

H. MITIGATION MONITORING AND REPORTING

This Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) includes a mitigation monitoring, compliance, and reporting program (MMCRP) for the mitigation measures proposed for the ECO Substation, Tule Wind, and ESJ Gen-Tie projects, collectively referred to as the Proposed PROJECT. An MMCRP table for the Proposed PROJECT is provided at the end of each issue area in Section D (Sections D.2 through D.18) that lists each mitigation measure and outlines procedures for successful implementation. This section provides the recommended framework for effective implementation of the MMCRP by the California Environmental Quality Act (CEQA) lead agency, California Public Utilities Commission (CPUC), the National Environmental Policy Act (NEPA) lead agency, Department of Interior Bureau of Land Management (BLM), and other responsible agencies. Responsible/Cooperating agencies include the County of San Diego, California State Lands Commission (CSLC), Bureau of Indian Affairs (BIA), and the Ewiiapaayp Band of Kumeyaay Indians that will use the MMCRP for their permitting processes. This section describes the roles and responsibilities of government agencies in implementing and enforcing adopted mitigation measures.

H.1 Authority for the Mitigation Monitoring, Compliance, and Reporting Program

H.1.1 California Public Utilities Commission

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 are implemented properly, monitored, and reported. In 1989, this requirement was codified statewide as Section 21081.6 of the California Public Resources Code (PRC). PRC Section 21081.6 requires a public agency to adopt an MMCRP 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 (14 CCR 15000 et seq.) was added in 1999 to further clarify agency requirements for mitigation monitoring or reporting.

The purpose of an 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 CPUC will address its responsibility under PRC 21081.6 when it takes action on San Diego Gas and Electric's (SDG&E's) application for a permit to construct (PTC) and operate the proposed ECO Substation Project. If the CPUC approves the application, it will also adopt an MMCRP that includes the mitigation measures ultimately made a condition of approval by the CPUC.

H.1.2 Bureau of Land Management

The BLM is the federal lead agency for preparation of this EIR/EIS, in compliance with the requirements of NEPA, the Council on Environmental Quality (CEQ) regulation for implementing NEPA (40 Code of Federal Regulations (CFR) 1500 et seq.), and the BLM NEPA Handbook (H-1790-1) in the evaluation of SDG&E's proposed ECO Substation Project and Pacific Wind Development's proposed Tule Wind Project. For portions of the project on federal lands owned or managed by the BIA and the Ewiiapaayp Band of Kumeyaay Indians, BLM will consult with the BIA and the Ewiiapaayp Band of Kumeyaay Indians in implementing mitigation requirements.

Title V of the Federal Land Policy and Management Act (FLPMA) addresses the issuance of ROW authorizations on public land (43 U.S.C. 1701 et seq.). The general terms and conditions for all public land ROW are described in FLPMA Section 505, and include measures to minimize damage and otherwise protect the environment, require compliance with air and water quality standards, and compliance with more stringent state standards for public health and safety, environmental protection, siting, construction, operation, and maintenance of ROWs. For these projects, terms and conditions will be incorporated into the ROW grants that are necessary to protect public safety, including security fencing and on-site personnel. The environmental effects analysis in the EIR/EIS identifies impacts and mitigation measures to reduce/eliminate impacts. The mitigation measures identified by the BLM will be incorporated as terms and conditions of the ROW grants and will provide those actions necessary to prevent unnecessary or undue degradation of the public lands as required by FLPMA Section 302. The additional mitigation measures identified in the mitigation monitoring program tables presented at the end of each issue area section (Sections D.2 through D.18) of this EIR/EIS will primarily be enforced by the other agencies, and will provide additional protection to public land resources.

All BLM ROW grants are approved subject to regulations contained at 43 CFR 2800 et seq. Those regulations specify that the BLM may, at any time, change the terms and conditions of a ROW grant "as a result of changes in legislation, regulations, or as otherwise necessary to protect public health or safety or the environment" (43 CFR 2805.15(e)).

The BLM will monitor conditions and review any ROW grants issued for the ECO Substation and Tule Wind projects to evaluate if future changes to the grant terms and conditions are

necessary or justified under this provision of the regulations to further minimize or reduce impacts resulting from these projects.

