



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

JUL 22 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Dear Secretary Bose:

PRELIMINARY CONDITIONS AND COMMENTS ON READY FOR ENVIRONMENTAL ANALYSIS FOR MERCED FALLS HYDROELECTRIC PROJECT, FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2467; MARIPOSA AND MERCED COUNTIES

On March 24, 2014, the State Water Resources Control Board (State Water Board) Division of Water Rights (Division) received the Federal Energy Regulatory Commission's (FERC) notice for Ready for Environmental Analysis (REA) and accompanied request for comments, protests, recommendations, and terms and conditions for a new license for the Merced Falls Hydroelectric Project (Project), FERC Project No. 2467. On February 2, 2012, the owner and operator of the Project, Pacific Gas and Electric Company (PG&E), prepared and submitted a Final License Application (FLA) to FERC. The FLA contains PG&E's Project proposal for their new FERC license. FERC will use the FLA to develop a National Environmental Policy Act (NEPA) document that will be used to support decisions related to licensing for the continued operation of the Project.

In accordance with Item 2 under the Post-Application Filing Activities under the Integrated Licensing Process section of the memorandum of understanding executed between FERC and the State Water Board on November 19, 2013, and to the extent that information is available, State Water Board staff are providing comments and preliminary terms and conditions in response to FERC's REA. State Water Board staff's comments and preliminary conditions are enclosed.

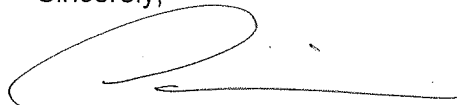
If you have any questions regarding this letter or the attached comments, please contact me at (916) 323-9389 or by email at amber.villalobos@waterboards.ca.gov. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights
Water Quality Certification Program
Attn: Amber Villalobos
P.O. Box 2000
Sacramento, CA 95812

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

JUL 22 2014

Sincerely,



Amber Villalobos
Environmental Scientist
Water Quality Certification Program

Enclosures: Attachment A – Comments on the FLA for the Merced Falls Hydroelectric Project
Attachment B – Preliminary Conditions for the Merced Falls Hydroelectric Project

cc: Ms. Jane Diamond, Director
U.S. EPA, Region 9
Water Division
75 Hawthorne Street
San Francisco, CA 94105

Ms. Pamela Creedon
Executive Officer
Central Valley RWQCB
11010 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Mr. Alan Soneda
Relicensing Project Manager
Pacific Gas and Electric Company
Mail Code N11C
San Francisco, CA 94177-0001

Ms. Maria Rea
Assistant Regional Administrator
National Marine Fisheries Service
West Coast Region
California Central Valley Office
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814-4706

Ms. Kathleen A. Dadey
US Army Corps of Engineers
1325 J Street, Room 1350
Sacramento, CA 95814

ec: Ms. Linda Connolly
California Department of Fish & Wildlife
Linda.Connolly@wildlife.ca.gov

Mr. Adam Laputz
Central Valley RWQCB
Adam.Laputz@waterboards.ca.gov

Ms. Debra Mahnke
Central Valley RWQCB
Debra.Mahnke@waterboards.ca.gov

Ms. Deborah Giglio
US Fish & Wildlife Service
Deborah_Giglio@fws.gov

Mr. Jeffery Single, Regional Manager
California Department of Fish & Wildlife
Jeff.Single@wildlife.ca.gov

Ms. Annie Manji
California Department of Fish & Wildlife
Annie.Manji@wildlife.ca.gov

Mr. Chris Shutes
Cal Sportfishing Protection Alliance
blancapaloma@msn.com

ATTACHMENT A:
COMMENTS ON THE NOTICE OF READY FOR ENVIRONMENTAL ANALYSIS
FOR THE MERCED FALLS HYDROELECTRIC PROJECT

The following comments are provided by the State Water Resources Control Board (State Water Board) staff in response to the notice of Ready for Environmental Analysis (REA) by the Federal Energy Regulatory Commission (FERC or Commission) for the Merced Falls Hydroelectric Project (Project), Project No. 2467. The Project is owned and operated by Pacific Gas and Electric Company (PG&E).

