

REC 18 USE BY DISADVANTAGED, HANDICAPPED, AND MINORITY PERSONS ASSESSMENT STUDY

1.0 EXECUTIVE SUMMARY

There are several laws that pertain to federally supported programs and recreation facilities used by Disadvantaged, Handicapped, and Minority Persons (DHM). Applicable laws discussed in this study include the following:

- Civil Rights Act of 1964;
- Rehabilitation Act of 1973;
- Americans with Disabilities Act (ADA) of 1990;
- Federal Power Act of 1920; and
- Architectural Barriers Act of 1968.

In addition to these federal laws there are two applicable USDA-FS specific policies related to this DHM study. These policies include the United States Department of Agriculture (USDA) Environmental Justice Coordination and the USDA-FS Strategic Plan Revision (2000). The above two USDA-FS policies do not require any affirmative action by SCE. The USDA-FS and SCE conduct outreach and on-site programs designed to address civil rights and DHM law and agency policies.

SCE is not required to conduct any DHM outreach or on-site programs within the Project area. However, SCE is required to abide by the applicable laws described above that are designed to prevent discrimination in the Project area regarding the use of recreation facilities and lands. At this time SCE does not conduct any specific DHM outreach programs or on-site programs specific to its hydroelectric projects. However, SCE provides or conducts the following activities: educating SCE employees regarding diversity in the workplace; posting DHM informative signs at Camp Edison and other locations; providing ADA facilities at Camp Edison and other locations; conducting a charitable donations campaign annually; publishing information about recreational opportunities at Federal Energy Regulatory Commission (FERC)-licensed Projects in local newspapers; and offering educational development programs and summer internships for high school students.

2.0 STUDY OBJECTIVES

Evaluate Project facilities and programs for compliance with applicable civil rights statutes.

3.0 STUDY IMPLEMENTATION

3.1 STUDY ELEMENTS COMPLETED

- Identified all civil rights laws applicable to Project-related recreational facilities by conducting a literature review of the federal register and other resources.
- Consulted with the USDA-FS to ensure the accuracy of the listed civil rights laws.
- Assessed Project-related programs and facilities for compliance with applicable civil rights laws.

3.2 OUTSTANDING STUDY ELEMENTS

None.

4.0 STUDY METHODOLOGY

The Use by Disadvantaged, Handicapped, and Minority Persons Assessment technical study plan identified the federal civil rights requirements applicable to Project-related recreational programs and facilities. These programs and facilities include dissemination of visitor information and access opportunities for DHM persons. The study included identification of the applicable civil rights requirements and determination of the Project's fulfillment of these requirements.

A literature review of the federal register and other resources, and consultation with the USDA-FS, was completed to evaluate the relevance of the laws listed above as well any other civil rights laws that may be applicable to study area recreational facilities. Using the list of applicable civil rights laws, a review of study area recreational facilities was conducted to identify the programs and facilities that are currently in place to ensure compliance with these regulations. The USDA-FS was consulted during this process to help identify programs and facilities and to insure the accuracy of listed civil rights laws.

4.1 STUDY AREA

The study area for the Use by Disadvantaged, Handicapped, and Minority Persons Assessment included Project-related programs and recreation facilities. These facilities included: (1) campgrounds; (2) Project resort and recreation facilities managed by permitted concessionaires; and (3) other developed recreation including public boat ramps, boat docks, designated trails, parking areas, and picnic sites.

5.0 STUDY RESULTS AND ANALYSIS

Applicable laws and recreation programs used by DHM persons within the Project area are discussed below. Applicable laws are those that address SCE operations related to DHM people who live and work in nearby communities. USDA-FS DHM policies that

are conducted in the Project area are also discussed, although these policies do not impose obligations upon SCE and are not related to Project operations.

5.1 APPLICABLE LAWS

A literature review revealed that there are several laws that pertain to federally supported programs and recreation facilities used by DHM persons. Applicable laws include the following:

- Civil Rights Act of 1964;
- Rehabilitation Act of 1973;
- Americans with Disabilities Act of 1990;
- Federal Power Act of 1920; and
- Architectural Barriers Act of 1968.

5.1.1 CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act addresses nondiscrimination in federally assisted programs. Specifically, Section 601 states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (US Congress 1964).

5.1.2 REHABILITATION ACT OF 1973

This Act prohibits discrimination based on physical and mental disability in programs receiving federal financial assistance, and also prohibits discrimination on the basis of disability in programs and services conducted by the USDA.

The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in Title I of the Americans with Disabilities Act.

Section 504 states that no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.

Each Federal agency has its own set of section 504 regulations that apply to its programs. Agencies that provide Federal financial assistance also have Section 504 regulations covering entities that receive Federal aid. Requirements common to these regulations include reasonable accommodation for employees with disabilities; program accessibility; effective communications with people who have hearing or vision

disabilities; and accessible new construction and alterations. Each agency is responsible for enforcing its own regulations. Section 504 may also be enforced through private lawsuits. It is not necessary to file a complaint with a Federal agency or to receive a "right-to-sue" letter before going to court (USDOJ 2002).

