUC views the MMCRP as a working guide to facilitate not only the implementation of mitigation measures by the project proponent, but also the monitoring, compliance, and reporting activities of the CPUC and any monitors it may designate.

G.2 Organization of the Final Mitigation Monitoring Program

If the project is approved, the MMCRP should serve as a self-contained general reference for the mitigation monitoring program adopted by the CPUC for the project. To accomplish this, the final mitigation monitoring program (final plan) should contain the following elements. If and when a project has been approved by the CPUC, it will compile the final plan from the mitigation monitoring program in the final EIR, as adopted. The elements of the mitigation monitoring program are as follows:

Mitigation Monitoring Program Elements

MMCRP Introduction

- Authority and purpose of the program
- Program adoption process
- Organization of the MMCRP

Roles and Responsibilities

- Monitoring responsibility
- Enforcement responsibility
- Mitigation compliance responsibility
- Dispute resolution

General Monitoring Procedures

- Environmental monitor
- Construction personnel
- General reporting requirements
- Public access to records.

Project Description

In the final plan, this section will contain a concise overview and reference description of the approved project and will clearly outline its physical locations and timetable, including construction segments. This section will also specify the “master” reference(s), which the monitors and San Diego Gas & Electric (SDG&E) will use in carrying out the program (e.g., the final EIR, but also more detailed working maps and plans). The applicant proposed measures (APMs) to which SDG&E has committed to reduce potential impacts will also be listed in this section. This section will also include requirements for the submittal of plans/documentation to be prepared by SDG&E as outlined in the project description.

Agency Jurisdictions

In the final plan, this section will include the list of agencies with jurisdiction over the project and a description of where their respective jurisdictions exist. For example, for a given

construction segment, information about each jurisdictional agency's contact person (including name, address, and telephone and fax numbers) should be provided.

Mitigation Monitoring Programs

The final plan will incorporate the organization and display of the individual issue area mitigation measures presented in the final EIR, as well as all APMs applicable to the project. Each mitigation measure will be numbered and described briefly. The final EIR should be consulted for an in-depth discussion of each mitigation measure. The final plan will also include the following information:

- The responsible parties, schedule, and reporting requirements for carrying out the monitoring activity for each mitigation measure
- Effectiveness criteria for evaluating implementation of the mitigation measure.

G.3 Roles and Responsibilities

As the lead agency under CEQA, the CPUC is required to monitor this project to ensure that the required mitigation measures and APMs are implemented. The CPUC will be responsible for ensuring full compliance with the provisions of this monitoring program and has primary responsibility for implementation of the monitoring program. The purpose of the monitoring program is to document that the mitigation measures required by the CPUC are implemented and that mitigated environmental impacts are reduced to the level identified in the program.

The CPUC may delegate duties and responsibilities for monitoring to other environmental monitors or consultants as deemed necessary, and some monitoring responsibilities may be assumed by responsible agencies (such as affected jurisdictions). The number of construction monitors assigned to the project will depend on the number of concurrent construction activities and their locations. However, the CPUC will ensure that each person who is assigned monitoring duties or responsibilities is qualified to monitor compliance.

Any mitigation measure study or plan that requires approval from the CPUC must allow for adequate review time, as stipulated in MMRCPP. Other agencies and jurisdictions may require longer review periods. It is the responsibility of the environmental monitors assigned to the project to ensure that appropriate agency reviews and approvals are obtained.

The CPUC and its environmental monitors will also ensure that any variance process or deviation from the procedures identified under the monitoring program is consistent with CEQA requirements; no project variance will be approved by the CPUC if it creates new significant impacts. A variance should be strictly limited to minor project changes that will not trigger other

permit requirements; the changes must neither increase the severity of an impact nor create a new impact, and they must clearly and strictly comply with the intent of the mitigation measure. A Proposed Project change that has the potential for creating significant environmental effects will be evaluated to determine whether supplemental CEQA review is required. Any proposed deviation from the approved project, adopted mitigation measures, and APMs, and correction of such deviation, shall be reported immediately to the CPUC and the environmental monitors assigned to the project for their review and approval. In some cases, a variance may also require approval by a CEQA-responsible agency.

G.4 Enforcement Responsibility

The CPUC is responsible for enforcing the procedures adopted for monitoring through the environmental monitors assigned to the project. The environmental monitors shall note problems in the field, notify appropriate agencies or individuals about issues, and report compliance status to the CPUC project manager.

The CPUC has the authority to halt any construction, operation, or maintenance activity associated with the project if the activity is determined to be a deviation from the approved project, adopted mitigation measures, or APMs. The CPUC may delegate this authority to third-party environmental monitors assigned to the project.

G.5 Mitigation Compliance Responsibility

The applicant, SDG&E, is responsible for successfully implementing all the adopted mitigation measures in the MMCRP. The MMCRP will contain criteria that define whether mitigation is successful. Standards for successful mitigation also are implicit in many mitigation measures that include requirements such as obtaining permits or avoiding a specific impact entirely. Other mitigation measures include success criteria that are listed in the mitigation measure. Additional mitigation success thresholds may be established by applicable agencies with jurisdiction through the permit process and through the review and approval of specific plans for the implementation of mitigation measures.

