

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the Matter of Water Quality Certification for

**ISABELLA PARTNERS
LAKE ISABELLA HYDROELECTRIC PROJECT LICENSE AMENDMENT**

FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 8377

SOURCE: KERN RIVER

COUNTY: KERN

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

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Acronyms and Abbreviations

<i>Antidegradation Policy</i>	<i>Statement of Policy with Respect to Maintaining High Quality Waters in California</i>
<i>CEQA</i>	<i>California Environmental Quality Act</i>
<i>Central Valley Regional Water Board</i>	<i>Central Valley Regional Water Quality Control Board</i>
<i>certification</i>	<i>water quality certification</i>
<i>cfs</i>	<i>cubic feet per second</i>
<i>Construction General Permit</i>	<i>National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharge Associated with Construction and Land Disturbance Activities</i>
<i>Deputy Director</i>	<i>Deputy Director of the Division of Water Rights</i>
<i>ESA</i>	<i>Endangered Species Act</i>
<i>Executive Officer</i>	<i>Executive Officer of the Central Valley Regional Water Board</i>
<i>FERC</i>	<i>Federal Energy Regulatory Commission</i>
<i>Hydroelectric Project</i>	<i>Lake Isabella Hydroelectric Project</i>
<i>IS/MND</i>	<i>Initial Study/Mitigated Negative Declaration</i>
<i>kw</i>	<i>kilowatt</i>
<i>Licensee</i>	<i>Isabella Partners</i>
<i>MMRP</i>	<i>Mitigation Monitoring and Reporting Program</i>
<i>MW</i>	<i>megawatt</i>
<i>NPDES</i>	<i>National Pollutant Discharge Elimination System</i>
<i>Progress Reports</i>	<i>Project Activity Progress Reports</i>
<i>Project</i>	<i>Lake Isabella Hydroelectric Project License Amendment</i>
<i>Regional Water Boards</i>	<i>Regional Water Quality Control Boards</i>
<i>State Water Board</i>	<i>State Water Resources Control Board</i>
<i>TMDLs</i>	<i>total maximum daily loads</i>
<i>Tulare Lake Basin Plan</i>	<i>Water Quality Control Plan for the Tulare Lake Basin</i>
<i>USACE</i>	<i>United States Army Corps of Engineers</i>
<i>USEPA</i>	<i>United States Environmental Protection Agency</i>
<i>Water Boards</i>	<i>State Water Resources Control Board and Regional Water Quality Control Boards, collectively</i>

1.0 Project Description

Isabella Partners (Licensee) owns and operates the Lake Isabella Hydroelectric Project (Hydroelectric Project), which is also referred to as Federal Energy Regulatory Commission (FERC) Project No. 8377. The Hydroelectric Project is located on the Kern River at the base of Lake Isabella main dam in Kern County, California. The Lake Isabella main dam is owned and operated by the United States Army Corps of Engineers (USACE), which operates the dam for flood control, agricultural, and hydroelectric purposes. The Hydroelectric Project is located on land owned by the United States and administered by the USACE.

The Hydroelectric Project currently has a nameplate generation capacity of 13.8 megawatts (MW) and generates electricity from water released by USACE through Lake Isabella main dam, which impounds the Kern River. The Hydroelectric Project consists of power generation and distribution facilities and does not include any dams or impoundments. Hydroelectric Project facilities include: (1) a 13.5-foot-diameter steel liner installed in the existing USACE tunnel through the Lake Isabella main dam; (2) a 210-foot-long bifurcated penstock that varies between 10.5 feet and 8.5 feet in diameter; (3) a powerhouse containing two generating units rated at 5,975-kilowatts (kW) each (i.e., Units 1 and 2); (4) a third generating unit rated at 850-kW within a reinforced concrete structure (i.e., Unit 3); (5) a tailrace channel; (6) a 1,300-foot-long transmission line; and (7) appurtenant facilities.

Isabella Partners proposes the Lake Isabella Hydroelectric Project License Amendment (Project), which includes the construction and operation of a new 5-MW generating unit (Unit 4) that will be located adjacent to the existing powerhouse (Attachment A: Project Overview Maps and Schematics). Currently, flows greater than the 100 cubic feet per second (cfs) capacity of Unit 3 and less than the 500 cfs minimum operating range of Units 1 or 2 are discharged through the existing bypass channel. Operation of Unit 4 would allow for power generation at flows between 100 and 500 cfs. Unit 4 would connect to the existing penstock manifold with a 7-foot-diameter, 40-foot-long penstock extension. Unit 4 will be housed in a new, 40-foot-by-45-foot concrete structure adjacent to the existing powerhouse. Construction of Unit 4 would include: (1) installation of the penstock extension; (2) construction of the Unit 4 concrete housing structure; and (3) installation of the Unit 4 turbine. The Project would increase the Hydroelectric Project's nameplate generation capacity from 13.8 MW to 17.8 MW.

Although discharges through the Hydroelectric Project will continue to be limited to 1,632 cfs under Water Rights Permits 20047 and 21134, the estimated average annual generation would increase by 27 gigawatt hours. Following Project completion, the Hydroelectric Project would continue to be operated per the *Permanent Operations Memorandum of Agreement* (USACE MOA)¹ (USACE 1993) and there would be no change in water releases to the Kern River as a result of the Project.

