

G. MITIGATION MONITORING AND REPORTING

This EIR includes a proposed Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) for the mitigation measures proposed for the Silvergate Project. A MMCRP table for the Proposed Project and the alternatives is provided at the end of each impact area in *Section D (D.2 through D.13)* that lists each mitigation measure and outlines procedures for successful implementation. *Section G* provides the recommended framework for effective implementation of the MMCRP by the CEQA Lead Agency, the CPUC, and describes the roles of responsible parties in carrying out and enforcing adopted mitigation measures.

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 be implemented properly, monitored, and reported on. 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 Mitigation Monitoring, Compliance, and Reporting Program 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 Commission 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 Commission approves the 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 Plan

If the project or an alternative to the project is approved, the MMCRP should serve as a self-contained general reference for the Mitigation Monitoring Program adopted by the Commission

for the Silvergate Project. To accomplish this, the Final Mitigation Monitoring Plan should contain seven elements (as indicated below). If and when a project has been approved by the Commission, the CPUC will compile the Final Plan from the Mitigation Monitoring Program in the Final EIR, as adopted. The elements of the Mitigation Monitoring 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

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 segments. 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 APMs to which SDG&E has committed to reduce potential impacts will also be listed in this section.

Agency Jurisdictions

In the Final Plan, 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 segment, each jurisdictional agency’s contact person, including, the contact’s name, address, telephone and fax numbers, should be provided.

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 APMs 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 responsible parties, schedule and reporting requirements for carrying out the monitoring activity for each mitigation measure.
- 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 APMs 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 monitoring duties or responsibilities is qualified to monitor compliance.

Any mitigation measure study or plan that requires approval from the CPUC must allow for adequate review time, as stipulated in the mitigation monitoring tables. Other agencies and jurisdictions may require review that necessitates longer review periods. It is the responsibility of the environmental monitors 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 monitoring program 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, APMs, and correction of such deviation, shall be reported immediately to the CPUC and the environmental monitors assigned to the project 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 monitors assigned to the project. The environmental monitors shall note problems in the field, notify appropriate agencies or individuals about issues, and report compliance status to the CPUC Project Manager.

The CPUC has the authority to halt any construction, operation, or maintenance activity associated with the Silvergate Project if the activity is determined to be a deviation from the approved project or adopted mitigation measures. The CPUC may delegate this authority to third-party environmental monitors assigned to the project.

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 requirements such as obtaining permits or avoiding a specific impact entirely. Other mitigation measures include success criteria that are listed in the mitigation monitoring tables at the end of each impact 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 when subsequent actions are necessary to protect resources consistent with the findings of the EIR.

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 event, the following procedures will be occur:

- **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 Mitigation Monitoring Program.
- **Step 3.** If a dispute or complaint regarding the implementation or evaluation of the 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 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 procedures.

G.7 General Monitoring Procedures

G.7.1 Environmental Monitors

Many of the monitoring procedures will be conducted during the construction phase of the project. The CPUC and the environmental monitors are responsible for integrating the mitigation monitoring procedures into the construction process in coordination with SDG&E.

To oversee the monitoring procedures and to ensure success, the environmental monitors assigned to the project must be onsite during construction activities that have the greatest 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.

G.7.2 Construction Personnel

A key component of a successful mitigation monitoring program 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 detailed in specific mitigation measures included in the Final Implementation Plan, will be taken:

- Procedures to be followed by construction companies hired to do the work will be written into contracts between SDG&E 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 agreement.
- One or more pre-construction meetings will be held to inform all and train construction personnel about the requirements of the monitoring program (as detailed in the Final Implementation Plan).
- A written summary of mitigation monitoring procedures will be provided to construction supervisors for all mitigation measures requiring their attention.

G.7.3 General Reporting Procedures

Site visits and specified monitoring procedures performed by other individuals will be reported to the environmental monitors assigned to the relevant construction segment. 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 traced by the environmental monitors. A checklist will be developed and maintained by the environmental monitors to track all procedures required for each mitigation measure and to ensure that the timing specified for the procedures is adhered to. The environmental monitors will note any issues that may occur and take appropriate measures to bring a situation back into compliance. The Applicant shall provide the CPUC with written weekly reports of the project, which shall include progress of construction, resulting impacts, mitigation implemented, and all other

noteworthy elements of the project. Weekly reports shall be required as long as mitigation measures are applicable.

G.7.4 Public Access to Records

The public is allowed access to records and reports used to track the monitoring program. Monitoring record and reports will be made available for public inspection by the CPUC on request. The CPUC and the Applicant will develop a filing and tracking system. For additional information on mitigation monitoring and reporting for the Silvergate Transmission Project, the Energy Division of the CPUC will maintain an Internet website, accessible at <http://dudek.com/cruc/sdge-Silvergate>. In order to facilitate the public's awareness, the CPUC will make weekly reports available on the website.

G.8 Condition Effectiveness Review

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.3.4; and
- if in either review, the Commission determines that any conditions are not adequately mitigating significant environmental impacts caused by the project, 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.9 Mitigation Monitoring Program Tables

Mitigation Monitoring Program 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 mitigation measures themselves, will form the basis for implementation of the Mitigation Monitoring Program.