

Attachment 5:
**California Environmental Quality Act Findings
and Statement of Overriding Considerations**

**Order Granting In Part and Denying In Part Petitions for
Reconsideration and Certifying a Final Subsequent
Environmental Impact Report**

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Introduction

The California Environmental Quality Act (CEQA) declares it to be the policy of the state that public agencies should not approve projects that will result in significant environmental effects if there are feasible means of mitigating such effects or feasible project alternatives that would substantially lessen the significance of such effects. (Pub. Resources Code § 21002.) Subdivision (a) of section 15091 of the CEQA Guidelines sets out three possible written findings a public agency must make (with accompanying rationale) in order to approve or carry out a project when the project environmental impact report (EIR) identifies one or more significant environmental effects. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Accordingly, for each significant impact, the agency must find that the impact has been mitigated or avoided, that the ability to require mitigation or avoidance lies with another agency (which has required or should require the same), or that specific considerations make mitigation or avoidance infeasible.

When feasible mitigation measures or project alternatives that avoid or substantially lessen the significant impacts are not available or cannot be implemented, CEQA permits a public agency to balance the benefits of a proposed project against the project's unavoidable environmental risks and to approve or carry out the project if the risks are considered acceptable. (Cal. Code Regs., tit. 14, § 15093(a).) In these circumstances, subdivision (b) of section 15093 of the CEQA Guidelines requires the agency to make a statement of overriding considerations by stating in writing "the specific reasons to support its action based on the final EIR and/or other information in the record."

Impact Findings and Statements of Overriding Considerations

The State Water Resources Control Board's (State Water Board) findings for the potentially significant impacts of the Pacific Gas and Electric Company's (PG&E)

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McCloud-Pit Hydroelectric Project Relicensing (Proposed Project) identified in the Final Subsequent EIR (SEIR) are set forth below.

Impact BIO-1

The State Water Board finds that increased whitewater boating flows associated with the Proposed Project could significantly and adversely affect foothill yellow-legged frog (FYLF) breeding and tadpoles by scouring egg deposits or flushing tadpoles downstream, but that changes or alterations have been required for, or incorporated into, the Proposed Project which will reduce the potential impact to less than significant.

Section 4.4.3 of the SEIR explains that while the changes to minimum instream flow requirements will not result in significant adverse impacts to any aquatic species, if whitewater boating flows occur during the period of May 15 through June 15, the increased boating flows could result in FYLF egg masses being scoured away and FYLF tadpoles being flushed downstream. This potential impact would be significant and adverse.

Section 4.4.3 of the SEIR further explains that if initiation of the whitewater boating flows occurs prior to FYLF breeding, there would be no impact as the boating flows (300 cfs) would be within the natural range of flows and breeding / tadpole rearing would not be occurring in the river.

Mitigation Measure BIO-1 requires that whitewater boating flow releases below McCloud Dam occur only during the winter/spring high flow season (i.e., consistent with natural high flow hydrology timing) and only be initiated prior to FYLF breeding season.

In addition, water quality certification (certification) Condition 10 requires PG&E to submit for approval a Whitewater Recreation Management Plan that will include related measures to protect FYLF and will further avoid potential impacts.

The State Water Board finds that implementation of Mitigation Measure BIO-1 and compliance with the certification conditions will avoid the potential for the Proposed Project's whitewater boating flows to significantly and adversely affect FYLF. The State Water Board finds that changes or alterations have been required in, or incorporated into, relicensing of the Projects which mitigate or avoid the significant effects of these impacts on the environment.

Impact WATER-1

The State Water Board finds that the Proposed Project could significantly and adversely affect water quality through changes in operation of the McCloud Reservoir, including changes to releases from the reservoir, but that changes or alterations have been required for, or incorporated into, the Proposed Project which will reduce the potential impact to less than significant.

Section 4.5.3 explains that the Proposed Project would have less than significant water quality impacts related to pH, toxicity, sediment, or temperature. It further explains that

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operation of the Proposed Project could result in a significant and adverse impact to water quality resulting from the release of naturally occurring settleable material from McCloud Reservoir or increases to turbidity levels in the McCloud River below McCloud Dam above the Central Valley Regional Water Quality Control Board's *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (Central Valley Basin Plan) standards resulting from Proposed Project Operations.

Section 4.5.3.4 describes how naturally occurring sediment from upstream sources accumulates in McCloud Reservoir, that reservoir levels can influence the settling and resuspension of the sediment, and that ultimately it will be necessary to remove, sequester, or release the accumulated sediment, which could have large-scale effects on downstream aquatic resources. To ensure Proposed Project operations will not result in significant adverse impacts related to settleable material, Mitigation Measure WATER-1 requires PG&E to include in the Reservoir Turbidity Monitoring and Management Plan (required by certification Condition 3(B)) measures that provide for monitoring accumulation of sediment in McCloud and Iron Canyon Reservoirs and for management of in-reservoir sediment to avoid a future release of excess sediment from the Reservoirs into the rivers downstream. The State Water Board finds that with implementation of Mitigation Measure WATER-1, potentially significant impacts related to settleable material will be avoided.