¹ The USACE MOA sets the terms of the agreement between Isabella Partners and the USACE regarding ownership and operation of the Hydroelectric Project. Flows through the Hydroelectric Project are controlled by USACE for flood control and to satisfy downstream water rights.

2.0 Water Rights

Table A lists the water rights held by Isabella Partners in relation to the Hydroelectric Project.

Table A. Isabella Partners' Water Rights related to the Hydroelectric Project*

Application ID	Permit Number	Source	Priority Date	Place of Storage or Diversion	Face Value	Purpose of Use
A028382	20047	Kern River	01/29/1985	Lake Isabella Reservoir**	1,300 cfs	Power
A031185	21134	Kern River	05/16/2001	Lake Isabella Reservoir**	332 cfs / 240,000 acre-feet per year	Power

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

**Permit No. 21134 states "Diversion of water under this permit is limited to that water which is subordinate and subject to the quantity of water being released from Isabella reservoir for other purposes...."

3.0 Federal Energy Regulatory Commission Proceedings

FERC issued a 50-year license for the Hydroelectric Project on May 31, 1988. On July 29, 2022, Isabella Partners filed a license amendment application with FERC proposing to amend the Hydroelectric Project license to add Unit 4.

4.0 Regulatory Authority

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 water quality certification (certification) to set 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 Resources Control Board (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 February 13, 2023, Isabella Partners filed a certification application for the Project with the State Water Board under section 401 of the Clean Water Act (Isabella Partners 2023b). On March 9, 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 August 31, 2023, State Water Board staff requested comments from the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) on the certification. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) No comments were received.

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 for the Tulare Lake Basin* (Tulare Lake Basin Plan). (See Central Valley Regional Water Board, Water Quality Control Plan for the Tulare Lake Basin Third Edition (2018).)

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, agricultural supply, and fish and wildlife beneficial uses), 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,² 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).

Tulare Lake Basin Plan

The Central Valley Regional Water Board has adopted, and the State Water Board and the USEPA approved, the Tulare Lake Basin Plan. The Tulare Lake Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The Tulare Lake Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The Tulare Lake Basin Plan identifies the beneficial uses of the Kern River from Lake Isabella to Southern California Edison's Kern River Powerhouse No. 1 as: hydropower generation; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; wildlife habitat; and rare, threatened, or endangered species.

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 the maximum benefit to the people of the

² For example, the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (State Water Board 2018).

state will be maintained. The state's 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 2022a) 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 Act 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.)³

Clean Water Act Section 303(d) Listing

On January 19, 2022, the State Water Board adopted the [2020-2022 California Integrated Report \(Clean Water Act Section 303\(d\) List / 305\(b\) Report\)](#) (State Water Board 2022b) and it was approved by USEPA on May 11, 2022. The Kern River has no listings; however, Lake Isabella is listed for mercury, dissolved oxygen, and 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. No TMDLs have been developed for these listings.

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 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 Tulare Lake Basin Plan, the Antidegradation Policy, and other applicable plans and policies for water quality control (FERC 2020).

5.0 California Environmental Quality Act

The State Water Board is the lead agency for the purposes of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.). (Cal. Code Regs., tit. 14,

³ Implementation of the Construction General Permit is not required for this Project.

§ 15367.) The State Water Board released a draft Initial Study and Mitigated Negative Declaration (IS/MND) for the Project on April 14, 2023 (State Water Board, 2023a). The draft IS/MND had a public comment period that began April 14, 2023, and concluded on May 17, 2023. No comments were received during the comment period. The draft IS/MND included mitigation measures to avoid or substantially reduce potential significant environmental impacts of the Project.

CEQA requires the lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) for projects where mitigation measures are a condition of project approval. (Cal. Code Regs., tit. 14, § 15091, subd. (d).) The State Water Board included a MMRP in its final IS/MND (Attachment B: Mitigation Monitoring and Reporting Program). Water quality protection measures and associated mitigation, monitoring, and reporting requirements were incorporated into the conditions of this certification in accordance with California Code of Regulations, title 23, section 3859, subdivision (a). Table B identifies resource areas in the State Water Board’s purview for which the final IS/MND identified mitigation measures for potential impacts, and associated certification conditions with water quality protection, monitoring, or reporting requirements.

This certification has been informed by the environmental information and analysis contained in the final IS/MND and other information in the record. These documents and other materials that constitute the public record are located at the State Water Board, Division of Water Rights, 1001 I Street, Sacramento, California. The State Water Board will file a Notice of Determination with the Office of Planning and Research within five working days of issuance of this certification. (Cal. Code Regs., tit. 14, §15096, subd. (i).)

The State Water Board, through its Executive Director, adopts the final IS/MND and has determined it is adequate to support approval of the Project, with incorporation of the MMRP. In accordance with CEQA Guidelines section 15074, the State Water Board, through its Executive Director, considered the IS/MND and finds that the final IS/MND represents the State Water Board’s independent judgement and analysis and that there is no substantial evidence that the Project will have a significant effect on the environment.