State Water Board Section 401 Authority

PG&E must obtain water quality certification from the State Water Board, pursuant to Section 401(a)(1) of the Federal Clean Water Act (CWA) (33 U.S.C. §1341(a)(1)). Section 401 of the CWA requires any applicant for a federal license or permit, which may result in any discharge to navigable waters, to obtain water quality certification from the state in which the discharge originates that the discharge will comply with the state's water quality standards and other appropriate requirements of state or federal law. The State Water Board is the certifying agency under Section 401 for the Project. Accordingly, the State Water Board may set conditions implementing Clean Water Act requirements, including the requirements of Section 303 of the Clean Water Act for water quality standards and implementation plans, or to implement "any other appropriate requirement of State law." (33 U.S.C. § 1341(d).)

On May 20, 2014, PG&E requested section 401 water quality certification (certification) for the Project. On June 6, 2014, the State Water Board confirmed receipt of PG&E's request for certification and informed PG&E that the State Water Board may request additional information to clarify, amplify, correct, or otherwise supplement the contents of the application. Supplemental information may include evidence of compliance with the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan). (Cal. Code Regs., tit. 23, § 3836.) In addition, the State Water Board must analyze potential Project-related environmental effects to the Merced River drainage prior to making a determination that continued operation of the Project will be protective of the designated beneficial uses of the watershed.

Designated Beneficial Uses of Merced River

The Central Valley Regional Water Quality Control Board (Central Valley Region) has adopted, and the State Water Board and the US Environmental Protection Agency approved, the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan). The latest version of the Basin Plan can be found at http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr.pdf. The Basin Plan designates 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 Plan constitute state water quality standards under section 303.

The existing designated beneficial uses for the Merced River from the downstream end of McSwain Reservoir to the confluence with the San Joaquin River include municipal and domestic supply, stock watering, process, service supply, power contact and non-contact water recreation, canoeing and rafting, warm and cold freshwater habitat, warm and cold migration (includes salmon and steelhead), warm and cold spawning (includes salmon and steelhead), and wildlife habitat. The Basin Plan further clarifies that any segment with both warm and cold

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beneficial use designations will be considered cold water bodies for the application of water quality objectives and the beneficial uses of any identified water body generally apply to its tributary streams.

303(d) Listed Impairments

Section 303(d) of the Clean Water Act requires the identification of waterbodies that do not meet, or are not expected to meet, water quality standards (i.e., impaired waterbodies). The current list approved by the EPA is the 2008-2010 303(d) list (303(d) list). The 303(d) list includes impairments in the vicinity of the Project for the following pollutants or stressors in the lower Merced River (defined as McSwain Reservoir to the confluence with the San Joaquin River): chlorpyrifos, diazinon, Group A pesticides, mercury, Escherichia coli, unknown toxicity and water temperature.

California Environmental Quality Act

Issuance of a certification is a discretionary act and is subject to the California Environmental Quality Act (CEQA). The State Water Board will act as the lead agency in satisfying CEQA requirements for relicensing of the Project, while the California Department of Fish and Wildlife (CDFW or Cal Fish and Wildlife or Department) will be the responsible agency. CEQA requires an analysis of the environmental impacts of the project, including cumulative impacts; the identification of mitigation measures that could minimize any significant effects on the environment; and a monitoring-reporting program to ensure compliance with those mitigation measures adopted by the lead agency. CEQA Guidelines encourage the preparation of joint federal and state environmental documents or the reuse of existing federal NEPA documents (Cal. Code Regs. tit. 14, §§ 15221, 15222, 15226). The Scoping Document 1 states that FERC intends to prepare an Environmental Assessment (EA) for NEPA compliance that will cover the Project and Merced Irrigation District's (MID) Merced River Hydroelectric Project (FERC Project No. 2179). MID is the lead agency responsible for implementing CEQA for the Merced River Project.

Cumulative Effects

There are potential cumulative effects of the Project on Water Resources, Aquatic Resources and Threatened and Endangered Species. With respect to Water Resources, the 303(d) listing of the lower Merced River as impaired due to temperature is evidence that water quality objectives are not being met downstream of the Project. The segment of the Merced River downstream of McSwain Reservoir to the confluence of the San Joaquin River includes beneficial use designations for cold freshwater habitat, cold migration and cold spawning. The 303(d) listing is based upon information submitted by CDFW in the form of a report entitled "Temperature Water Quality Standards for the Protection of Anadromous Fish in the Stanislaus River, Merced River, Tuolumne River and the San Joaquin River". This report provides an overview of how altered temperature conditions in both the San Joaquin River and its major tributaries (including the Merced River) may be affecting anadromous fish populations. During the Merced River 303d listing review, CDFW stated the following:

"The Department believes that one critical factor limiting anadromous salmon and steelhead population abundance is high water temperatures which exist during critical life-stages in the tributaries and the main-stem. This results largely from

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water diversions, hydroelectric power operations, water operations and other factors.”