Section 4.5.3.6 identifies the turbidity limits established by the Central Valley Basin Plan for protection of beneficial uses and explains that available data indicates that there are periods of resuspension of accumulated sediments in the McCloud Reservoir that correspond with increased turbidity downstream of McCloud Dam, that turbidity originating from natural events on Mud Creek can result in turbidity spikes in the reservoir and downstream, that the presence of McCloud Reservoir appears to result in elevated downstream turbidity levels, and that outflow turbidity both peaks higher and maintains a higher average over time than inflow turbidity.

Section 4.5.3.6 further explains that without additional information regarding turbidity and flows it is not possible to determine the extent the current McCloud-Pit Hydroelectric Project operations (which is part of the baseline condition) are increasing turbidity releases above the Central Valley Basin Plan standard and it is not possible to determine the overall effect of that changes associated with the Proposed Project would have on turbidity. As current data shows that turbidity levels in the Lower McCloud River are adversely affected under baseline conditions, and the changes in operations associated with the Proposed Project could result in lower turbidity (i.e., if higher outflows dilute existing turbidity levels) or higher turbidity (i.e., if higher flow releases or fluctuating reservoir levels result in resuspension or mobilization of sediment deposited in the reservoir), there is potential for the Proposed Project to cause a significant adverse impact to turbidity in the McCloud River.

Section 4.5.3.6 also considers potential turbidity impacts in the Iron Canyon Creek and Pit River watersheds, which receive water from the McCloud River watershed. It explains that existing data indicate that during periods when erosion events in the McCloud River watershed are not occurring, turbidity levels in receiving waters

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downstream of all diversion inputs associated with the inter-basin transfer of water do not increase as the result of project operations, and that while data indicate that when natural erosion events do occur in the Upper McCloud watershed the result is minimal, temporary exceedances of Central Valley Basin Plan turbidity criteria in the Iron Canyon Creek and Pit River watersheds, the increases would not adversely affect fish populations in the Pit 6 Reservoir or in downstream impoundments.

To ensure the Proposed Project does not result in a significant adverse impact on turbidity levels, Mitigation Measure WATER-2 requires PG&E to include in the Reservoir Turbidity Monitoring and Management Plan measures that provide for monitoring discharge and inflow turbidity from sources upstream of McCloud Reservoir and discharge and outflow turbidity from McCloud Reservoir, monitoring profiles for turbidity in McCloud Reservoir to characterize turbidity conditions, development of a numerical model of reservoir turbidity and temperature, determining the effect of the reservoir and Proposed Project operations on outflow turbidity and, if needed, identifying and implementing management actions that will prevent the Proposed Project from violating Central Valley Basin Plan turbidity standards. Mitigation Measure WATER-1 further assures that future accumulation of sediment in McCloud Reservoir will not be released downstream in a manner that significantly impacts turbidity by violating Central Valley Basin Plan standards.

In addition, certification Conditions 3(A), 3(B), and 5 require PG&E to develop and submit for approval plans for related actions to address turbidity and will further avoid potential impacts.

The State Water Board finds that with implementation of these mitigation measures and certification conditions, the Proposed Project's potentially significant impact related to turbidity will be avoided. The State Water Board finds that changes or alterations have been required in, or incorporated into, relicensing of the Proposed Project which mitigate or avoid the significant effects of these impacts on the environment.

The Winnemem Wintu Tribal Cultural Landscape

The State Water Board finds, based on the evidence in the record and the State Water Board's consideration of the significance of the Winnemem Wintu Tribal Cultural Landscape (Landscape) to the Winnemem Wintu Tribe as required by subdivision (a)(2) of Public Resources Code section 21074, that the Landscape is significant pursuant to the criteria set forth in subdivision (c) of Public Resources Code section 5024.1 and is a tribal cultural resource (TCR) for purposes of CEQA analysis. This finding is incorporated into all findings herein regarding potential impacts to TCRs.

Given the vast immense diversity of California Native American Tribes, their cultural practices, and the landscapes of which they are a part, it is not a simple task for a non-tribal entity to evaluate impacts to tribal cultural resources. Since the cultural value of a resource to a tribe and the significance of a resource to a tribe are core factors in the identification of TCRs under subdivisions (a)(1) and (a)(2), respectively, of Public Resources Code section 21074 it is appropriate for a lead agency to consider those

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factors in determining whether a project may significantly affect TCRs identified pursuant to those subdivisions. In other words, analysis of impacts to TCRs identified under Public Resources Code section 21074 is not limited to consideration of impacts to other resources analyzed in an EIR, but instead may include consideration of factors unique to TCRs.

