
SECTION 4 – ENVIRONMENTAL JUSTICE POLICY

This section discusses the distributional patterns of high-minority and low-income populations on a regional basis and characterizes the distribution of such populations adjacent to the Project location. This analysis focuses on whether the Project has the potential to adversely and disproportionately affect area(s) of high-minority population(s) and low-income communities, thus creating a conflict with the CSLC’s Environmental Justice Policy.

4.1 INTRODUCTION

On February 11, 1994, President Clinton issued an “Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” designed to focus attention on environmental and human health conditions in areas of high minority populations and low-income communities and promote non-discrimination in programs and projects substantially affecting human health and the environment (White House 1994). The order requires the EPA and all other federal agencies (as well as state agencies receiving federal funds) to develop strategies to address this issue. The agencies are required to identify and address any disproportionately high and adverse human health or environmental effects of the programs, policies, and activities on minority and/or low-income populations.

In 1997, the EPA’s Office of Environmental Justice released the *Environmental Justice Implementation Plan*, supplementing the EPA environmental justice strategy and providing a framework for developing specific plans and guidance for implementing Executive Order 12898. Federal agencies received a framework for the assessment of environmental justice in the EPA’s *Final Guidance for Incorporating Environmental Justice Concerns in EPA’s NEPA [National Environmental Policy Act] Compliance Analyses* (1998). This approach emphasizes the importance of selecting an analytical process appropriate to the unique circumstances of the potentially affected community.

While many state agencies have used the EPA’s Environmental Justice Implementation Plan as a basis for the development of their own environmental justice strategies and policies, the majority of California state agencies do not have guidance for incorporation of the environmental justice impact assessment into CEQA analyses. CARB has, for example, examined this issue and has received advice from legal counsel, by a memorandum entitled “CEQA and Environmental Justice.” This memorandum states, in part, “for the reasons set forth below, we will conclude that CEQA can readily be adapted to the task of analyzing cumulative impacts/environmental justice whenever a public agency (including the CARB), the air pollution control districts, and general purpose land use agencies) undertakes or permits a project or activity that may have a significant adverse impact on the physical environment. All public agencies in California are currently obligated to comply with CEQA, and no further legislation would be needed to include an environmental justice analysis in the CEQA documents prepared for the discretionary actions public agencies undertake.”

1 Under AB 1553, signed into law in October 2001, the California Governor’s Office of
2 Planning and Research (OPR) is required to adopt guidelines for addressing
3 environmental justice issues in local agencies’ general plans. In 2003, OPR released an
4 update to the General Plan Guidelines to incorporate the requirements of AB 1553.

5 **4.1.1 CSLC Policy**

6 The CSLC developed and adopted an Environmental Justice Policy to ensure equity
7 and fairness in its own processes and procedures. The CSLC adopted an amended
8 Environmental Justice Policy on October 1, 2002 to ensure that “Environmental Justice
9 is an essential consideration in the Commission’s processes, decisions and programs
10 and that all people who live in California have a meaningful way to participate in these
11 activities.” The policy stresses equitable treatment of all members of the public and
12 commits to consider environmental justice in its processes, decision-making, and
13 regulatory affairs. The policy is implemented, in part, through identification of, and
14 communication with, relevant populations that could be adversely and disproportionately
15 affected by CSLC projects or programs, and by ensuring that a range of reasonable
16 alternatives is identified that would minimize or eliminate environmental issues affecting
17 such populations. This discussion is provided in this document consistent with and in
18 furtherance of the CSLC’s Environmental Justice Policy. The staff of the CSLC is
19 required to report back to the Commission on how environmental justice is integrated
20 into its programs, processes, and activities (CSLC 2002).