Table B. IS/MND Resource Areas and Corresponding Certification Conditions

IS/MND Resource Area and Mitigation Measure	Applicable Certification Condition
HAZ-1 Hazards and Hazardous Materials Mitigation-1: Best Management Practices	Condition 3: Hazardous Materials
HAZ-2 Hazards and Hazardous Materials Mitigation-2: Hazardous Spills	Condition 3: Hazardous Materials
HYD-1 Hydrology and Water Quality Mitigation Measure-1: Erosion Control	Condition 2: Construction and Maintenance

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, citation 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 water quality 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 Tulare Lake Basin Plan, as described in Section 4.0, Regulatory Authority.

California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth 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 are described in Section 4.0 and 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:

- Isabella Partners' February 13, 2023 application for certification;
- Isabella Partners' January 17, 2023 *Application for a Capacity Amendment of FERC License Brought forth by Isabella Partners (P-8377)*;

- State Water Board’s draft and final IS/MND and MMRP;
- Beneficial uses, water quality objectives, and implementation measures and programs described in the Tulare Lake Basin Plan;
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., 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 consider 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 has 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 Isabella Partners to implement the Project as described in its February 13, 2023 certification application, 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 provided to the State Water Board could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new application as well as trigger additional environmental review.

6.2 Rationale for Condition 2: Erosion and Sediment Control

Erosion and sedimentation can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to limit or eliminate such discharges to protect water quality and associated beneficial uses. Project construction has the potential to cause erosion that could impact the Kern River. Increases in erosion can violate water quality objectives (e.g., turbidity) and impact beneficial uses. Beneficial uses of the Kern River that could be impacted by increased erosion and sedimentation include, but are not limited to: warm freshwater habitat; cold freshwater habitat; and water contact recreation. Condition 2 requires Isabella Partners to comply with erosion and sediment control measures, including actions as listed in Mitigation Measure Hydrology-1 (HYD-1)⁴, to protect water quality during Project construction.

6.3 Rationale for Condition 3: Hazardous Materials

Implementation of a Hazardous Materials Management Plan is essential to ensure hazardous materials are properly stored, used, transported, and managed in the Project area to avoid and minimize the release of hazardous materials to water, and the associated impacts to beneficial uses, including impacts to aquatic resources and their habitats. Condition 3 requires Isabella Partners to develop and implement a Hazardous Materials Management Plan to address the storage, use, transportation, and disposal of hazardous substances for the protection of water quality.

Site management requires implementation of best practices to prevent, minimize, and clean up potential spills and leaks during Project construction. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the state in violation of water quality standards, including the toxicity and floating material water quality objectives. Secondary containment around hazardous material storage sites helps ensure that any leaks or spills of hazardous materials do not result in a discharge to waters. This condition protects water quality by ensuring that hazardous materials are not discharged to waters of the state when equipment is being used or stored.

The Tulare Lake Basin Plan includes narrative water quality objectives for oil, grease, and other materials in concentrations that can cause a nuisance or result in a visible film or coating on the surface of the water or on objects in the water. Condition 3 requires visual monitoring for oil and grease during initial use of the new turbine. Additionally, Condition 3 requires development and implementation of a Hazardous Materials Management Plan to prevent hazardous material spills into waters of the state, including containment criteria pursuant to California Code of Regulations, title 27, section 20320.

⁴ On February 9, 2023, Isabella Partners committed by email to implement mitigation measures as part of the Project to reduce potentially significant environmental impacts to less than significant with mitigation incorporated (Isabella Partners, 2023a).

Implementation of this condition will avoid unreasonable impacts to water quality and beneficial uses including, but not limited to: warm freshwater habitat; cold freshwater habitat; and water contact recreation.

6.4 Rationale for Condition 4: Completion Report

Condition 4 requires Isabella Partners to notify Central Valley Regional Water Board and State Water Board staff prior to implementing Project activities and to submit a Completion Report following construction completion to document Project compliance with the certification requirements. The Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation. This condition will allow for implementation of measures to limit or prevent any violations and/or impacts to water quality and beneficial uses.

6.5 Rationale for Conditions 5 through 23

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions.

Condition 5 is necessary to comply with Water Code section 13167 and Conditions 6 through 9 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 5 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 Endangered Species Act (Fish & G. Code, § 2050 et seq.) and federal Endangered Species Act (16 U.S.C. § 1531 et seq.), Condition 6 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 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.” To help ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law, Condition 7 serves to notify applicants that there may be additional applicable federal,

state, or local laws or ordinances with which they must comply, including the state and federal Endangered Species Acts (Condition 6).

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 Water Board] will comply with applicable requirements” of state and federal law. Because agency organization and authorities change over time, Condition 8 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 9 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 10 through 12 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 10 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 11 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, subdivision (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 12 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, subdivision (c). This fee requirement condition is also required pursuant to California Code of Regulations, title 23, section 3833, subdivision (b), which requires payment of fees by project proponents 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 13 through 23 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 13, 14, and 15 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of additional actions 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 16 and 17 require the Licensee to comply with the Tulare Lake Basin Plan and to take 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 18 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 19, 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 20 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 21 requires that the Licensee use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 22 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 23 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 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 THE LAKE ISABELLA HYDROELECTRIC PROJECT LICENSE AMENDMENT (Project) 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 Deputy Director of the Division of Water Rights (Deputy Director), Isabella Partners (Licensee) shall implement the Project as described in Isabella Partners' February 13, 2023 certification application (Isabella Partners 2023b).