The existing, or “baseline,” condition of the Landscape TCR (Landscape TCR) is an adversely affected condition: the Winnemem Wintu Tribe has already been forced to change the manner in which it interacts physically and spiritually with the Landscape TCR. Further alterations of the Landscape TCR that detract from elements such as setting, feeling, association, or the Winnemem Wintu Tribe’s communication with spirits, and that require the Winnemem Wintu Tribe to adopt additional changes to the manner in which it interacts with the Landscape TCR would harm the overall sense of place of the Landscape TCR even if the alterations would be beneficial from a scientific or other non-tribal perspective. This means that the significance determinations for TCR impacts are not necessarily identical to the significance determinations for other resource categories. For example, minimum instream flows under the Proposed Project would be higher in most months than current flows and thus potentially benefit aquatic species, but as described below could still adversely affect the Winnemem Wintu Tribe’s ability to carry out river-based ceremonies by forcing the Winnemem Wintu Tribe to change the way it currently conducts ceremonies; the significance determination for the impact of changed flows on the Landscape TCR is thus different from the significance determination for the impact of changed flows on fish species.

Impact TCR-1 (Water Quality – Turbidity, Hazardous Materials, and Temperature)

The State Water Board finds that the Proposed Project could change baseline water quality conditions in a manner that would substantially and adversely change character-defining features or contributing elements of the Landscape TCR and that specific considerations make it infeasible to fully mitigate the potential impact or adopt a project alternative that would avoid the potential impact.

The discussion of Impact TCR-1 in the SEIR includes discussion of potential effects related to the Proposed Project’s changes to turbidity, hazardous materials, and temperature.

Impact TCR-1, Section 4.6.3.1 (Turbidity)

As explained in Sections 4.5.3.4 and 4.5.3.6 of the SEIR, summarized above, there is evidence that current project operations adversely impact turbidity in the affected watersheds and since reservoir fluctuations can affect turbidity and will be altered by the new flow regime associated with the Proposed Project there is potential for the Proposed Project to have a significant adverse effect on turbidity. Additional detail is provided in Section 4.6.3.1 of the SEIR, which further explains that the Proposed Project includes construction and maintenance activities that could result in sediment entering the McCloud River and instream habitat enhancements that could result in temporary increases in turbidity that adversely impact cultural uses of the McCloud

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River even if they would not constitute a significant turbidity impact from a scientific perspective.

The State Water Board finds that Mitigation Measures WATER-1 and WATER-2, described above, will reduce the potential impact of McCloud Reservoir and Dam operations to less than significant by assuring that future accumulation of sediment in McCloud Reservoir will not be released downstream in a manner that violates Central Valley Basin Plan turbidity standards, and that Mitigation Measure TRIBAL-4 (described below) will prevent construction and maintenance activities associated with the Proposed Project from adversely affecting turbidity. Additional mitigation, however, would be required to avoid potential significant impacts to contributing elements or character defining features of the Landscape or traditional ceremonial uses of the McCloud River that could result from instream habitat enhancements.

The State Water Board finds that implementation of Mitigation Measures TRIBAL-1, TRIBAL-2, and TRIBAL-3 (described below) would further ensure that habitat enhancements included in the Proposed Project do not result in significant adverse impacts to contributing elements or character defining features of the Landscape or traditional ceremonial uses of the McCloud River and thus would avoid significant and adverse impacts the Landscape TCR as a whole. However, as explained in Section 4.6.3.1 of the SEIR, this potential impact would be significant even with implementation of the Mitigation Measures. There are no other mitigation measures or feasible alternatives that would avoid the impact: Alternatives 1 or 2 would have similar impacts with respect to turbidity, and in light of the long-term benefits of the instream habitat work there are no feasible alternatives that would exclude the instream habitat work and thus avoid the impact. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1, TRIBAL-2, and TRIBAL-3 to lessen the impact. Certification Conditions 1, 3(A), 3(B), 5, 7, and 13 will ensure that the Proposed Project is operated in a manner that is protective of water quality but also will not fully avoid the potential impact to the Landscape TCR. The State Water Board therefore finds that the Proposed Project has potential to significantly and adversely affect the Landscape TCR with respect to the impacts of turbidity on ceremonies.

Mitigation Measure TRIBAL-1 would require PG&E to request consultation with the Winnemem Wintu Tribe and amend the existing Historical Properties Management Plan (HPMP) as necessary to ensure that the Landscape TCR is incorporated into the HPMP. If implemented, PG&E would be able to use the knowledge and input of the Winnemem Wintu Tribe to ensure that the HPMP accurately describes and includes protection measures for contributing elements and character-defining features of the Landscape TCR and thereby avoid significant impacts to such elements and features and therefore avoid significant impacts to the Landscape TCR as a whole.