It is important to consider the potential cumulative impacts of the Project on water quality, fisheries, and geology in the Merced River. A major factor that contributes to high water temperature is the reduction of instream flow due to diversion of Merced River flow. Any certification issued must include conditions (if necessary) that show that the operation of this Project is consistent with water quality objectives and protective of the designated beneficial uses for the Merced and San Joaquin Rivers.

Concurrent Proceeding

There are existing proceedings underway, both at the state and federal level, that may affect how Merced River resources are managed. Among the proceedings is the State Water Board Bay Delta Program’s release of the Draft Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the Bay Delta: San Joaquin River Flows and Southern Delta Water Quality (Bay-Delta SED). The Bay-Delta SED recommends 35 percent of unimpaired flow for the Merced River February through June. The final Bay-Delta SED may require instream flow that range from 25 to 60 percent of unimpaired flow. While it is not possible to know the final outcome of these proceedings, it is important to consider the potential interaction between these activities and the relicense proceedings before FERC. It is reasonable to expect that the State Water Board will consider the outcome of the Bay-Delta SED process when it makes a final decision on conditions necessary and appropriate to include in the certification for the FERC relicensing of the Project.

Geographic Scope

State Water Board staff believe that in addition to the area within the FERC Project boundaries, the Merced River downstream of the Project to the confluence of the San Joaquin River should be included in the geographic scope of the analysis for issues related to Water Resources and designated beneficial uses listed in the Basin Plan.

Specific Comments

- 1) State Water Board staff support PG&E’s proposed plans with the additional plans listed below and detailed in Attachment B:
 - A. Pesticide Use Plan
 - B. Gravel Augmentation Plan
 - C. Fish Passage Plan
 - D. Eagle Monitoring and Conservation Plan
 - E. Valley Elderberry Longhorn Beetle Monitoring and Conservation Plan
 - F. Review of Endangered Species Act Lists and Special-Status Species Lists, and Assessment of New Species in the Project Area
 - G. Pentennial Meeting with Resource Agencies
 - H. Frog Monitoring Plan

Effects of Project operation on sediment transport and distribution

- 2) Page E-37: *“Erosion which contributes to...shoreline erosion around the impoundment”.*

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Comment: According to MID's Amended Final License Application (MID 2014), the Project traps and average of 0.31 ac-ft of sediment per year. This is equivalent to approximately 500 cubic yards of sediment.

California Water Quality Standards for Selected Parameters for Project Waters

- 3) Page E-45: *"Water Temperature at times exceed the <20 °C criteria for salmon and trout during migration and smoltification periods, thus creating impairment to the beneficial uses..."*

Comment: Both MID and PG&E currently do not operate their respective projects to provide water temperatures necessary for cold water beneficial uses. MID's Crocker-Huffman, McSwain Dam and New Exchequer facilities as well as PG&E's Merced Falls Dam do not provide passage. With current Project facilities, MID is unable to maintain fish in good condition, thus passage over Merced River impoundments is reasonably foreseeable. If passage over Crocker-Huffman resume, it may be necessary for the PG&E to resume passage over Merced Falls to allow fish access to cold water refugia.

Cumulative Effects

- 4) Page E-69: *"In the 1970s, the construction of McSwain Dam on the Merced River restricted the range of anadromous fish"*.

Comment: The construction of McSwain Dam on the Merced River also restricts the up- and downstream-movement of resident fish.

Proposed Action

- 5) Page E-77: *"Existing Project operations and maintenance activities include vegetation trimming, vegetation clearing, and spraying of herbicides along roads, gages, powerhouse, dam face, and impoundment"*.

