



## Santa Barbara County Reliability Project Construction Non-Compliance Report

<b>Incident Date:</b>	7/17/2018	<b>Report No.:</b>	NCR-03
<b>Date Submitted:</b>	8/6/2018	<b>Location:</b>	Segment 4 near Construct 130
<b>Level:</b>	Level 2	<b>Relevant Plan/ Measure:</b>	MM BIO-8
<b>Current Land Use:</b>	Disturbed existing access road; culvert over Franklin Creek	<b>Sensitive Resources:</b>	Franklin Creek (JD-006)

### **Description of Incidents:**

On July 17, 2018, Southern California Edison (SCE) notified the California Public Utilities Commission (CPUC) that a Henkels and McCoy (H&M) water truck had backed off an access road onto the bank of Franklin Creek (JD-006). The incident occurred on Segment 4 on the access road near Construct 130. The truck disturbed an area of approximately 10 feet by 12 feet (0.003 acre) outside the approved disturbance area, some within CDFW jurisdiction, and caused approximately three gallons of soil from the road berm to slough into Franklin Creek. No riparian vegetation, trees, wildlife, or special status species were impacted, and no flowing water was present in Franklin Creek. ESA signs marking the creek boundary were present and installed correctly.

Franklin Creek is protected under Fish and Game Code Section 1602 and Mitigation Measure (MM) BIO-1 and BIO-8. The incident deviated from permit requirements and mitigation measures, as discussed below, and had the potential to cause minor impacts on environmental resources; therefore, the CPUC has determined that the incident constitutes a Level 2 Non-Compliance.

### **Pertinent Plans/Permits/Mitigation Measures:**

#### CDFW Streambed Alteration Agreement

California Department of Fish and Wildlife (CDFW) determined that the project could substantially adversely affect existing fish or wildlife resources within jurisdictional aquatic features, and, as such, issued a Streambed Alteration Agreement (1602 permit) for temporary and permanent construction-related impacts to Franklin Creek and other jurisdictional features. The 1602 permit authorizes 0.066 acres of permanent impacts/60 linear feet to Franklin Creek associated with access road improvements near Constructs 129 and 130. No temporary impacts were authorized at this location. The incident violates the 1602 permit because it caused temporary impacts in excess of what was authorized for Franklin Creek at this location. Additionally, the 1602 permit includes Avoidance and Minimization Measures (AMMs) that SCE must implement. AMM 2.18 Sediment Control requires SCE to prevent sediment from project related activities from entering streams where it is likely to have a negative impact on emergent native vegetation or trees.

#### MMs BIO-1 and BIO-8

The CPUC approved a Permit to Construct for the SBCRP. As part of this action, the CPUC certified a Final Environmental Impact Report (Final EIR) for the project and adopted the Mitigation Monitoring Plan (MMP) presented in Chapter 10 of the Final EIR. A Mitigation, Monitoring, Compliance, and Reporting Program (MMCRP) was created based on the Final EIR's MMP and serves as a working guide for maintaining environmental compliance for the project. The mitigation measures and applicant proposed measures (APMs) within the MMCRP are required to be followed by SCE, including the following:

**MM BIO-1: Limits of Construction Activities: Project Boundaries and Sensitive Areas Clearly Marked.** In all locations of the project, construction activities, vehicular traffic (including movement of all equipment), and storage of construction materials will be restricted to approved access roads and established construction areas indicated by

flagging, fencing, and/or signage. The applicant will ensure that exclusionary fencing is installed prior to the start of construction activities around laydown/work and staging areas, where necessary, to prevent inadvertent encroachment into the native habitat adjacent to areas of impact. Identified sensitive resources such as hydrologic features, special status plants and natural communities, and known wildlife habitat of special status species (e.g., nests, burrows, dens, middens) will be assigned a buffer as appropriate and clearly marked (e.g., with signs, flagging, ropes, and/or fencing) and avoided unless previously approved. A CPUC-approved qualified biologist will propose a buffer distance if sensitive resources are identified, and the applicant will consult with the CPUC and resource agency (ies) to determine whether the proposed buffer distance is appropriate. The CPUC-approved qualified biologist will perform or supervise flagging and fencing to ensure that these activities are conducted without harm to sensitive species or habitat.