21 **4.1.2 Methodology**

22 As the Project would occur in the offshore waters extending seaward of the DCP, the
23 Environmental Justice Policy analysis is focused on the County of San Luis Obispo, as
24 well as the cities of Morro Bay and Los Osos, which are adjacent to the Project area.
25 The only onshore component of the Project would include extending an existing 10 cm
26 (4 in) diameter conduit from its current location on top of the armor rock rip-rap along
27 the east side of the DCP intake bay into the water where it would terminate on the
28 sedimentary seafloor. Due to the fact that the Project area is located primarily offshore
29 and within an isolated industrial area where no communities are present, the onshore
30 discussion has been limited to the adjacent beach and the Morro Bay Harbor, from
31 which the offshore vessel will mobilize.

32 Analysis for related environmental issue areas is also provided below with respect to the
33 effects that would represent conflicts with the CSLC’s Environmental Justice policy, if
34 those impacts would disproportionately affect minority or low-income populations or
35 decrease these communities’ employment and/or economic base.

36 **4.1.3 “Communities of Concern” Definitions**

37 **Minority Populations.** According to the Council of Environmental Quality (CEQ)
38 guidelines for environmental justice analysis:

1 Minority populations should be identified where either (a) the minority population
2 of the affected area exceeds 50 percent or (b) the minority population percentage
3 of the affected area is meaningfully greater than the majority population
4 percentage in the general population or other appropriate unit of geographic
5 analysis. A minority population also exists if there is more than one minority
6 group present and the minority percentage, as calculated by aggregating all
7 minority persons, meets one of the above-stated thresholds (CEQ 1997).

8 As a conservative assumption, the Environmental Justice analysis uses the CEQ
9 minority population definition to identify “communities of concern” within the Project
10 study area.

11 **Low-Income Populations.** The CEQ’s environmental justice guidance does not clearly
12 set the demarcations at the census poverty thresholds, but states that “Low-income
13 populations in an affected area should be identified with the annual statistical poverty
14 thresholds from the Bureau of the Census’ Current Population Reports, Series P-60 on
15 Income and Poverty.” According to the EPA’s *Final Guidance for Incorporating*
16 *Environmental Justice Concerns in EPA’s NEPA Compliance Analyses*, a minority or
17 low-income community is disproportionately affected when the community will bear an
18 uneven level of health and environmental effects compared to the general population.
19 Further, the State CEQA Guidelines recommend that the “community of comparison”
20 selected should be the smallest governmental unit that encompasses the impact
21 footprint for each resource. Therefore, the “community of comparison” for the Project
22 area was determined as the cities directly adjacent to the offshore activities. Minority
23 and income data were obtained for all the “communities of comparison” identified.