Comment: The Basin Plan pertains to all levels of pesticide use and states that the term pesticide shall include: (1) any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever, or (2) any spray adjuvant, or (3) any breakdown products of these materials that threaten beneficial uses. Note that discharges of "inert" ingredients included in pesticide formulations must comply with all applicable water quality objectives (California 1998). As defined by the Basin Plan the term pesticide includes but is not limited to pesticides, herbicides and any other ingredients.

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References

California Regional Water Quality Control Board, Central Valley Region. 1998. Water Quality Control Plan for the Sacramento River and San Joaquin River Basins. Fourth Edition. September 15, 1998.

MID. 2014. Amended Application for New License Major Project-Existing Dam. Merced River Hydroelectric Project, FERC Project No. 2179. April 23, 2014

ATTACHMENT B
PRELIMINARY CONDITIONS
FOR THE MERCED FALLS HYDROELECTRIC PROJECT

In accordance with Item 2 under the Post-Application Filing Activities under the Integrated Licensing Process section of the memorandum of understanding executed between the Federal Energy Regulatory Commission (FERC) and the State Water Resources Control Board (State Water Board) on November 19, 2013, and to the extent that information is available, State Water Board staff is providing preliminary terms and conditions in response to the notice of Ready for Environmental Analysis (REA) by FERC for the Merced Falls Hydroelectric Project (Project), FERC Project No. 2467.

1. General Preliminary Condition

This condition applies to draft Conditions 2-9 below, as well as all plans or changes to plans required by the water quality certification or related to water quality shall be developed in consultation with relevant state and federal agencies. Pacific Gas and Electric Company (Licensee) shall provide the relevant state and federal agencies with a minimum 30-day comment period on the plans and final report, if applicable. The plans and final reports shall include documentation of consultation with the relevant state and federal agencies, all comments made by the relevant state and federal agencies, and a description of how the final plan and/or final report incorporates or addresses the comments made by the relevant state and federal agencies. Licensee shall file the final report and final plan with the Deputy Director for the Division of Water Rights (Deputy Director) for revision or approval. Upon Deputy Director approval, the Licensee shall file the approved final plan and approved final report with the FERC.

2. Pesticide Use Plan.

Within six months of license issuance, the licensee shall submit the Pesticide Use Plan to the Deputy Director. The Licensee shall create the Pesticide Use Plan in consultation with the Bureau of Land Management, California Department of Fish and Wildlife (CDFW), US Fish and Wildlife Service (USFWS), National Marine Fisheries Agency (NMFS), and the State Water Board. The Pesticide Use Plan shall include provisions that restrict application of pesticides (as defined by the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan)) so pesticides will not reach Endangered Species Act (ESA), California Endangered Species Act (CESA) listed species or their habitat in or downstream of the Project area. Pesticides shall only be applied by an individual with a current and valid Qualified Applicator License issued by the California Department of Pesticide Regulation or under the direct visual supervision of an individual with a current and valid Qualified Applicator License issued by the California Department of Pesticide Regulation.

3. Gravel Augmentation Plan

Within one year of license issuance, the Licensee shall submit the Gravel Augmentation Plan to the Deputy Director. The Licensee shall create the Gravel Augmentation Plan in consultation with CDFW, USFWS, and NMFS. The amount of gravel augmented shall be consistent with annual gravel amount trapped behind Merced Falls Dam.

4. Fish Passage Plan

If fish passage resumes at Crocker-Huffman Diversion Dam, the Licensee shall consult with NMFS, CDFW, and USFWS. If during the consultation it is recommended that passage resume at Merced Falls the licensee shall submit a Fish Passage Plan to the Deputy Director. The Licensee shall create the Fish Passage Plan in consultation with the NMFS, CDFW, and USFWS.

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5. Eagle Monitoring and Conservation Plan

Within one year of license issuance, the Licensee shall submit the Bald and Golden Eagle Monitoring Plan (Eagle Plan) to the Deputy Director. The Licensee shall create the Eagle Plan in consultation with USFWS, CDFW, and BLM. The Eagle Plan shall include monitoring and protective measures when nesting is identified. This is necessary to protect the wildlife beneficial use.

