

H. Mitigation Monitoring and Reporting

The CPUC and the BLM are CEQA and NEPA Lead Agencies, respectively. In that role, if the Proposed Project or an alternative is approved, they would be responsible to ensure that monitoring and reporting on required mitigation occurs.

As the Applicant and project proponent, SCE would be responsible for implementing all applicable measures, including the adopted mitigation measures and conditions of project approval, as well as conditions imposed in any permits or regulations administered by other responsible agencies.

The Mitigation Monitoring Program for the Proposed Project (or alternative) establishes the approach to implementing the mitigation measures and Applicant Proposed Measures (APMs) identified in the EIR/EIS. If the project is approved and the Mitigation Monitoring Program described below is adopted by the Lead Agencies, a detailed Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) would be developed, as described in Section H.2 below. The MMCRP would be the mechanism whereby the Lead Agencies would implement the Mitigation Monitoring Program.

Mitigation Monitoring Program tables are presented at the end of each resource's environmental analysis section of the EIR/EIS (Sections D.2 through D.21). These tables, along with the full text of the mitigation measures themselves, are central elements of the Mitigation Monitoring Program. The specified mitigation measures would be implemented through the MMCRP.

The MMCRP would be the basis for the agencies' environmental monitoring and reporting activities throughout project construction, including during site rehabilitation and restoration after construction is completed. It would detail how and when the mitigation measures would be implemented. As well, the MMCRP would identify duties and responsibilities of the various parties, communication protocols to follow, and record management requirements. The MMCRP would be prepared and instituted prior any notices to proceed (NTPs) being issued or the initiation of any construction.

H.1 Authority for the MMCRP

H.1.1 California Public Utilities Commission

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 CPUC practice, pursuant to its statutory responsibility, to protect the environment and to require that mitigation measures stipulated as conditions of approval be properly implemented, monitored, and reported on. This requirement is codified statewide as Section 21081.6 of the Public Resources Code, which requires a public agency to adopt a mitigation monitoring or reporting program, or both, 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 describes agency requirements for mitigation monitoring or reporting.

The purpose of an MMCRP is to ensure that the measures adopted to mitigate or avoid significant impacts of a project are implemented, and to report on their implementation. The CPUC views the MMCRP as a working guide to facilitate implementation of mitigation measures imposed by the approving agencies measures and any measures proposed by the project proponent, and to provide for the monitoring, compliance, and reporting activities of the CPUC and its designated monitors.

The CPUC will address its responsibilities under Public Resources Code Section 21081.6 when it takes action on SCE's application for a Certificate of Public Convenience and Necessity. If the Commission approves the Proposed Project or an alternative, it also will adopt a Mitigation Monitoring Program and include the mitigation measures as a condition of approval.

H.1.2 Bureau of Land Management

BLM is the federal Lead Agency for the preparation of this EIR/EIS in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508), and BLM's NEPA guidance handbook (H-1790-1). As the federal Lead Agency, BLM is responsible for ensuring that adopted mitigation measures are implemented on land it administers. BLM intends to work with the CPUC in implementation of mitigation monitoring during construction of the Proposed Project, and may use the CPUC's environmental monitoring contractor for monitoring on BLM lands.

For the portions of the project on Morongo reservation land, the Bureau of Indian Affairs (BIA), as a responsible agency and in consultation with the tribe, will determine whether they would like the same contractors who are monitoring for BLM to monitor construction on reservation land.

H.2 Organization of the MMCRP

If the Proposed Project or an alternative is approved, the CPUC and BLM would compile the Final Mitigation Monitoring Program and include it in the Final EIR/EIS, as adopted. Based on the monitoring program, the MMCRP would be prepared and would serve as a self-contained guide for implementing the program throughout project construction.

The Final MMCRP would contain a concise overview and description of the approved project, outline its physical locations and geographic limits, and, to the extent known, provide the project schedule. It would include all adopted mitigation measures and would specify the master reference document(s) that the monitors and the Applicant would use in carrying out the program (e.g., the Final EIR/EIS, detailed working maps and plans, issued permits, etc.). The APMs to which SCE has committed would be incorporated to the extent they have not been superseded by specific mitigation measures in the EIR/EIS.