24 **4.2 SETTING**

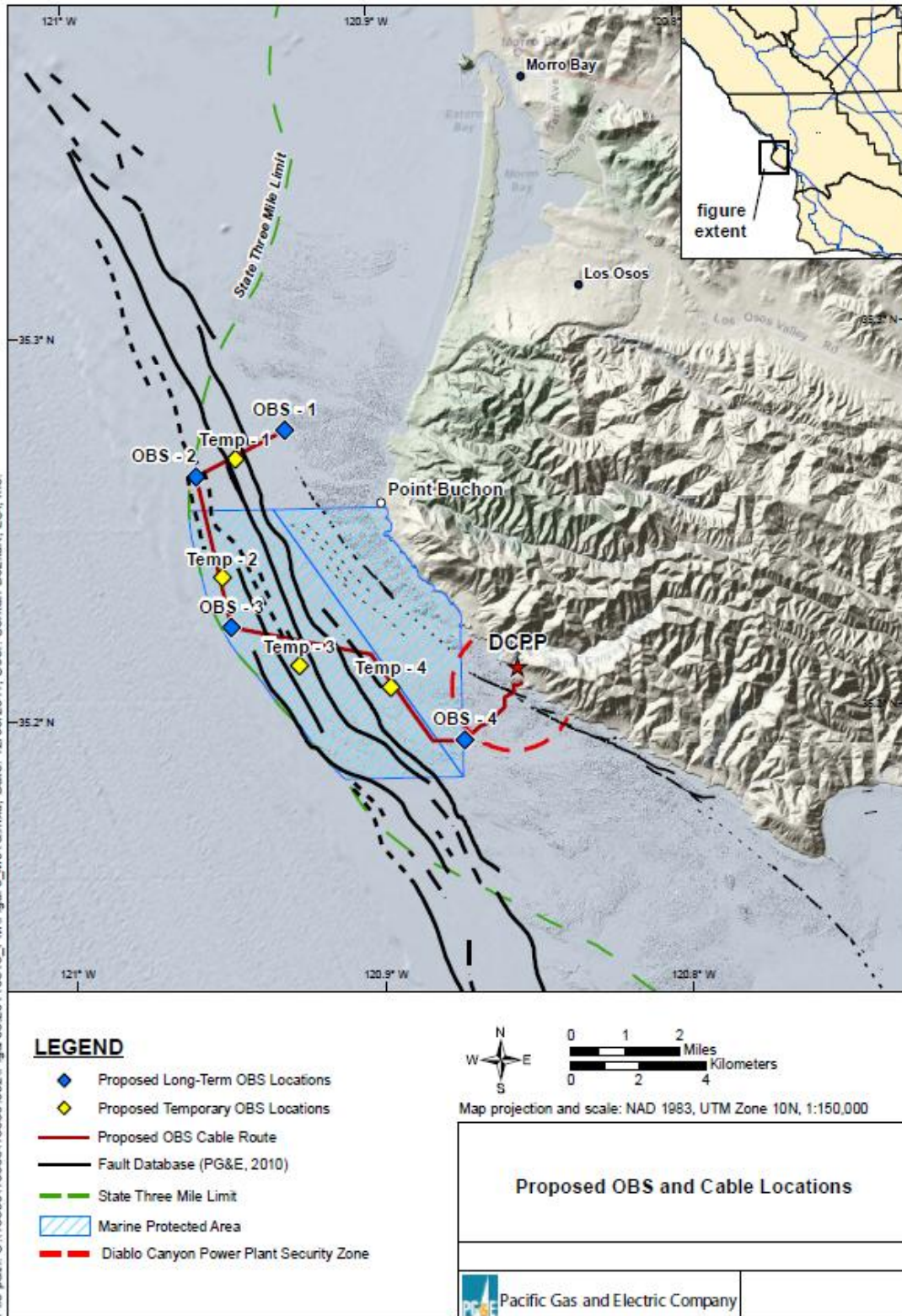
25 This section analyzes the distributional patterns of minority and low-income populations
26 within the Project’s affected region and specifically characterizes the distribution of such
27 populations within the areas adjacent to the Project’s offshore site.

28 **4.2.1 Project Study Area**

29 The Project study area for the Environmental Justice analysis has been determined
30 based on the cities that are adjacent to the proposed offshore activities. As described
31 within Section 2.0, Project Description, both temporary and permanent OBS units will
32 mobilize from Morro Bay Harbor to the proposed offshore work area. Additionally, as
33 shown in Figure 4-1, the cities of Morro Bay and Los Osos within the County of San Luis
34 Obispo are both adjacent to the proposed work area. As such, minority and low-income
35 data were collected for the County of San Luis Obispo, as well as the cities of Morro
36 Bay and Los Osos; however, most of the actual work activities will occur approximately
37 1.6 to 4.8 km (1 to 3 mi) offshore. It is important to note that the proposed location of
38 three temporary OBS units and one long-term OBS unit will be within the Point Buchon
39 MPA.

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Figure 4-1. Project Area Including Morro Bay and Los Osos within San Luis Obispo County



1 **4.2.2 Study Area Demographics**

2 The County of San Luis Obispo, as well as the cities of Morro Bay and Los Osos, was
 3 identified within the Project study area due to the fact that they are adjacent to the
 4 offshore Project area.

5 **Minority Populations.** Information regarding racial diversity in these adjacent
 6 communities was derived from the 2005-2009 American Community Survey 5-Year
 7 Estimates (U.S. Census Bureau 2005-2009). Table 4-1 presents the racial composition for
 8 the County of San Luis Obispo, as well as the cities of Morro Bay and Los Osos.

