STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

PACIFIC GAS AND ELECTRIC COMPANY'S
BATTLE CREEK HYDROELECTRIC PROJECT – LICENSE AMENDMENT FOR REMOVAL OF INSKIP DIVERSION DAM

FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 1121

SOURCE: **South Fork Battle Creek**

COUNTY: **Tehama**

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

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Acronyms and Abbreviations

2020-2022 California Integrated Report	*2020-2022 California Integrated Report for Clean Water Act Sections 303(d) and 305(b)*
Amendment Application	*Final Application for Non-Capacity License Amendment for Removal of Inskip Diversion Dam*
Antidegradation Policy	*Statement of Policy with Respect to Maintaining High Quality Waters in California*
Bay-Delta Plan	*Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary*
BLM	*Bureau of Land Management*
BMPs	*best management practices*
CDFW	*California Department of Fish and Wildlife*
Central Valley Basin Plan	*Water Quality Control Plan (Basin Plan) for the Sacramento River Basin and the San Joaquin River Basin*
Central Valley Regional Water Board	*Central Valley Regional Water Quality Control Board*
certification	*water quality certification*
Construction General Permit	*National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*
Deputy Director	*Deputy Director of the Division of Water Rights*
Dredge or Fill Procedures	*State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*
ESA	*Endangered Species Act*
Executive Officer	Executive Officer of the Central Valley Regional Water Board
FERC	*Federal Energy Regulatory Commission*
Forest Service	*United States Forest Service*
GPS	*global positioning system*
Hydroelectric Project	*Battle Creek Hydroelectric Project*
Licensee	*Pacific Gas and Electric Company*
MIFs	*minimum instream flows*
NPDES	*National Pollutant Discharge Elimination System*
NMFS	*National Marine Fisheries Service*
NTU	*Nephelometric Turbidity Unit*

PG&E	*Pacific Gas and Electric Company*
Project	*Battle Creek Hydroelectric Project – License Amendment for Removal of Inskip Diversion Dam*
Regional Water Boards	*Regional Water Quality Control Boards*
Restoration Project	*Battle Creek Salmon and Steelhead Restoration Project*
SERP	*Statutory Exemption for Restoration Projects*
State Water Board	*State Water Resources Control Board*
TMDL	*Total Maximum Daily Load*
USACE	*United States Army Corps of Engineers*
USBR	*United States Bureau of Reclamation*
USEPA	*United States Environmental Protection Agency*
USFWS	*United States Fish and Wildlife Services*
Water Boards	State Water Board and Regional Water Boards, collectively

1.0 Project Description

Pacific Gas and Electric Company (PG&E or Licensee) currently owns and operates the Battle Creek Hydroelectric Project (Hydroelectric Project; Federal Energy Regulatory Commission (FERC) Project No. 1121). The Hydroelectric Project is located on North Fork Battle Creek and South Fork Battle Creek in Shasta and Tehama Counties, California. The Hydroelectric Project is currently operated under a license issued by FERC in 1976 that expires on July 31, 2026[1].

The Hydroelectric Project consists of the five developments (Volta 1, Volta 2, South, Inskip, and Coleman) that divert water for power generation from the North and South Forks of Battle Creek and several tributaries and springs. The Hydroelectric Project developments consist of two upstream storage reservoirs (North Battle Creek and McCumber); three forebays (Lake Nora, Lake Grace, and Coleman Forebay); 20 canals and pipelines; 15 diversion dams, five powerhouses, and appurtenant facilities.

The Inskip Development consists of three diversion dams (Inskip, Lower Ripley Creek, and Eagle Canyon); Inskip Powerhouse (8-megawatt maximum capacity); Inskip Bypass; the 4.4-mile-long[2] Inskip Canal; a 3,271-foot-long penstock; and appurtenant facilities (Figure 1: Battle Creek Hydroelectric Project Flow Routing). All three diversion dams divert water into Inskip Canal, which feeds water to Inskip Powerhouse. During periods when Inskip Powerhouse is out of service, the Inskip Powerhouse Bypass conveys water around Inskip Powerhouse directly to Coleman Canal. Inskip Canal and Inskip Powerhouse were taken offline on October 10, 2018, due to storm damage and needed structural improvements. To date, Inskip Canal and Inskip Powerhouse remain offline such that flows remain in South Fork Battle Creek, flowing through Inskip Diversion Dam.

In 1999, PG&E, the United States Bureau of Reclamation (USBR), National Marine Fisheries Service (NMFS), United States Fish and Wildlife Services (USFWS), and California Department of Fish and Wildlife (CDFW) entered into a Memorandum of Understanding to implement the Battle Creek Salmon and Steelhead Restoration Project (Restoration Project) to restore approximately 42 miles of Chinook salmon and steelhead habitat in the North and South Forks of Battle Creek and an additional six miles of habitat in associated tributaries. The Restoration Project is being implemented in phases with separate water quality certifications[3] (certifications) and does not include removal of Inskip Diversion Dam.

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[1] PG&E has indicated it plans to decommission the Hydroelectric Project when its license expires and will need to file a license surrender application with FERC that details how PG&E plans to decommission the Hydroelectric Project.
[2] The canal includes: 6,465 feet of unlined canal, 12,475 feet of concrete-lined canal, 5,017 feet of tunnel, and 294 feet of metal flume.
[3] Battle Creek Hydroelectric Project: Phase 2 No Regrets, Restoration Project Phase 1A and Phase 1B.

PG&E is proposing the Battle Creek Hydroelectric Project – License Amendment for Removal of Inskip Diversion Dam (Project) to remove Inskip Diversion Dam[4] and restore a portion of South Fork Battle Creek. Inskip Canal and Inskip Powerhouse are not included in the Project and will remain in place. Inskip Diversion Dam is located on South Fork Battle Creek in Tehama County, approximately three miles south of Manton, California, on land managed by the United States Forest Service (Forest Service) and United States Bureau of Land Management (BLM) (Figure 2: Project Location, Work Area, and Laydown Areas).

Inskip Diversion Dam is a masonry dam that is 100-feet-wide and 28-feet-high. The impoundment behind Inskip Diversion Dam is full of sediment and provides negligible water storage capacity. Instream flow releases from Inskip Diversion Dam are regulated by the Hydroelectric Project's FERC license which requires 5 cubic feet per second "in South Fork Battle Creek below the dams diverting water into South Canal, Inskip Canal and Coleman".

As part of the Project, PG&E is proposing to: (1) remove Inskip Diversion Dam and associated radial gates, intake gates, screens, buttresses, steel cladding, and the fish ladder at the dam; (2) dredge and remove approximately 30,000 to 56,000 cubic yards of accumulated sediments and debris from the impoundment area behind Inskip Diversion Dam; and (3) restore the stream channel to a natural condition by creating a series of pools and riffles/steps/cascades to provide channel stability (Figures 3 and 4). Removed sediment will be temporarily transported to one of four laydown areas designated for sediment storage. PG&E proposes to reuse suitable material dredged from behind the dam during reconstruction of the stream channel. Unused sediment will be transported to an offsite PG&E facility in Manton for later use. Project construction is anticipated to take six months to complete and is scheduled to occur between May to September. Project maps and schematics can be found in Attachment A: Project Overview Figures.

2.0 Water Rights

Table A lists PG&E's water right claims associated with Inskip Diversion Dam and Hydroelectric Project operations.

Table A. PG&E's Water Right Claims Associated with the Project

Statement No.	Priority Date	Point of Diversion	Sources	Purpose of Use
S000839	1910	Inskip Diversion Dam	South Fork Battle Creek	Power
S000830	1909	North Fork Battle Creek	North Fork Battle Creek	Power
S000831	1909	North Fork Battle Creek	North Fork Battle Creek	Power
S000832	1880	North Fork Battle Creek	North Fork Battle Creek	Power

[4] Inskip Canal will not be removed as part of the Project. PG&E has stated that Inskip Canal and Inskip Powerhouse are anticipated to be included in the license surrender application for the Hydroelectric Project.

Statement No.	Priority Date	Point of Diversion	Sources	Purpose of Use
S000840	1910	North Fork Battle Creek	North Fork Battle Creek	Power
S000836	1910	North Fork Battle Creek	North Fork Battle Creek	Power
S000833	1883	North Fork Battle Creek	North Fork Battle Creek	Power

*Information is from the State Water Resource Control Board's electronic Water Rights Information Management System.

3.0 Federal Energy Regulatory Commission and United State Army Corps of Engineers Proceedings

FERC issued a 50-year license for the Hydroelectric Project on August 13, 1976. On October 28, 2022, PG&E filed a license amendment application with FERC proposing to amend the Hydroelectric Project license to implement the Project. On October 23, 2020, PG&E announced that it does not intend to relicense the Hydroelectric Project and instead plans to surrender the license and decommission the Hydroelectric Project (PG&E, 2020).

Project implementation will require a permit from the United States Army Corps of Engineers (USACE), pursuant to section 404 of the Clean Water Act. PG&E anticipates it will obtain coverage for the Project under the Reporting Nationwide Permits 13 (Bank Stabilization), 27 (Aquatic Habitat Restoration, Enhancement and Establishment Activities), and 53 (Removal of Low-Head Dams). On March 8, 2023, PG&E applied to the State Water Resources Control Board (State Water Board) for a certification for a FERC license amendment and a USACE 404 permit. USACE subsequently denied the 404 permit application due to it being incomplete and did not establish a reasonable period of time to issue a certification for the Project. This certification applies to both the Project's pending FERC license amendment and any required USACE permits associated with the Project.

4.0 Regulatory Authority

4.1 Water Quality Certification and Related Authorities

The federal Clean Water Act (33 U.S.C. §§ 1251-1388) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) The Clean Water Act relies significantly on state participation and support in light of "the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution" and "plan the development and use" of water resources. (33 U.S.C. § 1251(b).) Section 101 of the Clean Water Act (33 U.S.C. § 1251(g).) requires federal agencies to "co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources." (33 U.S.C. § 1251(g).)

Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit that may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will comply

with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with "any other appropriate requirement of State law." (33 U.S.C. §1341(d).) Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project. (*Ibid.*)

The State Water Board is the state agency responsible for Clean Water Act section 401 certification in California. (Wat. Code, § 13160.) The State Water Board has delegated authority to act on applications for certification to the Executive Director of the State Water Board. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

Water Code section 13383 authorizes the State Water Board to "establish monitoring, inspection, entry, reporting, and recordkeeping requirements" and obtain "other information as may be reasonably required" for activities subject to certification under section 401 of the Clean Water Act. For activities that involve the diversion of water for beneficial use, the State Water Board delegated this authority to the Deputy Director of the Division of Water Rights (Deputy Director), as provided for in State Water Board Resolution No. 2012-0029 (State Water Board 2012). In the *Redelegation of Authorities* memo issued by the Deputy Director on April 20, 2023, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2023a).

Procedure, Application, and Noticing

On March 8, 2023, PG&E filed a certification application with the State Water Board under section 401 of the Clean Water Act. On March 23, 2023, State Water Board staff provided public notice of the application, pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the Project on the State Water Board's website. No comments were received in response to this notice.

On January 3, 2024, State Water Board staff requested comments on the Project certification conditions from the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board). (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On January 19,2024, Central Valley Regional Water Board staff responded with minor clerical edits that were addressed in this certification.

4.2 Water Quality Control Plans and Related Authorities

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards in the Central Valley Regional Water Board's *Water Quality Control Plan (Basin Plan) for the Sacramento River Basin and the San Joaquin River Basin* (Central Valley Basin Plan) (Central Valley Regional Water Board 2019) and the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin*

Delta Estuary (Bay-Delta Plan) (State Water Board 2018)[5].

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, industry, agriculture, and fish and wildlife habitat), water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. (Wat. Code, §§ 13241, 13050, subds. (h), (j).) The beneficial uses, together with the water quality objectives contained in the water quality control plans and applicable state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and anti-degradation requirements. (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology* (1994) 511 U.S. 700, 714-719.)

The California Regional Water Quality Control Boards (Regional Water Boards) have primary responsibility for the formulation and adoption of water quality control plans for their respective regions, subject to State Water Board and United States Environmental Protection Agency (USEPA) approval, as appropriate. (Wat. Code, §§ 13240 et seq.) As noted above, the State Water Board may also adopt water quality control plans, which will supersede regional water quality control plans for the same waters to the extent of any conflict. (Wat. Code, § 13170.) The State Water Board and Regional Water Boards (collectively Water Boards) adopt the plans pursuant to their authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313).

Central Valley Basin Plan

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the Central Valley Basin Plan. The Central Valley Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The Central Valley Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The Central Valley Basin Plan identifies existing beneficial uses for Battle Creek as: irrigation; stock watering; power; water contact recreation; canoeing and rafting; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; cold water migratory habitat; warm water spawning; cold water spawning; and wildlife habitat.

Bay-Delta Plan

The Bay-Delta Plan establishes water quality objectives to protect beneficial uses of water in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and tributary watersheds, including drinking water supply, irrigation supply, and fish and wildlife. The State Water Board adopts the Bay-Delta Plan pursuant to its authorities under the

[5] Based on the nature of the Project, impacts to water quality objectives listed for waterbodies in the Bay-Delta Plan are not anticipated to occur from Project activities.

Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313). The beneficial uses in the Bay-Delta Plan are: municipal and domestic supply; industrial service supply; industrial process supply; agricultural supply; groundwater recharge; navigation; water contact recreation; non-contact water recreation; shellfish harvesting; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; estuarine habitat; wildlife habitat; and rare, threatened, or endangered species. In 2018, the Bay-Delta Plan was updated to adopt new and revised Lower San Joaquin River flow objectives and revised southern Delta salinity objectives.

The State Water Board is developing Bay-Delta Plan amendments focused on the Sacramento River and its tributaries, Delta eastside tributaries, Delta outflows, and interior Delta flows. This effort is referred to as the Sacramento/Delta Update to the Bay-Delta Plan. Protection of the Bay-Delta ecosystem and its native aquatic species requires an integrated approach to effectively connect upstream suitable cold water nursery habitat, floodplains, tidal marshland, and turbid open water habitats in the Delta and Bay and to connect those environments to the ocean. Accordingly, the Sacramento/Delta Update to the Bay-Delta Plan would provide for a flow regime that supports a connected and functioning ecosystem linking and integrating inflow, cold water habitat, Delta outflow, and interior Delta flow measures with complementary physical habitat restoration and other nonflow measures. Changes are proposed to the water quality objectives and the program of implementation for those objectives, as well as changes to monitoring, reporting, and assessment requirements. Water users on Bay-Delta tributaries would bear responsibility for achieving flow and other flow-based objectives. (State Water Board 2023b).

Antidegradation Policy

The State Water Board's *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy; State Water Board 1968) requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. § 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

Construction General Permit

Coverage under the State Water Board's *National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit) (State Water Board 2022) is required for activities that disturb one or more acres of soil, or that

disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activities subject to the Construction General Permit include clearing, grading, and disturbances to the ground such as stockpiling or excavation, but do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. Coverage is required pursuant to Clean Water Action sections 301 and 402 which prohibit certain discharges of stormwater containing pollutants except in compliance with a NPDES permit. (33 U.S.C. §§ 1311, 1342(p); 40 C.F.R. pts. 122, 123, and 124.) The Project will require coverage under the Construction General Permit.

Dredge or Fill Procedures

The *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures) (State Water Board 2019 and 2021) provide California's definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of dredged or fill material to waters of the state. The Dredge or Fill Procedures ensure that State Water Board regulatory activities will result in no net loss of wetland quantity, quality, or permanence, compliant with the *California Wetlands Conservation Policy*, Executive Order W-59-93. PG&E must comply with the Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

Clean Water Act 303(d) Listing

On January 19, 2022, the State Water Board adopted the *2020-2022 California Integrated Report for Clean Water Act Sections 303(d) and 305(b)*[6] (2020-2022 California Integrated Report; State Water Board 2022b) and it was approved by USEPA on May 11, 2022. The 2020-2022 California Integrated Report lists South Fork Battle Creek as impaired for pH.

Section 303(d) of the Clean Water Act requires total maximum daily loads (TMDLs) to be developed for impaired waterbodies. TMDLs are control programs that define the maximum amount of a pollutant that a waterbody can receive without exceeding water quality standards and establish waste load allocations and load allocations for point and nonpoint sources of pollution, respectively. TMDL requirements for South Fork Battle Creek are expected to be completed in 2035.

Comprehensive Plan

Section 10(a)(2)(A) of the Federal Power Act requires FERC to consider the extent to which a project is consistent with Federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project. In March 2019, the State Water Board submitted to FERC the plans and policies included

[6] *2020-2022 California Integrated Report for Clean Water Act Sections 303(d) and 305(b)* available at: https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html. Accessed on September 7, 2023.

in the state's comprehensive plan for orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state. This submission included the Central Valley Basin Plan, the Bay-Delta Plan, the Antidegradation Policy, discussed above, and other applicable plans and policies for water quality control. (FERC 2020.)

5.0 California Environmental Quality Act

The California Environmental Quality Act (CEQA) applies to discretionary projects that may cause a direct or indirect physical change in the environment. (Pub. Resources Code, §§ 21000 et seq.) When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of CEQA. The State Water Board is the lead agency for the purpose of compliance with CEQA (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.).

The State Water Board determined that the Project qualifies for the statutory exemption for restoration projects (SERP) (CDFW 2023a). (Pub. Resources Code, § 21080.56, subd. (e).) On June 5, 2023, the State Water Board requested SERP concurrence from the Director of CDFW. On July 12, 2023, the Director of CDFW provided SERP concurrence consistent with Public Resources Code section 21080.56, subdivisions (a) to (e), inclusive[7]. The State Water Board will file a Notice of Exemption with the State Clearinghouse within 48 hours of issuing this certification.

6.0 Rationale for Water Quality Certification Conditions

This section of the certification explains that the grant of certification, as conditioned, is warranted and why the conditions in Section 8.0 are necessary to ensure that the Project and its discharges will comply with water quality requirements. This section also includes, as necessary, citations to federal, state, or tribal laws that authorize the conditions and sets forth citations to applicable regulatory authority. Section 4.0 also sets forth citations to applicable regulatory authority. The explanation and citations should be evaluated in the context of the certification as a whole, but the certification conditions are set forth only in Section 8.0.

As explained in this section, the conditions in this certification are generally required pursuant to the Central Valley Basin Plan, as described in Section 4.0, Regulatory Authority.

The Dredge or Fill Procedures, adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects subject to satisfaction of specified requirements. California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth

[7] CDFW concurrence No. 21080.56-2023-031-R1. The Inskip Diversion Dam Removal and Stream Restoration Project is the same project as described in Section 1.0 of this certification.

information that must be included in certification requests, and section 3860 sets forth standard conditions that shall be included in all certification actions.

Water Code sections 13267 and 13383 authorize the Water Boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste to navigable waters. Water Code section 1051 additionally authorizes the State Water Board to investigate waters diverted for beneficial use. Moreover, this certification ensures continued monitoring, reporting, and assessment of water quality for discharges that may impact waters of the state.

Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Section 5937 and requirements to maintain or monitor flow or other water quality characteristics as required to meet section 5937 are appropriate conditions of state law necessary to protect fishery beneficial uses.

In general, the code citations, plans, and policies that support issuance of this certification that are described in Section 4.0 are not duplicated in this section. The conditions in this certification were developed to ensure compliance with water quality standards and water quality requirements established under the Porter-Cologne Water Quality Control Act and the federal Clean Water Act, including requirements in applicable water quality control plans, and other appropriate requirements of state law. The conditions in Section 8.0 of this certification are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

When preparing the conditions in this certification, State Water Board staff reviewed and considered the following information:

- PG&E's certification application (PG&E 2023a);
- PG&E's *Final Application for Non-Capacity License Amendment for Removal of Inskip Diversion Dam* (Amendment Application) (PG&E 2022);
- Inskip Diversion Dam Removal Dewatering and Dredging Plan, as updated February 15, 2023 (PG&E 2023b);
- PG&E's draft Water Quality Monitoring Plan for Inskip Dam Removal including supporting documents, submitted February 14, 2024 (PG&E 2024);
- Inskip Diversion Dam Removal Project Description updated May 25, 2023 (PG&E 2023c);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the Central Valley Basin Plan;
- CDFW's *Special Animals List* (CDFW 2023b);
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., Dredge or Fill Procedures, Construction General Permit, etc.);
- Project-related controllable water quality factors; and
- Other information in the record.