CONDITION 2. Erosion and Sediment Control

Unless otherwise approved by the Deputy Director, the Licensee shall implement Mitigation Measure Hydrology (HYD)-1 identified in the Project's Mitigation Monitoring and Reporting Program (Attachment B), as well as the following erosion and sediment control measures, as applicable, prior to the commencement of, during, and after any ground-disturbing activities or any other Project activities that could result in erosion or sediment discharges to surface water:

- Stockpiles, portable equipment, vehicles, and supplies shall be restricted to the designated construction staging areas that shall be located outside of wetlands, surface waters, and riparian habitat. If more than 0.25 inch of rain is forecast during Project activities, all stockpiles shall be covered and surrounded with sediment control technologies or berms to prevent sediment run-off.
- Storage or parking of equipment shall be prohibited within and directly adjacent to waterways and within 100-feet of riparian and wetland habitat.

CONDITION 3. Hazardous Materials

A minimum of three months prior to commencement of Project construction, the Licensee shall submit a Hazardous Materials Management Plan (Hazardous Materials Plan) to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The objective of the Hazardous Materials Plan shall be to: (1) identify measures for the storage and disposal of hazardous materials⁵ that will be implemented to avoid discharge and impacts to water quality and beneficial uses; and (2) identify protocols that will be implemented to address any spills during the Project. The Licensee shall develop the Hazardous Materials Plan in consultation with State Water Board and Central Valley

⁵ Hazardous materials include, but are not limited to, petroleum products, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, contaminated wash water, or other substances potentially hazardous to water quality and beneficial uses.

Regional Water Quality Control Board (Central Valley Regional Water Board) staff. At a minimum, the Hazardous Materials Plan shall include:

- Identification of all hazardous materials to be used during Project construction.
- Identification of all on-site spill response materials, including those in spill kits, and their potential uses and locations. At a minimum, hazardous materials spill kits shall be maintained onsite and in vehicles for small spills for the duration of construction activities. These kits shall include oil-absorbent material and tarps to contain and control any minor releases. During Project implementation, emergency spill supplies and equipment shall be kept adjacent to all work and staging areas and shall be clearly marked.
- The measures identified in Mitigation Measure Hazards and Hazardous Materials-1 (HAZ-1) and Hazards and Hazardous Materials-2 (HAZ-2) in the Project's Mitigation Monitoring and Reporting Program (Attachment B).
- Implementation of Mitigation Measures HAZ-1 and HAZ-2 identified in the Project's Mitigation Monitoring and Reporting Program (Attachment B).
- Locations and protocols as defined in California Code of Regulations, title 27, section 20320, for storing hazardous materials during Project construction, which, at a minimum, shall not be stored in or near a floodplain.
- Measures that will be implemented to visually assess potential discharges of oil and grease to surface water from initial operation of the new, fourth turbine.
- Adaptive management actions to prevent and remediate any oil and grease discharges associated with initial operation of the new, fourth turbine that could impact water quality.
- For any violation of oil and grease water quality objectives the Deputy Director and the Executive Officer of the Central Valley Regional Water Board (Executive Officer) shall be notified promptly, and in no case more than 24 hours following the violation. The notice shall include the cause of the violation, measures taken to correct the violation, and measures the Licensee will implement to prevent a similar future violation. Project activities associated with the violation shall immediately cease and may not resume without approval from the Deputy Director. The Deputy Director may require additional actions to address the discharge or help prevent similar violations in the future.
- Procedures for notifying State Water Board, Central Valley Regional Water Board, and other appropriate agencies of any hazardous materials spills, and the measures taken to contain and clean up the spills.
- Identification of where Project-related hazardous materials or debris will be temporary stored and permanently disposed. All construction and maintenance 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. Hazardous materials that can affect water quality shall not be disposed of or released onto the ground, the underlying groundwater, or any surface water.
- Training that will be performed to ensure appropriate work practices are implemented to protect water quality and beneficial uses. At a minimum, this includes that prior to Project construction, all staff and personnel of contractors and subcontractors shall receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws

and regulations, including hazardous materials spill prevention and response measures. The training shall include identification and reporting to the appropriate onsite person of any visual observations that may indicate a water quality impairment (e.g., oil sheen, etc.) and information on the location and use of spill kits.

- Documentation of consultation with State Water Board and Central Valley Regional Water Board staff, comments and recommendations made in connection with the plan, and a description of how the plan incorporates or addresses the comments and recommendations.

The Licensee may request modifications to the submission timeline, or the Deputy Director approved Hazardous Materials Plan. The Licensee shall submit any request for modifications to the Hazardous Materials Plan to the Deputy Director for review and consideration of approval at least one month prior to the desired start date of the proposed modifications. The request shall include the proposed modifications and supporting rationale. The Deputy Director may require modifications as part of any approval. The Licensee shall file with the Federal Energy Regulatory Commission (FERC) the Deputy Director-approved Hazardous Materials Plan and any approved amendments thereto. The Licensee shall implement the Hazardous Materials Plan and any amendments thereto upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. The Licensee shall not commence Project construction without receipt of Deputy Director approval of the Hazardous Materials Plan.