**MM BIO-8: Impact Reduction on Hydrologic Features and Aquatic Habitat.** Prior to project construction for all proposed project components in the vicinity of hydrologic features, the applicant will:

- Ensure that CPUC-approved biological monitors will establish and maintain a minimum exclusionary buffer of 50 feet from the delineated extent of all jurisdictional features during construction and restoration. If the applicant cannot maintain the 50 foot exclusionary buffer from the delineated bed/bank of a drainage feature or associated riparian habitat during project construction and restoration, the applicant will consult with appropriate agencies about the need for any necessary permits (e.g., USFWS, NMFS, CDFW, USACE, CPUC, County, as appropriate); will provide standard SWPPP BMP measures to prevent any solid or liquid materials from entering the drainage; and will submit proposed measures to CPUC for approval prior to construction. Measures should include information on crossing streams on road beds. Vehicle or equipment travel and construction or restoration of any proposed project component that requires altering, removing, or filling the bed or bank of seasonal drainages or other jurisdictional or potentially jurisdictional water features will be performed only when water is not present in the feature, unless otherwise permitted by agencies (e.g., USFWS, NMFS, CDFW, USACE, CPUC, and County as appropriate).
- Prior to construction the applicant will submit a Hydrologic Features Mitigation Monitoring Plan for affected hydrologic features in consultation with resource agencies (USFWS, NMFS, CDFW, USACE, Santa Barbara County, CPUC, as appropriate) and will provide to these agencies for review and comment. The plan must be finalized and approved by the CPUC prior to the start of construction.
- The plan will provide measures to accomplish restoration, criteria for restoration success, a post-construction monitoring schedule, and compensation ratios for impacted jurisdictional areas.

MM BIO-1 requires sensitive areas, including drainages such as Franklin Creek, to be clearly marked and limits construction activities from occurring within the sensitive areas. By encroaching into a delineated sensitive area, SCE violated MM BIO-1.

MM BIO-8 requires that SCE establish and maintain a minimum exclusionary buffer of 50 feet from the delineated extent of all jurisdictional features during construction and restoration. SCE received a 1602 permit, which authorized approved construction activities to occur within 50 feet of the jurisdictional feature; however, the permit does not allow for encroachment into the jurisdictional features for unapproved activities.

#### **Proposed Resolution:**

An excavator was used to lift the water truck back onto the access road. Crews removed eroded sediment from the creek bed and stabilized the creek bank using hand tools. A straw wattle was installed at the top of the slope to prevent further erosion. Per 1602 Permit Condition 1.6, SCE notified CDFW of impacts to the bank of Franklin Creek. The water truck operator was suspended and H&M is still evaluating long term actions that can be implemented to prevent future incidents.

The CPUC agrees with SCE's response to the incident thus far, but would like to see additional measures taken, such as crew retraining on appropriate turnaround locations, or "no turnaround" signs installed near ESAs. Biological resources were put at risk, which not only violated project mitigation requirements, but also violated conditions of SCE's 1602 permit. Therefore, the seriousness of the incident is documented in this Non-Compliance Report. All project personnel should be reminded of their responsibilities and the repercussions and potential fines for non-compliance issues.

Approvals	Date	Name (print)	Signature	Comments
CPUC Compliance Manager	8/6/2018	Caitlin Barns	<i>Caitlin M. Barns</i>	
CPUC Compliance Monitor (if applicable)	8/6/18	Jensen Uchink	<i>Jensen Uchink</i>	
CPUC Project Manager (if applicable)				
SCE Environmental Compliance Manager (if applicable)				

