



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

<b>Incident Date:</b>	9/20/2017 to 11/21/2017	<b>Report No.:</b>	NCR-01
<b>Date Submitted:</b>	1/8/18	<b>Location:</b>	Multiple
<b>Level:</b>	Level 2	<b>Relevant Plan/ Measure:</b>	APM BIO-2, MM BIO-1, MM BIO-2, MM BIO-4, MM BIO-8
<b>Current Land Use:</b>	Disturbed; native oak; protected oak woodland; Rincon Creek environmentally sensitive area	<b>Sensitive Resources:</b>	Coast live oaks; California red-legged frog; Plummer's baccharis; Fish's milkwort

### Description of Incidents:

During the first months of construction of the Santa Barbara County Reliability Project (SBCRP), Southern California Edison (SCE) had several minor compliance incidents. While these incidents did not put sensitive resources at risk and the contractor in violation took corrective action, the same minor incidents continued to occur and resulted in two incidents that did put sensitive resources at risk. The compliance incidents are listed in detail below and, as a whole, resulted in a Level 2 Non-Compliance.

On September 20, 2017, despite approved work areas being clearly flagged, a Henkels & McCoy (H&M) backhoe reversed outside disturbance limits at the Teen Challenge Yard in Segment 1. Approximately 6 square feet of ruderal vegetation was disturbed. No listed species habitat was present. The backhoe operator moved back into the approved work area immediately upon being told he was outside the approved disturbance area.

On October 18, 2017, a biological monitor observed an H&M crew trimming a dead coast live oak tree without an arborist present. The incident occurred in Segment 2 within disturbance limits. A convoy of H&M vehicles were travelling on the access road, including a crane that was too tall to pass under the oak tree. The access road was too narrow to turn around and reversing down the road would have been unsafe. The crew decided to trim the tree without an arborist present because the biologist confirmed the tree was dead.

On October 18, 2017, at Construct 4453643E along Segment 2, an H&M crew welded brackets onto a tubular steel pole (TSP) in an area where a clearance sweep had not yet been performed. The area had been previously surveyed, the work was performed within approved disturbance limits and outside listed species habitat, and no resources were impacted by the incident. To resolve the incident, the foreman was informed that work must be preceded by a clearance sweep.

On November 2, 2017, an H&M crew trimmed vegetation along an access road to Construct 4435049E along Segment 3A before a clearance sweep had been performed. The area had been previously surveyed, the work was performed within approved disturbance limits and outside listed species habitat, and no resources were impacted by the incident. The incident was in the coastal zone. The incident report did not indicate the resolution.

On November 3, 2017, near Construct M0-T1 along Segment 1, an H&M crew mobilized and staged a wire spool truck and conducted helicopter work in an area where a clearance sweep had not yet been performed. This incident occurred within approved disturbance limits in coastal sage scrub habitat. Environmentally Sensitive Area (ESA) signs were present and installed correctly. The foreman was reminded that crews must wait for clearance sweeps to be conducted before entering a new work area.

On November 12, 2017, materials were staged outside the approved work area along Segment 1 near Construct 4453231E. The materials crushed approximately 700 square feet of native vegetation. The materials were placed back inside approved disturbance limits on November 17, 2017.

On November 20, 2017, H&M staged equipment outside approved disturbance limits west of Carver Summit Road on Segment 3B between Highway 150 and Construct 61. The equipment had been staged in this location over the weekend. This was the second incident of this kind for this crew, who had been told previously that they could not stage equipment in that location. The crew moved the equipment back inside the approved disturbance limits.

On November 21, 2017, an H&M bulldozer left tracks and was staged overnight within the Rincon Creek ESA along Segment 3B near Construct 70. The area was completely outside approved disturbance limits within potential habitat for California red-legged frog and adjacent to ESAs for Plummer's baccharis and Fish's milkwort. A landowner knocked over two ESA flags and, therefore, the crew parking the equipment was unaware of the ESA (Attachment 1). The equipment was moved back inside the approved disturbance limits the following day.

