

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the
**YUBA COUNTY WATER AGENCY
NARROWS 2 ISOLATION POOL RESTORATION PROJECT**

SOURCE: Yuba River

COUNTIES: Yuba and Nevada

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

I. Project Description and Background

Yuba County Water Agency (YCWA or Applicant) filed a water quality certification application with the State Water Resources Control Board (State Water Board) for the Narrows 2 Isolation Pool Restoration Project (Project) on August 7, 2014. The Project is located 540 feet downstream of Englebright Dam, and approximately 1.6 miles from the community of Mooney Flat, in the Yuba River watershed. The Project is to mechanically grade a gravel bar located adjacent to the Narrows 2 Powerhouse (powerhouse) in order to prevent the formation of an isolation pool that has the potential to strand federally threatened¹ spring-run Chinook salmon (*Oncorhynchus tshawytscha*) and central valley steelhead (*Oncorhynchus mykiss*) (Figure 1).

The powerhouse is part of YCWA's Federal Energy Regulatory Commission (FERC) Yuba River Development Project (FERC Project No. 2246). The powerhouse has a maximum discharge capacity of 3,400 cubic feet per second (cfs). The powerhouse receives water from Englebright Reservoir via a penstock that conveys water through either: 1) the powerhouse turbine and partial bypass (turbine bypass), or 2) the Narrows 2 full bypass (full bypass). Powerhouse operations can lower the water levels of the adjacent Yuba River, resulting in exposure of the nearby gravel bar and the formation of an isolation pool (Figure 2). Stranding of spring-run Chinook salmon was reported by YCWA staff on October 11, 2013, and again on October 14, 2014. Both incidents involved use of the powerhouse's full bypass. The long-term stranding potential related to powerhouse operations will be addressed as part of the relicensing of YCWA's FERC Project No. 2246.

To access the site, YCWA plans to use a helicopter to transport two mini-excavators, and place them on top of the gravel bar. YCWA staff will use a small boat to access the Project site from the shore. The downstream end of the gravel bar will be graded to eliminate the potential for the formation of an isolation pool. An area approximately 3,200 square feet will be graded. Material excavated from the gravel bar will be used to fill the deepest part of the isolation pool, reducing the isolation pool's potential to strand federally threatened spring-run Chinook salmon and central valley steelhead.

¹ As listed in the federal Endangered Species Act.

Approximately 9,600 cubic feet of gravel will be moved to reshape the gravel bar. No outside gravel or fill material will be placed in the channel and no material will be removed from the channel. The Project is estimated to take two to four days to complete and will occur when the Project area is dry and expected to remain dry for the duration of Project work. YCWA shall implement best management practices (BMPs) included in Section 11 of its certification application.

II. Regulatory Authority

Water Quality Certification and Related Authorities

The Federal Clean Water Act (CWA) (33 U.S.C. §§ 1251-1387) was enacted “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” (33 U.S.C. § 1251(a).) Section 101 of the CWA (33 U.S.C. § 1251 (g)) requires federal agencies to “cooperate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.”

Section 401 of the CWA (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the CWA, including water quality standards and implementation plans promulgated pursuant to section 303 of the CWA (33 U.S.C. § 1313). CWA section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the CWA and with any other appropriate requirements of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Board is designated as the state water pollution control agency for all purposes stated in the CWA and any other federal act. (Wat. Code, § 13160.) The State Water Board’s Executive Director has been delegated the authority to issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

On August 26, 2014, the State Water Board provided notice of receipt of a complete application for the Project to the applicable parties pursuant to California Code of Regulations, title 23, section 3835(c). The State Water Board 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 on October 14, 2014, and by sending notification of receipt of the application to a list of parties interested in State Water Board actions on certifications on October 14, 2014. No comments were received.

The State Water Board forwarded the portions of the application that have the potential to cause adverse water quality impacts other than specific impacts resulting from alterations to instream flows to the Central Valley Regional Water Quality Control Board (Central Valley Regional Board) on April 6, 2015. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B)). Central Valley Regional Board staff responded with no comments on May 20, 2015.

The United States Army Corps of Engineers (ACOE) has determined that the Project qualifies for authorization under the Department of the Army Nationwide Permit (NWP) No. 27 for Aquatic Habitat Restoration, pursuant to Section 404 of the CWA. The ACOE identification number for the Project is SPK 2014-00739. On January 14, 2015, the California Department of Fish and Wildlife (CDFW) issued YCWA a Streambed Alteration Agreement for the Project.

Water Quality Control Plans and Related Authorities

The California Regional Water Quality Control Boards (Regional Water Boards) adopt, and the State Water Board approves, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to section 303 of the CWA. (33 U.S.C. § 1313.). The State Water Board may also adopt water quality control plans. The beneficial uses together with the water quality objectives that are contained in the basin plans and state and federal anti-degradation requirements constitute California's water quality standards.