This certification is issued pursuant to the final 2023 Clean Water Act Section 401 Water Quality Certification Rule (Fed. Reg. 66558-66666 (September 27, 2023) [amending 40 C.F.R. Parts 121, 122, 124]) that went into effect on November 27, 2023 (2023 Rule), but also complies with the previous 2020 Rule that was in effect for portions of 2020-2023 should it reemerge as a result of litigation or any other reason. To the extent FERC or the USACE considers any certification condition to include requirements outside the substantive scope of USEPA's *Clean Water Act Section 401 Certification Rule*, 85 Fed. Reg. 42,210 (July 13, 2020) (2020 Rule), the 2020 Rule—including but not limited to 40 C.F.R. §§ 121.1(f) and (n), 121.3, 121.7(d)(1), and 121.9(b)—is inconsistent with federal law and controlling case law. The 2023 Rule restores the scope of certification "that is consistent with not only the statutory language and congressional intent but also longstanding [USEPA] guidance and decades of Supreme Court case law." (Fed. Reg. 65591-66606 [Scope of Certification].) Under section 401 of the Clean Water Act, when an activity requiring a federal permit or license "may result in any discharge into the navigable waters," the applicant is required to obtain a certification that states the activity will comply with applicable water quality standards and that also sets forth any "limitations" and "monitoring requirements" necessary to assure that the "applicant" will comply with water quality standards and "any other appropriate requirement of State law." (33 U.S.C. § 1341(a) & (d).) Certification is required for such activity as a whole, not merely for its point-source discharges to waters of the United States. (*PUD No. 1*, supra, 511 U.S. at pp. 711-712.) USEPA replaced the 2020 Rule because, among other faults, it "may prevent state and tribal authorities from adequately protecting their water quality," "may result in a state or tribe's certification or conditions being permanently waived as a result of non-substantive and easily fixed procedural concerns," and "may limit the flexibility of certifications and permits to adapt to changing circumstances." (86 Fed. Reg. 29,543-29,544 (June 2, 2021).) As explained in this certification, each certification condition is authorized by applicable state and federal law and is necessary to ensure compliance with such laws. This paragraph is hereby incorporated as part of the explanatory statement for each condition of this certification.

6.1 Rationale for Condition 1: Project Activities

As described in Section 4.0, this certification is granted based on the application and supporting information submitted in accordance with the State Water Board's regulations and subject to requirements of the Porter-Cologne Water Quality Control Act. Condition 1 requires PG&E to implement the Project as described in its October 28, 2022 FERC license amendment application (PG&E 2022), its supplemental information provided via email on October 4, 2023, February 15, 2023, and February 14, 2024 and as modified by the conditions of this certification. Condition 1 will help ensure that the Project is implemented in a manner that protects water quality objectives and avoids unreasonable impacts to beneficial uses. Any changes to the Project description that are inconsistent with the Project application and supplemental documents that PG&E provided to the State Water Board prior to certification issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of an amendment or new application as well as trigger additional environmental review.

Additionally, Condition 1 requires PG&E to maintain minimum instream flows (MIFs), consistent with its Hydroelectric Project FERC license[8] and as described in its certification application. Per its certification application, PG&E plans to release flows consistent with the Finding of No Significant Impact and Supplemental Environmental Assessment Proposed 2006 Instream Flow Agreement for Temporary Reduction in Water Diversion from Battle Creek[9] that specifies a flow of 30 cfs (+/- 5 cfs) below Coleman Diversion Dam.

Beneficial uses that may be impacted by PG&E not adhering to its Project application and the certification for MIFs include, but are not limited to: irrigation; stock watering; power; water contact recreation; canoeing and rafting; other non-contact recreation; warm freshwater habitat; cold freshwater habitat; cold water migratory habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat. MIF discharges directly impact water quality and associated beneficial uses. Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Maintaining MIFs ensures protection of water quality and aquatic resources throughout Project implementation.

6.2 Rationale for Condition 2: Biological Resources Protections

Project activities associated with discharges, dredging, and dam removal have the potential to adversely impact aquatic and riparian habitats and to interfere with native species that depend on aquatic food or live in riparian or wetland habitats. The Project includes ground disturbing activities within South Fork Battle Creek that involve dredging of sediment and removal of Inskip Diversion Dam as well as associated staging and construction activities with the potential to impact foothill yellow-legged frogs (*Rana boylii*), western pond turtles (*Actinemys marmorata*), and any fish species present during Project implementation.

Implementation of biological resources protection measures as proposed by PG&E in its certification application and as modified by Condition 2 will avoid unreasonable impacts to water quality and the beneficial uses related to biological resources and their habitat, and support a dam owner's requirement under Fish and Game Code section 5937 to maintain fish in good condition below a dam.

Condition 2 requires that PG&E compensate for permanent impacts to riparian, wetland, and stream channel habitat in compliance with the Dredge or Fill Procedures described in Section 3.4. Additionally, Condition 2 specifies that if a Lake and Streambed Alteration Agreement or other permits are issued for the Project by CDFW or other

[8] Minimum instreams are discussed in FERC's August 25, 2009 Order Amending License for the Battle Creek Hydroelectric Project (FERC 2009).
[9] The Finding of No Significant Impact and Supplemental Environmental Assessment Proposed 2006 Instream Flow Agreement for Temporary Reduction in Water Diversion from Battle Creek agreement was executed by USBR with PG&E in August 2006 (USBR 2006).

federal agency and it contains fish rescue and relocation measures, PG&E is required to comply with the more stringent requirements between this condition and those permits.

Beneficial uses in South Fork Battle Creek related to biological resources and habitat that may be impacted by Project discharges, dredging, and dam removal include: warm freshwater habitat; cold freshwater habitat; cold water migratory habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.3 Rationale for Condition 3: Dewatering and Diversion

The Project includes dewatering and other in-water and water-adjacent work that may have direct impacts to water quality in the South Fork Battle Creek. Project activities that may impact water quality through dewatering and other in-water and water-adjacent work include: (1) installation and removal of cofferdams; (2) installation and removal of temporary water bypass systems; (3) discharges from water diversion; and (4) stream channel re-watering. Water quality parameters that may be impacted by such activities include turbidity, dissolved oxygen, pH, temperature, and visual pollutants. Dewatering can also impact aquatic life-related beneficial uses.

As part of its certification application, PG&E provided a Diversion and Dewatering Plan (Dewatering Plan) to describe the process and measures that will be implemented for the Project dewatering activities. PG&E's proposed Dewatering Plan lacked sufficient detail to ensure the Project would be protective of beneficial uses. In addition, some items referenced in the Dewatering Plan were submitted to the State Water Board on February 14, 2024, and included insufficient details on water quality monitoring locations, constituents, and reporting to ensure the Project would meet water quality objectives.

Condition 3 requires PG&E to develop a Dewatering Plan that includes procedures for dewatering and diversion, including monitoring and appropriate BMPs that will be implemented to protect water quality and beneficial uses and maintain MIFs. The Dewatering Plan will include water quality monitoring, measures to avoid water quality impacts, reporting, and adaptive management, as needed. Monitoring requirements of Condition 3 are consistent with the Water Boards' authority to investigate the waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 1051, 13165, 13267 and 13383. Condition 3 requires PG&E to implement the Deputy Director approved Dewatering Plan to ensure beneficial uses are protected and to comply with the water quality objectives and other appropriate requirements of state law.

Existing beneficial uses that may be impacted by dewatering and associated Project activities include: irrigation; stock watering; power; water contact recreation; canoeing and rafting; other non-contact recreation; warm freshwater habitat; cold freshwater habitat; cold water migratory habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.4 Rationale for Condition 4: Hazardous Materials

Hazardous materials management is essential to ensure hazardous materials are properly stored, transported, and managed in the Project area to avoid discharges of hazardous materials to surface waters. Such discharges could result in impacts aquatic resources and their habitats.

The Project involves the use of heavy equipment that will require refueling and servicing. Hazardous materials management requires implementation of BMPs to prevent, minimize, and/or clean up construction-related spills. Fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to surface water or violation of water quality standards, including the toxicity and floating materials water quality objectives.

The Central Valley Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials. Waters must be free of hazardous materials in concentrations that cause nuisance or "detrimental physiological responses in human, plant, animal, or aquatic life." (Central Valley Regional Water Board 2019.) Condition 4 requires implementation of hazardous materials management measures to prevent hazardous material spills into waterways, including containment pursuant to California Code of Regulations, title 27, section 20320. Secondary containment around hazardous materials storage sites helps prevent leaks and spills of hazardous materials from discharging into state waters. Condition 4 is needed pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

Existing beneficial uses that may be impacted by releases of hazardous materials from the Project include: irrigation; stock watering; power; contact recreation; canoeing and rafting; other non-contact recreation; warm freshwater habitat; cold freshwater habitat; cold water migratory habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.5 Rationale for Condition 5: Erosion and Sediment Control Measures

Erosion and sedimentation can contribute to degradation of the surface waters; therefore, it is necessary to implement actions to limit or eliminate such discharges to protect water quality and associated beneficial uses. Condition 5 includes provisions for the protection of water quality and beneficial uses from erosion related to Project activities, vegetation removal, stockpiling, and fill and excavation work, including debris removal activities. Excavation, installation of the temporary cofferdam(s), dewatering, removal of the diversion dam, and restoration of the stream channel bed could result in erosion and sedimentation that could result in increased turbidity and impacts to water quality and associated beneficial uses of South Fork Battle Creek.

Condition 5 requires that PG&E comply with the Construction General Permit, described in Section 4.2, to ensure that Project activities do not impact water quality and beneficial uses. This is required pursuant to Clean Water Act sections 301 and 402 that prohibit certain discharges of stormwater containing pollutants into South Fork Battle Creek in

compliance with an NPDES permit. (33 U.S.C. § 1311, and 1342(p); 40 C.F.R. pts. 122, 123, and 124.) Protection of the beneficial uses identified in the Central Valley Basin Plan requires effluent limitations and other limitations on discharges of pollutants from point and non-point sources to South Fork Battle Creek. Erosion from Project activities has the potential to result in discharges that violate water quality standards. Compliance with the Construction General Permit will help ensure protection of water quality and beneficial uses.