Mitigation Measure TRIBAL-2 would require PG&E to establish points of contact with tribes affiliated with the location of the Proposed Project and to notify the tribes of events that could result in flows or turbidity exceeding license conditions. If implemented, this measure would reduce the potential for operation of the Proposed Project to adversely affect ceremonial uses of the Lower McCloud River by

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exacerbating factors like turbidity, for example, if PG&E must release water from McCloud Reservoir during times when reservoir fluctuations resulting from required releases are mobilizing existing sediment that is additional to a natural influx of sediment from upstream sources.

Mitigation Measure TRIBAL-3 would require PG&E to consult with the tribes regarding development and implementation of the management plan components of the Proposed Project. This mitigation measure would reduce potential impacts to TCRs, including the Landscape TCR, that may result from preparing and implementing plans without incorporating tribal knowledge. For example, tribal consultation regarding development and implementation of the Vegetation and Invasive Weed Management Plan can help ensure that vegetation management does not result in the destruction of culturally significant plants or use of herbicides at gathering sites.

Mitigation Measure TRIBAL-4 requires PG&E to comply with the State Water Board's Construction General Permit and amendments thereto for construction and maintenance activities to which the Construction General Permit applies and to implement site-specific Water Quality Monitoring and Protection Plans approved by the SWB's Deputy Director of the Division of Water Rights prior to beginning any construction and maintenance activities that are not subject to the Construction General Permit. This measure will result in the avoidance of significant impacts to water quality or related to the use of hazardous materials associated with construction and maintenance by ensuring that soil-disturbing activities associated with the Proposed Project will not cause erosion, sedimentation, release of hazardous materials, or otherwise impair water quality.

Impact TCR-1, Section 4.6.3.2 (Hazardous Materials)

Section 4.6.3.2 explains that construction or changes in operations and maintenance of facilities associated with the Proposed Project, including recreational facilities, that could significantly affect character-defining features of the Landscape TCR that rely on water quality to maintain the integrity and significance of the Landscape TCR. For example, new impacts that affect the Landscape TCR or elements or features thereof could result from construction activities, routine operations and maintenance at new facilities, or implementation of new management plans, and changed impacts could result from changes to operations and maintenance at existing facilities.

The State Water Board finds that implementation of Mitigation Measure TRIBAL-4 will reduce the potential impact to the Landscape TCR related to hazardous materials entering water. The Draft SEIR states that Mitigation Measure TRIBAL-4 cannot take effect unless PG&E agrees to it, but as Mitigation Measure TRIBAL-4 relates directly to protection of water quality and is enforceable as a condition of the certification the State Water Board may impose it without PG&E's agreement. The Final SEIR will be updated to clarify the status of Mitigation Measure TRIBAL-4.

The State Water Board finds that implementation of Mitigation Measures TRIBAL-1 and TRIBAL-3 in addition to Mitigation Measure TRIBAL-4 would reduce the potentially

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significant impact to less than significant by increasing awareness of the contributing elements and character-defining features of the Landscape TCR and incorporating tribal knowledge into the Proposed Project's management plans. However, as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3 on PG&E and since PG&E has not agreed to implement those mitigation measures the potential impact to the Landscape TCR resulting from changes in operations and maintenance remains significant. The State Water Board finds that there are no feasible mitigation measures or alternatives that would avoid the Proposed Project's potential impact of hazardous materials related to water quality on the Landscape TCR: Alternatives 1 or 2 would have similar impacts with respect to hazardous materials, and in light of the long-term benefits of the instream habitat work there are no feasible alternatives that would eliminate activities that involve the use of hazardous materials and thus avoid the impact. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. Certification Conditions 1, 3(A), 3(B), 5, 7, and 13 will ensure that the Proposed Project is operated in a manner that is protective of water quality but will not fully avoid the potential impact to Landscape TCR. This potential impact thus remains significant and is unavoidable.

Section 4.6.3.3 (Temperature)

The Proposed Project includes higher minimum instream summer flows compared to the baseline that will result in improved temperatures in the Lower McCloud River compared to the baseline. As explained at page 4-85 of the Draft SEIR, the improvement would benefit salmon, watershed health, and the Winnemem Wintu Tribe's wellbeing. The Draft SEIR also states that the temperature improvements associated with the Proposed Project are not enough and that greater improvements are needed to fully protect salmon. That greater improvements to the baseline condition than those provided by the Proposed Project may be possible, however, does not convert an improvement associated with the Proposed Project into an adverse impact for purposes of CEQA. The Final SEIR will be updated to clarify this principle. The State Water Board therefore finds that the Proposed Project will not result in an adverse change with respect to the effect of temperature on the Landscape TCR and therefore will have a less than significant impact.