CONDITION 4. Completion Report

At least seven days prior to starting Project activities, the Licensee shall notify the Central Valley Regional Water Board and State Water Board staff that Project activities are anticipated to begin and provide a brief description of the anticipated schedule for Project completion. Within 60 days of Project completion, the Licensee shall provide the Deputy Director with a Project Completion Report that comprehensively summarizes:

- Project activities performed;
- Compliance with each condition of this certification and details of any failure to meet the certification requirements; and
- Details of Project-related adverse impacts to beneficial uses, if applicable.

The Deputy Director may require the Licensee to implement corrective actions in response to the information provided in the Project Completion Report or other information in the record. The Licensee shall provide any additional information or clarification requested by the Deputy Director related to the Project Completion Report. Upon request from State Water Board staff, the Licensee shall meet with staff to discuss the Project Completion Report

CONDITIONS 5 – 23

CONDITION 5. 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 6. 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 7. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Licensee is 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 8. 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 9. 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 10. 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 11. 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 12. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 13. 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 14. 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 15. 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 other 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 16. This certification is contingent on compliance with all applicable requirements of the Central Valley Regional Water Board's *Water Quality Control Plan for the Tulare Lake Basin Plan* (Tulare Lake Basin Plan).

CONDITION 17. 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 the Kern River and Lake Isabella.

CONDITION 18. 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.)

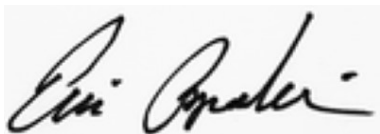
CONDITION 19. Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Licensee shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 20. A copy of this certification shall be provided to any contractor and all 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 its contractors, subcontractors, or other persons conducting Project-related work.

CONDITION 21. 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 22. 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 23. 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. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the remainder of this certification shall not be affected. 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

February 12, 2024
Date

9.0 References

Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board). 2018. *Water Quality Control Plan for the Tulare Lake Basin (Tulare Lake Basin Plan)*. Fifth Edition. Revised May 2018 (with Approved Amendments). Available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/tularelak_ebp_201805.pdf. Accessed on August 14, 2023.

Federal Energy Regulatory Commission (FERC). 2019. *List of Comprehensive Plans*. Available at: <https://www.ferc.gov/sites/default/files/2020-07/ListofComprehensivePlans.pdf>. Accessed on August 14, 2023.

FERC. 2020. List of Comprehensive Plans. Available at: <https://www.ferc.gov/sites/default/files/2020-07/ListofComprehensivePlans.pdf>. Accessed on January 10, 2024.

Isabella Partners. 2023a. Re: Mitigation Measures Agreement Language. Approved by Isabella Partners, February 9, 2023.

Isabella Partners. 2023b. Lake Isabella Hydroelectric Project Clean Water Act Section 401 Water Quality Certification Application. February 13, 2023.

State Water Resources Control Board (State Water Board). 1968. *Statement of Policy with Respect to Maintaining High Quality Waters in California*. Resolution No. 68-16 and any amendments thereto. Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf. Accessed on January 31, 2024.

State Water Board. 2012. *Delegation of Authority to State Water Resources Control Board Members Individually and to the Deputy Director for Water Rights*. Resolution No. 2012-0029. Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0029.pdf. Accessed on January 5, 2024.

State Water Board. 2018. *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay Delta Plan)*. Available at: https://www.waterboards.ca.gov/plans_policies/docs/2018wqcp.pdf. Accessed on August 14, 2023.

State Water Board. 2022a. National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (General Permit). Water Quality Order No. 2022-0057-DWQ and NPDES No. CAS000002 and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html. Accessed on February 5, 2024.

State Water Board. 2022b. 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 August 14, 2023.

State Water Board. 2023a. Redelegation of Authorities Memorandum. April 20, 2023.

State Water Board. 2023b. Draft Initial Study/Mitigated Negative Declaration Lake Isabella Hydroelectric Project License Amendment. Available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/isabella_ferc8377/isabella_ismnd.pdf. Accessed on August 14, 2023.

State Water Board. 2024. Final Initial Study/Mitigated Negative Declaration Lake Isabella Hydroelectric Project License Amendment.

United States Army Corps of Engineers (USACE). 1993. Permanent Operating Memorandum of Agreement for Isabella Hydroelectric Project. Letter from Lewis Whitney, Chief, Engineering Division to Rodger Kirk, Isabella Partners. USACE, Sacramento, California.

United States Environmental Protection Agency (USEPA). 2023. *Final Clean Water Act Section 401 Water Quality Certification Improvement Rule*. Available at: <https://www.epa.gov/cwa-401/final-clean-water-act-section-401-water-quality-certification-improvement-rule>. Accessed on January 30, 2024.

ATTACHMENT A:
PROJECT OVERVIEW MAPS AND SCHEMATICS
WATER QUALITY CERTIFICATION
FOR
LAKE ISABELLA HYDROELECTRIC PROJECT LICENSE AMENDMENT



Figure 1-1: Proposed Project Location.