The MMCRP would include a list of the agencies having jurisdiction over various aspects of the project, and a description of where these respective jurisdictions occur. For example, the MMCRP would state which California Department of Fish and Wildlife regional office has jurisdiction and provide contact information, including the designated representative's name, address, email, and telephone and fax numbers.

The MMCRP would also include definition of the manner in which SCE's monitoring team would interact with the CPUC and BLM staff and consultants. In addition, the MMCRP would define SCE's required submittals to the agencies, and protocol for interactions among agency and SCE team members.

The MMCRP would be structured as follows:

A. Introduction

- Authority and Purpose of the Program
- Jurisdictional Agencies
- Project Description
- Organization of the MMCRP

B. Roles and Responsibilities

- Monitoring Responsibility
- Enforcement Responsibility
- Mitigation Compliance Responsibility
- Communications
- Dispute Resolution
- SCE Roles
 - Identification of the qualified SCE team members who would verify that all adopted measures and conditions have been successfully implemented.
 - Organization of the SCE team, including specifying duties, roles, and responsibilities.
 - Identification of primary SCE contacts for CPUC/BLM environmental monitoring staff liaison.

C. General Monitoring and Compliance Procedures

- Environmental Monitors
- Construction Personnel
- General Reporting Requirements
 - SCE Compliance Levels for internal reporting
 - SCE Daily Incident Summary format and protocol
 - SCE Weekly Monitoring Report format and content
 - SCE Annual Monitoring Report format and content
- Records Management and Public Access to Records

D. Mitigation Measure Tables

H.3 Roles and Responsibilities

Responsibility for *implementing* the adopted measures rests with SCE, unless otherwise specified in the measure.

As Lead Agencies under CEQA and NEPA, the CPUC and BLM are responsible to *monitor* an approved project to ensure that required mitigation measures and APMs are implemented. The required Mitigation Monitoring Program would be implemented through the MMCRP. The purpose of the Mitigation Monitoring Program is to document that the mitigation measures required by the CPUC and BLM are implemented and that mitigated environmental impacts are reduced to the level identified in the EIR/EIS.

The CPUC and/or BLM may delegate duties and responsibilities for monitoring to environmental monitors or consultants working on behalf of the agencies. As well, some monitoring responsibilities may be assumed by responsible agencies, where areas or resources under their jurisdiction are potentially affected or involved.

SCE would deploy its own monitors for its own purposes, to ensure implementation of its commitments and execution of its responsibilities. The number of SCE construction monitors assigned to the project would be determined by the utility and would depend on the number of concurrent construction activities underway, their locations, and the types of resources potentially affected. The CPUC and BLM would ensure that persons assigned monitoring duties by SCE are qualified to undertake those duties.

When a mitigation measure requires that a study or plan be developed during the design or pre-construction phase of the project, SCE must submit the final study or plan to CPUC and BLM for review and approval. Any study or plan that requires approval of the CPUC and BLM must allow at least 60 days

for adequate review. Other agencies and jurisdictions with authority over aspects of the project or particular resources may require additional review time. It would be the responsibility of the CPUC/BLM environmental monitoring team to confirm that appropriate opportunities for agency reviews have occurred and required approvals obtained.

During the course of construction, circumstances may arise that require deviations from the project as approved. The CPUC and BLM, along with their environmental monitors, would evaluate any proposed deviations from the approved project to ensure they are consistent with CEQA and NEPA requirements. Depending on its nature, a requested deviation would be processed as a Minor Project Change (MPC) or be the subject of a Petition for Modification (PFM) submitted by the Applicant.

MPCs would be strictly limited to minor project changes that do not trigger additional permit requirements, do not increase the severity of an impact or create a new impact, and are within the geographic scope of the EIR/EIS.

If a project change would create or have the potential to create a new significant impact, increase the severity of an impact, or occur outside the geographic area evaluated in the EIR/EIS, the Applicant would be required to submit a PFM. The CPUC and BLM would evaluate the PFM under CEQA and/or NEPA, as appropriate to determine what form of supplemental environmental review would be required.