The Eagle Plan shall:

- A. Be consistent with the most current USFWS National Bald Eagle Management Guidelines;
- B. Include a statement of the goals and objectives;
- C. Include a description of the proposed monitoring protocol(s);
- D. Include specific, measureable criteria that will be used in combination with monitoring data and the comprehensive list of drivers to objectively evaluate if the goals and objectives of the Eagle Plan are being met or the Project may be adversely affecting eagles and/or eagle nests;
- E. Include a detailed monitoring and reporting schedule;
- F. Include a plan for the development of corrective measures and a timetable for action in cases when the Eagle Plan's goals and objectives are not being achieved or data indicate the Project may be impacting eagles and/or eagle nests; and

At a minimum monitoring shall include:

- G. One breeding and one wintering survey every five years after license issuance;
- H. Monitoring surveys within 30 days prior to any activity in the Project area listed or similar to the listed activities in the USFWS National Bald Eagle Management Guidelines; and
- I. Include documentation of any eagle or eagle nests discovered during monitoring as well as any incidental eagle or eagle nest observations.

Within 60 days of the conclusion of the monitoring cycle, the Licensee shall submit the results of the monitoring data with a description of location of eagle(s) or nest(s), date(s) of discovery, timeframe(s) of monitoring and protective measure implementation. Monitoring reports shall also include recommendations for more frequent monitoring based on increased use of the Project area by eagles, changes in Project operation and management activities, information derived from other resource studies or the state or federal resource agencies, and updates to be consistent with updates to the USFWS National Bald Eagle Management Guidelines.

If monitoring or incidental (other) reports confirm the presence of eagle(s) or eagle nest(s) in the Project area, protective measures must be implement prior to any Project-associated activity.

6. Valley Elderberry Longhorn Beetle Monitoring and Conservation Plan

Within 6 months of license issuance, the Licensee shall submit the Valley Elderberry Longhorn Beetle Monitoring and Conservation Plan (VELB Plan) to the Deputy Director. The Licensee shall create the VELB Plan in consultation with USFWS, CDFW, and BLM. The VELB Plan shall include monitoring of Valley Elderberry Longhorn Beetles and their habitat in

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the Project area, and associated tributaries. Monitoring shall be conducted prior to construction and every 5 years after license issuance.

The VELB Plan, shall at a minimum include:

- A. A statement of goals and objectives;
- B. A description of proposed monitoring protocols;
- C. A comprehensive description of factors that may adversely affect VELB. This description shall also identify whether the factors are associated with the Project's operation.
- D. A detailed monitoring and reporting schedule;
- E. A Plan for corrective measures and a timetable for implementation if data indicate that the Project may be impacting VELB or their habitat; and
- F. Protective measures.

7. Review of Endangered Species Act Lists and Special-Status Species Lists, and Assessment of New Species in the Project Area

The Licensee shall consult with the USFWS, CDFG, and NMFS within 6 months of license issuance and at the Pentennial Meeting (see below) for the term of the license and any extension. At the meetings, participants will review the current list of threatened and endangered species and special-status plant and wildlife species that may be adversely impacted by the Project. When a species is added to one or more of the lists, the Licensee, in consultation with the CDFW, USFWS, NMFS, and the State Water Board shall determine if the species may be adversely affected by the Project. If it is determined that the species may be adversely affected by the Project, the Licensee shall develop and implement a new species specific study plan. The study plan shall be created in consultation with the appropriate state or federal resource agencies to assess the effects of the Project on the species.

Each species specific study plans, shall at a minimum include:

- A. A statement of goals and objectives;
- B. A description of proposed monitoring protocols;
- C. A comprehensive description of factors that may adversely affect VELB. This description shall also identify whether the factors are associated with the Project's operation.
- D. A detailed monitoring and reporting schedule;
- E. A Plan for corrective measures and a timetable for implementation if data indicate that the Project may be impacting the newly listed specific species or their habitat; and
- F. Protective measures.

The Licensee shall implement and prepare a report on the study including objectives, methods, results, recommended measures where appropriate, and a schedule of implementation.

8. Pentennial Meeting with Resource Agencies

Beginning one year after license issuance, the Licensee shall hold a Pentennial Meeting with the resource agencies. Resource agencies include but are not limited to State Water Board, USFWS, CDFG, and NMFS. The date of the Annual Consultation shall be mutually agreed to by the Licensee, State Water Board, USFWS, CDFG, and NMFS. The meeting shall be open to the public and the Licensee shall also provide notice to tribes and interested parties.