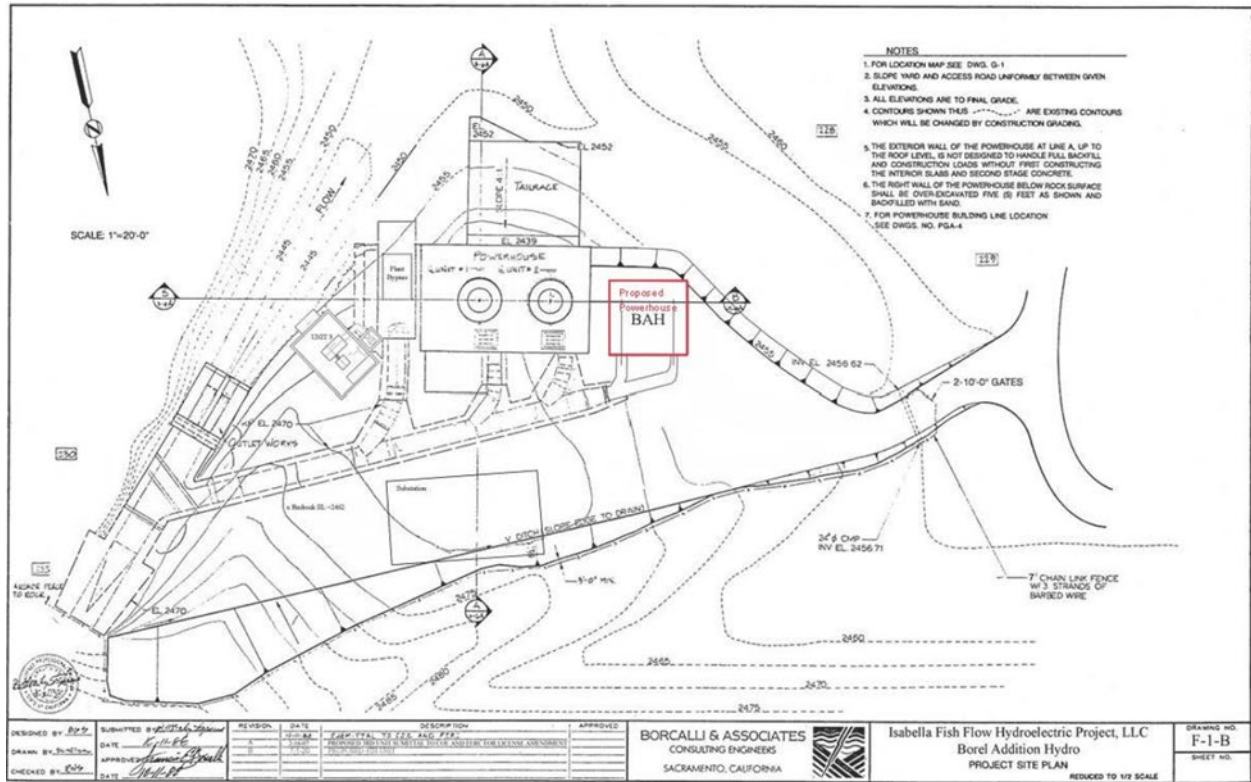


Figure 1-2: Site Plan with Proposed Project Location.

ATTACHMENT B:
MITIGATION MONITORING AND REPORTING PROGRAM
WATER QUALITY CERTIFICATION
FOR
LAKE ISABELLA HYDROELECTRIC PROJECT LICENSE AMENDMENT

Introduction

The State Water Resources Control Board (State Water Board) prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in response to Isabella Partners (Permittee) application for a water quality certification for construction and operation of a fourth generating unit (Proposed Project) as part of a Federal Energy Regulatory Commission (FERC) license amendment (Project No. 8377). The Proposed Project includes installation of an additional 5-megawatt (MW) Francis turbine unit at the existing Lake Isabella Hydroelectric Project, which includes an extension of the existing penstock manifold and construction of an additional structure to house the unit.

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared in conformance with the California Environmental Quality Act (CEQA) (Public Resources Code, § 21081.6000 et seq.) and section 15097 of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.).

Format

As shown in the following table, each mitigation measure for the Project is listed and categorized by resource area, with:

- Mitigation Measure Identification;
- Actions required as part of mitigation; and
- Implementation Schedule – The phase of the Proposed Project during which the mitigation measures shall be implemented and monitored.

The responsible party for implementing each mitigation measure and providing verification of implementation is Isabella Partners, the Licensee. Isabella Partners shall maintain records demonstrating compliance with each mitigation measure. Such records shall be made available to State Water Board staff upon request.

Table 2. Mitigation Monitoring and Reporting Program.

Mitigation Measure	Implementation Schedule
Air Quality (AQ)	
<p>AQ-1. The following Best Management Practices (BMPs) shall be implemented during construction of the Proposed Project to avoid and minimize potential air quality effects:</p> <p>1. All construction equipment shall be properly tuned and maintained prior to and for the duration of on-site operation.</p>	<p>During Project Construction</p>

