

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

Beaver Creek Reservoir Sediment Removal Project

Sources: Beaver Creek tributary to North Fork Stanislaus River thence Stanislaus River thence San Joaquin River

County: Tuolumne County

Project Description

The Beaver Creek Diversion Reservoir is approximately 18 miles northeast of Murphys, California. The Beaver Creek Reservoir Sediment Removal Project consists of the excavation of debris and sediment in the vicinity of the dam and fish screen structure to improve reservoir storage capacity. This facility is part of the North Fork Stanislaus River Hydroelectric Development Project that is operated by Northern California Power Agency (NCPA). Calaveras County Water District (CCWD) is the Federal Energy Regulatory Commission (FERC) Licensee for the project (FERC Number 2409). Water is stored in Beaver Creek Diversion Reservoir under Water Rights Permits 15021 and 15023 (Applications 18727 and 19148, respectively) held by CCWD. Stored water is used for NCPA's power generation and to augment CCWD's drinking water supply. The diversion facility consists of a concrete dam, trash rack, fish screen, and ancillary facilities that impound Beaver Creek and divert flows via the Beaver Creek tunnel into the McKay's Point Diversion Facility. The last sediment removal projects were in 1997, and again in January 2006, when emergency dredging was conducted to remove 2,500 cubic yards of sediment from the reservoir to maintain operation of the Beaver Creek Diversion Facility.

The Beaver Creek Diversion Reservoir will be drained and sediment will be excavated to restore the reservoir to its 1999 capacity (approximately 20 acre-feet). Flow in Beaver Creek will be diverted around the work site using a pipeline, and a coffer dam will be constructed to dewater the construction area prior to debris and sediment removal. About 3,500 cubic yards of material will be excavated and temporarily stockpiled on land owned by Sierra Pacific Industries, approximately four miles to the west-northwest of the Project area. Soil will be sampled and the stockpile will be allowed to dewater prior to removal to a designated disposal site on privately owned land at 1355 Linebaugh Road in Arnold, California.

The project will occur during the late fall when Beaver Creek inflow is at a minimum and the reservoir is at its lowest elevation. During this period, diversions to the McKay's

Point Diversion Facility via the Beaver Creek Penstock do not occur and thus, power production will not be impacted.

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

1. The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to “co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.”
2. The Applicant, Northern California Power Agency (NCPA), applied to the U.S. Army Corps of Engineers (ACOE) for Nationwide Permit Numbers: 3, Maintenance and 18, Minor Discharge (Corps File No. SPK-2007-01608).
3. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance 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 limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that State certification conditions shall become conditions of any federal license or permit for the Project. The State Water Resources Control Board (State Water Board) has delegated this function to the Executive Director by regulation. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)
4. The California Regional Water Quality Control Boards have adopted, and the State Water Board has approved, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin and water quality objectives designed to protect those uses. Section 303 of the Clean Water Act requires the states to develop and adopt water quality standards. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans constitute State water quality standards under section 303.
5. The Central Valley Regional Water Quality Control Board (Central Valley Region) has adopted, and the State Water Board and U.S. Environmental Protection Agency have approved, the Sacramento River and San Joaquin River Basin (5A/5B) Water Quality Control Plan for the Central Valley Region (Basin Plan). The Basin Plan designates the beneficial uses of waters to be protected along with the water quality

objectives necessary to protect those uses. Existing beneficial uses designated for tributaries to the Stanislaus River include municipal and domestic, agricultural, industrial, groundwater recharge, freshwater replenishment, hydropower generation, water contact recreation, non-contact water recreation, commercial and sport fishing, warm and cold freshwater habitat, wildlife habitat, rare, threatened, and endangered species, migration, and spawning (spawning, reproduction, and development). Protection of the instream beneficial uses identified in the Basin Plan requires maintenance of adequate instream flows as well as effluent limitations and other limitations on discharges of pollutants from point and non-point sources to tributaries to the Stanislaus River.

6. The State Water Board has reviewed and considered the plans and project description provided by the Applicant. Further, the State Water Board has considered the Basin Plan, the existing water quality conditions and project-related controllable factors.
7. Section 401 of the Clean Water Act requires any applicant for a federal license or permit who seeks to conduct an activity that may result in any discharge to navigable waters, to obtain certification from the State that the discharge will comply with applicable water quality standards. The federal agency issuing permits is the ACOE. The NCPA Beaver Creek Reservoir Sediment Removal Dam Project (Project) will require Nationwide Permits from the ACOE under section 404 of the Clean Water Act. On June 15, 2007, the NCPA submitted an application for section 401 water quality certification to the Central Valley Region, which was subsequently forwarded to the State Water Board on July 23, 2007.
8. The State Water Board is issuing a 401 water quality certification because it has determined that the Beaver Creek Reservoir Sediment Removal Project will be consistent with federal and State water quality standards. In issuing a water quality certification, the State Water Board certifies compliance with provisions of the Clean Water Act and the State's parallel Porter Cologne Water Quality Control Act, including all water quality objectives necessary to protect the designated beneficial uses of affected water bodies, as defined in the Basin Plan. Pursuant to the Clean Water Act, the State Water Board must analyze potential project-related environmental effects to the specified waters prior to making a determination that the proposed retrofit projects will protect the designated beneficial uses of the affected water bodies in the Basin Plan for the Central Valley Region.
9. The State Water Board as responsible agency has reviewed and considered the Negative Declaration for this Project (State Clearinghouse Number 2007012063), adopted on June 21, 2007, by NCPA. NCPA incorporated conditions into the Project that protect the environment. The State Water Board will file a Notice of Determination within five days from the issuance of this certification.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER BOARD CERTIFIES THAT THE BEAVER CREEK RESERVOIR SEDIMENT REMOVAL PROJECT OPERATED BY THE NORTHERN CALIFORNIA POWER AGENCY will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if the Applicant complies with the following terms and conditions during the Project activities certified herein.