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The Licensee shall provide 1) an update of all a monitoring and data required by the new license and water quality certification; and 2) a map that clearly depicts locations that pesticides were applied in the previous five year cycle, CESA and ESA listed species, and topography.

A record of the meeting shall be kept by Licensee and shall include any recommendations made by State Water Board, USFWS, CDFG, and NMFS for the protection of resources effected by the Project. Licensee shall include a description of how the Licensee incorporated recommendations made by State Water Board, USFWS, CDFG, and NMFS at the meeting.

9. Frog Monitoring Plan

The Licensee shall monitor and identify the locations of California Red-legged Frog (CRLF), Foothill Yellow-legged Frog (FYLF), and Western Spadefoot. Within one year of license issuance, the Licensee shall file a Frog Monitoring Plan (Frog Plan) with the Deputy Director for approval. The Licensee shall create the Frog Plan in consultation with BLM, USFWS, and CDFW. The Frog Plan shall include monitoring CRLF, YLF, and Western Spadefoot egg masses, tadpoles and adults in the Project area and associated tributaries influenced by the Project. Monitoring of egg masses, tadpoles, and adults shall be required every five years from license issuance.

The Frog Plan shall include, at a minimum:

- A. A statement of goals and objectives;
- B. A description of proposed monitoring protocols;
- C. A comprehensive description of factors that may adversely affect CRLF, FYLF and Western Spadefoot. This description shall also identify whether the factors are associated with the Project's operation.
- D. Monitoring water temperature where eggs and tadpoles are found;
- E. A detailed monitoring and reporting schedule;
- F. Protective measures; and
- G. A Plan for corrective measures and a timetable for implementation if data indicate that the Project may be impacting CRLF, FYLF, or Western Spadefoot.

The following conditions also apply to this Project in order to protect water quality and beneficial uses over the term of the Project's license and any annual extensions.

10. Control measures for erosion, excessive sedimentation and turbidity shall be implemented and in place at the commencement of and throughout any ground clearing activities, excavation, or any other Project activities that could result in erosion or sediment discharges to surface waters. Erosion control blankets, liners with berms, and/or other erosion control measures shall be used for any stockpile of excavated material to control runoff resulting from precipitation, and prevent material from contacting or entering surface waters.
11. Waters shall be free of changes in turbidity (due to Project activities) that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to Project controllable water quality factors shall not exceed the following limits as defined in the Central Valley Basin Plan:
 - a. Where natural turbidity is less than 1 nephelometric turbidity unit (NTU), controllable factors shall not cause downstream turbidity to exceed 2 NTUs.

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- b. Where natural turbidity is between 1 and 5 NTUs, increases in turbidity shall not exceed 1 NTU.
 - c. Where natural turbidity is between 5 and 50 NTUs, increases in turbidity shall not exceed 20 percent.
 - d. Where natural turbidity is between 50 and 100 NTUs, increases in turbidity shall not exceed 10 NTUs.
 - e. Where natural turbidity is greater than 100 NTUs, increases in turbidity shall not exceed 10 percent.
12. All imported riprap, rocks, and gravels used for construction within or adjacent to any watercourses shall be pre-washed. Wash water generated on-site shall not contact or enter surface waters. Wash water shall be contained and disposed of in compliance with state and local laws, ordinances, and regulations.
 13. Construction material, debris, spoils, soil, silt, sand, bark, slash, sawdust, rubbish, steel, or other inorganic, organic, or earthen material, and any other substances from any Project-related activity shall be prevented from entering surface waters. All construction debris and trash shall be contained and regularly removed from the work area to the staging area during construction activities. Upon completion, all Project-generated debris, building materials, excess material, waste, and trash shall be removed from all the Project sites for disposal at an authorized landfill or other disposal site in compliance with State and local laws, ordinances, and regulations.
 14. No unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces shall contact or enter surface waters. Any area containing wet concrete shall be completely bermed and isolated. The berm shall be constructed of sandbags or soil and shall be lined with plastic to prevent seepage. No leachate from truck or grout mixer cleaning stations shall percolate into Project area soils. Cleaning of concrete trucks or grout mixers shall be performed in such a manner that wash water and associated debris is captured, contained and disposed of in compliance with State and local laws, ordinances and regulations. Washout areas shall be of sufficient size to completely contain all liquid and waste concrete or grout generated during washout procedures. Hardened concrete or grout shall be disposed at an authorized landfill, in compliance with State and local laws, ordinances and regulations.
 15. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. Any equipment used in direct contact with surface water shall be steam cleaned prior to use. 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. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment. Spill and containment equipment (e.g., oil spill booms, sorbent pads, etc.) shall be maintained onsite at all locations where such equipment is used or staged.
 16. Onsite containment for storage of chemicals classified as hazardous shall be away from watercourses and include secondary containment and appropriate management as specified in California Code of Regulations, title 27, section 20320.
 17. Unless otherwise specified in this WQC or at the request of the Deputy Director, data and/or reports must be submitted electronically in a format accepted by the State Water Board to