H.1.3 Responsible Agencies

Responsible agencies, including the County of San Diego and CSLC, will also be responsible for ensuring that mitigation measure are implemented on lands managed by those agencies. The County of San Diego will be responsible for ensuring mitigation compliance for its discretionary action under CEQA in consideration of issuing two separate major use permits (Major Impact Service Utility), one for the Tule Wind Project and one for the ESJ Gen-Tie Project, because portions of those projects are within lands managed by the County. Because portions of the Tule Wind Project will occur on lands under the jurisdiction of the CSLC, they will be responsible for ensuring mitigation compliance on its lands for portions of the Tule Wind Project.

Once sufficient project-level information has been developed for the proposed Campo, Manzanita, and Jordan wind energy projects, a mitigation monitoring, compliance, and reporting program would be prepared following project-specific environmental review and evaluation under all applicable environmental regulations.

H.2 Organization of the Final Mitigation Monitoring Program

In taking actions on SDG&E's ECO Substation Project, Pacific Wind Development's Tule Wind Project, and on the Energia Sierra Juarez (ESJ) U.S. Transmission, LLC's ESJ Gen-Tie Project, the CPUC, BLM, and responsible agencies identified in Section H.1.3 will implement an MMCRP. The primary elements of the mitigation monitoring program are as follows but are not limited to:

MMCRP Introduction

- Authority and purpose of the program
- Program adoption process
- Organization of the MMCRP
- Project documents
- Agency jurisdiction
- Schedule.

Roles and Responsibilities

- Monitoring responsibility
- Enforcement responsibility
- Mitigation compliance responsibility
- Communication protocols
- Dispute resolution.

General Monitoring Procedures

- Environmental monitor
- Construction personnel
- General reporting requirements
- Public access to records
- Compliance verification.

The final plan should contain a concise overview and reference description of the approved project and will clearly outline its physical locations and timetable, including construction segments. This section will also specify the “master” reference(s), which will be used in carrying out the program (e.g., the Final EIR/EIS and more detailed working maps and plans). The Applicant Proposed Measures (APMs) to which the applicants have committed to in order to reduce potential impacts will also be listed.

The final plan will include the list of agencies with jurisdiction over the project (from EIR/EIS 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’s information (including name, address, telephone and fax numbers) should be provided.

H.3 Enforcement Responsibility

The CPUC, BLM, and responsible agencies are 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, BLM, and/or the responsible agency project manager.

The CPUC, BLM, and responsible agencies have the authority to halt any construction, operation, or maintenance activity associated with the project if the activity is determined to be a deviation from the approved project, adopted mitigation measures, or APMs.

H.4 Mitigation Compliance Responsibility

Each applicant (SDG&E, Pacific Wind Development, and ESJ U.S. Transmission, LLC) 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 applicants shall inform the CPUC, BLM, and/or the responsible agency in writing of any mitigation measures that are not or cannot be successfully implemented. In coordination with their monitors, the CPUC, BLM, and/or the responsible agency will assess whether alternative mitigation is appropriate and specify to the applicants when subsequent actions are necessary to protect resources consistent with the findings of the EIR/EIS.

H.5 General Monitoring Procedures

H.5.1 Environmental Monitors

Many of the monitoring procedures will be conducted during the construction phase of the project. The CPUC, BLM, and/or responsible agencies and the environmental monitors are responsible for integrating the mitigation monitoring procedures into the construction process in coordination with the utility company. To oversee the monitoring procedures and to ensure success, the environmental monitors assigned to the project must be on site 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.

H.5.2 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 plan, will be taken:

- Procedures to be followed by construction companies hired to do the work will be written into contracts. 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 and train construction personnel about the requirements of the monitoring program (as detailed in the final plan).
- A written summary of mitigation monitoring procedures will be provided to construction supervisors for all mitigation measures requiring their attention.

H.6 Mitigation Monitoring Program Table

Mitigation monitoring program tables are presented at the end of each issue area section (Sections D.2 through D.18). These tables, along with the full text of the mitigation measures themselves, will form the basis for implementation of the MMCRP.

H.7 References

14 CCR 15000–15387 and Appendix A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

40 CFR 1500–1518. Protection of Environment; Chapter V: Council on Environmental Quality.

43 CFR 2800–2809.10. Rights-of-Way Under the Federal Land Policy Management Act, as amended.

43 U.S.C. 1701–1782. Federal Land Policy and Management Act (FLMPA) of 1976, as amended. Public Law 94-579.

California Public Resources Code, Sections 21000–21177. California Environmental Quality Act, as amended.