Statement of Overriding Considerations for Impact TCR-1

Potential impacts of the Proposed Project to the Landscape TCR related to turbidity effects related to instream work on the Winnemem Wintu Tribe's ceremonial uses of the Lower McCloud River and to potential release of hazardous materials resulting from operations and maintenance and instream habitat work are significant and unavoidable as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection

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of water quality throughout the duration of the new Federal Energy Regulatory Commission (FERC) license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the Landscape TCR related to turbidity and hazardous materials to result from instream habitat work associated with the Proposed Project.

Impact TCR-2 (Flows)

The State Water Board finds that the Proposed Project would change baseline flows in a manner that could alter the manner in which the Winnemem Wintu Tribe conducts ceremonies and therefore could substantially and adversely change character-defining features or contributing elements of the Landscape TCR. The State Water Board finds that specific considerations make it infeasible to fully mitigate this potentially significant impact or adopt a Proposed Project alternative that would avoid this potentially significant impact.

As stated on page 4-86 of the Draft SEIR, the Proposed Project will result in generally higher minimum instream flows compared to the existing baseline that represents a general improvement over baseline conditions from a scientific perspective. With respect to impacts to aquatic species, the Draft SEIR states that the relative increase in minimum instream flows would be an improvement for aquatic species but that it would not be high enough to fully protect salmon. That greater improvements to the baseline condition than those associated with the Proposed Project may be possible does not convert the flow improvement associated with the Proposed Project into adverse impacts. The Final SEIR will be updated to clarify this principle. The State Water Board therefore finds that the Proposed Project will not result in an adverse change with respect to impacts of flows on aquatic species that are part of the Landscape TCR and therefore will have a less than significant impact.

Although the changes to flows in the McCloud River associated with the Proposed Project will not be great enough to eliminate ceremonial uses of the river, changes to flows that do not restore the natural hydrograph could require the Winnemem Wintu Tribe to further alter the way the it currently interacts with and in the McCloud River watershed in a manner that adversely impacts the Winnemem Wintu Tribe's spiritual relationship with the elements and features of the Landscape TCR that make up the Landscape TCR as a whole. The Proposed Project's changes to flows in the McCloud River therefore represents a potentially significant impact to the Landscape TCR.

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While implementation of Mitigation Measures TRIBAL-1, TRIBAL-2, and TRIBAL-3 would lessen the potential impact of changed flows on ceremonial uses of the Landscape TCR, as explained at page 4-87 of the SEIR the impact would still be significant with mitigation, and as explained in Section 4.6.3.1, the State Water Board does not have authority to impose those mitigation measures on PG&E. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. Alternatives 1 and 2, like the Proposed Project, would involve a changed flow regime that does not restore the natural hydrograph and so would not avoid the potentially significant impact. The State Water Board finds that alternatives that involve decommissioning or reoperating the McCloud-Pit Hydroelectric Project in order to restore a natural hydrograph are not reasonable or feasible and do not require analysis in the SEIR and there are no other feasible alternatives or mitigation measures that will avoid the impact. Certification Conditions 1, 3, 7, 10, and 13 (and their subparts) will ensure that the Proposed Project flows are implemented in a manner that is protective of water quality but is not sufficient to fully avoid the impact to the ceremonial use of the Landscape TCR. The State Water Board therefore finds that the Proposed Project's potential impact on cultural ceremonies resulting from a changed flow regime is significant and unavoidable.

Statement of Overriding Considerations for Impact TCR-2

The potential impact of changed flows associated with the Proposed Project on the Landscape TCR, specifically on the Winnemem Wintu Tribe's ceremonial uses of the Lower McCloud River, is significant and unavoidable as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the Winnemem Wintu Tribe's ceremonial uses of the Lower McCloud River.

Impact TCR-3 (Physical Disturbance)

The Proposed Project involves activities that would result in physical disturbance of sites in the area of analysis that could directly physically affect contributing elements or character-defining features of the Landscape TCR or have indirect nonphysical impacts

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by detracting from elements of location, design, materials, and feeling that are crucial components of the Landscape TCR, including by disturbing culturally sensitive sites. The potential impact is significant and adverse.

This impact could be substantially lessened with implementation of Mitigation Measures TRIBAL-1, TRIBAL-3, and TRIBAL-4, which would provide for the Winnemem Wintu Tribe's knowledge regarding the Landscape TCR to be included when Proposed Project activities involving physical disturbance are implemented. However, as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3, and Mitigation Measure TRIBAL-4 is not sufficient on its own to reduce the impact to less than significant. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives that would avoid physical disturbance in the areas affected by the Proposed Project. Certification Conditions 5, 9, 11, and 13 will reduce impacts related to physical disturbance but are not sufficient to fully avoid potential impacts to the Landscape TCR. The State Water Board therefore finds that this impact remains significant and is unavoidable.