Condition 5 requires that PG&E implement erosion and sedimentation control measures identified in its March 8, 2023, certification application, and as modified by this certification, to prevent water quality violations and unreasonable impacts to beneficial uses from erosion and sediment discharges. Condition 5 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

Existing beneficial uses that may be impacted by erosion and sedimentation from the Project include: irrigation; stock watering; power; contact recreation; canoeing and rafting; other non-contact recreation; warm freshwater habitat; cold freshwater habitat; cold water migratory habitat, warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.6 Rationale for Condition 6: Recreation

South Fork Battle Creek provides for public and private recreational activities, including fishing, swimming, kayaking, and rafting, consistent with the designated recreation beneficial uses (i.e., contact recreation; canoeing and rafting; and other non-contact recreation). Project decommissioning activities could temporarily impact recreationists by blocking access to recreation and displacing fish.

Condition 6 requires that PG&E notify Oasis Springs Lodge and recreationists of the Project's decommissioning schedules to lessen impacts to water-based recreation. This supports California Constitution, Article X, section 2 requiring reasonable use and the use of water for multiple purposes in the state, as determined by the State Water Board pursuant to Water Code section 100, and is in the public interest, under Water Code section 105.

6.7 Rationale for Condition 7: Restoration

Site restoration is important to ensure the Project area is restored to natural conditions that does not contribute to excess erosion to South Fork Battle Creek. Condition 7 requires PG&E to implement restoration control measures identified in its March 8, 2023, certification application, and as modified by this certification, to prevent water quality violations and unreasonable impacts to beneficial uses from discharges associated with restoration. Condition 7 requires measures to ensure revegetation of disturbed areas with native plant species are used to prevent site erosion and potential future sediment discharges to South Fork Battle Creek. Condition 7 is needed pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

Existing beneficial uses that may be impacted by restoration efforts associated with the Project include: irrigation; stock watering; power; contact recreation; canoeing and rafting; other non-contact recreation; warm freshwater habitat; cold freshwater habitat; cold water migratory habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.8 Rationale for Condition 8: Reporting

Condition 8 requires monthly Project Activities Progress Reports (Progress Reports) during Project decommissioning to document Project status and compliance with certification requirements. Additionally, Condition 8 requires a Project Completion Report following Project completion to document compliance with certification requirements. The Progress Reports and Project Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation. Reporting requirements of Condition 8 are consistent with the Water Boards' authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. The reporting requirements of Condition 8 are necessary to ensure the Project does not impact water quality and associated beneficial uses.

6.9 Rationale for Conditions 9 through 27

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions. This section explains why a condition is necessary to assure that the authorized discharge will comply with water quality requirements, and cites federal, state, or tribal law that authorizes the condition. (40 C.F.R. § 121.7(d)(1).) The statements in this section correspond with the conditions set forth in Conditions 9 through 27. In addition, the code citations, plans, and policies that support issuance of this certification are described in Sections 4.0 and are not duplicated in this section but are incorporated herein. Conditions 9 through 27 are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

Condition 9 is necessary to comply with Water Code section 13167 and Conditions 10 through 13 contain important clarifications concerning the scope and legal effect of this certification, and other legal requirements that may apply to the Project.

Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, Condition 9 requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory

agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

Pursuant to the California and federal ESAs, Condition 10 of the certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species.

An applicant for certification is required to identify other licenses, permits, and agreements in the application. In the event an applicant for certification needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the applicant provide copies of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included." Water Code section 13160, subdivision (b)(1) allows the State Water Board to issue a certification when there is "reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements" of state and federal law. To help ensure the integrity of the certification process and its focus on the protection of water quality and compliance with other applicable state requirements, Condition 11 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply.

Because agency organization and authorities change over time, Condition 12 provides direction for continuity of oversight in the event an agency's authority or responsibility is transferred to or subsumed by another agency. The State Water Board is responsible for the water right, water quality, and drinking water functions of the California state government. (Wat. Code, § 174.) Certain certifications involve an appropriation of water subject to part 2 of division 2 of the Water Code or the diversion of water for certain beneficial uses. (See, e.g., Cal. Code Regs., tit. 23, § 3855, subd. (b)(1)(A).) Condition 13 explains the State Water Board's issuance of this certification is not adjudicating or approving the validity of water rights that may be related to the Project. It also recognizes the State Water Board's authority, independent of its water quality authority, to prevent unauthorized or threatened unauthorized diversions of water. This helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the certification, the certification does not constitute, or excuse the applicant from obtaining any other State Water Board approvals required for the activity.

Conditions 14 through 16 are necessary to assure that any discharge authorized under the certification will comply with water quality requirements. These conditions are included to comply with California Code of Regulations, title 23, section 3860, which sets forth conditions that must be included in all certifications. Condition 14 is a standard condition that "shall be included as conditions of all certification actions" pursuant to California Code of Regulations, title 23, section 3860, subdivision (a). This condition places the permittee on notice that the certification action may be modified or

revoked following administrative or judicial review. Condition 15 is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification's application and ensures that any applicant for a federal license or permit, which may result in a discharge into navigable waters, is subject to the appropriate State certification. Condition 16 is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, title 23, section 3833(b), which requires payment of fees by those applying for certification. Fees are essential to support the Water Boards certification program, which includes the development of certifications and related inspections to ensure the protection of water quality and beneficial uses that may be impacted by a project.

Conditions 17 through 27 are necessary to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law, or that adjustments are made to ensure continued compliance with water quality standards in light of new information, changes to the Project, or changes to the standards themselves.

This certification requires monitoring, reporting, and analysis as important elements to ensure that the Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 17, 18, and 19 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of changed conditions to ensure compliance and prevent violations of water quality standards. In the event of non-compliance, additional actions may be necessary to return the Project to compliance and prevent violation of water quality standards. Conditions 20 and 21 require compliance with the Central Valley Basin Plan and Bay-Delta Plan and implementation of all reasonable measures to protect water quality and beneficial uses, in accordance with plans adopted pursuant to state and federal water laws. Water Code section 13267 authorizes the State Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state. Condition 22 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 23, related to site access requirements, is authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the state, including specific site access authorized under Water Code section 13267 and 13383. Site access is needed to ensure compliance with the certification and associated protection of water quality and beneficial uses. Condition 24 requires site personnel and agencies to be familiar with the content of the certification and availability of the document at the Project site. This condition is required to assure that site personnel are familiar with the conditions needed to protect water quality and any authorized discharge will comply with the terms and conditions of this certification, which requires compliance with water

quality objectives and beneficial uses adopted or approved under sections 13170 or 13245 of the Water Code, and with other appropriate requirements of state law.

Condition 25 requires that PG&E use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent, approved manner.

Condition 26 provides that the State Water Board will provide notice and an opportunity to be heard in exercising its authority to add or modify certification conditions.

In the event that any provision of this certification is found invalid, Condition 27 ensures that the certification will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

7.0 Conclusion

The State Water Board finds that, with the conditions and limitations imposed by this certification, the Project will be protective of the state and federal water quality standards and other appropriate requirements of state law.

8.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that implementation of the Battle Creek Hydroelectric Project – License Amendment for Removal of Inskip Diversion Dam (Project) by Pacific Gas and Electric Company (PG&E or Licensee) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of state law, under the following terms and conditions.

CONDITION 1. Project Activities

Unless otherwise modified by conditions of this water quality certification (certification) or approved by the State Water Resources Control Board (State Water Board) Deputy Director of the Division of Water Rights (Deputy Director), the Licensee shall implement the Project: (1) as described in PG&E's March 8, 2023, certification application, (including listed Protection, Mitigation, and Enhancement Measures) (PG&E 2023a); (2) supplemental submission clarifying Project activities submitted by PG&E on October 4, 2023 (PG&E 2023b and PG&E 2023c) and February 14, 2024 (PG&E 2024); and (3) as modified below and by the conditions of this certification.

the Licensee shall comply with the minimum instream flows (MIFs) in its existing Federal Energy Regulatory Commission (FERC) license for the Battle Creek Hydroelectric Project (FERC Project No. 1121)[10]. In addition, the Licensee shall comply with the, "Agreement by the United States to Pay Pacific Gas and Electric Company for Reducing Diversions from Battle Creek to the Battle Creek Project" (also known as Interim Flow Agreements) which states "minimum instream flows of 30 cfs [cubic feet per second] (±5 cfs) for SFBC [South Fork Battle Creek]" will be maintained during and after construction of the Project.

CONDITION 2. Biological Resources Protections

To reduce potential impacts to biological resources during Project implementation, and unless otherwise approved by the Deputy Director, the Licensee shall implement the biological resource protection measures as described in Section E.4.3.3 of PG&E's certification application, and as modified by the below.

- Worker Environmental Awareness Training (Section 2.4, Bullet 20; Section E.4.3.3, Bullet 1; Section E.4.4.3, Bullet 1; Section E4.5.3, Bullet 1; Section E4.5.3, Bullet 7): Worker Environmental Awareness Training shall be provided to all personnel prior to commencing work. The training shall at a minimum include:

[10] MIFs for South Fork Battle Creek are listed in FERC's August 25, 2009 Order Amending License for the Battle Creek Hydroelectric Project (FERC 2009). Existing MIFs at the time of certification issuance are 5 cfs below Inskip Diversion Dam and 30 cfs below Coleman Diversion Dam.

- A review of the California and federal Endangered Species Acts and the consequences of noncompliance.
- A review of the presence, life history, and habitat requirements of all special-status species[11] that may be affected by the Project.
- A review of avoidance and protection measures that shall be implemented to minimize the potential for effects to these species and habitats.
- A review of applicable elements of the Project certification to ensure personnel implement measures to protect water quality and beneficial uses.

The Worker Environmental Awareness Training shall be conducted prior to construction in each year involving Project construction activities and shall be provided to any new personnel prior to those personnel conducting on-site Project work.

- Aquatic Species Rescue and Relocation (Section E.4.3, Bullet 2): The Licensee shall implement the Aquatic Species Rescue and Relocation Measure as proposed in PG&E's March 8, 2023 certification application, and as modified by the below to ensure protection of foothill yellow-legged frogs, western pond turtles, and any fish present during Project implementation.