Prepared by: Caitlin Barns, Jenny Vick

Date: 8/6/2018

Non-compliance Level	Example
<p>A Level 1 non-compliance incident is an action that deviates from project requirements or results in the partial implementation of the mitigation measures, but has not caused, nor has the potential to cause impacts on environmental resources.</p>	<ul style="list-style-type: none"> <li>i. Failure to implement adequate dust control measures resulting in no impact on resources;</li> <li>ii. Improperly installed, repaired, or maintained erosion or sediment control devices (with no resultant harm to sensitive resources or release of sediment to waters);</li> <li>iii. Inadvertent minor incursion into exclusion area resulting in no harm to sensitive biological or cultural resources;</li> <li>iv. Work outside the approved work limits where the incident is within a previously disturbed area, such as a gravel lot</li> </ul>
<p>A Level 2 non-compliance incident is an action that deviates from project requirements or mitigation measures and has caused, or has the potential to cause minor impacts on environmental resources.</p>	<ul style="list-style-type: none"> <li>i. Work without appropriate permit(s) or approval;</li> <li>ii. Failure to properly maintain an erosion or sediment control structure, but the structure remains functional, and results in minor impacts on resources (e.g. water courses);</li> <li>iii. Working outside of approved hours;</li> <li>iv. Repeated documentation of Level 1 incidents</li> </ul>
<p>A Level 3 non-compliance incident is an action that deviates from project requirements and has caused, or has the potential to cause major impacts on environmental resources. These actions are not in compliance with the APMs, mitigation measures, permit conditions, approval requirements (e.g. minor project changes, notice to proceed), and/or violates local, state, or federal law.</p>	<ul style="list-style-type: none"> <li>i. Construction activities occurring in an exclusion zone with direct impacts to sensitive or endangered species, cultural resources, human remains, or an archaeological site;</li> <li>ii. Eminent danger or documented impact to a sensitive or T&amp;E species;</li> <li>iii. Repeated deviations from required mitigation measures/requirements that have been documented as Level 2 (Minor Incidents);</li> <li>iv. Improper installation of erosion or sediment control structures resulting in substantial sedimentation or impacts to water quality or putting sensitive resources at risk</li> </ul>

# Attachment 1

Incident Notification Email from SCE

# Attachment 2

Photographs from SCE Incident Report





Photo 1: Water truck outside of disturbance limits within Franklin Creek, a CDFW jurisdictional drainage.

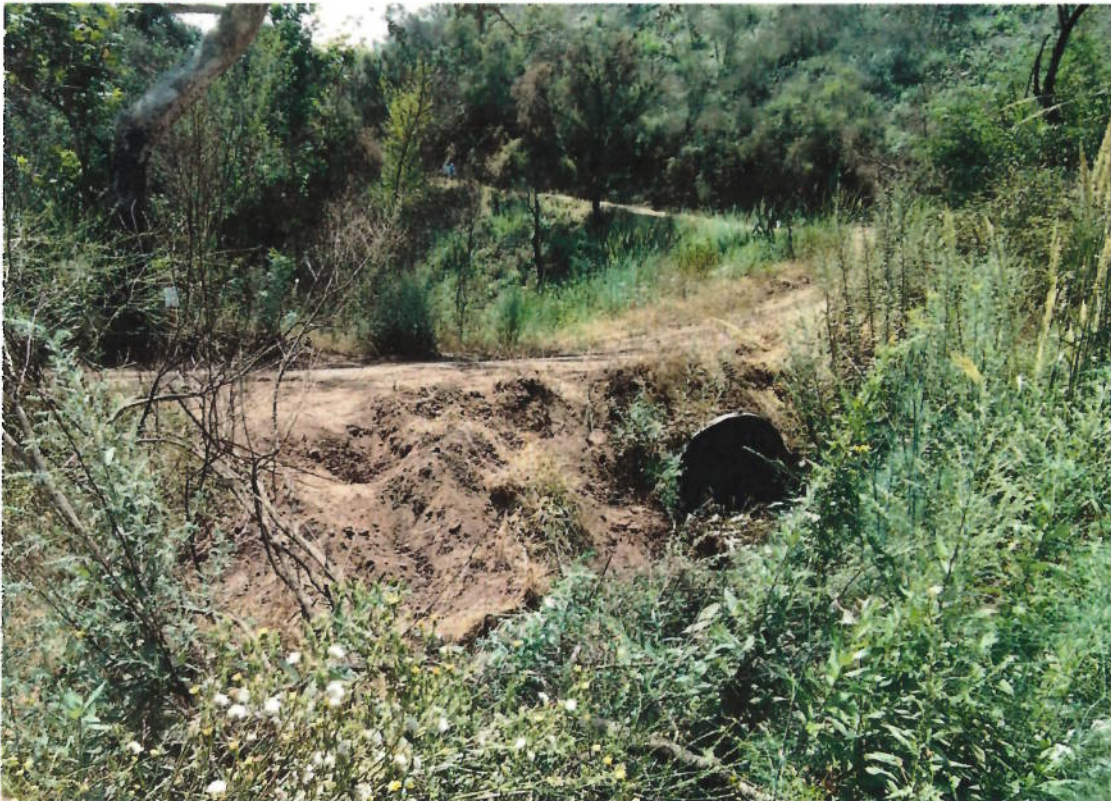


Photo 2: After water truck was removed. Sediment was disturbed and fell into the drainage. Native and non-native vegetation was disturbed.





Photo 3: Disturbed area and vegetation impacts.



Photo 4: Straw wattles were installed after the area was stabilized.