H.3.1 Enforcement Responsibility

The CPUC and BLM would be responsible for monitoring implementation of the MMCRP and enforcing the procedures adopted. Generally, this would be done through the Environmental Monitors assigned by the agencies. In addition, if the agencies' Environmental Monitors note conditions or situations falling within the purview of other agencies, they may notify the appropriate agencies or individuals about any problems, and report these to the CPUC and BLM.

As the State' regulator of investor-owned utilities, 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 or the adopted mitigation measures. Likewise, the BLM has authority over activities on land under its jurisdiction.

H.3.2 Compliance Responsibility

SCE would be responsible for successfully implementing all the adopted mitigation measures in the MMCRP. The MMCRP would 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 resource impact evaluation section of the EIR/EIS. Additional mitigation success thresholds may be established through the review and approval of specific plans required under mitigation measures and by another agency with applicable jurisdiction during that agency's permitting process.

SCE would inform CPUC/BLM and the Environmental Monitors in writing of any mitigation measures that are not or cannot be successfully implemented and provide alternative approaches for successful mitigation implementation. The CPUC and BLM, in coordination with their Environmental Monitors, would review the alternative approach to determine if it is adequate and whether an MPC or PFM would apply.

H.4 Dispute Resolution

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

- **Step 1.** Disputes and complaints (including those from the public) should be directed first to the CPUC and/or BLM's Project Manager or designee, as appropriate, for resolution. The Project Manager or designee would attempt to resolve the dispute.
- **Step 2.** Should this informal process fail, the CPUC and/or BLM Project Manager may initiate enforcement or compliance action to address deviations from the approved project or adopted Mitigation Monitoring Program.

The following steps apply to the CPUC only:

- **Step 3.** If a dispute or complaint regarding the implementation or evaluation of the Mitigation Monitoring 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 expeditiously 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, they 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 be made to use the foregoing procedure first.

H.5 General Monitoring Procedures

H.5.1 Environmental Monitors

Many of the monitoring procedures would be conducted during the construction phase of the project. The CPUC, BLM, and Environmental Monitors 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 Monitors assigned must be onsite during construction activity having the 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.

H.5.2 Construction Personnel

A key element in the success of mitigation and mitigation monitoring is the full cooperation of construction personnel and supervisors. Successful implementation of many of the mitigation measures requires specific actions and behaviors on the part of the construction supervisors or crews. To ensure success, the following actions, detailed in specific mitigation measures included in the MMCRP, would be taken:

- Procedures to be followed by construction companies engaged to do the work would be written into their contracts with SCE. Procedures to be followed by construction crews would be written into a separate agreement that all construction personnel would be asked to sign, denoting consent to the procedures.
- As specified by mitigation, a Worker Environmental Awareness Program (WEAP) would be conducted to inform and train construction personnel about the requirements of the monitoring program (as detailed in the MMRP). The CPUC/BLM Environmental Monitors would verify that each crew member received the required training.
- A written summary of mitigation monitoring procedures would be provided to construction supervisors for all mitigation measures requiring their attention.

H.5.3 Reporting Procedures

Detailed weekly reports would be prepared and submitted by the CPUC/BLM environmental monitoring team. These would include detailed information on construction activities, compliance activities observed by the Environmental Monitors and others documented by SCE, any issues and their resolution, and photographs of relevant activities and conditions.

SCE is required to have its own monitors for particular resources, depending on project needs and activities. These monitors provide daily reports/surveys that are entered into SCE's field record environmental database (FRED) system. It is assumed that FRED or a similar database would be employed on this project. CPUC/BLM Environmental Monitors would have access to the reports. Construction is not allowed to start in a particular area until the required pre-construction surveys and flagging/staking are completed per the MMRP, and the CPUC/BLM environmental monitor has validated compliance.

SCE is to provide the CPUC and BLM with written weekly and annual reports of the project, which shall include progress of construction, resulting impacts, mitigation implemented, and all other noteworthy elements of the project.

H.5.4 Public Access to Records

The public is allowed access to records and reports used to track the monitoring program. Monitoring records and reports would be made available for public inspection by the CPUC and BLM on request. The CPUC, the BLM, and SCE would develop a filing and tracking system. For additional information on mitigation monitoring and reporting for the project, the Energy Division of the CPUC would maintain an Internet website, accessible at:

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

To facilitate the public's awareness, the CPUC would make weekly reports available on the website.