Statement of Overriding Considerations for Impact TCR-3

The potential impact on contributing elements or character-defining features of the Landscape TCR related to physical disturbances associated with the Proposed Project is significant and adverse as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the contributing elements or character-defining features of the Landscape TCR related to physical disturbances.

Impact TCR-4 (Hazardous Materials – Terrestrial Based Impacts)

The Proposed Project will involve operations, including routine operations and maintenance, that would be similar to existing operations but could change in timing, duration, and specific implementation of actions and could involve the use of hazardous

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materials on land-based sites. These operations include fire management, vegetation management, recreational facilities management, and road management. These activities could directly have adverse direct physical effects on contributing elements or character-defining features of the Landscape TCR or have adverse indirect nonphysical impacts by detracting from elements of location, design, materials, and feeling that are crucial components of the Landscape TCR. For example, use of herbicides for vegetation management that occurs without tribal input could result in significant impacts to culturally important sites. The potential impact is significant and adverse.

This impact could be substantially lessened with implementation of Mitigation Measures TRIBAL-1, TRIBAL-3, and TRIBAL-4, which would provide for the Winnemem Wintu Tribe's knowledge regarding the Landscape TCR to be included when Project activities involving the use of hazardous materials are implemented. However, as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3, and Mitigation Measure TRIBAL-4 is not sufficient on its own to reduce the impact to less than significant. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives that would avoid the use of hazardous materials in the areas affected by the Proposed Project. Certification Conditions 9, 11, and 13 will ensure the Proposed Project is operated in a manner that is protective of water quality by reducing impacts related to the use of hazardous materials but are not sufficient to fully avoid potential impacts to the Landscape TCR. The State Water Board therefore finds that this impact remains significant and is unavoidable.

Statement of Overriding Considerations for Impact TCR-4

The potential impact of the Proposed Project on the Landscape TCR related to the land-based use of hazardous materials is significant and unavoidable as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the Landscape TCR associated with land-based use of hazardous materials.

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Impact TCR-5 (Invasive Species)

The Proposed Project could result in new or changed ongoing activities necessary to comply with mandatory requirements imposed by federal agencies that could inadvertently introduce or spread invasive species in a manner that degrades character-defining features or contributing elements of the Landscape TCR in a manner that reduces the integrity of the Landscape TCR. For construction activities or recreational operations can result the spread of non-native grasses or invasive aquatic species that would alter ceremonial places along or in the McCloud River or affect populations of native species that are vital features of the Landscape TCR. The potential impact to the Landscape TCR is significant and adverse.

This impact could be substantially lessened with implementation of Mitigation Measures TRIBAL-1, TRIBAL-3, and TRIBAL-4, which would provide for the Winnemem Wintu Tribe's knowledge regarding the Landscape TCR to be included when Proposed Project activities that could result in the spread of invasive species are implemented. However, as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3, and Mitigation Measure TRIBAL-4 is not sufficient on its own to reduce the impact to less than significant. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives that would prevent the spread of invasive species in a manner that affects contributing elements or character defining features of the Landscape TCR in the areas affected by the Proposed Project. Certification Conditions 5, 8, 9, 11, and 13 will ensure the Proposed Project is operated in a manner that is protective of water quality by reducing the possibility of the spread of invasive species but are not sufficient to fully avoid potential impact to the Landscape TCR. The State Water Board therefore finds that this impact remains significant and is unavoidable.

Statement of Overriding Considerations for Impact TCR-5

The potential impact of the Proposed Project on the Landscape TCR related to the spread of invasive species is significant and unavoidable as described above.

The Proposed Project's benefits will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the Landscape TCR related to the spread of invasive species.

Impact TCR-6 (Aesthetics and Noise)

Project activities involving construction or physical disturbance could result in changes to the aesthetic or auditory character of character-defining features or contributing elements of the Landscape TCR that could adversely impact the integrity of the Landscape TCR. For example, ground-clearing associated with construction could result in removal of vegetation that alters ceremonial places or cultural sites in a manner that reduces tribal access or reduces the sense of place and feeling that is an integral component of the Landscape TCR. The potential impact to the Landscape TCR is significant and adverse.