Mitigation Measure	Implementation Schedule
<p>2. Diesel-powered construction equipment idling time shall be limited to less than five minutes.</p> <p>3. An operational water truck shall be available at all times. Water shall be applied as needed to control dust and to prevent visible emissions violations and off-site dust impacts.</p> <p>4. On-site dirt piles or stockpiled materials shall be covered, and water or soil stabilizers will be employed to reduce wind-blown dust emissions.</p> <p>5. Traffic speeds on all unpaved surfaces shall be reduced to 20 miles per hour or less. Appropriate training, enforcement, and signage will be provided.</p>	
Biological Resources (BIO)	
<p>BIO-1. All contractors and equipment operators shall be provided worker environmental awareness training to educate them on the environmental resources of the Project Area and the required protection measures. Training shall include information about environmental permits for the projects and the consequences of noncompliance. Workers shall be informed about the presence, life history, and habitat requirements of all special-status species that may be affected in the Project Area. Training shall also include information on state and federal laws protecting nesting birds and water resources. This training shall be conducted prior to construction and shall be provided to any new staff/contractors added during implementation of the Proposed Project.</p>	<p>Prior to and During Project Construction</p>
<p>BIO-2. A preconstruction wildlife survey shall be conducted within 14 days of initiation of construction activities by biologist(s) with appropriate knowledge and experience in the biology, life history, and identification characteristics of special-status species that have the potential to be encountered during Proposed Project activities. Any species, nests, roosts, dens, or sensitive habitat encountered in the Project Area shall be noted and buffered for avoidance.</p>	<p>Within 14 Days of Initiation of Construction</p>

Mitigation Measure	Implementation Schedule
<p>BIO-3. For Proposed Project activities conducted during the raptor and passerine breeding season (February 1–September 15), a pre-construction survey for nesting birds shall be conducted in suitable nesting habitat within 500 feet of the Project Area within 72 hours of initiation of construction activities. If active nests (nests containing eggs or young) are identified, a no-disturbance buffer zone shall be established. No construction activities shall occur within the buffer zone until a qualified biologist has determined that the young have fledged or that construction activities within the buffer zone are not disturbing the nesting birds. The width of the buffer zone shall be determined by a qualified biologist in coordination with CDFW; recommended buffers are 500 feet for raptors and 100 feet for other birds.</p>	<p>Within 72 Hours of Initiation of Construction</p>
<p>Cultural Resources (CUL)</p>	
<p>CUL-1. In the event that an archaeological/paleontological resource or tribal cultural resource is inadvertently discovered during construction activities, work must be halted within 30 feet of the find and a qualified archaeologist (36 Code of Federal Regulations Part 61) notified immediately so that an assessment of its potential significance can be undertaken. Construction activities may continue in other areas but may not resume in the area of the find until the significance of the archaeological/paleontological resource is assessed. If the discovery proves to be significant, additional work, such as data recovery excavation, may be warranted and shall be discussed in consultation with the State Water Board, affiliated tribal organizations, and any other relevant regulatory agencies or invested parties, as appropriate.</p>	<p>During Construction in Event Resource is Discovered</p>
<p>CUL-2. If human remains are inadvertently discovered during Proposed Project activities, no further disturbance may occur until the Kern County Coroner has made a determination of origin and disposition of the remains pursuant to the California Health and Safety Code (CHSC), Section 7050.5, and Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately upon discovery. If the human remains are determined to be of Native American origin, the County Coroner</p>	<p>During Construction in Event Remains are Discovered</p>

Mitigation Measure	Implementation Schedule
<p>shall notify the Native American Heritage Commission (NAHC), which would determine and notify a Most Likely Descendent (MLD). The MLD must complete an inspection of the site within 48 hours of notification and may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.</p>	
<p>Hazards and Hazardous Materials (HAZ)</p>	
<p>HAZ-1. Following is a list of Best Management Practices (BMPs) that shall be used during construction of the Proposed Project to avoid and minimize potential effects from hazards and hazardous materials:</p> <ol style="list-style-type: none"> 1. No potentially hazardous materials shall be stored in a location where there is potential to enter any waterway and/or contaminate aquatic resources. 2. All construction materials with the potential to pollute runoff shall be handled with care and stored under cover and/or surrounded by berms at the end of the work day, or during rain events that are predicted to produce 0.5 inch or more of precipitation. 3. An effort shall be made to store only the amount of a potentially hazardous product necessary to complete the job. 4. Materials, fuels, liquids and lubricants, and equipment supplies stored on site shall be stored in a neat, orderly manner, in their appropriate containers, with the original manufacturer's label, and, if possible, in an enclosure. 5. Any hazardous materials shall be stored and labeled according to local, state, and federal regulations. 6. If drums must be stored without overhead cover, they shall be stored at a slight angle to reduce corrosion and ponding of rainwater on the lids. 7. Substances shall not be mixed with one another unless recommended by the manufacturer. 	<p>During Construction</p>

