

F. MITIGATION MONITORING AND REPORTING

The purpose of this section is to briefly describe the mitigation monitoring process for the project approved by the CPUC, if any, and describe the roles and responsibilities of government agencies in implementing and enforcing the adopted mitigation measures.

This EIR includes a proposed Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) for the mitigation measures proposed herein for the Tri-Valley 2002 Capacity Increase Project. An MMCRP the Proposed Project and the alternatives is provided at the end of each issue area's environmental analysis in Part C (C.2 - C.13). Section F.1 herein provides the recommended framework for the implementation of the MMCRP as it would be handled by the CEQA Lead Agency, the California Public Utilities Commission.

F.1 AUTHORITY FOR THE MITIGATION MONITORING, COMPLIANCE AND REPORTING PROGRAM

The Public Utilities Code in numerous places confers authority upon the California Public Utilities Commission (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 Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) is to ensure that measures adopted to mitigate or avoid significant impacts are implemented. The CPUC views the Program 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 the PG&E Co.'s application for a Certificate of Public Convenience and Necessity. If the Commission approves the application, it will also adopt a Mitigation Monitoring, Compliance, and Reporting Program that includes the mitigation measures ultimately made a condition of approval by the Commission.

F.2 ORGANIZATION OF THE FINAL MITIGATION MONITORING PLAN

If the project is approved, the Mitigation Monitoring, Compliance, and Reporting Plan (MMCRP) should serve as a self-contained general reference for the Mitigation Monitoring Program adopted by

the Commission for the Tri-Valley 2002 Capacity Increase Project. To accomplish this, the Final Mitigation Monitoring Plan should contain seven elements (as indicated below as F.2.1 through F.2.7). The CPUC will compile the Final Plan from the Mitigation Monitoring Program in the Final EIR, as adopted.

F.2.1 MMCRP INTRODUCTION

- Authority and Purpose of the Program
- Program Adoption Process

F.2.2 ORGANIZATION OF THE MMCRP

F.2.3 ROLES AND RESPONSIBILITIES

- Monitoring Responsibility
- Enforcement Responsibility
- Mitigation Compliance Responsibility
- Dispute Resolution

F.2.4 GENERAL MONITORING PROCEDURES

- Environmental Monitor
- Construction Personnel
- General Reporting Requirements
- Public Access to Records

F.2.5 PROJECT DESCRIPTION

In the Final Plan, this section will be a concise overview and reference description of the project that clearly outlines its physical locations and timetable, including construction spreads. 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 "Applicant-Proposed" measures to reduce potential impacts should be listed in this section.

F.2.6 AGENCY JURISDICTIONS

In the Final Plan, this section will include the list of agencies with jurisdiction over the project (from EIR Table A.3-1), and a description of where their respective jurisdictions exist. For example, for a given construction spread, state what region of the California Department of Fish and Game has jurisdiction, provide the name of the regional manager, the address, telephone and fax numbers.

F.2.7 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. Each mitigation measure is numbered and described briefly. The Final EIR should be consulted for an in-depth discussion of each mitigation measure. The Mitigation Monitoring Plan also includes:

- The party responsible, the schedule and the reporting requirements for carrying out the monitoring activity for each mitigation measure
- Effectiveness criteria for evaluating the implementation of the mitigation measure.

F.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 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, and the California Department of Fish and Game (CDFG). The number of construction monitors assigned to the project will depend on the number of concurrent construction activities and their locations. The CPUC or its designee(s), however, will ensure that each person delegated any duties or responsibilities is qualified to monitor compliance.

Any mitigation measure study or plan that requires the approval of the CPUC must allow at least 60 days for adequate review time. When a mitigation measure requires that a mitigation program be developed during the design phase of the project, the Applicant must submit the final program to CPUC for review and approval for at least 60 days before construction begins. Other agencies and jurisdictions may require additional review time. It is the responsibility of the environmental monitor assigned to each spread to ensure that appropriate agency reviews and approvals are obtained.