9 **Table 4-1. U.S. Census Regional Demographic Comparison (2005-2009)**

County/City	Total Population	White	Ethnicity of Minority Population						% of Minority Population
			Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Some Other Race	Two Or More Races	
County of San Luis Obispo	262,149	85.3%	1.9%	0.9%	3.2%	0.2%	5.5%	3.1%	14.8%
Los Osos	15,112	87.4%	0.3%	0.4%	6.0%	0.0%	1.6%	4.2%	12.5%
Morro Bay	10,300	95.2%	0.0%	0.6%	2.8%	0.0%	0.8%	0.5%	4.7%

Source: U.S. Census Bureau 2005-2009 American Community Survey 5-Year Estimates

10 The County of San Luis Obispo is estimated to have a total population of 262,149. Of this
 11 population, it is estimated that 14.8 percent is in the minority population, while 85.3 percent
 12 of the population is White in origin. The city of Morro Bay is estimated to have a total
 13 population of 10,300. Of this population it is estimated that 4.7 percent is in the minority
 14 population, while 95.2 percent of the population is White in origin. The city of Los Osos is
 15 estimated to have a total population of 15,112. Of this population it is estimated that 12.5
 16 percent is in the minority population, while 87.4 percent of the population is White in origin.

17 The data provided in Table 4-1 indicate that the communities adjacent to the offshore
 18 Project area are predominately comprised of White (non-minority) individuals (85.3 to 95.2
 19 percent). The minority population of the County of San Luis Obispo (14.8 percent) is similar
 20 to that of the city of Los Osos (12.5 percent); however, at 4.7 percent, the city of Morro Bay
 21 has a much lower percentage of minority population.

1 **Hispanic or Latino Populations.** As an added measure to ensure that study area
 2 minority populations are adequately and fully identified, data were gathered for Hispanic
 3 origin. Hispanic is considered an origin, not a race, by the U.S. Census Bureau. An
 4 origin can be viewed as the heritage, nationality group, lineage, or country of birth of the
 5 person or the person’s parents or ancestors before their arrival in the United States
 6 (U.S. Census Bureau 2009). People that identify their origin as Spanish, Hispanic, or
 7 Latino may be of any race. Therefore, those who are counted as Hispanic are also
 8 counted under one or more race categories, as shown above. In the County of San Luis
 9 Obispo, 18.8 percent of persons consider themselves to be of Hispanic or Latino
 10 decent, the city of Morro Bay has 12.5 percent of persons who consider themselves to
 11 be of Hispanic or Latino decent, and the city of Los Osos has 13.7 percent of persons
 12 who consider themselves to be of Hispanic or Latino decent.

13 **Low-Income Populations.** The CEQ environmental justice guidance does not clearly
 14 set the demarcations at the census poverty thresholds, but states that “Low-income
 15 populations in an affected area should be identified with the annual statistical poverty
 16 thresholds from the Bureau of the Census’ Current Population Reports, Series P-60 on
 17 Income and Poverty.”

18 Poverty level guidelines published by Department of Health and Human Services vary
 19 according to a household’s size and composition. The most current poverty guidelines
 20 for 2011 reveal the level to be at \$22,350 for a two-parent household with two children in
 21 the 48 contiguous states. The poverty thresholds provide one national measurement of
 22 income that is not adjusted for regional costs of living. For many federal and state programs
 23 serving low-income households, eligibility levels are significantly higher than the poverty
 24 level.

25 Information regarding income and poverty level was derived for the adjacent Project
 26 area from the 2005-2009 American Community Survey 5-Year Estimates (U.S. Census
 27 Bureau 2005-2009). Table 4-2 provides a summary of these findings.