1. This certification is subject to modification or revocation upon administrative or judicial review including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with § 3867).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b), and the application specifically sought a FERC license or amendment to a FERC license for a hydroelectric facility.
3. The State Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised 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.
4. Notwithstanding any more specific conditions in this certification, the Project shall be operated 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 Applicant shall take all reasonable measures to protect the beneficial uses of water of the Stanislaus River and tributaries.
5. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under any 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 assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the State 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. In response to any violation of the conditions of this certification, the State Water Board may

add to or modify the conditions of this certification as appropriate to ensure compliance.

6. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (DFG Code § 2050 to 2097) or the federal Endangered Species Act (16 U.S.C. § 1531 to 1544). If a "take" will result from any act authorized under this certification or water rights held by the Applicant, the Applicant shall obtain authorization for the take prior to any construction or operation of the Project. The Applicant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.
7. The Streambed Alteration Agreement Number 2007-0147-R4 (Agreement) issued on November 7, 2007, by the Department of Fish and Game, Central Region (DFG) shall be incorporated by reference into this water quality certification. The Applicant shall comply with terms of the DFG Agreement. In the event of conflict between terms of that permit and this water quality certification, the conditions of this certification shall control.
8. Any modifications to the proposed Project and the plan for disposal of the excavated sediment may require submittal of a new Clean Water Act Section 401 Water Quality Certification application.
9. This certification is contingent on compliance with all applicable requirements of the Basin Plan, except as may be modified by the specific conditions of the certification.
10. No construction material, spoils, debris, or any other substances associated with this Project that may adversely impact water quality standards, shall be located in a manner that may result in a discharge or a threatened discharge to waters of the United States.
11. All technical specifications, including the specific work requirements and best management practices, contained in the Consultation Summary that is referenced in the application for water quality certification are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the Applicant shall comply with all measures described in the application for water quality certification.
12. All equipment using gas, oil, hydraulic fluid or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Equipment maintenance and refueling shall only take place in a designated, contained area. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained on-site at all sites using such equipment.

13. Temporary piping used for the diversion of creek flows for the Project shall be placed and removed in such a manner as to minimize impacts to surrounding vegetation and land cover. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the task. Cofferdam or barrier construction and removal shall be conducted to minimize erosion and excessive turbidity in the creek. When operations are completed, any excess material brought in for cofferdam installation shall be removed from the work area.
14. The Applicant shall surround the temporary stockpile site with fiber rolls, silt fencing or similar materials to control dewatering of stockpiled sediment. The Applicant shall use erosion control blankets or similar materials to protect the excavated sediment against precipitation and excessive runoff.
15. The Applicant shall provide copies of the results of the analyses performed on sediment that is excavated from the reservoir bottom to the State Water Board and the land owner of the permanent disposal site.
16. If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the Applicant shall immediately cease work on the Project and promptly notify the State Water Board.
17. Upon completion of the Project, all debris, building materials and trash generated during construction activities shall not be deposited within 150 feet of the high water mark of any stream, but shall be removed from the site and taken to appropriate waste disposal sites.
18. The Applicant shall provide staff of the State Water Board or Central Valley Region access to Project sites to document compliance with this certification if requested.
19. The Applicant shall provide a copy of this certification and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. The Applicant shall be responsible for work conducted by its contractor or subcontractors.
20. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. The Applicant must submit any change to the Project, including Project operations that would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the Executive Director of the State Water Board for prior review and written approval. If the State Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to State Water Board enforcement actions.

21. The State Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised 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.
22. The State Water Board reserves authority to modify or revoke this certification if monitoring results indicate that the Project would violate water quality objectives or impair the beneficial uses.
23. The Applicant shall report the increase in storage capacity resulting from completion of the Project in the Progress Reports by Permittee for Water Right Permit Numbers 15021 and 15023 for the year in which the Project is completed.

ORIGINAL SIGNED BY
Dorothy Rice
Executive Director

February 7, 2008
Date

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