On November 21, 2017, at the request of the landowner, an H&M bulldozer graded a private road that had become overgrown for the purpose of depositing dirt from Construct 70 onto the landowner's property along Segment 3B. The road was not part of the project and was completely outside approved disturbance limits. The bulldozed area was about 450 feet long and impacted protected oak tree roots. The environmental monitor issued a stop work notice to the crew until a resolution could be reached. The California Public Utilities Commission (CPUC) was made aware of the incident by an automatic notification from SCE's online database. The CPUC was not notified that a stop work order had been issued until November 30, 2017. SCE informed H&M that landowner requests for soil or additional work are not part of the project permit and will not be permitted (Attachment 1).

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

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 (MMs) and applicant proposed measures (APMs) within the MMCRP are required to be followed by SCE, including the following:

**APM BIO-2:** To the extent feasible, SCE would minimize impacts and permanent loss to native vegetation types, vegetation that may support special status species, and known populations of special status plants at construction sites by avoiding construction activities in areas flagged to be avoided. If it is not possible to avoid impacts on native vegetation, a project revegetation plan may be prepared in consultation with the appropriate agencies for areas of native habitat temporarily impacted during construction.

**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-2: Preconstruction Survey Timing and Location Stipulations.** Pre-construction surveys for special status plant and wildlife species will be conducted in all access, laydown/work, and staging areas where suitable habitat is present, including all tower installation sites, existing and proposed access roads, staging areas, and tower footing removal sites. Pre-construction surveys will not include searches for special status fish. Rather, fish presence will be

assumed at the locations described in this analysis, and CPUC-approved biological monitors will record any loss, injury, or other interactions with special status fish (as required in APM BIO-3).

Additionally, a CPUC-approved qualified biologist will conduct pre-construction clearance sweeps for special status species at all access, staging, and laydown/work areas where suitable habitat is present within approximately 24 hours of construction activities each day.

If a special status species is found at any time, the applicant will contact the appropriate wildlife agency (ies), in addition to the CPUC, within 48 hours.

**MM BIO-4: Limit Removal of Native Plants, Trees, and Natural Communities.**

Temporary construction areas will be impacted in such a way that facilitates post-construction restoration. For example, drive-and-crush methods in areas with native vegetation will be employed where possible.

The applicant will consult with a qualified arborist for the trimming and removal of all native vegetation. The applicant will work with the qualified arborist to determine the minimum amount of vegetation removal required to accommodate project construction and restoration, as well as the correct trimming procedures to employ. Additionally, the applicant will work with the qualified arborist to preserve root zone aeration and the stability of native trees where possible.

The applicant will consult with the appropriate agency, including the CPUC, and will adhere to any regulations and permit conditions for the following impacts:

- Impacts on Critical Habitat
- Impacts on ESHAs in the Coastal Zone.
- Impacts on special status natural communities, including riparian communities, southern California black walnut woodland, southern coast live oak riparian forest, and southern sycamore alder riparian woodland.
- Impacts on coast live oak trees in the Coastal Zone (specifically, consistency with Policy 9-35 and Policy 9-36 of the Santa Barbara County Coastal Land Use Plan is required).

**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. Santa Barbara County must approve plan language that relates to areas within their jurisdiction, prior to project activities within the Coastal Development Zone.
- The plan will provide measures to accomplish restoration, criteria for restoration success, a post-construction monitoring schedule, and compensation ratios for impacted jurisdictional areas.

APM BIO-2 requires SCE to limit impacts and removal of native vegetation that has the potential to support special status species. By staging equipment on native vegetation and bulldozing outside of disturbance limits in protected oak woodland, the incidents on November 12 and November 21, 2017, violate APM BIO-2.

Encroachment outside approved disturbance limits and into ESAs or private property increases the potential for sensitive resources or private property to be impacted and conflicts with MM BIO-1. MM BIO-1 states that 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. By working outside approved disturbance limits on September 20, and November 12, 20, and 21, 2017, SCE violated MM BIO-1.

Conducting work prior to clearance sweeps increases the potential for sensitive resources to be impacted by project construction and conflicts with SBCRP's MM BIO-2. MM BIO-2 states that a biologist will conduct pre-construction clearance sweeps for special status species at all access, staging, and laydown/work areas where suitable habitat is present within approximately 24 hours of construction activities each day. By conducting work before clearance sweeps had been conducted on October 18, and November 2, 3, 2017, SCE violated MM BIO-2.