28 **Table 4-2. Socioeconomic Comparison of Proximal Cities to Project Area**
 29 **as Compared to County of San Luis Obispo**

	County of San Luis Obispo	Los Osos	Morro Bay
Per Capita Income	\$29,098	\$29,125	\$30,204
Median Household Income	\$55,555	\$57,772	\$48,716
Median Family Income	\$70,811	\$71,958	\$59,274
Percentage of Individuals Below Poverty Level	13.6%	11.9%	13.8%
Percentage of Families Below Poverty Level	6.1%	6.5%	7.2%

Source: U.S. Census Bureau 2005-2009 American Community Survey 5-Year Estimate

1 As shown in Table 4-2, the population of the County of San Luis Obispo earns a median
2 household income of \$55,555, while the per capita income is \$29,098. An estimated
3 13.6 percent of individuals earn below the established poverty level, while 6.1 percent of
4 families earn below the established poverty level. The population of the city of Morro
5 Bay earns a median household income of \$48,716, while the per capita income is
6 \$30,204. An estimated 13.8 percent of individuals earn below the poverty level, while
7 7.2 percent of families earn below the poverty level. The population of the city of Los
8 Osos earns a median household income of \$57,772, while the per capita income is
9 \$29,125. An estimated 11.9 percent of individuals earn below the poverty level, while
10 6.5 percent of families earn below the poverty level.

11 The percentage of individuals below the established poverty level of the County of San
12 Luis Obispo as well as the cities of Morro Bay and Los Osos is similar to the estimate
13 for the entire State of California. The State of California has a percentage of 13.2
14 individuals below the poverty level, while Morro Bay is slightly higher at 13.8 percent
15 and Los Osos is relatively lower at 11.9 percent.

16 **4.2.3 Communities of Concern Identified Within the Project Study Area**

17 According to the definitions provided in Section 4.1.3, no communities of concern have
18 been identified within the Project area. This is due to the fact that the populations of
19 adjacent communities do not contain 50 percent or greater of minority population or low-
20 income populations. The adjacent communities of Morro Bay and Los Osos do not
21 include “communities of concern” because the most recent data available indicate
22 minority populations to total at approximately 4.7 percent and 12.5 percent, respectively.
23 Similarly, low-income population data for Morro Bay and Los Osos indicate that 13.8
24 percent of individuals earn below the established poverty level and 11.9 percent,
25 respectively. As these communities do not exist within the study area, no inconsistency
26 with the CSLC’s environmental justice policy would be expected to result from Project-
27 related activities.

28 **4.3 ANALYSIS AND CONDITIONS**

29 This analysis focuses primarily on whether the Project’s impacts have the potential to
30 affect area(s) of high-minority population(s) and low-income communities
31 disproportionately and thus would create an adverse environmental justice effect. For
32 the purpose of the environmental analysis, the Project’s inconsistency with the CSLC’s
33 Environmental Justice Policy would occur if the Project would:

- 34 • Have the potential to disproportionately affect minority and/or low-income
35 populations adversely; or
- 36 • Result in a substantial, disproportionate decrease in employment and economic
37 base of minority and/or low-income populations residing in the County and/or
38 immediately surrounding cities.

1 **4.3.1 Air Quality and Greenhouse Gas Emissions**

2 As discussed within Section 3.3.3, Air Quality and Greenhouse Gas Emissions, the Project
3 would generate emissions through the use of marine vessels during placement and
4 retrieval of the OBS units, from on-road equipment hauling trucks, and from vehicles
5 used by construction workers commuting to and from the Project area. Yet, due to the
6 short-term nature of the Project (estimated at one day for delivery and mobilization at
7 Morro Bay, and two weeks for installation), no significant impacts would result relating to
8 air quality. Once installed, the continued operation of the OBS units will not result in any
9 new emissions onshore. Given the absence of a significant impact affecting the local
10 communities, no inconsistency with the CSLC's environmental justice policy would
11 result from Project-related activities.

12 **4.3.2 Aesthetics**

13 Section 3.3.1, Aesthetics, describes the impacts that may result from the Project on the
14 existing vistas and visual resources within the area. As the Project is temporary in
15 nature (installation is scheduled to take two weeks), the presence of marine vessels
16 associated with installation of the cable will not be a significant aesthetic impact
17 because: (1) the vessels would be transitory and will be located within the marine
18 environment on a temporary basis, and (2) the occurrence of marine vessels along this
19 area of the coastline is not unusual, so the typical viewer of the marine component of
20 the Project (such as recreational users of Montaña de Oro State Park located
21 approximately seven miles from DCPD) would not likely consider the vessels' temporary
22 presence visually obtrusive. The cable and OBS units would be underwater and not
23 visible once installed. Given the absence of a significant impact affecting the local
24 communities, no inconsistency with the CSLC's environmental justice policy would
25 result from Project-related activities.