5.1.3 AMERICANS WITH DISABILITIES ACT OF 1990

This Act, commonly known as the ADA, prohibits discrimination on the basis of disability in public accommodations. Specifically, ADA's Title II, State and Local Government Activities, covers all activities of State and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings).

State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided (USDOJ 2002).

5.1.4 FEDERAL POWER ACT OF 1920

This Act provides for federal regulation and development of water power and resources, authorizing the FERC to issue licenses for hydroelectric project works, including dams, reservoirs and other works to develop and improve navigation and use power. The Act also authorizes FERC to regulate the transmission and sale of electric energy in interstate commerce.

The Federal Power Act also states that every licensee maintaining recreation facilities for the use of the public at a licensed project shall permit equal and unobstructed use of such facilities to all members of the public without regard to race, color, religious creed or national origin (CFR 18 8.3 2000). SCE has posted interpretive information signs at various recreation areas which state that "Recreation Facilities are Open to the Public without Discrimination. Additional Project Information is available at the Edison Office, Big Creek, California." Appendix A provides a photograph of an informational sign located at the Mammoth Pool Reservoir boat launch.

5.1.5 ARCHITECTURAL BARRIERS ACT OF 1968

The Architectural Barriers Act (ABA) requires that buildings and facilities designed, constructed, or altered with Federal funds, or leased by a Federal agency, comply with

Federal standards for physical accessibility. ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. They do not address the activities conducted in those buildings and facilities (USDOJ 2002).

5.2 APPLICABLE USDA FOREST SERVICE AGENCY POLICIES

The two USDA-FS-specific policies related to this DHM study are Environmental Justice Coordination and the Strategic Plan Revision (2000). These policies are described below.

5.2.1 USDA FOREST SERVICE ENVIRONMENTAL JUSTICE COORDINATION

When Executive Order 12898 was passed it created “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.” This Executive Order states that “...each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” The Executive Order provisions also apply to programs involving Native Americans. This Executive Order is a broad policy that essentially helps guide the USDA-FS in their efforts to achieve environmental justice, including applications with DHM persons. The USDA-FS has many objectives related to environmental justice. Some of the outreach and Project area on-site programs described below address the goals of USDA-FS environmental justice coordination.

5.2.2 STRATEGIC PLAN 2000 REVISION

In addition to applicable federal laws described above, the USDA-FS produced the “USDA-FS Strategic Plan (2000 Revision): Integrity and Accountability, A framework for natural resource management.” There were four major goals listed and described in the Plan: 1) Ecosystem health; 2) Multiple benefits to people; 3) Scientific and technical assistance; and 4) Effective public service. Components of goals 2 and 4 are of interest to this study.

Goal 2 includes the following objectives:

- Increase accessibility to a diversity of people and members of underserved and low-income populations to the full range of uses, values, products, and services.

In order to achieve the Plan’s objectives for Goal 2 the USDA-FS proposed the following measures, among several not applicable for this study.

- Create and institutionalize delivery systems that are more responsive to a diversity of people and members of underserved and low-income populations.
- Enhance broader public accessibility through partnerships and contracts with Federal, State, and Tribal governments and other entities.

- Establish communication networks - rural and urban - that increase accessibility.

Goal 4 includes the following objectives:

- Provide appropriate access to NFS lands and ensure nondiscrimination in the delivery of all USDA-FS programs.

In order to achieve the Plan's objectives for Goal 4 the USDA-FS proposed the following measures:

- Ensure that all USDA-FS assistance programs (for example, Forest Stewardship and Urban and Community Forestry) are available to all segments of the population.
- Continue to ensure that NFS lands and USDA-FS programs and facilities are accessible to all Americans, per the requirements of Section 504 of the Rehabilitation Act (as amended).
- Create culturally sensitive training, communication processes, and information systems that support employee's capabilities to reach broader, more diverse audiences in more effective ways.
- Use special emphasis program managers and liaisons to advise and support delivery of services to underserved and low-income populations.

The SNF set about implementing the goals, objectives, and measures of the Plan by developing outreach and on-site DHM programs that include Project area lands and facilities. However, as these programs do not involve Project operation or maintenance and do not impose requirements upon SCE, they will not be further discussed in detail in this study.

5.2.3 SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000

The SNF also participates in the Secure Rural Schools and Community Self-determination Act of 2000 (Public Law 106-393). Related to this study, and part of the USDA-FS's objectives under Title II of the Act, is to obtain the following:

“Our goals include contributing to the health of our forestlands, diversifying the Forest Service workforce, exposing students to careers with the Forest Service, opening up our forestlands to a more diverse population, and lowering the unemployment rate in Fresno County. Our objectives include educating local groups on applied resource management techniques, implementing watershed restoration projects, stabilizing gully erosion, maintaining water tables, stream temperatures, and floodplain connectivity, designing and building riparian fences, maintaining recreation sites, removing noxious weeds, performing streamside stabilization, and improving wildlife habitats” (USDA-FS, Central California Consortium 2003).