An arborist is required to be present for the trimming of oak trees and is required to be consulted in order to reduce impacts on root systems. By trimming oak trees in the coastal zone without an arborist and by bulldozing in protected oak woodland and impacting roots, SCE violated MM BIO-4 on October 18 and November 21, 2017.

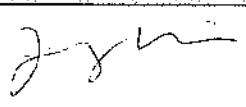

Riparian habitat and hydrological features are required to have a 50-foot exclusionary buffer or SCE is required to employ measures to reduce impacts to these areas. By parking equipment overnight in an exclusionary buffer around riparian habitat, SCE violated MM BIO-8 on November 21, 2017.

**Proposed Resolution:**

Crews should be reminded of their commitment to supporting mitigation requirements concerning clearance sweeps and disturbance limits and the associated repercussions for repeated infractions. Additional ESA flagging or signage should be erected in areas where crews have worked outside approved disturbance areas and in areas where flags and signage may be difficult to see. Fencing should be installed adjacent to particularly sensitive resources, such as special status plant populations, and in areas where the risk of encroaching upon sensitive resources is high. ESA flagging and signage should be inspected on a regular basis for damage or intervention by landowners.

**Recommended Timeline for Follow-up:**

The CPUC requests that SCE submit a response plan outlining how and when they will remind contractors about their responsibilities under the mitigation measures and the associated repercussions and potential fines for non-compliance issues. The CPUC requests the response plan be submitted by January 31, 2018.

Approvals	Date	Name (print)	Signature	Comments
CPUC Compliance Manager	1/8/18	Jenny Vick		
CPUC Compliance Monitor (if applicable)				
CPUC Project Manager (if applicable)	1/8/18	Jensen Uchida		
SCE Environmental Compliance Manager (if applicable)				

Prepared by: Caitlin Barns, Jenny Vick

Date: 1/8/18

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

## Email Follow-up from SCE to CPUC/E & E

1. December 20, 2017 – Incident 42 from November 21, 2017 – Parking in ESA
2. December 14, 2017 – Incident 43 from November 21, 2017 – Bulldozing new road

**From:** Marcus Obregon <[Marcus.Obregon@sce.com](mailto:Marcus.Obregon@sce.com)>  
**Sent:** Wednesday, December 20, 2017 3:50 PM  
**To:** Vick, Jenny  
**Cc:** Barns, Caitlin; Guzman, Fernando; [vsemonsen@earthlink.net](mailto:vsemonsen@earthlink.net); Patricia Adams; Charles Lopez; Kenneth Spear; Nina Allmendinger ([nina.allmendinger@noreasincstaff.com](mailto:nina.allmendinger@noreasincstaff.com))  
**Subject:** SBCRP: All Segments - Parking Within the Rincon Creek ESA Corrective Action (Incident Event 042)  
**Attachments:** boundary\_3.jpg; boundary\_1.jpg; boundary\_2.jpg

Afternoon folks.

To follow up on our discussion.

On 11/21, an incident was documented for an H&M civil crew bulldozer parked with the ESA buffer for Rincon Creek. The staging occurred inside of an ESA and outside of approved disturbance area, but no sensitive species or habitat was impacted.

Upon further investigation, it was determined that the property owner had been blading the road and vegetation. During the landowner activities, the ESAs were damaged and downed.

The monitor supporting the 11/22 work in the area spoke with the crew about parking in the area and the presence of the ESA. Additionally, the downed ESAs were re-established, clearly marking the boundary of the approved road and the start of the waterway.

Let me know if there are any questions.

Thank you.

**F Marcus Obregon**

Project Manager, Environmental  
Project Execution, Major Environmental Projects  
Environmental Services  
M. 626-320-0957 | [Email: Marcus.Obregon@sce.com](mailto:Marcus.Obregon@sce.com)

2244 Walnut Grove Avenue, Rosemead, CA 91770



**From:** Marcus Obregon <[Marcus.Obregon@sce.com](mailto:Marcus.Obregon@sce.com)>  
**Sent:** Thursday, December 14, 2017 10:38 AM  
**To:** Vick, Jenny  
**Cc:** Barns, Caitlin; Guzman, Fernando; [vsemonsen@earthlink.net](mailto:vsemonsen@earthlink.net); Patricia Adams; Charles Lopez; Kenneth Spear  
**Subject:** SBCRP: All Segments - Soil Placement Corrective Action (Incident Event 043)

Morning folks.