This impact could be substantially lessened with implementation of Mitigation Measures TRIBAL-1, TRIBAL-2, TRIBAL-3, and TRIBAL-4, which would provide for the Winnemem Wintu Tribe's knowledge regarding the Landscape TCR to be included when Proposed Project activities that could alter aesthetic and sound components of the Landscape TCR are implemented. However, as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1, TRIBAL-2, or TRIBAL-3, and Mitigation Measure TRIBAL-4 is not sufficient on its own to reduce the impact to less than significant. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1, TRIBAL-2, and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives to the Proposed Project that would avoid aesthetic or noise impacts on contributing elements or character defining features of the Landscape TCR. The State Water Board therefore finds that this impact remains significant and is unavoidable.

Statement of Overriding Considerations for Impact TCR-6

The potential impact of the Proposed Project on aesthetics or sound associated with character-defining features or contributing elements of the Landscape TCR is significant and unavoidable as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the aesthetic or auditory character of character-defining features or contributing elements of the Landscape TCR.

Impact TCR-7 (Terrestrial Species Habitats)

As described above in the discussion of Impacts TCR-1, TCR-3, TCR-4, and TCR-5, the Proposed Project involves the potential use of hazardous materials and activities that would involve ground disturbance and could result in the spread of invasive species. If significant impacts occur as a result of those activities, the Proposed Project could also affect terrestrial species and their habitats in a manner that significantly and adversely impacts the Landscape TCR.

This impact could be substantially lessened with implementation of Mitigation Measures TRIBAL-1, TRIBAL-3, and TRIBAL-4, which would provide for the Winnemem Wintu Tribe's knowledge regarding the Landscape TCR to be included when Proposed Project activities involving ground disturbance or use of hazardous materials that could alter components of the Landscape TCR are implemented. However, as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3, and Mitigation Measure TRIBAL-4 is not sufficient on its own to reduce the impact to less than significant. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives that would avoid in the potential impacts to contributing elements or character defining features of the Landscape TCR in the areas affected by the Proposed Project or use of hazardous materials that may affect contributing elements or character defining features of the Landscape TCR. The State Water Board therefore finds that this impact remains significant and is unavoidable.

Statement of Overriding Considerations for Impact TCR-7

The potential impact of the Proposed Project on character-defining features or contributing elements of the Landscape TCR related to terrestrial species habitat is significant and unavoidable as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the Landscape TCR related to terrestrial species habitat.

Impact TCR-8 (Aquatic Species Habitats)

As described above in the discussion of Impacts TCR-1 and TCR-2, the Proposed Project involves changes to flows, potential temporary increases in turbidity, and potential use of hazardous materials that could affect contributing elements or character defining features of the Landscape TCR. The potential impact to the Landscape TCR is significant and adverse.

This impact could be reduced with implementation of Mitigation Measures TRIBAL-1, TRIBAL-2, TRIBAL-3, and TRIBAL-4, which would provide for the Winnemem Wintu Tribe's knowledge regarding the Landscape TCR to be included when Proposed Project activities that could affect contributing elements or character defining features of the Landscape TCR relative to aquatic species habitat are implemented. However, as explained at page 4-91 the impact would not be fully avoided even with mitigation and as explained in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1, TRIBAL-2, or TRIBAL-3. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1, TRIBAL 2, and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives to the Proposed Project that would avoid the potential impact. Certification Conditions 3, 4, 5, 6, 7, 9, 11, and 13 will ensure the Proposed Project is operated in a manner that is protective of water quality by reducing impacts and improving conditions related to aquatic species habitat but are not sufficient to fully avoid potential impact to the Landscape TCR. The State Water Board therefore finds that this impact is significant and is unavoidable.

Statement of Overriding Considerations for Impact TCR-8

The potential impact of the Proposed Project on character-defining features or contributing elements of the Landscape TCR related to aquatic species habitat is significant and unavoidable as described above.

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for significant and unavoidable impacts to the Landscape TCR related to aquatic species habitat.

Cumulative Impacts

Impact Cumulative-2: Turbidity

As described in Sections 4.5 and 6.5.3.1 of the SEIR and above, there is potential for the Proposed Project to result in a significant adverse impact with respect to turbidity, and without mitigation the Proposed Project's incremental contribution to the overall cumulative impact would be cumulatively considerable, but that with implementation of Mitigation Measures WATER-1, WATER-2, and TRIBAL-4 the Proposed Project will not result in a cumulatively considerable contribution.

The State Water Board finds that implementation of Mitigation Measures WATER-1, WATER-2, and TRIBAL-4 will prevent the Proposed Project from resulting in a cumulatively considerable contribution to the cumulative turbidity impact.

Impact Cumulative-3: Hazards/Hazardous Materials

As described in the SEIR's discussion of Impacts TCR-1, TCR-4, and Section 6.5.3.3 of the SEIR, implementation of Mitigation Measures TRIBAL-3 and TRIBAL-4 would prevent the Proposed Project's contribution to a cumulative effect to contributing elements of character defining features of the Landscape TCR resulting from use of hazardous materials from being cumulatively considerable. In addition, the Board finds that implementation of Mitigation Measure TRIBAL-1 would further lessen the Proposed Project's contribution to a cumulative effect related to tribal cultural resources resulting from use of hazardous materials.