The Central Valley Regional Board adopted, and the State Water Board and the United States Environmental Protection Agency have approved, the *Water Quality Control Plan for the Sacramento River and San Joaquin Rivers Basins* (Basin Plan). The Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The Basin Plan identifies existing beneficial uses for the Yuba River below Englebright Dam as: irrigation; stock water; power; water contact recreation; noncontact water recreation; canoeing and rafting; warm and cold freshwater habitat; warm and cold water migration; warm and cold water spawning; and wildlife habitat.

The State Water Board has listed the Yuba River below Englebright on the CWA section 303(d) list as impaired for mercury, which is in part the result of historic gold mining of the Yuba River. State Water Board staff reviewed the Project and determined the Project will not contribute to mercury issues in the Yuba River system.

California Environmental Quality Act

YCWA is the lead agency for the purpose of California Environmental Quality Act (CEQA) (Pub. Resources Code compliance § 21000 et seq.) compliance. The State Water Board is a responsible agency under CEQA. YCWA issued a Notice of Exemption (NOE) for a Categorical Exemption under section 15333 (Class 33) of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq). YCWA filed the NOE with the Yuba County Clerk and the Office of Planning and Research on February 24, 2015. Based on its independent judgment, the State Water Board agrees that the Project meets the Class 33 exemption for small habitat restoration projects as it will pose no significant adverse impacts to listed species or their habitat, there are no known hazardous materials at the site that may be disturbed or removed, and the project will not cause cumulatively significant impacts. Additionally, there is no indication that the Project may cause significant impacts to the environment due to unusual circumstances. The State Water Board will file a NOE within five days of issuance of this water quality certification.

State Water Board staff expects that the Project will not result in the disturbance, removal or transport of mercury, even though the Yuba River is listed under section 303(d) of the CWA as impaired for mercury. Proposed Project activities would affect only the top three feet of the gravel bar when the Project area is dry. As part of the Project, YCWA will implement BMPs to prevent sediment from entering the lower Yuba River. The Project is located directly downstream of Englebright Dam, which was constructed to contain mercury-laden mining sediments. Additionally, full bypass operations of the powerhouse regularly scour the gravel bar/isolation pool, making the Project area unlikely to contain fine sediments to which mercury adheres.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES THAT THE NARROWS 2 ISOLATION POOL RESTORATION PROJECT will comply with sections 301, 302, 303, 306, and 307 of the CWA, and with applicable provisions of State law, if the Applicant complies with the following terms and conditions during the Project activities certified herein.

1. During all Project activities, the work area and gravel bar shall remain dry and the isolation pool disconnected from the main channel. No foreign fill material shall be used. No gravel shall be removed from the Yuba River. Yuba River instream flow requirements shall be maintained at all times during Project activities.
2. No Project activities shall occur during the peregrine falcon nesting season, which occurs from February 1 to August 15 of each year.
3. Unless the Applicant consults and receives approval from CDFW, the National Marine Fisheries Service, and the State Water Board, no Project activities shall occur during FERC approved Study 7.11a *Radio Telemetry* activities: 1) deployment of the telemetry array; 2) fish tagging; and 3) data monitoring.
4. A biological monitor shall be onsite for each day of work to monitor for the presence of special-status species. Prior to the start of each day, the biological monitor will walk the Project area to survey for all special-status species. The biological monitor will then conduct a two pass snorkel survey of the river channel in the immediate work area. The biological monitor shall note the location of any special-status species. Following the snorkel survey of the river channel, the biological monitor will observe Project activities from the Narrows 2 powerhouse deck for the duration of each work day. If fish are found to be in an area where they may be impacted by Project activities, then Project activities shall stop until the fish have left the Project area.
5. Within ten days of Project completion, the Applicant shall submit to the Deputy Director a Project Completion Report certifying compliance of this certification and detailing any failure to meet conditions of this certification. The Project Completion Report shall include photographic documentation of the final gravel bar configuration. The photographs will be taken from the following locations: 1) downstream of the gravel bar looking upstream; 2) upstream of the gravel bar looking downstream; 3) from the Narrow's 2 Powerhouse deck looking across the river at the gravel bar; and 4) at the restoration area where the isolation pool had once been located. Global Position System (GPS) coordinates shall be provided for each photo point location. A meter stick shall be included in each photo for reference.
6. The Applicant shall record and provide the flow at the Smartsville gage and the releases from each Narrows 2 bypass at the time each photo is taken. Unless otherwise specified in this certification 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 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.
7. All BMPs described Section 11 of the application for water quality certification and supplemental information are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this

certification, the Applicant shall comply with all measures described in the application for water quality certification and its supplements.