  If aquatic species relocation is required, the Licensee shall submit a Relocation Report to the State Water Board and California Department of Fish and Wildlife (CDFW) annually by February 28 for the preceding year's work, with the last report submitted no later than 60 days following Project completion. At a minimum, Relocation Reports shall include:

  - Date of capture and relocation;
  - Method of capture;
  - Species, life stage, fork length/weight (for rescued and relocated fish);
  - Location of relocation, described and as depicted on a map that includes the Project area; and
  - Total number of aquatic species captured and relocated.

  The final Relocation Report shall include a summary of the items listed above for the entire Project period.

  If a CDFW Lake and Streambed Alteration Agreement or another federal permit is issued for this Project that includes provisions for aquatic species rescue and relocation, the more stringent requirements between this condition and other permit(s) shall apply.

[11] Special status species include any California Endangered Species Act, federal Endangered Species Act, CDFW species of special concern, or CDFW fully protected species with the potential to exist in the Project area.

- Laydown Areas (Section E.4.3.3, Bullet 3): Laydown areas shall be surveyed in winter or early spring prior to use. If vernal pool habitat is observed, the laydown area shall be moved to at least 50 feet from the vernal pool habitat.

- Construction Surveys (Section E.4.3.3, Bullet 4): The amount of time that logs, spoils, and/or debris piles are left on site and within 100 feet of aquatic habitat shall be minimized. If left on site overnight, the underside of the edges of the logs, spoils, and/or debris piles shall be carefully inspected for amphibians prior to loading into vehicles. If amphibians are found, rescue and relocation actions shall be implemented, as needed to ensure species protection.

- Wetland Protections (Section E.4.3.3, Bullets 5, 6, and 7): No vehicles or equipment (with the exception of pumps used for dewatering) shall be refueled within 100-feet of wetlands, streams, or other waterways. Vehicles operating adjacent to wetlands and waterways shall be inspected and maintained daily to prevent leaks. If equipment must be washed, washing shall occur where wash water cannot flow into wetlands or surface waters. Stationary equipment (e.g., pumps and generators) used or stored within 100 feet of aquatic habitat shall have secondary containment. All applicable laws, regulations, and best management practices (BMPs) shall be followed with handling or storing chemicals (e.g., fuel, hydraulic fluid, etc.) near waterways.

  The Project will result in temporary and permanent impacts to stream channel habitat. The Project is anticipated to have temporary impacts to approximately 1.836 acres of the stream channel along South Fork Battle Creek and approximately 1.014 acres of permanent impacts to stream channel habitat. The Licensee shall notify the Deputy Director of any update to the estimated temporary and permanent impacts if they vary from what is noted in this provision. Additionally, permanent impacts shall be compensated for at a minimum of a 1:1 ratio consistent with the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)[12] (State Water Board 2019 and 2021), the California Wetlands Conservation Policy (Governor's Executive Order W-59-93 (August 23, 1993)), and any amendments thereto. The Licensee shall provide the Deputy Director with documentation of compliance with this mitigation provision as part of the Completion Report (Condition 8).

- Flow Diversions (Section E.4.3.3, Bullet 8): The Licensee shall coordinate with National Marine Fisheries Service (NMFS), United States Fish and Wildlife Servies (USFWS), United States Bureau of Reclamation (USBR), CDFW, and State Water Board staff on the timing and amount of flow diversions when resuming diversions from North Fork Battle Creek to South Fork Battle Creek

[12] The Dredge or Fill Procedures and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed on November 27, 2023.

following Project implementation. Flow resumption shall be conducted in a manner that is protective of water quality objectives and beneficial uses described in the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin (*Central Valley Basin Plan)[13].

- Invasive Species Management (Section E.4.3.3, Bullet 9; and as discussed in Section E.4.5.3): The Licensee shall implement the Invasive Species Management Measure as proposed in PG&E's March 8, 2023 certification application to minimize the potential spread of invasive species and pathogens such as Chytrid fungus (*Batrachochytrium dendrobatidis*) during Project construction.

CONDITION 3. Dewatering and Diversion

The Licensee shall develop and submit a Diversion and Dewatering Plan (Dewatering Plan) to the Deputy Director for review and consideration for approval. The Dewatering Plan shall be submitted to the Deputy Director a minimum of 60 days prior to commencement of Project dewatering activities unless another timeline is approved by the Deputy Director. The Deputy Director may require modifications as part of any approval.

The Dewatering Plan shall include procedures for dewatering and diversion, including appropriate BMPs that shall be implemented to protect water quality and beneficial uses, including maintaining required instream flows (Condition 1). The Licensee shall develop the Dewatering Plan in consultation with State Water Board, CDFW, and Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) staff.

At a minimum, the Dewatering Plan shall include:

- A description of the installation, operation, and maintenance (e.g., inspection and follow-up actions) of dewatering systems, as well as the locations, quantity, and anticipated timing of dewatering and diversion activities.
- An overview and schedule of all in-water and water-adjacent work, including work related to dewatering and diversion of water for Project implementation.
- Site plan map(s) and/or drawings.
- List of all infrastructure that will be removed and any that will remain in place.
- Description of cofferdams or other barriers that will be used to isolate the construction area from surface waters. This includes any upstream

[13] The Central Valley Basin Plan and any amendments thereto. (Central Valley Regional Water Board 2019.) Available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201902.pdf. Accessed March 5, 2024

cofferdams that may be installed to armor the existing ford in South Fork Battle Creek adjacent to South Powerhouse during Project activities.

- List of construction materials that will be used in or adjacent to the surface waters.
- Description of dewatering activities, including the location for discharges associated with dewatering, the length and location of dewatered stream segments, and equipment and methods used for dewatering and water diversions.
- Description of measures, if needed, that will be implemented to avoid potential water quality and aquatic resource impacts including any energy-dissipating features at diversion outlets to prevent erosion. Measures may reference biological resources protections and erosion and sediment control measures required by Condition 2 and 5, respectively.
- Actions that will be implemented to ensure discharges associated with dewatering and water diversion will not exceed water quality objectives, as defined in the Central Valley Basin Plan.
- Proposed water quality monitoring and reporting related to in-water Project activities that shall at a minimum include the parameters and monitoring specified below in this condition. The Licensee shall describe the locations, equipment, frequency, methods, and quality assurance/quality control process for water quality monitoring that will be implemented.
- Documentation of consultation with Central Valley Regional Water Board, CDFW, and State Water Board staff, including comments and recommendations made in connection with the plan, and a description of how the plan incorporates or addresses the comments and recommendations.

Any changes to the Dewatering Plan shall be submitted to the Deputy Director prior to implementation. The Licensee shall not commence Project dewatering or diversion without receipt of Deputy Director approval of the Dewatering Plan. The Licensee shall implement the Dewatering Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Upon approval the Licensee shall submit the updated Dewatering Plan to the USACE and FERC.

Water Quality Monitoring. Water quality monitoring shall be performed as described in this condition unless otherwise approved by the Deputy Director. The Licensee shall monitor water quality during in-water and water-adjacent work with the potential to result in a discharge to surface waters, which includes, but is not limited to dewatering activities. At a minimum, water quality monitoring shall be performed during dewatering, rewatering, Inskip Dam and fish ladder removal, temporary water diversion around the Project area, installation and removal of cofferdams, armoring of the access ford and any potential removal, and any other Project activities within South Fork Battle Creek's ordinary high-water mark with the potential to impact water quality.

At a minimum, monitoring shall be conducted at 15-minute intervals using an automated sensor system for turbidity, pH, dissolved oxygen, and temperature. Additionally, the

Licensee shall monitor for visible construction-related pollutants (e.g., oils, greases, fuels) throughout the Project's activities.

Monitoring Reports. As part of Progress Reports (Condition 8), the Licensee shall submit water quality monitoring information. Monitoring information shall include: (1) monitoring results including raw data; (2) a description of monitoring methods, including equipment, frequency of data collection, quality assurance/quality control protocols; and (3) description of any water quality exceedances or information necessary to understand to results. If determined necessary by the Deputy Director, the Licensee shall consult with State Water Board staff regarding the need for additional site-specific measures to protect water quality.

Reporting of Exceedances. The Deputy Director and the Central Valley Regional Water Board Executive Officer (Executive Officer) shall be notified promptly, and in no case more than 24 hours following an exceedance of any water quality objective, as described in the Central Valley Basin Plan. The notice shall include the cause of the violation, measures taken to correct the violation, and measures the Licensee will implement to prevent future violations. Regardless of when such notification occurs, activities associated with the Central Valley Basin Plan the exceedance shall cease immediately upon detection. Work activities may resume after corrective actions have been implemented, water quality meets the Central Valley Basin Plan water quality objective, and the Deputy Director has provided approval to proceed. The Deputy Director may require additional actions to help prevent similar exceedances in the future.

Water Quality Objectives. The Licensee shall comply with applicable water quality objectives established in the Central Valley Basin Plan, including those listed below.

Turbidity: The Licensee shall not increase turbidity to levels that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributed to Project activities shall not exceed the following limits:

- Where natural turbidity is less than 1 Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed 2 NTU.
- Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU.
- Where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent.
- Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.
- Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Turbidity shall be measured using a maximum 24-hour averaging period.

pH: The Licensee shall not depress pH below 6.5 nor raise it above 8.5. If the natural pH level is below 6.5, the Licensee shall not depress pH below the natural level. If the natural pH level is above 8.5, the Licensee shall not raise pH above the natural level.

Dissolved Oxygen: The Licensee shall not decrease dissolved oxygen below seven milligrams per liter.

Temperature: The natural receiving water temperature of intrastate waters shall not be altered unless it can be demonstrated to the satisfaction of the Central Valley Regional Water Board that such alteration in temperature does not adversely affect beneficial uses. At no time or place shall the temperature of COLD or WARM intrastate waters be increased more than 5° Fahrenheit (F) above natural receiving water temperature.

Monitoring Locations. The Licensee shall monitor for turbidity, pH, temperature, and dissolved oxygen at the following general locations:

- Upstream of the work area, outside the influence of the Project.
- No more than 300 feet downstream of the access ford crossing.
- No more than 300 feet downstream of the Project area.

The Licensee shall take a global positioning system point and a photograph for each proposed monitoring location and provide them to Central Valley Regional Water Board and State Water Board staff at least two weeks prior to starting water quality monitoring. The Deputy Director may require the Licensee to use other or additional locations if the submitted locations are inadequate.

The Licensee shall conduct visual pollutant monitoring throughout the entire length of South Fork Battle Creek within or adjacent to the active work area.

