

G. Mitigation Monitoring and Reporting

This EIR includes a proposed Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) for the mitigation measures proposed herein for the El Casco System Project (Proposed Project). An MMCRP table for the Proposed Project and the alternatives is provided at the end of each issue area's environmental analysis in Section D (D.2 through D.12). This section provides the recommended framework for the implementation of the MMCRP by the CEQA Lead Agency, the California Public Utilities Commission (CPUC), and describes the roles and responsibilities of government agencies in implementing and enforcing adopted mitigation.

G.1 AUTHORITY FOR THE MITIGATION MONITORING, COMPLIANCE, AND REPORTING PROGRAM

The California Public Utilities Code in numerous places 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 be implemented properly, monitored, and reported. In 1989, this requirement was codified statewide as Section 21081.6 of the Public Resources Code. Section 21081.6 requires a public agency to adopt a 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 was added in 1999 to further clarify agency requirements for mitigation monitoring or reporting.

The purpose of a 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.

The CPUC will address its responsibility under Public Resources Code Section 21081.6 when it takes action on SCE's application for a Permit to Construct (PTC) the Proposed El Casco System Project. If the Commission approves the (PTC) application, it will also adopt a MMCRP that includes the mitigation measures ultimately made a condition of approval by the Commission.

G.2 ORGANIZATION OF THE FINAL MITIGATION MONITORING IMPLEMENTATION PLAN

If the Proposed Project or an alternative to the Proposed Project is approved, the MMCRP adopted by the CPUC as part of EIR certification and issuance of PTC application approval processes would serve as a self-contained general reference for the mitigation monitoring activities that would be conducted by the CPUC for the El Casco System Project. To accomplish this, a Final Mitigation Monitoring Implementation Plan would be prepared using the CPUC's adopted MMCRP and containing the four major components listed and described below. If and when a project has been approved by the Commission, the CPUC will compile Final Mitigation Monitoring Implementation Plan from the MMCRP that is presented in the certified Final EIR for the Proposed Project. The elements of the Mitigation Monitoring Implementation Plan are as follows:

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

G.2.1 MMCRP Introduction

This section of the Final Mitigation Monitoring Implementation Plan will contain a concise overview and reference description of the approved MMCRP for the El Casco System Project that clearly outlines the physical location and timetable for the project, including construction phases and spreads. This section will also specify the “master” reference(s) which the CPUC environmental monitors and the Applicant will use in carrying out the Program, e.g., the Final EIR, but also more detailed working maps and plans. The Applicant-Proposed Measures, to which SCE has committed to reduce potential impacts, will also be listed in this section.

This section will include the list of agencies with jurisdiction over the Project (from EIR Table A-1), and a description of where their respective jurisdictions exist. For example, for a given construction spread, this section will state what region of the California Department of Fish and Game has jurisdiction, and it will provide the name of the regional manager, the address, telephone, and fax numbers. This section will also provide a guide to the organization of the document.

G.2.2 Roles and Responsibilities

As the lead agency under CEQA, the CPUC is required to monitor the El Casco System Project to ensure that the required mitigation measures and Applicant-Proposed Measures are implemented. The CPUC will be responsible for ensuring full compliance with the provisions of the MMCRP and has primary responsibility for its implementation. The purpose of the MMCRP is to document that the mitigation measures required and adopted by the CPUC are implemented, and that mitigated environmental impacts are reduced to the level identified in the certified EIR.

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 and cities. The number of construction monitors assigned to the

project will depend on the number of concurrent construction activities and their locations. The CPUC, however, will ensure that each person with delegated duties or responsibilities is qualified to monitor compliance.

Any study or plan required by a mitigation measure also requires the approval of the CPUC and must allow at least 60 days for adequate review time. When a mitigation measure requires that a mitigation action or program be developed during the design phase of the project, the Applicant (SCE) must submit the final program to the CPUC for review and approval at least 60 days before the start of construction, and/or implementation of that program, whichever comes first. Other agencies and jurisdictions may require additional review time. It is the responsibility of the environmental monitor assigned to the project to ensure that appropriate agency reviews and approvals are obtained.

The CPUC along with its environmental monitors will also ensure that any variance process or deviation from the procedures identified under the MMCRP is consistent with CEQA requirements; no project variance will be approved by the CPUC if it creates new significant impacts. As defined in this section, a variance should be strictly limited to minor project changes that will not trigger other permit requirements, that does not increase the severity of an impact or create a new impact, and that clearly and strictly complies 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 Applicant-Proposed Measures, and correction of such deviation, shall be reported immediately to the CPUC and the environmental monitor assigned to the construction spread for their review and approval. In some cases, a variance may also require approval by a CEQA responsible agency.

Enforcement Responsibility

The CPUC is responsible for enforcing the procedures adopted for monitoring through the environmental monitor assigned to each construction phase or spread. The environmental monitor shall note problems with monitoring, notify appropriate agencies or individuals about any problems, and report the problems to the CPUC.