To follow up on our discussion.

On 11/21, an incident was documented for the grading of a previously existing road and movement of soil outside of project approved limits.

As previously notified, the road grading and soil movement occurred on private property at the demand of the land owner. While the project continues to be sensitive to landowners, the project has decided to not honor similar landowner requests.

The Contractor has conducted the following steps internally so support continuous improvement.

*Incident 43 - On November 21 the landowner stopped H&M's work when they observed the civil crews removing soil from their property. The landowner demanded the crews stop hauling off the soil and instead place it elsewhere on his property. In addition, the landowner requested a road to where he wanted the soil place be reestablished. Both the road and the soil placement location were located outside of the project construction limits. The environmental monitor placed a stop work notice to the crews which was in place until the crew foreman was directed by H&M to continue with the property owner's request.*

*The Contractor project manager, Paul Viggiano, addressed all crew members at the morning tailboard briefing reinforcing the compliance requirements and potential for further action in the event that the noncompliance trend continues. He indicated these actions, while well intentioned for landowner acceptability, were simply not in compliance with the project's permit. H&M's crews were instructed to follow the permit requirements and that landowner requests for soils or additional work cannot be a part of our project. All excavated soils shall be removed from the project in accordance with the project's requirements.*

*Additionally, the Environmental Manager, Felicia Nancarrow, contacted the foremen and requested they contact her or the project manager immediately if the land owners requested modifications to construction or additional work by the crews prior to any work taking place. The Environmental Manager also reminded the environmental leads that they have the authority to stop work and the protocols that need to be followed in the event a stop work has been issued and should escalate the issue to the Environmental Manager and the Project Manager.*

Thank you.

**F Marcus Obregon**

Project Manager, Environmental  
Project Execution, Major Environmental Projects  
Environmental Services  
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# Attachment 2

Photographs from SCE Incident Reports



Photo 1: Area where an H&M backhoe went outside of disturbance limits at the Teen Challenge Yard. The area is staked indicating the disturbance limits. September 20, 2017 (Photo by SCE)



Photo 2: An H&M crew trimming a coast live oak tree along Segment 2 without an arborist present. October 18, 2017 (Photo by SCE)



Photo 3: An H&M crew began welding brackets onto TSPs along Segment 3A before a pre-construction clearance sweep was conducted. October 18, 2017 (Photo by SCE)



Photo 4: Areas where an H&M crew trimmed and cleared vegetation along Segment 3A prior to a pre-construction clearance sweep. November 2, 2017 (Photo by SCE)



Photo 5: An H&M crew mobilized and staged equipment along Segment 3A prior to a pre-construction clearance sweep. November 3, 2017 (Photo by SCE)



Photo 6: Materials were staged outside of disturbance limits along Segment 1. November 12, 2017 (Photo by SCE)



Photo 7: H&M staged equipment outside of project disturbance limits along Segment 3B. November 20, 2017 (Photo by SCE)



Photo 8: Bulldozer tracks outside of disturbance limits within the Rincon Creek ESA along Segment 3B. November 21, 2017 (Photo by SCE)



Photo 9: Bulldozer tracks within the Rincon Creek ESA buffer along Segment 38. November 21, 2017 (Photo by SCE)



Photo 10: ESA flagging and a stake knocked over and underneath bulldozer tracks within the Rincon Creek ESA buffer along Segment 3B. November 21, 2017 (Photo by SCE)



Photo 11: An H&M crew bulldozing road outside of the approved project area near Construct 70 on Segment 3B. November 21, 2017 (Photo by SCE)



Photo 12: New road bulldozed outside the approved project area near Construct 70 on Segment 3B. November 21, 2017 (Photo by SCE)



Photo 13: Oak woodland impacted by the new road incident near Construct 70 on Segment 3B. November 21, 2017 (Photo by SCE)



Photo 14: End of new road bulldozed outside of disturbance limits near Construct 70 on Segment 3B. November 21, 2017 (Photo by SCE)