CONDITION 4. Hazardous Materials

Unless otherwise approved by the Deputy Director, the Licensee shall implement applicable hazardous materials[14] control measures as described in United States Department of Agriculture-Forest Service (Forest Service) *Water Quality Management for Forest System Lands in California, Best Management Practices* (Forest Service 2000), *Forest Service National Best Management Practices for Water Quality Management on National Forest System Lands* (Forest Service 2012), and as listed below:

- Colman National Fish Hatchery (Section E.4.2.3 Bullet 4): In the event of an inadvertent hazardous materials release, the Licensee shall immediately cease any activities that resulted in the release and implement measures to limit and clean up the release. The Coleman National Fish Hatchery, Deputy Director, Executive Officer, and other relevant agencies shall be notified immediately. The notification shall include the type and quantity of material released, cause of the release, corrective measures taken, and measures the Licensee will

[14] Hazardous materials include, but are not limited to, petroleum products, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete or the washing thereof, asphalt, paint, coating material, drilling fluids, or other substances potentially hazardous to water quality and beneficial uses.

implement to prevent a future release. The Deputy Director may require additional actions to help prevent similar releases in the future. The Licensee may resume work upon Deputy Director approval.

- Spill Prevention and Control Plan (Section E.4.2.3 Bullet 3): The Licensee shall develop a Spill Prevention and Control Plan for review and approval by the Deputy Director. The plan shall be developed in coordination with State Water Board and the Central Valley Regional Water Board staff. The Deputy Director may require modifications as part of any approval. The Licensee may request updates to the Spill Prevention and Control Plan and implement those changes following Deputy Director approval. The Licensee shall file the Deputy Director approved Spill Prevention and Control Plan and any updates thereto with FERC and the USACE.
- Contaminated Soils (Section 4.2.3 Bullet 3): Construction workers shall receive training to identify indications of contamination. Soils that are suspected to be contaminated with be tested at an approved certified laboratory. If contaminated soils is present, it shall be disposed of in accordance with applicable state and federal rules and regulations.
- A minimum of 30 days prior to beginning Project construction, the Licensee shall submit to State Water Board staff a list of equipment, hazardous materials, and cleanup materials and equipment that will be used and stored in laydown and work areas.
- Caution shall be used when handling and/or storing hazardous materials near waterways. Appropriate materials shall be on site to prevent and manage spills.
- All containment areas shall include secondary containment. All containment structures shall comply with California Code of Regulations, title 27, section 20320. Secondary containment shall be specifically designed for hazardous material storage and sized to contain the most likely volume of hazardous materials that could be spilled. Secondary containment shall be positioned to catch any hazardous material spills due to overfilling or any other spills that may occur.
- Equipment refueling, maintenance, and washing shall be conducted in a manner that prevents hazardous materials from spilling on the ground or reaching waterways.
- In the event a spill is not captured by the secondary containment, it shall be considered hazardous waste and must be removed and disposed of in accordance with local and state requirements.
- When not in use, equipment shall be stored in upland areas outside the ordinary high-water mark of South Fork Battle Creek or in staging areas identified in PG&E's Final Application for Non-Capacity License Amendment for Removal of Inskip Diversion Dam (PG&E 2022).
- All equipment shall be inspected for leaks before entering the Project area and inspected daily while on site to prevent leaks of fuels, lubricants, or other hazardous materials into aquatic habitat.
- Any water contaminated by hazardous materials shall be considered a hazardous material and stored or disposed of in accordance with this condition and in a manner that does not impair water quality.

- All waste, including trash and litter, garbage, other solid waste, petroleum products, and other potentially hazardous materials (including equipment lubricants, solvents, and cleaners), shall be removed to an appropriate waste facility permitted or otherwise authorized to treat, store, or dispose of such materials.

CONDITION 5. Erosion and Sediment Control Measures

To reduce potential impacts to surface waters and unless otherwise approved by the Deputy Director, the Licensee shall implement the following erosion and sediment control measures described in Section E.4.1.3 of PG&E's March 8, 2023 certification application, including May 25, 2023 updates, and as modified below.

- Dry Work Area (Section E.4.1.3, Bullet 1): When preforming stream channel restoration work within the South Fork Battle Creek stream channel, all streamflow shall be diverted around the work area to minimize fine sediment mobilization and downstream turbidity.
- Bank Stabilization (Section E.4.1.3, Bullet 2): Bank stabilization/revegetation shall be implemented to ensure bare soils are covered with native plantings/seeding or other bank stabilization measures are implemented. Where bank soils require stabilization, coir (coconut fiber) fabric soil stabilization matting or similar BMPs shall be used. Native vegetation shall be established using a combination of topsoil, seeding, live stakes, tubelings (young seedling trees or bushes grown initially in tubes), or bare root plantings. Ground disturbance and vegetation removal shall not exceed the minimum amount necessary to complete work at the site.
- Road Stability (Section E.4.1.3, Bullet 3): To maintain the stability of an existing access road along the southern shore of South Fork Battle Creek, a retaining wall may be constructed. The retaining wall would support the stream-side shoulder of the access road and conform to existing roadway geometry.
- Erosion Controls (Section E.4.1.3 Bullet 4 and 5): South Fork Battle Creek, and any other aquatic habitats, wetlands, or riparian habitat shall be protected with silt fences, fiber rolls, erosion control blankets, and other BMPs as necessary. Erosion controls shall be installed prior to Project construction and maintained throughout the Project. No fill, including vegetation trimmings, debris, or runoff, shall be allowed to enter South Fork Battle Creek or other aquatic habitats, wetlands, or riparian habitat. Erosion control materials shall be installed per manufacturing material specifications and shall not contain monofilament netting.
- Off Road Equipment (Section E.4.1.3, Bullet 6 and 9): Off-road equipment shall be cleaned to ensure that it is free of soil and plant parts prior to entering the Project area. When accessing work sites, travel and parking of vehicles shall be limited to pavement, existing roads, and previously disturbed areas (except where overland travel is required).
- Work Site Clean-up (Section E.4.1.3, Bullet 7 and 8): To the extent feasible, work areas shall be returned to pre-existing contours and conditions upon Project completion. Following Project completion, all construction materials, spoils, or other debris shall be properly disposed of or removed and stored in a manner that will not impact waterway.

The Licensee shall comply with the *National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit; State Water Board 2022) and any amendments thereto; if there is any conflict between the conditions of this certification and applicable conditions in the Construction General Permit, the more stringent shall apply.

CONDITION 6. Recreation

To reduce potential impacts to recreation and unless otherwise approved by the Deputy Director, the Licensee shall implement the following recreational resources measures described in Section E.4.7.3 of PG&E's certification application, as modified below.

- Recreation Sign Posting (Section E.4.7.3 Bullet 1): A minimum of seven days prior to commencing Project activities, the Licensee shall post signs at the Ponderosa Way put-in and upstream of the Project area to inform whitewater boaters of Project activities between South Powerhouse and Inskip Diversion Dam. The sign shall include the anticipated timeline of Project activities that may impact flow and who to contact for additional information.
- Oasis Springs Lodge Notification (Section E.4.7.3 Bullet 2): A minimum of seven days prior to commencing Project activities, the Licensee shall notify Oasis Springs Lodge of the anticipated start date, duration, and type of activities to be performed.

CONDITION 7. Restoration

The Licensee shall implement measures to restore the Project area and reduce potential future erosion from disturbed areas associated with Project implementation that may result in discharges to South Fork Battle Creek. The Licensee shall implement the restoration measures as described in PG&E's certification application, as modified by the below.

- Minimize Ground Disturbance (Section 2.4, Bullet 15): Ground disturbance and vegetation removal shall not exceed the minimum amount necessary to complete work at the site. Bank stabilization and revegetation shall be implemented to ensure bare soil is not left exposed. Where bank soils require stabilization, coir (coconut fiber) fabric soil stabilization matting shall be used, and native vegetation shall be established using a combination of topsoil, seeding, live stakes, tubelings (young seedling trees or bushes grown initially in tubes), or bare root plantings.
- Site Clean-Up (Section 2.4, Bullet 17): Following Project completion, all construction materials, spoils, or other debris shall be removed from the Project area.
- Mitigation Planting (Section E.4.5.3, Bullet 4): If avoidance of special-status plants or sensitive natural communities is not possible, mitigation procedures (e.g., seed collection, transplantation, mitigation ratios, location, timing, and monitoring) shall be determined in consultation with USFWS, CDFW and State

Water Board staff. The location of any mitigation plantings shall be recorded using GPS coordinates to enable location of the special-status plant species or sensitive natural communities after the required monitoring period is complete.

- Revegetation (Section E.4.5.3, Bullet 5): All areas where vegetation, including non-native communities, are permanently removed during Project implementation shall be re-vegetated with a combination of native seed mixtures, live stakes, tubelings, or bare root plantings appropriate for the habitat types present in the Project area. A monitoring period of at least three years of the revegetated areas shall occur to ensure establishment of plantings and restoration of riparian habitat. If during monitoring, revegetated areas have not established and bare soils are exposed with the potential to discharge to South Fork Battle Creek, the Licensee shall conduct additional plantings with native seed mixtures, live stakes, tubelings, or bare root plantings. Following three years of monitoring, the Licensee shall provide the Deputy Director with a summary of the revegetation efforts that includes photo documentation of the initial post-Project conditions and three years following Project revegetation conditions. The summary shall include identification of any problem areas and recommendations and monitoring that the Licensee plans to implement to address the problem areas. If no problem areas exist, the Licensee may submit this summary as part of the Project Completion Report described and required per Condition 8. The Deputy Director may require additional actions in response to the summary or other information in the record.

Any changes to this condition shall be approved by the Deputy Director prior to implementation. The Deputy Director may require modifications as part of any such approval. The Licensee shall file any Deputy Director-approved updates, along with any required modifications, with FERC and the USACE. The Licensee shall implement the updates to the updated measures upon receipt of all required approvals.

CONDITION 8. Reporting

Every 60 days following initiation of Project activities and throughout Project activities, the Licensee shall submit Project Progress Activity Reports (Progress Reports) to the Division of Water Rights Water Quality Certification Program Manager. The Progress Reports shall include:

- A summary of Project activities performed;
- Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Summary of pre-construction surveys for aquatic resources, including any relocated or fenced-off aquatic species or sensitive habitat;
- Details of Project-related adverse impacts to beneficial uses, if applicable; and
- Any anticipated Project implementation activities (e.g., construction, dewatering, or diversion) differing from those described in the certification application or required by this certification.