The CPUC or its designee will also ensure that any deviation from the procedures identified under the monitoring program is approved by the CPUC. Any deviation and its correction shall be reported immediately to the CPUC or its designee by the environmental monitor assigned to the construction spread.

F.4 ENFORCEMENT RESPONSIBILITY

The CPUC is responsible for enforcing the procedures adopted for monitoring through the environmental monitor assigned to each construction spread. The environmental monitor shall note problems with monitoring, notify appropriate agencies or individuals about any problems, and report the problems to the CPUC or its designee.

The CPUC has the authority to halt any construction, operation, or maintenance activity associated with the Tri-Valley 2002 Capacity Increase Project if the activity is determined to be a deviation from the approved project or adopted mitigation measures. The CPUC may assign this authority to the environmental monitor for each construction spread.

F.5 MITIGATION COMPLIANCE RESPONSIBILITY

The Applicant, Pacific Gas and Electric Company (PG&E Co.), is responsible for successfully implementing all the mitigation measures in the MMCRP. The "Environmental Analysis" sections of the Final EIR will contain detailed significance criteria that establish a minimum threshold for successful mitigation. 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 detailed success criteria. 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 environmental monitor shall inform the CPUC in writing of any mitigation measures that are not or cannot be successfully implemented. The CPUC or its designee will assess whether alternative mitigation is appropriate and specify to PG&E Co. the subsequent actions required.

F.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 procedure will be observed:

- 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, although a good faith effort should first be made to use the foregoing procedure.

F.7 GENERAL MONITORING PROCEDURES

F.7.1 ENVIRONMENTAL MONITOR

Many of the monitoring procedures will be conducted during the construction phase of the project. The CPUC and the environmental monitor(s) are responsible for integrating the mitigation monitoring procedures into the construction process in coordination with PG&E Co. To oversee the monitoring procedures and to ensure success, the environmental monitor assigned to each construction spread must be on site during that portion of construction that has the potential to create a significant environmental impact or other impact for which mitigation is required. The environmental monitor is responsible for ensuring that all procedures specified in the monitoring program are followed.

F.7.2 CONSTRUCTION PERSONNEL

A key feature contributing to the success of mitigation monitoring 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 PG&E Co. 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 preconstruction 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.

F.7.3 GENERAL REPORTING PROCEDURES

Site visits and specified monitoring procedures performed by other individuals will be reported to the environmental monitor assigned to the relevant construction spread. 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 tracked by the environmental monitor. A checklist will be developed and maintained by the environmental monitor to track all procedures required for each mitigation measure and to ensure that the timing specified for the procedures is adhered to. The environmental monitor will note any problems that may occur and take appropriate action to rectify the problems. The Applicant shall provide the CPUC with written quarterly reports of the project, which shall include progress of construction, resulting impacts, mitigation implemented, and all other noteworthy elements of the project. Quarterly reports shall be required as long as mitigation measures are applicable.

F.7.4 PUBLIC ACCESS TO RECORDS

The public is allowed access to records and reports used to track the monitoring program. Monitoring records and reports will be made available for public inspection by the CPUC or its designee on request. The CPUC and the applicant will develop a filing and tracking system. For additional information on mitigation monitoring and reporting for the Tri-Valley 2002 Capacity Increase Project, the Energy Division of the CPUC will maintain an Internet website, accessible from the AEnvironmental Projects Page@ at: <http://www.cpuc.ca.gov/environment.htm>.

In order to facilitate the public's awareness, the CPUC will compile a quarterly report for circulation to designated community groups, as well as affected cities, counties, elected officials and other agencies.

F.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 F.3.4; and
- If in either review, the Commission determines that any conditions are not adequately mitigating significant environmental impacts caused by the project, or that recent proven technological advances could provide more effective mitigation, 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.

F.9 MITIGATION MONITORING PROGRAM TABLES

Mitigation Monitoring Program tables are presented at the end of each issue area section (Sections C.2 through C.12). These tables, along with the full text of the mitigation measures themselves, will form the basis for implementation of the Mitigation Monitoring Program.