However, as described in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 or TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives to the Proposed Project that would avoid use of hazardous materials that could affect contributing elements of character defining features of the Landscape TCR and thus avoid the Proposed Project's contribution to the cumulative impact. The State Water Board finds that the Proposed Project's contribution to the cumulative impact on tribal cultural resources is cumulatively considerable, significant, and adverse.

Statement of Overriding Considerations for Impact Cumulative-3:

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for a cumulatively considerable contribution to significant and unavoidable impacts to the Landscape TCR associated with use of hazardous materials.

Impact Cumulative-5: Aquatic Biological Resources

As described in the SEIR's discussion of Impact TCR-8, Section 6.5.3.5 of the SEIR, and the discussion of Cumulative-3 above, from the perspective of tribal cultural resources construction or maintenance activities or instream habitat work could result in the Proposed Project resulting in a cumulatively considerable contribution to a significant and adverse cumulative impact to aquatic biological resources, though implementation of Mitigation Measures WATER-1, WATER-2, TRIBAL-1, TRIBAL-3 and TRIBAL-4 would prevent the Proposed Project from resulting in a cumulatively considerable contribution.

However, as described in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1 or TRIBAL-3. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1 and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives to the Proposed Project that would avoid the activities that could result in the cumulatively considerable contribution. The State Water Board finds that the Proposed Project's contribution, through activities that would alter aquatic habitat, to the cumulative impact on tribal cultural resources is cumulatively considerable, significant, and adverse.

Statement of Overriding Considerations for Impact Cumulative-5:

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for a cumulatively considerable contribution to significant and unavoidable impacts to tribal cultural resources associated with alterations of aquatic habitat.

Impact Cumulative-6: Tribal Cultural Resources

As described in the SEIR's discussion of Impacts TCR-3, TCR-5, TCR-7, and TCR-8, and Sections 4.6.3.1, 4.6.3.2, and 6.5.3.6 of the SEIR, and the discussion of Impact Cumulative-3 above, instream habitat work, construction, and O&M activities, and flow alterations associated with the Proposed Project could result in a cumulatively considerable contribution to significant and adverse cumulative impacts to ceremonial uses or contributing elements or of the Landscape TCR, and mitigation would be required to ensure the Proposed Project does not result in a cumulatively considerable contribution.

Implementation of Mitigation Measures WATER-1, WATER-2, TRIBAL-1, TRIBAL-2, TRIBAL-3 and TRIBAL-4 would reduce the Proposed Project's cumulative contribution from resulting in a cumulatively considerable contribution, but not eliminate the contribution with respect to impacts on ceremonial uses of and other tribal practices along the McCloud River that are integral to the Landscape TCR. In addition, as described in Section 4.6.3.1 of the SEIR, the State Water Board cannot impose Mitigation Measures TRIBAL-1, TRIBAL-2, or TRIBAL-3. The State Water Board encourages PG&E to implement Mitigation Measures TRIBAL-1, TRIBAL-2, and TRIBAL-3. The State Water Board further finds that there are no other feasible mitigation measures and no feasible alternatives to the Proposed Project that would avoid the activities that could result in a cumulatively considerable contribution to the Landscape TCR. The Board finds that the Proposed Project's contribution, through the potential to adversely impact ceremonial uses and contributing elements or character defining features of the Landscape TCR, to the cumulative impact on tribal cultural resources is cumulatively considerable, significant, and adverse.

Statement of Overriding Considerations for Impact Cumulative-6:

The Proposed Project's benefits as conditioned and mitigated will include the continued production of clean, reliable, and renewable hydroelectric energy using existing facilities and avoidance of the disruptions in service or other adverse consequences of losing that energy production, improvements to temperatures, flows, and habitat for spawning and growth of salmon and other aquatic species in the Lower McCloud River, protection of water quality throughout the duration of the new FERC license, and improvements to existing recreational resources and recreational access, and will result in the development of improved information regarding the McCloud River watershed and increased tribal input regarding future actions that will facilitate future reintroduction efforts, especially if an authorized federal agency requires fish passage or related actions during the term of the new FERC license.

Attachment 5: California Environmental Quality Act Findings and Statement of Overriding Considerations

Overall, the benefits of the Proposed Project, as conditioned and mitigated by the State Water Board, support the State Water Board's approval of the Proposed Project despite the potential for a cumulatively considerable contribution to significant and unavoidable impacts to tribal cultural resources associated with alterations of ceremonial uses and contributing elements or character defining features of the Landscape TCR,