The Licensee may request consultation regarding the need for development and implementation of additional BMPs for water quality protection or approval of additional site-specific construction measures as part of a Progress Report or as part of a separate request if more immediate action is needed to protect water quality.

Unless the timeline is otherwise modified by the Deputy Director, within four years of Project completion, the Licensee shall provide the Deputy Director with a Project Completion Report that comprehensively summarizes the first three bullets from the list above, along with includes the following:

- Post Construction Restoration Reporting that: (1) documents revegetation efforts (Condition 7) and final revegetation site conditions; (2) documents river channel conditions to ensure the Project area reflects a natural condition and is not contributing to excess erosion; and (3) ensure no fish barriers have formed in the Project area as a result of Inskip Diversion Dam removal. The report shall include site photos taken under a variety of flow conditions including high winter flows (which shall include at least one bank full event), and summer low flows.

The Licensee shall provide the Project Completion Report to the USFWS, NMFS, CDFW, USACE, and FERC. The Licensee shall provide any additional information or clarification requested by the Deputy Director related to a Progress Report or the Project Completion Report. Upon request from State Water Board staff, the Licensee shall meet with staff to discuss a Progress Report or the Project Completion Report.

The Deputy Director may require the Licensee to implement corrective actions or approve additional measures proposed by the Licensee in response to the information provided in a Progress Report, a request for consultation, new information in the record, or approval of additional measures to protect water quality and beneficial uses.

CONDITIONS 9 – 27

CONDITION 9. Unless otherwise specified in this certification or at the request of the Deputy Director, data and/or reports shall be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board's water quality database systems in compliance with California Water Code section 13167.

CONDITION 10. This certification does not authorize any act which results in the take of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (ESA) (Fish & G. Code, §§ 2050 – 2097) or the federal ESA (16 U.S.C. §§ 1531 – 1544). If a “take” will result from any act authorized under this certification or water rights held by the Licensee, the Licensee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Licensee is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

CONDITION 11. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Licensees are responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of Project activities.

CONDITION 12. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.

CONDITION 13. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 or riparian claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.

CONDITION 14. This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 15. This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent application for certification was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application for certification specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

CONDITION 16. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 17. Notwithstanding any more specific provision of this certification, any plan or report developed as a condition of this certification requires review and approval by the Deputy Director. The State Water Board's approval authority, including authority delegated to the Deputy Director or others, includes the authority to withhold approval or to require modification of a plan, proposal, or report prior to approval. The State Water Board may take enforcement action if the Licensee fails to provide or implement a required item in a timely manner. Notwithstanding any other condition of this certification, if a time extension is needed to submit an item for Deputy Director approval, the Licensee shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. The Licensee shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 18. In the event of any violation or threatened violation of the conditions of this certification, including if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for

under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to any violation or threatened violation of the conditions of this certification, the Licensee shall, by a deadline required by the Deputy Director, submit a plan that documents why the violation occurred and steps the Licensee will implement to address the violation. The Licensee shall implement the plan upon approval from the Deputy Director, and the Deputy Director may require modifications as part of any approval.

CONDITION 19. The Licensee shall submit any change to the Project, including operations, facilities, technology changes or upgrades, or methodology, which could have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. The State Water Board shall determine significance and may require consultation with state and/or federal agencies. If the State Water Board is not notified of a change to the Project, it will be considered a violation of this certification.

CONDITION 20. This certification is contingent on compliance with all applicable requirements of the Central Valley Basin Plan and *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.*

CONDITION 21. Unless otherwise specified by conditions in this certification, Project activities shall be conducted in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Licensee shall take all reasonable measures to protect the beneficial uses of waters of the state, including South Fork Battle Creek.

CONDITION 22. In response to a suspected violation of any condition of this certification, the State Water Board or Central Valley Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. (Wat. Code, §§ 1051, 13165, 13267, and 13383.)

CONDITION 23. Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Licensee shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 24. A copy of this certification shall be provided to any contractors and subcontractors conducting Project-related work, and copies shall remain in their possession at the Project site. The Licensee shall be responsible for work conducted by their contractors, subcontractors, or other persons conducting Project-related work.

CONDITION 25. The Licensee shall use analytical methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Lab Accreditation Program-certified laboratories.

CONDITION 26. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or modify the conditions of this certification.

CONDITION 27. Certification that the Project will be protective of the state and federal water quality standards and other appropriate requirements of state law is dependent upon the conditions and limitations imposed by this certification, however, to ensure the validity of this certification upon any challenge that is not addressed by another condition of this certification, the provisions of this certification are severable. Upon remand from determination on administrative or judicial review that a provision of this certification is invalid or affects the validity of the certification the State Water Board may adopt an alternative term that addresses the water quality issue while avoiding the invalidity.

Eric Oppenheimer
Executive Director

March 7, 2024
Date

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BATTLE CREEK HYDROELECTRIC PROJECT – LICENSE AMENDMENT FOR REMOVAL OF INSKIP DIVERSION DAM WATER QUALITY CERTIFICATION

ATTACHMENT A:
PROJECT OVERVIEW FIGURES

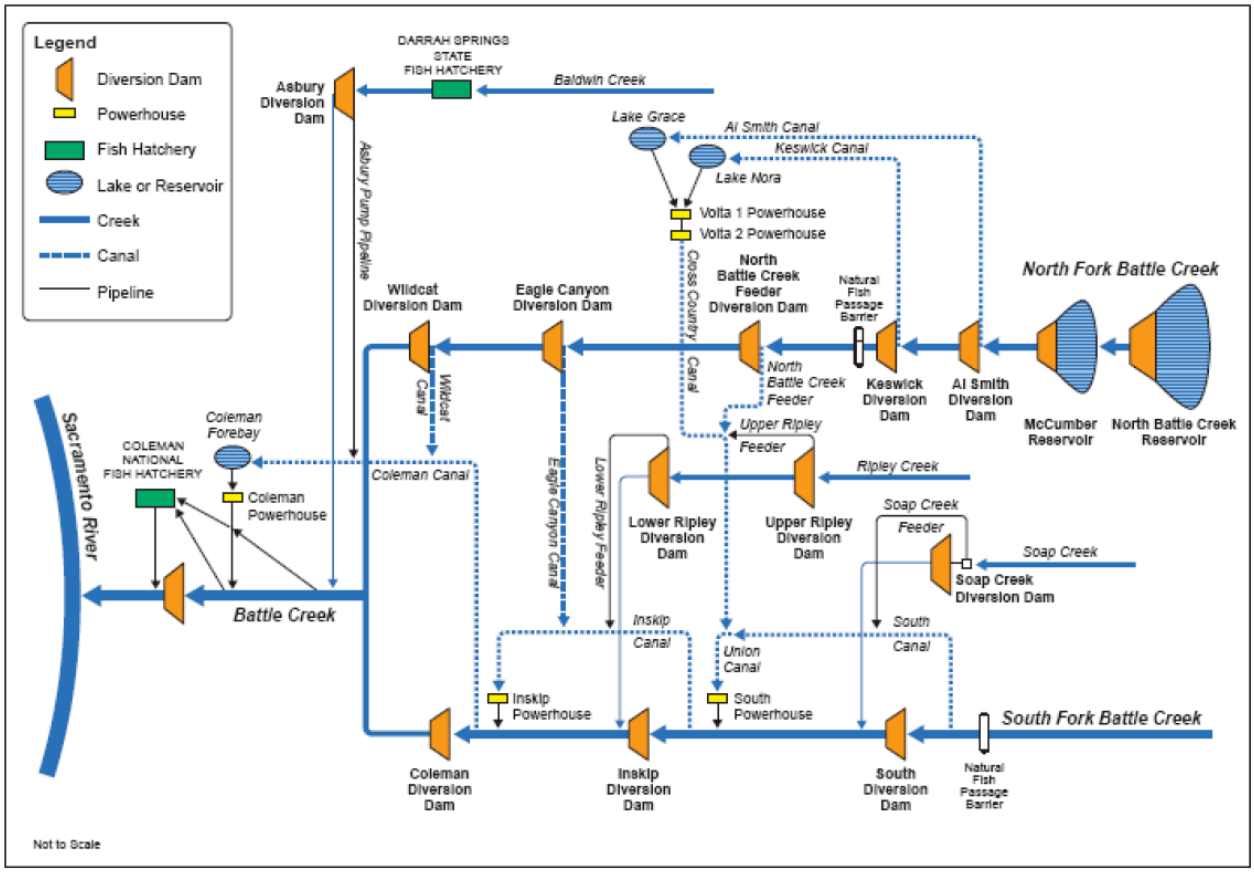

Figure 1. Battle Creek Hydroelectric Project Flow Routing (EIS/EIR 2005)