8. BMPs for erosion, excessive sedimentation and turbidity shall be implemented and in place at the commencement of, during and after any ground clearing activities, excavation, or any other Project activities that could result in erosion or sediment discharges to surface waters.
9. Project activities shall not cause an increase in turbidity downstream of the Project area greater than those identified in the Basin Plan. Waters shall be free of changes in turbidity (due to Project activities) that cause nuisance or adversely affect beneficial uses. Increases in turbidity shall not exceed background levels (natural turbidity measured in Nephelometric Turbidity Units [NTU] prior to the start of Project activities) by more than the thresholds identified below and as outlined in the Basin Plan:

Background Level or Natural Turbidity	Downstream Turbidity (after starting construction)
Less than 1 NTU	Total turbidity shall not exceed 2 NTU
Between 1 and 5 NTU	Increases shall not exceed 1 NTU
Between 5 and 50 NTU	Increases shall not exceed 20 percent
Between 50 and 100 NTU	Increases shall not exceed 10 NTU
Greater than 100 NTU	Increases shall not exceed 10 percent

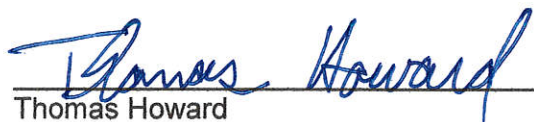
Monitoring shall occur every hour during Project activities in the Yuba River if Project work connects to the surface water. If monitoring shows that turbidity downstream of the Project activities has exceeded the specified turbidity levels outlined in this condition, construction will cease and the violation will be reported immediately to the Deputy Director) and the Central Valley Regional Board's Executive Officer (Executive Officer). Construction may not re-commence without the permission of the Deputy Director.

Standard turbidity limits may be eased during in-water working periods to allow a turbidity increase of up to 15 NTU over the background turbidity as measured in surface waters 300 feet downstream from the working area. For in-water working periods, turbidity shall not exceed 15 NTU over background turbidity for more than four consecutive hours or 24 hours total for the Project.


10. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris and foreign matter. Any wash water used on site shall be contained and disposed of in compliance with State and local laws, ordinances, and regulations.
11. Any maintenance or refueling of vehicles or equipment occurring on-site will be done in a designated area with secondary containment, located away from drainage courses to prevent the runoff of stormwater and the runoff of spills. 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 (motors, pumps, generators, etc.) and vehicles not in use shall be positioned over drip pans or other types of containment. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained onsite at all locations where such equipment is used or staged.

12. A copy of this certification shall be provided to any contractor and all subcontractors conducting the construction work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractors or subcontractors.
13. 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.
14. This certification requires compliance with all applicable requirements of the Basin Plan. If at any time an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project has or could soon be in violation of water quality objectives, the associated Project activities shall cease immediately and the Deputy Director and the Executive Officer shall be notified. Associated Project activities may not resume without approval from the Deputy Director.
15. 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 Applicant fails to provide or implement a required plan.
16. Notwithstanding any more specific conditions in this certification, the Project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the CWA. The Applicant must take all reasonable measures to protect the beneficial uses of waters of Yuba River and tributaries.
17. This certification 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 Endangered Species Act (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 certification or water rights held by the Applicant, the Applicant 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 Applicant is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.
18. In the event of any violation or threatened violation of the conditions of this certification, 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 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 certification.
19. In response to a suspected violation of any condition of this certification, the State Water Board or 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 (California Water Code sections 1051, 13165, 13267 and 13383). The State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

20. No Project activities shall commence until all necessary federal, state, and local approvals have been obtained.
21. Any requirement in this water quality 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.
22. The Applicant shall submit any changes to the Project which would 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. If the State Water Board is not notified of a significant change to the Project, it will be considered a violation of this certification.
23. The Applicant shall provide State Water Board and Regional Water Board staff access to Project sites to document compliance with this certification.
24. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add or to modify any of the conditions of this certification.
25. This certification 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 § 3867).
26. 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 certification application was filed pursuant to subsection 3855(b) of article 4, title 23 of the California Code of Regulations and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
27. 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.
28. Certification is conditioned upon total payment of any fee required under article 4, title 23 of the California Code of Regulations.



Thomas Howard
Executive Director



Date

Attachments:

- Figure 1 – Project Area
- Figure 2 – Gravel Bar Adjacent to Narrow 2 Powerhouse

Narrows 2 Isolation Pool Restoration Project Water Quality Certification



Figure 2: Gravel Bar Adjacent to Narrows 2 Powerhouse