The CPUC has the authority to halt any construction, operation, or maintenance activity associated with the El Casco System Project if the activity is determined to be a deviation from the approved project or adopted mitigation measures. The CPUC may assign this authority to the environmental monitor for each construction phase or spread.

Mitigation Compliance Responsibility

The Applicant, SCE, is responsible for successfully implementing all 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 such requirements as obtaining permits or avoiding a specific impact entirely. Other mitigation measures include success criteria that are listed in a table at the end of each issue area section in Section D of this EIR. Additional mitigation success thresholds will 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.

The Applicant shall inform the CPUC and its monitors in writing of any mitigation measures that are not or cannot be successfully implemented. The CPUC in coordination with its monitors will assess whether alternative mitigation is appropriate and specify to SCE the subsequent actions required.

Dispute Resolution

It is expected that the adopted MMCRP will reduce or eliminate many potential disputes. However, even with the best preparation, disputes may occur. In such event, the following procedure will be observed:

- **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 MMCRP.
- **Step 3.** If a dispute or complaint regarding the implementation or evaluation of the MMCRP 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(ies) may appeal it to the Commission via a procedure to be specified by the Commission.

Parties may also seek review by the Commission through existing procedures specified in the Commission'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 procedure.

G.2.3 General Monitoring Procedures

Environmental Monitor

Many of the monitoring procedures will be conducted during the construction phase of the project. The CPUC and the environmental monitor(s) are responsible for integrating the mitigation monitoring procedures into the construction process in coordination with SCE. To oversee the monitoring procedures and to ensure success, the environmental monitor assigned to each construction phase or spread must be onsite during any project-related activity that has the potential to create a significant environmental impact or other impact for which mitigation is required. The environmental monitor is responsible for ensuring that all procedures specified in the monitoring program are followed.

Construction Personnel

A key feature contributing to the success of mitigation monitoring 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, which will be detailed in the Final Mitigation Monitoring Implementation Plan, will be taken:

- Procedures to be followed by construction companies hired to do the work will be written into contracts between SCE 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 consent to the procedures.

- One or more pre-construction meetings will be held to inform and train all construction personnel about the requirements of the adopted MMCRP (as detailed in the Final Mitigation Monitoring Implementation Plan).
- A written summary of mitigation monitoring procedures will be provided to construction supervisors for all mitigation measures requiring their attention.

General Reporting Procedures

Site visits and specified monitoring procedures performed by other individuals will be reported to the environmental monitor assigned to the relevant construction phase or spread. 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 tracked by the environmental monitor. A checklist will be developed and maintained by the environmental monitor to track all procedures required for each mitigation measure and to ensure adherence to the timing specified for the procedures. The environmental monitor will note any problems that may occur and take appropriate action to rectify the problems. The Applicant shall provide the CPUC with written quarterly reports of the project, which shall include progress of any project-related activity, resulting impacts, mitigation implemented, and all other noteworthy elements of the project. Quarterly reports shall be required as long as mitigation measures are applicable.

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 upon request. The CPUC and the Applicant will develop a filing and tracking system. For additional information on mitigation monitoring and reporting for the El Casco System Project, the Energy Division of the CPUC will maintain an Internet website at the following address:

<http://www.cpuc.ca.gov/environment/info/aspen/elcasco/elcasco.htm>

In order to facilitate the public's awareness, the CPUC will make weekly reports available on the website.

G.3 CONDITION EFFECTIVENESS REVIEW

As required by CEQA, the CPUC must evaluate the effectiveness of the mitigation measures that are implemented. In order to fulfill its statutory mandates to mitigate or avoid significant effects on the environment and to design a mitigation monitoring program to ensure compliance during Project implementation (CEQA 21081.6):

- The CPUC may conduct a comprehensive review of conditions which are not effectively mitigating impacts at any time it deems appropriate, including as a result of the Dispute Resolution procedure outlined in G.2.2; and
- If in either review, the Commission determines that any conditions are not adequately mitigating significant environmental impacts caused by the project, or that recent proven technological advances could provide more effective mitigation, then the Commission may impose additional reasonable conditions to effectively mitigate these impacts.

These reviews will be conducted in a manner consistent with the Commission's rules and practices.

G.4 MITIGATION MONITORING PROGRAM TABLES

Mitigation Monitoring Program tables are presented at the end of each issue area section (Sections D.2 through D.12). These tables, along with the full text of the mitigation measures themselves, will form the El Casco System Project MMCRP. Upon CPUC's certification of the Final EIR and project approval, the MMCRP would be adopted by the CPUC. Once adopted, the CPUC will prepare the Mitigation Monitoring Implementation Plan prior to start of project-related activities in order to implement the adopted MMCRP.