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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.

18. The State Water Board's approval authority includes the authority to withhold approval or to require modification of a proposal or plan prior to approval. The State Water Board may take enforcement action if the Licensee fails to provide or implement a required plan in a timely manner.
19. The State Water Board reserves the authority to add to or modify the conditions of this WQC to incorporate load allocations developed in a total maximum daily load developed by the State Water Board or the Central Valley Water Board.
20. The State Water Board reserves the authority to add to or modify the conditions of this WQC: (1) if monitoring results indicate that continued operation of the Project could violate water quality objectives or impair the beneficial uses of the Merced River or tributaries to the Merced River; (2) to coordinate the operations of this Project and other hydrologically connected water development projects, where coordination of operations is reasonably necessary to achieve water quality standards or protect beneficial uses of water; or (3) to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to section 303 of the CWA.
21. Future changes in climate projected to occur during the license term may significantly alter the baseline assumptions used to develop the conditions of this certification. The State Water Board reserves authority to add to or modify the conditions in this certification to require additional monitoring and/or other measures, as needed, to verify that Project operations meet water quality objectives and protect the beneficial uses assigned to the Project-affected stream reaches.
22. The Licensee shall comply with all applicable requirements of the SR/SJR Basin Plan. Licensee must notify the Deputy Director and Executive Officer within 24 hours of any unauthorized discharge to surface waters.
23. Notwithstanding any more specific conditions in this WQC, the Project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to section 303 of the CWA. The Licensee must take all reasonable measures to protect the beneficial uses of waters of the Merced River and tributaries to the Merced River.
24. This WQC does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California ESA (Fish & Game Code §§ 2050 2097) or the federal ESA (16 U.S.C. §§ 1531 - 1544). If a "take" will result from any act authorized under this WQC 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 WQC.
25. In the event of any violation or threatened violation of the conditions of this WQC, the violation or threatened violation is subject to all remedies, penalties, processes, or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of

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the CWA, 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 WQC.

26. In response to a suspected violation of any condition of this WQC, the Deputy Director or the Executive Officer may require the holder of any federal permit or license subject to this WQC to furnish, under penalty of perjury, any technical or monitoring reports the Deputy Director or the Executive Officer 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 & 13383). The State Water Board may add to or modify the conditions of this WQC as appropriate to ensure compliance.
27. No construction shall commence until all necessary federal, state, and local approvals are obtained.
28. Any requirement in this WQC 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.
29. The Licensee must submit any change to the Project, including changes in Project operation, technology, upgrades, or monitoring, that could have a significant or material effect on the findings, conclusions, or conditions of this WQC, to the State Water Board for prior review and written approval. The State Water Board shall determine significance and may require consultation with state or federal agencies. If the State Water Board is not notified of a potentially significant change to the Project, it will be considered a violation of this WQC. If such a change would also require submission to FERC, the change must first be submitted and approved by the State Water Board, unless otherwise noted in this certification.
30. The Deputy Director and the Executive Officer shall be notified one week prior to the commencement of ground disturbing activities. Upon request, a construction schedule shall be provided to agency staff in order for staff to be present onsite to answer any public inquiries during construction and to document compliance with this WQC. The Licensee must provide State Water Board and Central Valley Water Board staff reasonable access to Project sites to document compliance with this WQC.
31. This WQC is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
32. 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 WQC.
33. Activities associated with operation and maintenance of the Project that threaten or potentially threaten water quality shall be subject to further review by the Deputy Director and Executive Officer.

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34. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 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.
35. This WQC 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 certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
36. This WQC is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.