

2. BACKGROUND

2.1 Legal Authority

Pursuant to California Public Utilities Code Section 1001, Looking Glass Networks (LGN) submitted an application for a Certificate of Public Convenience and Necessity (CPCN) for the proposed project to install fiber optic conduits and related facilities to urban areas of the San Francisco Bay Area and Los Angeles Basin. The application was filed on May 9, 2002 and includes the Proponent's Environmental Assessment (PEA; LGN, 2002) prepared by LGN pursuant to Rules 17.1 and 17.3 of CPUC's Rules of Practice and Procedure. As part of the environmental review process, this Initial Study and Mitigated Negative Declaration (IS/MND) has been prepared by the CPUC in accordance with the California Environmental Quality Act (CEQA) (Section 21000 et seq., Public Resources Code) and the updated State CEQA Guidelines (Title 14, Chapter 3, Section 15000, et seq., Code of Regulations).

2.2 Public Review

In accordance with CEQA, a 30-day public review period for the Looking Glass Networks Draft IS/MND commenced on November 26, 2002, and will conclude on December 26, 2002. The Draft IS/MND was specifically distributed to involved or otherwise interested public agencies, organizations, and private individuals. Copies of the Looking Glass Networks Draft IS/MND are available for general public review at:

- CPUC Central Files
- County or City Libraries

During the public review period for the Draft IS/MND, the public has an opportunity to provide written comments on the information contained within this document. Written public comments on the Draft IS/MND must be received by December 26, 2002, and sent to the following address:

John Boccio, California Public Utilities Commission
c/o Aspen Environmental Group
235 Montgomery Street, Suite 800
San Francisco CA 94104-2906
Email: lookingglass@aspene.com

The IS/MND and other project information are available on the CPUC's web site at:

http://www.cpuc.ca.gov/Environment/info/aspen/Looking_Glass/lookingglass.htm.

2.3 Scope of the IS/MND

As stated above, the CPUC completed this IS/MND to review the proposed project's potential for having significant effects on the environment. According to CEQA Guidelines Section 15063 (c), the purposes of an Initial Study include:

- 1) *Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration.*
- 2) *Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration.*
- 3) *Assist in the preparation of an EIR, if one is required.*
- 4) *Facilitate environmental assessment early in the design of a project.*
- 5) *Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment.*
- 6) *Eliminate unnecessary EIRs.*
- 7) *Determine whether a previously prepared EIR could be used with the project.*

According to CEQA Guidelines Article 6 (Negative Declaration Process) and Section 15070 (Decision to Prepare a Negative Declaration or Mitigated Negative Declaration):

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- a) *The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or*
- b) *The initial study identifies potentially significant effects, but:*
 - 1) *Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and*
 - 2) *There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.*

As specified by the CEQA Guidelines, should an Initial Study conclude that some or all of a proposed project would result in significant effects on the environment that are not mitigable to less than significant levels, an EIR must be prepared to address these effects. However, if an Initial Study demonstrates that a proposed action would not create a significant environmental effect, a Negative Declaration or Mitigated Negative Declaration may be prepared and circulated for public and agency review.

Based on the analysis of this Initial Study, the CPUC has determined that all project-related environmental impacts could be reduced to less than significant levels with the incorporation of mitigation measures; therefore, a Mitigated Negative Declaration meets the requirements of CEQA. The mitigation measures included in this IS/MND are designed to reduce or eliminate the potentially significant environmental impacts described herein. Mitigation measures are structured in accordance with the criteria in Section 15370 of the State CEQA Guidelines.

2.4 Subsequent Review of the IS/MND

Section 3.5 describes the Programmatic Process under which the specific actions to be completed under this IS/MND will be implemented. While this process may require preparation of additional CEQA compliance documents, it is anticipated that most project work and associated impacts are covered in this IS/MND.

Supplemental environmental review of this project would only be required under CEQA if changes occurred that were outside the scope of the original project and were not covered by this IS/MND. If changes necessitated future environmental review, CEQA Guidelines would require the completion of either a Subsequent Negative Declaration or an Addendum to a Negative Declaration (CEQA Guidelines §§ 15162, 15164). Table 2-1 describes when these additional documents are required. A Subsequent Mitigated Negative Declaration is subject to the same notice and public review as the original document, while an Addendum to a Mitigated Negative Declaration need not be circulated for public review but should be attached to the adopted Mitigated Negative Declaration.

Table 2-1. Subsequent Environmental Review

Document	Description of When Supplemental Review is Required
Subsequent Negative Declaration	<ul style="list-style-type: none"> • Substantial changes are proposed that would involve new, significant environmental effects or substantially increase the severity of previously identified effects. • Substantial changes to the circumstances under which the project is undertaken arise. • New information of substantial importance is presented that reveals: (1) new significant impacts, (2) more severe effects of identified impacts, (3) mitigation measures or alternatives that are found to be feasible that would reduce impacts but the proponent declines to adopt, or (4) new mitigation measures that would reduce impacts but the proponent declines to adopt.
Addendum to a Negative Declaration	<ul style="list-style-type: none"> • Only minor technical changes or additions are necessary. • Changes are required that would not trigger new or more severe environmental impacts.

Source: CEQA Guidelines §§ 15132, 15164

2.5 Document Organization

This document contains the following sections and supporting appendices.

Section 1: Summary. Summarizes the proposed project and the mitigation measures that were proposed to reduce impacts to less than significant levels. All impacts and mitigation measures are described in an impact summary table.

Section 2: Background. Describes the legal authority of the CPUC to prepare an IS/MND, the public review process, the scope of the IS/MND, and the organization of this document.

Section 3: Project Description. Provides a detailed description of the project objectives, project boundaries, and project design.

Section 4: Environmental Setting, Impacts, and Mitigation Measures. Presents the environmental analysis for each issue area identified on the CEQA Environmental Checklist Form. If the proposed project is not considered to have the potential to significantly impact a given resource, a brief discussion is presented of the reasons why no impacts are expected. If the proposed project could have a potentially significant impact on a resource, the issue area environmental checklist question discussion provides a description of potential impacts, and appropriate mitigation measures that would reduce those impacts to less than significant levels.

Section 5: References. Provides a list of documents that were utilized during the preparation of the IS/MND.

Section 6: Report Preparation and Glossary. Provides a list of persons involved in preparing the IS/MND and their respective roles, and a list of terms used in this IS/MND.

The following appendices contain background and technical data that were used in preparation of this IS/MND.

Appendix A. Completed Initial Study Environmental Checklist Form

Appendix B. Air Quality Emission Estimates

Appendix C. Special Status Species Reported or Potentially Occurring in the Project Study Zone