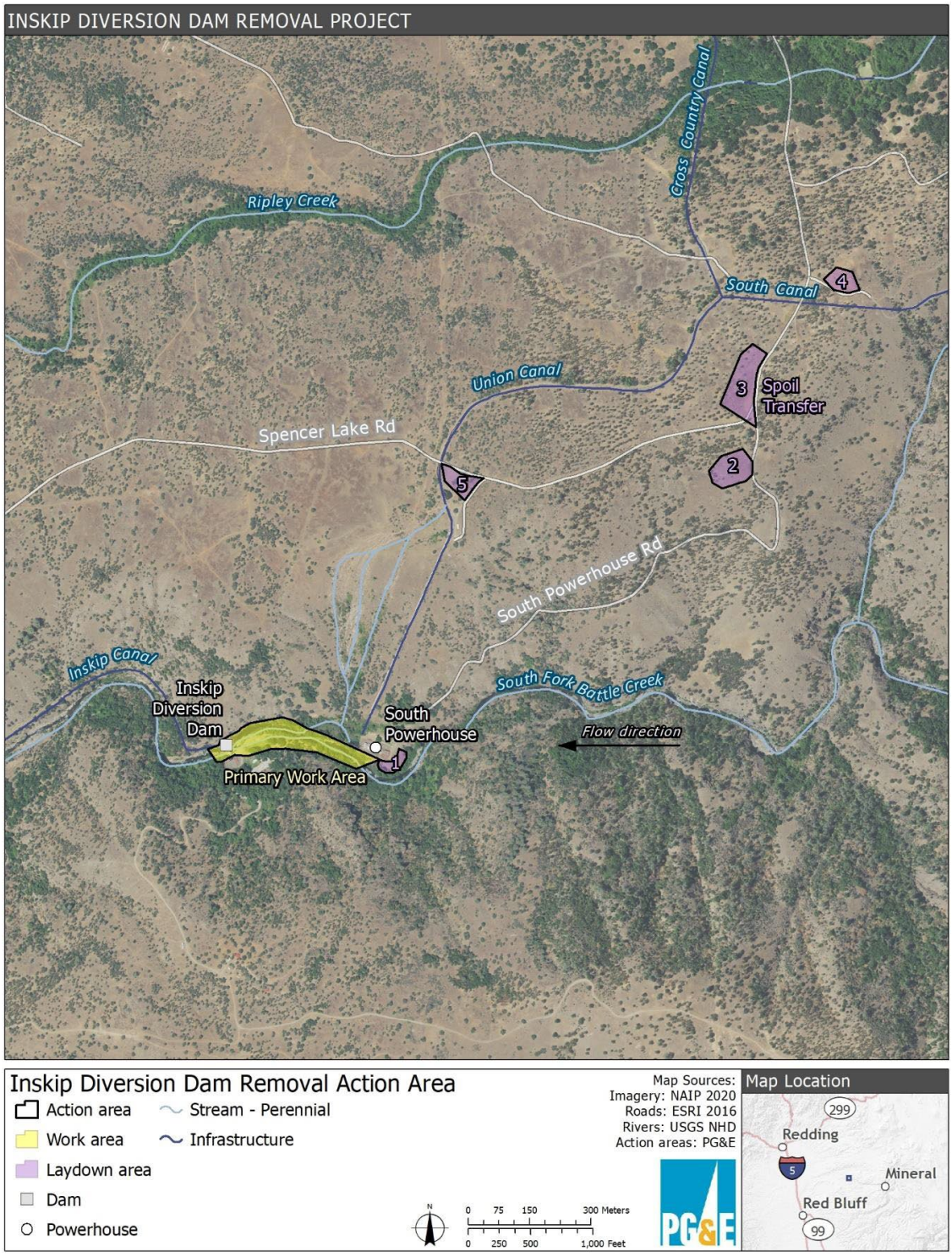

Figure 2 Project Location, Work Area, and Laydown Areas (PG&E 2022)

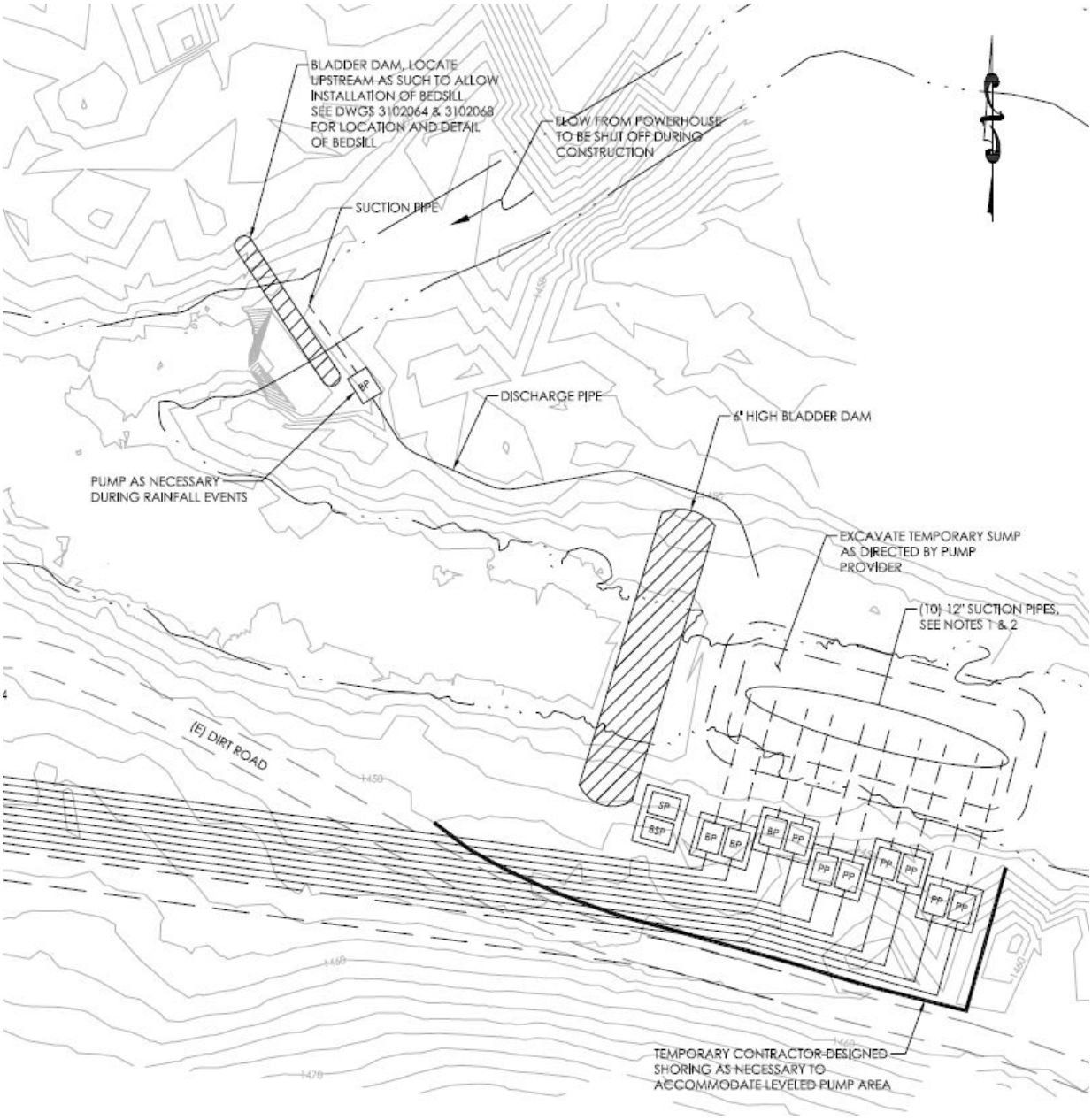

Figure 3. **Location of Proposed Bladder Dams Upstream of Inskip Diversion Dam (PG&E 2023a)**

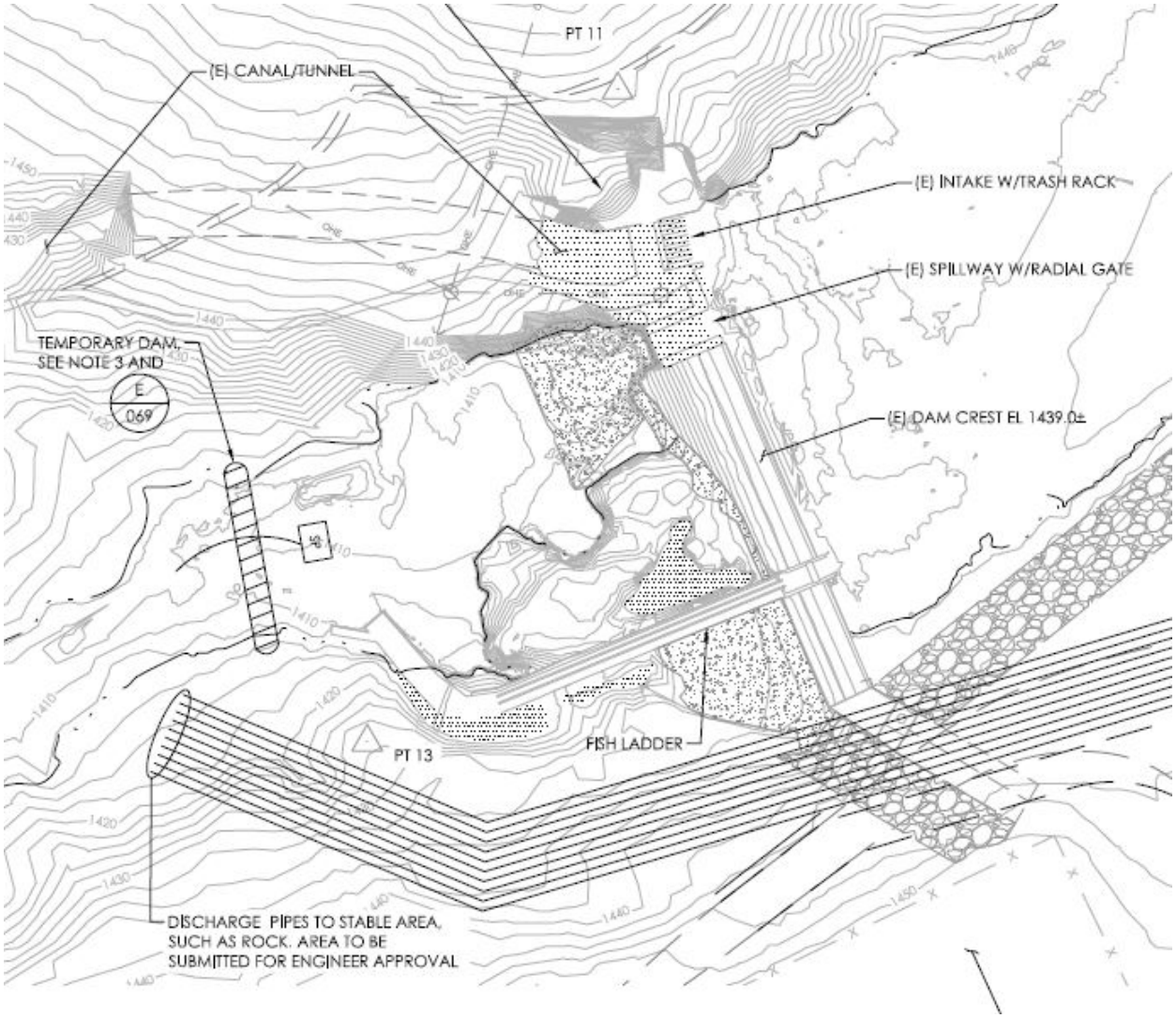

Figure 4 Location of Proposed Bladder Dam Downstream of Inskip Diversion Dam (PG&E 2023a)