G.6 Dispute Resolution

It is expected that the final MMCRP will reduce or eliminate many potential disputes. However, even with the best preparation, disputes may occur. In such event, these procedures will be followed:

- **Step 1.** Disputes and complaints (including those of the public) should be directed first to the CPUC's designated project manager for resolution. The project manager will attempt to resolve the dispute.

- **Step 2.** Should this informal process fail, the CPUC project manager may initiate enforcement or compliance action to address deviations from the Proposed Project or adopted mitigation monitoring program.
- **Step 3.** If a dispute or complaint regarding the implementation or evaluation of the program or the mitigation measures cannot be resolved informally or through enforcement or compliance action by the CPUC, any affected participant in the dispute or complaint may file a written “notice of dispute” with the CPUC’s executive director. This notice should be filed in order to resolve the dispute in a timely manner, with copies concurrently served on other affected participants. Within 10 days of receipt, the executive director or designee(s) shall meet or confer with the filer and other affected participants for purposes of resolving the dispute. The executive director shall issue an executive resolution describing his/her decision and serve it on the filer and other affected participants.
- **Step 4.** If one or more of the affected parties is not satisfied with the decision as described in the resolution, such party/parties may appeal to the CPUC via a procedure to be specified by the CPUC.

Parties may also seek review by the CPUC through existing procedures specified in the CPUC’s rules of practice and procedure for formal and expedited dispute resolution, although a good faith effort should first be made to use the foregoing procedures.

G.7 General Monitoring Procedures

G.7.1 Environmental Monitors

The CPUC and the environmental monitors are responsible for integrating the mitigation monitoring procedures into the construction process in coordination with SDG&E. To oversee the monitoring procedures and to ensure success, the environmental monitors assigned to the project must be on site during construction activities that have the greatest potential to create a significant environmental impact or other impact for which mitigation is required. The environmental monitors are responsible for ensuring that all procedures specified in the monitoring program are followed.

G.7.2 Construction Personnel

A key component of a successful mitigation monitoring program will be obtaining the full cooperation of construction personnel and supervisors. Many of the mitigation measures require action on the part of the construction supervisors or crews for successful implementation. To

ensure success, the following actions, detailed in specific mitigation measures included in the final plan, will be taken:

- Procedures to be followed by construction companies hired to do the work will be written into contracts between SDG&E and any construction contractors. Procedures to be followed by construction crews will be written into a separate agreement that all construction personnel will be asked to sign, denoting agreement.
- One or more preconstruction meetings will be held to inform and train construction personnel about the requirements of the monitoring program (as detailed in the final plan).
- A written summary of mitigation monitoring procedures will be provided to construction supervisors for all mitigation measures requiring their attention.

G.7.3 General Reporting Procedures

Site visits and specified monitoring procedures performed by other individuals will be reported to the environmental monitors assigned to the relevant construction segment. A monitoring record form will be submitted to the environmental monitor by the individual conducting the visit or procedure so that details of the visit can be recorded and progress traced by the environmental monitors. A checklist will be developed and maintained by the environmental monitors to track all procedures required for each mitigation measure and to ensure that the timing specified for the procedures is adhered to. The environmental monitors will note any issues that may occur and take appropriate measures to bring a situation back into compliance. SDG&E shall provide the CPUC with written weekly reports of the project, which shall include progress of construction, resulting impacts, mitigation implemented, and all other noteworthy elements of the project. Weekly reports shall be required as long as mitigation measures are applicable.

G.7.4 Public Access to Records

The public is allowed access to records and reports used to track the monitoring program. Monitoring records and reports will be made available for public inspection by the CPUC on request. The CPUC and SDG&E will develop a filing and tracking system. For additional information about mitigation monitoring and reporting for the Proposed Project, the Energy Division of the CPUC will maintain an Internet website, accessible at <http://www.cpuc.ca.gov/environment/info/dudek/sbsrp/SouthBaySub.htm>. To facilitate public awareness, CPUC will make weekly reports available on the website.

G.8 Condition Effectiveness Review

To fulfill its statutory mandates to mitigate or avoid significant effects on the environment and to design a mitigation monitoring program that will ensure compliance during project implementation (PRC 21081.6), the CPUC may conduct a comprehensive review of conditions that are not effectively mitigating impacts at any time it deems appropriate, including as a result of the dispute resolution procedure outlined in Section G.6.

If in either review the CPUC determines that any conditions are not adequately mitigating significant environmental impacts caused by the project, then the CPUC may impose additional reasonable conditions to effectively mitigate these impacts. These reviews will be conducted in a manner consistent with the CPUC's rules and practices.

G.9 Mitigation Monitoring, Compliance, and Reporting Program

Mitigation monitoring program tables are presented at the end of each issue area section (Sections D.2 through D.17). These tables, along with the full text of the mitigation measures themselves, will form the basis for implementation of the MMCRP.

G.10 References

14 CCR 15000–15387 and Appendix A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

California Public Resources Code, Section 21000–21177. California Environmental Quality Act, as amended.

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