5.3 SOUTHERN CALIFORNIA EDISON OUTREACH PROGRAMS

SCE is not required to conduct any DHM outreach or on-site programs within the Project area. SCE abides by the applicable laws described above that are designed to prevent discrimination of Project area facilities and lands.

SCE has an active commitment to charitable causes, equal opportunities, and diversity in the workplace. *Fortune* magazine in 2001 named SCE as No. 4 of the 50 best companies for minorities to work, the nation's No. 1 utility for diversity, and the nation's No. 2 utility in supplier diversity. SCE's Equal Employment Opportunity policy (Southern California Edison HR Policy Employee Handbook, 1999) states in part:

"The company will maintain appropriate programs to promote and encourage the fair and equal treatment of applicants for employment and employees in all job categories. These programs will be communicated internally and externally,"

and also,

"The company provides equal employment opportunity to all persons in all aspects of the employment relationship and will not discriminate on the basis of race, color, religion, national origin, ancestry, sex, age, physical or mental disability, medical condition, sexual orientation, marital status, disabled-veteran status, or Vietnam-era veteran status. The company will provide reasonable accommodations to any known physical and mental limitations of otherwise qualified individuals with disabilities and special disabled veterans in accordance with applicable state and federal mandates."

SCE has a program for students from the local high school that are interested in engineering. This outreach program consists of inviting local high school students to participate in special projects such as improving the efficiency of power generators, and other engineering practices related to hydro-electric power generation (M. Newquist pers. comm. 2003).

SCE, among other programs, also has an active community volunteer program titled *Energy in Action*, which provides recognition and other rewards for employees to encourage them to get involved in their surrounding communities on their own time. The *Energy in Action* program includes the following resources:

1. Information about individual and company-sponsored volunteer activities.
2. Opportunities for individual or team participation in volunteer events.
3. Cash contributions to employee-chosen organizations.
4. Incentives and recognition for employee participation.
5. Tools for employees to report and track their volunteer hours.

SCE Employee Volunteers record more than 250,000 hours of community service each year. Volunteering is defined as an individual's non-compensated time spent assisting a registered nonprofit or other approved organization. Volunteers can report up to 16 hours of volunteer hours per day of qualified activity. Examples of qualifying volunteer activities include:

1. Volunteering for Edison-sponsored activities, such as supporting disaster relief efforts or participating in a *Follow Your Heart* event during the annual employee contributions campaign.
2. Participating in community-sponsored environmental cleanups, tree planting, animal rescue efforts.
3. Volunteering for a company-recognized organization, such as the Girl Scouts, Boy Scouts, Rotary Club, Sierra Club or Meals on Wheels.
4. Participating in food, toy and clothing drives.
5. Giving time to a hospice, community center or shelter.
6. Volunteering time to assist literacy organizations, schools or youth sports.

SCE also supports the annual *Bring Our Children To Work Day*, provides assistance for employees who serve on boards of non-profit organizations and who run for elected office, and offers flexible working hours and rebate programs to help its employees deal with the challenges of child care, health care, and commuting expenses. SCE sees itself as a progressive, socially responsible company and a community partner. It has a *Partners in Education* program, which has historically been recognized as one of the nation's foremost corporate scholarship programs, and a *New Awards for Excellence* program, which in addition to corporate contributions to educational programs and projects, is a results-oriented, grant-making effort designed to benefit the schools and communities it serves. It is aimed at keeping at-risk students engaged in school and preparing them for future academic success.

SCE donates its surplus computer equipment to schools via its *Computers For Schools* program. Since 1991, the program has provided more than 27,000 refurbished computers to schools throughout California. SCE also works with the Technology Training Foundation of America to promote computer technology and provide teachers and students with technical expertise.

In conclusion, SCE is a regulated utility in the State of California, and operates in compliance with all applicable civil rights statutes throughout its service territory, including the Big Creek area. In many ways, SCE goes beyond the strict requirements of the laws and tries to be a good neighbor and partner with the communities it supports.

6.0 LITERATURE CITED

CFR 18 8.3 (Code of Federal Regulations). Title 18, Volume 1. Revised as of April 1, 2000. U.S. Government Printing Office via GPO Access. Page 141. Chapter I-- Federal Energy Regulatory Commission, Department Of Energy Part 8-- Recreational Opportunities And Development At Licensed Projects-Table of Contents Sec. 8.3 Discrimination prohibited.

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US Congress. 1964. The Civil Rights Act. Website. <http://usinfo.state.gov/usa/infousa/laws/majorlaw/civilr19.htm>. Accessed August 15, 2003.

USDOJ (United States Department of Justice). 2002. A Guide to Disability Rights Law. May 2002. Website. <http://www.usdoj.gov/crt/ada/cguide.htm>. Accessed August 15, 2003.

6.1 PERSONAL COMMUNICATION

Newquist, Mark 2003. September 4, 2003. Southern California Edison. Personal communication with Tim Blewett, ENTRIX, Inc.

APPENDIX A
Informational Sign Located at the
Mammoth Pool Boat Launch

Informational Sign Located at the Mammoth Pool Boat Launch

