

G. Mitigation Monitoring and Reporting

Upon adoption of the Final EIR for the Miguel-Mission 230 kV #2 Project, a Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) shall be prepared. The purpose of the MMCRP is to ensure that the Project Protocols (identified in SDG&E's PEA and incorporated into this EIR) and mitigation measures (listed in Sections D.2 through D.13) that are adopted as conditions of approval to lessen or avoid known and potential project impacts are enforced. Section G.1 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 the government agencies involved in implementing and enforcing the MMCRP.

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, monitored, and reported. In 1989, this requirement was codified statewide as Section 21081.6 of the Public Resources Code, which requires a public agency to adopt a MMCRP when it approves a project that is subject to the 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 SDG&E's application for a Certificate of Public Convenience and Necessity. If the CPUC approves the application, it will also adopt a MMCRP that includes the mitigation measures as a condition of approval.

G.2 Organization of the Final MMCRP

If the project or an alternative to the project is approved, the MMCRP should serve as general reference for any mitigation monitoring adopted by the CPUC. If and when a project has been approved, the CPUC will compile the Final Plan from the MMCRP in the Final EIR, as adopted. The six elements of the MMCRP are as follows:

1. MMCRP Introduction

- Authority and Purpose of MMCRP
- MMCRP Adoption Process
- Organization of the MMCRP

2. Roles and Responsibilities

- Monitoring Responsibility
- Enforcement Responsibility
- Mitigation Compliance Responsibility
- Dispute Resolution

3. General Monitoring Procedures

- Environmental Monitors
- Construction Personnel
- General Reporting Requirements
- Public Access to Records

4. Project Description

In the Final Plan, this section will contain a concise overview and reference description of the approved project that clearly outlines its physical locations and timetable, including construction spreads. This section will also specify the “Master” reference(s), which the 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 Project Protocols, to which SDG&E has committed to reduce potential impacts, will also be listed in this section.

5. Agency Jurisdictions

In the Final Plan, this section will include the list of agencies with jurisdiction over the project (from EIR Table A-2), and a description of where their respective jurisdictions exist. For example, for a given construction spread, it will state what region of the California Department of Fish and Game has jurisdiction, and will provide the name of the regional manager, the address, and telephone and fax numbers.

6. Mitigation Monitoring Programs

The Final Plan will incorporate the organization and display of the individual issue area Mitigation Monitoring Programs presented in the Final EIR, as well as all Project Protocols 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 Mitigation Monitoring Plan will also include:

- The party responsible, the schedule and the reporting requirements for carrying out the monitoring activity for each mitigation measure; and
- Effectiveness criteria for evaluating the 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 Project Protocols 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 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 delegated any duties or responsibilities is qualified to monitor compliance.

Any mitigation measure study or plan that requires the approval of the CPUC must allow at least 60 days for adequate review time. When a mitigation measure requires that a mitigation program be developed during the design phase of the project, the Applicant must submit the final program to CPUC for review and approval at least 60 days before construction begins. Other agencies and jurisdictions may require additional review time. It is the responsibility of the environmental monitor assigned to each spread 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 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, that will not increase the severity of an impact or create a new impact, and that will 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, or Project Protocols, 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.

G.4 Enforcement Responsibility

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

The CPUC has the authority to halt any construction, operation, or maintenance activity associated with the Miguel-Mission 230 kV #2 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 spread.

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 such requirements as obtaining permits or avoiding a specific impact entirely. Other mitigation measures include success criteria that are listed in table at the end of each issue area section. 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 SDG&E the subsequent actions required.

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 an event, the following steps will be applied:

- 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 Project Protocols in the Final EIR or the MMCRP.
- Step 3.** If a dispute or complaint 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 may appeal it to the CPUC via a procedure to be specified by the Commission.

Parties may also seek review by the CPUC 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.7 General Monitoring Procedures

G.7.1 Environmental Monitor

In coordination with SDG&E, the CPUC and their environmental monitors will be responsible for integrating the procedures of the MMCRP into all aspects of project implementation. To oversee the project and to ensure successful mitigation, the CPUC environmental monitor assigned to each area of construction must be onsite during project implementation to remain apprised of project status and to report and remediate any non-compliance activity.

G.7.2 Construction Personnel

Many of the mitigation measures require action on the part of the construction supervisors and personnel for successful implementation. To ensure proper implementation, the following actions will be taken:

- SDG&E will prepare contracts that will be signed by the construction companies hired for the project that outline the purposes and procedures for successful mitigation. Similarly SDG&E will have the contract signed by all construction crews and other personnel prior to working on the job site.
- Prior to working on the job site, all construction personnel will be required to attend an informational training session, which will outline the mitigation requirements of the project.
- Each construction supervisor will be provided with a written summary of the mitigation procedures and will be expected to keep those and all other necessary permits onsite for easy reference by the construction crew, and for review and inspection by the CPUC environmental monitors.

G.7.3 General Reporting Procedures

The CPUC and environmental monitors will report all problems that may arise and will take the appropriate action to rectify any problems. Site visits and specific monitoring procedures performed by other individuals, such as biologists or archaeologists, will be reported to the appropriate CPUC environmental monitor. A record will be submitted to the CPUC environmental monitor by the individual conducting the visit or procedure so that details of the visit can be tracked and recorded. In addition, the CPUC environmental monitor will prepare daily reports describing the status of construction activities as well as the timing and completion of any MMCRP requirements.

SDG&E shall provide the CPUC with written quarterly reports of the status of the project, which shall include construction progress, resulting impacts, resulting mitigation, and all other noteworthy elements of the project. Quarterly reports shall be required until all Project Protocols and mitigation measures have been completed.

G.7.4 Public Access to Records

The public is allowed access to the records and reports used to track the implementation of the MMCRP. Monitoring records and reports will be made available for public inspection by the CPUC on request. In order to facilitate the public's awareness, the CPUC will make weekly reports available on the project website below. The following website can also be consulted for further information about mitigation monitoring and reporting for the Miguel-Mission 230 kV #2 Project:

http://www.cpuc.ca.gov/environment/info/aspen/miguel_mission/miguelmission.htm.

G.8 Condition Effectiveness Review

In order to fulfill its statutory mandates to mitigate or avoid significant effects of the environment and to design a MMCRP to ensure compliance during project implementation (CEQA 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 G.6; and

- If in either review, the CPUC 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 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 Program Tables

Mitigation monitoring tables are presented at the end of each issue area section (Sections D.2 through D.13). These tables, along with the full text of the Project Protocols and mitigation measures, form the basis for implementing the MMCRP.