26 **4.3.3 Fisheries**

27 Section 3.3.15, Commercial and Recreational Fisheries, describes commercial and
28 recreational fishing in the offshore area where the Project is proposed. As indicated in
29 Section 3.3.15, this area is not widely used in support of commercial/recreational
30 fishing. Within the region, vessels fishing in the area primarily use the Morro Bay and
31 Port of San Luis Harbors. Recent commercial fishing economic declines within the
32 region have been identified and linked to the groundfish fishery relying on bottom
33 trawling. In 2006, The Nature Conservancy purchased six federal trawling permits,
34 which has reduced commercial trawling by local fishers (NOAA 2006). Additionally, the
35 Point Buchon SMR and SMCA exist within the Project area and have regulations
36 enforced by the CDFG. Specifically, the SMR has restrictions prohibiting the take of all
37 living marine resources while the SMCA prohibits the take of all living marine resources
38 except the commercial and recreational take of salmon and albacore. Recreational
39 fishing opportunities may also exist at Montaña de Oro State Park, but Project activities
40 would not impact these onshore users.

1 The Project is temporary in nature with scheduled installation anticipated to take
2 approximately two weeks. Temporary preclusion from the work area may be required for
3 installation activities during construction, but will not significantly affect commercial or
4 recreational fishing within the area due to the fact that the area is not widely used in
5 support of commercial/recreational fishing, and because most of the Project area is
6 located within the Marine Protected Area.

7 After construction is completed, the cable and permanent OBS units will remain
8 installed on the seafloor for up to 10 years. Less than 1 percent of the available fishing
9 area within the Project region would be affected during the installation and operation of
10 the OBS units and cable. In addition, the OBS units are to be placed on sedimentary
11 habitat and the associated cable would be routed to avoid surf grass and kelp. The
12 cable has been routed to avoid as much rocky substrate as possible and crosses
13 approximately 1.6 km (1.0 mi) of low to high-relief solid substrate. As designed, no
14 significant impacts to fishing operations or essential fish habitat are expected to result
15 from the installation or operation of the Project. Given the less than significant impact
16 affecting existing commercial fishing operations and the corresponding less than
17 significant effect on local communities, no inconsistency with the CSLC's environmental
18 justice policy would be expected to result from Project-related activities.

19 **4.3.4 Onshore Resources**

20 Installation activities would involve approximately 17 workers, of which five will be from
21 a local crew of the *MV Michael Uhl* used for the Project. As a result, the implementation
22 of this Project would neither result in any employment losses nor any reduction in local
23 economic activity. The Project would not generate a significant amount of new
24 employment as Project personnel will be traveling to the Project area.

25 The Project-related onshore activities including the loading of OBS units at Morro Bay
26 Harbor and the addition of conduit at DCPD to receive the cable are comparable to the
27 current activities and land uses at the sites and the surrounding vicinity. No new jobs will be
28 created for continued operations or periodic maintenance. The Project-related activities
29 would be short-term, and are not expected to involve specialized materials, equipment or
30 activities.

31 Consequently, given the absence of any local employment or economic activity
32 decreases, no inconsistency with the CSLC's environmental justice policy would result
33 from the Project's economic effects.

34 **4.3.5 Community Benefits**

35 As mentioned within Section 2, Project Description, the Project would provide data to
36 aid in the assessment of DCPD's vulnerability from seismic events. More specifically,
37 the Project would provide accurate, real-time data regarding the characteristics of
38 earthquakes in the vicinity of the DCPD. These data will also be useful in emergency
39 preparedness that could benefit the public beyond the Project area and will be shared
40 with public agencies, including but not limited to the USGS. This is considered a

- 1 beneficial impact to all communities, including those with low-income or minority
- 2 populations.