Mitigation Measure	Implementation Schedule
<p>8. Manufacturer's recommendations for proper use and disposal of a product shall be followed.</p>	
<p>HAZ-2. The following measures shall be used to prevent, control, and minimize potential impacts from a spill of a hazardous, toxic, or petroleum substance during construction of the Proposed Project:</p> <ol style="list-style-type: none"> 1. Minor spills are those that can be controlled by on-site personnel. The following actions shall occur upon discovery of a minor spill: <ol style="list-style-type: none"> a. The spread of the spill will be contained. b. If the spill occurs on impermeable surfaces, such as any temporary surfaces installed for pollution prevention during construction, it will be cleaned up using "dry" methods (i.e., absorbent materials, cat litter, and/or rags). c. If the spill occurs in permeable substrate areas, it will be immediately contained by constructing an earthen dike. The contaminated soil will be excavated and properly disposed. d. If the spill occurs during rain, the impacted area will be covered to avoid runoff, and appropriate cleanup steps will be taken after precipitation has ceased. e. All steps taken to report and contain a spill will be recorded. 2. On-site personnel shall not attempt to control major spills until the appropriate and qualified emergency response staff has arrived at the site. Failure to report major spills can result in significant fines and penalties. <ol style="list-style-type: none"> a. If a major spill occurs, the Governor's Office of Emergency Services Warning Center shall be notified at (800) 852-7550 in addition to local authorities. b. For spills of federal reportable quantities, the National Response Center shall also be notified at (800) 424-8802. The federal reportable spill quantity for petroleum products is any oil 	<p>During Construction</p>

Mitigation Measure	Implementation Schedule
<p>spill that (1) violates applicable water quality standards, (2) causes a film or sheen upon or discoloration of the water surface or adjoining shoreline, or (3) causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.</p> <p>c. A written report shall be sent to all notified authorities.</p> <p>3. Diesel fuel, oil, gasoline, and lubricants are considered petroleum products. These materials shall be handled carefully to minimize their exposure to stormwater. The risks in using petroleum products would be reduced by following these steps:</p> <p>a. Waste oil and other petroleum products shall not be discharged into the ground or other water bodies.</p> <p>b. Petroleum products shall be stored in tightly sealed containers that are clearly labeled, in a covered area, within prefabricated spill containment devices, earthen berms, or similar secondary containment features.</p> <p>c. On-site vehicles shall be monitored for fluid leaks and receive regular preventative maintenance to reduce the chance of leakage (e.g., check for and fix fuel oil leaks in construction vehicles on a regular basis).</p> <p>d. Bulk storage tanks having a capacity of more than 55 gallons shall be provided with a secondary containment measure. Containment can be provided by a prefabricated temporary containment mat, a temporary earthen berm, or other measure.</p> <p>e. Bulk fuel or lubricating oil dispensers shall have a valve that must be held open to allow the flow of fuel into construction vehicles. During fueling operations, the contractor would have personnel present to detect and contain spills.</p> <p>4. The following additional spill control and cleanup practices shall be followed:</p>	

Mitigation Measure	Implementation Schedule
<p>a. Spills shall be contained and cleaned up immediately after discovery.</p> <p>b. Manufacturer's methods for spill cleanup of a material shall be followed as described on the material safety data sheet (MSDS) sheets (kept with product containers).</p> <p>c. Materials and equipment needed for cleanup procedures shall be kept readily available on site, either at an equipment storage facility or in the contractor's trucks. Equipment to be kept on site shall include, but not be limited to, brooms, dust pans, shovels, granular absorbents, sand, sawdust, absorbent pads and booms, plastic and metal trash containers, gloves, and goggles.</p> <p>d. On-site personnel shall be made aware of cleanup procedures, the location of spill cleanup equipment, and proper disposal procedures.</p> <p>e. Toxic, hazardous, or petroleum product spills required to be reported by regulations shall be documented and a record of the spills shall be kept with project-related documents.</p> <p>f. If a spill occurs that is reportable to the federal, state, or local agencies, the contractor is responsible for making and recording the reports.</p>	
<p>HAZ-3. The following measures shall be implemented during construction to reduce the potential for fire:</p> <ol style="list-style-type: none"> Smoking shall be permitted only in designated smoking areas or within the cabs of vehicles or equipment. Every fuel truck shall carry a large fire extinguisher with a minimum rating of 40 B:C, and all flammable materials would be removed from equipment parking and storage areas. 	<p>During Construction</p>
<p>Hydrology and Water Quality (HYD)</p>	
<p>HYD-1. The Stormwater Pollution Prevention Plan (SWPPP) developed for the Proposed Project shall include, but not be</p>	<p>During Construction</p>

Mitigation Measure	Implementation Schedule
<p>limited to, the following BMPs to avoid and minimize potential impacts on waters from erosion:</p> <ol style="list-style-type: none"> 1. Construction shall occur only during dry periods. 2. Prior to storm events, all construction activities shall cease, and appropriate erosion control measures shall be implemented. 3. Soil, silt, or other organic materials shall not be placed, stockpiled, or stored where such materials could pass into surface water or surface water drainage courses during unexpected rain events. 4. All areas disturbed by Proposed Project activities shall be protected from washout or erosion prior to the onset of the rainy season. 5. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities. 6. Prior to initiation of any waterside work, erosion control measures shall be used throughout all phases of operation where silt and/or earthen fill threaten to enter waters of the U.S. and/or the state. 	
Transportation and Traffic (TRA)	
<p>TRA-1. The following measures shall be implemented to mitigate potential impacts related to transportation:</p> <ol style="list-style-type: none"> 1. The construction contractor shall develop a traffic control plan for implementation during hauling operations. This plan shall identify actions that would be taken to reduce potential impacts to traffic circulation and maximize safety. Potential actions include speed limits, worker training, construction signage, emergency procedures, and coordination with Kern County and the USACE regarding other projects with potential effects on traffic circulation. 	<p>During Construction</p>