

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

**In the Matter of Water Quality Certification for the
Pacific Gas and Electric Company
Canyon Dam Low-level Outlet Install Cutoff Wall Project**

Source: North Fork Feather River

County: Plumas

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

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1.0 Project Description

Pacific Gas and Electric Company (PG&E or Applicant) applied for a water quality certification (certification) for the Canyon Dam Low-level Outlet Install Cutoff Wall Project (Project). PG&E owns and operates Canyon Dam, which is located on the North Fork Feather River in Plumas County. Canyon Dam is located approximately 90 miles northeast of Oroville, California.

Canyon Dam is a 135-foot-high, 1,250-foot-long earthen dam that forms Lake Almanor. The reservoir has a normal water storage capacity of 1,134,016 acre-feet. Inflow to Lake Almanor is fed by the North Fork Feather River, including the Hamilton Branch, and unregulated inflow from submerged freshwater springs, rain, and snowmelt. Canyon Dam is operated as part of PG&E's Upper North Fork Feather River Hydroelectric Project (Federal Energy Regulatory Commission (FERC) Project No. 2105).

The Project purpose is to prevent further erosion of Canyon Dam structures caused by high velocity discharges and improve access road drainage. The Project includes:

- Construction of a cast-in-place cutoff wall at the toe of the low-level outlet (LLO) structure;
- Rock slope protection at the right bank and toe foundation of the LLO and upstream of the right wing wall; and
- Grading and drainage improvements along the access road and right slope adjacent to the LLO.

Construction is planned for May through October 2021.

PG&E is seeking coverage for the Project from the United States Army Corps of Engineers (USACE) under section 404 nationwide permit number 3 (maintenance). The need for a section 404 permit from USACE triggers the requirement for a section 401 certification action.

1.1 Water Rights

Table A lists the water rights held by PG&E for the Project.

Table A: Water Rights Held by PG&E for the Project

Application or Statement No.	Permit No.	Source	Priority Date	Place of Storage or Diversion	Purpose of Use
S000922	N/A	North Fork Feather River	1902	Lake Almanor	Lake Almanor storage for power (1,308,000 acre-feet year-round)
A030257	021151	North Fork Feather River	May 20, 1993	Lake Almanor	Lake Almanor storage for power (500,000 acre-feet October 1 to June 30)

2.0 Regulatory Authority

2.1 Water Quality Certification and Related Authorities

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

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 promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to 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.

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 Pursuant to Resolution No. 2012-0029* memo issued by the Deputy Director on October 19, 2017, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2017).

PG&E filed an application for certification with the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) under section 401 of the Clean Water Act on January 6, 2021, in connection with its application to the USACE for a permit under section 404 of the Clean Water Act. However, pursuant to California Code of Regulations, title 23, section 3855, subdivision (b)(1), a certification application must be filed with the State Water Board if a proposed activity involves an appropriation of water or any other diversion of water for power use. The Project involves repairs to structures connected to Canyon Dam, which impounds and diverts water for hydropower generation. Accordingly, the State Water Board is acting on PG&E's certification application.

State Water Board staff provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858, by posting notice of PG&E's application and information describing the Project on the State Water Board's website on February 5, 2021.

On February 12, 2021, State Water Board staff requested comments from the Central Valley Regional Water Board on the certification. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) Central Valley Regional Water Board staff responded with comments on February 16, 2021. The comments were considered and addressed in this certification.

2.2 Water Quality Control Plans and Related Authorities

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.) The State Water Board may also adopt water quality control plans, which will supersede regional water quality control plans for the same waters to the extent of any conflict. (Wat. Code, § 13170.) For a specified area, the water quality control plans designate the beneficial uses of water to be protected, water quality objectives established for the reasonable protection of those beneficial uses or 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 that are contained in the water quality control plans and state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act.

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (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 beneficial uses for the North Fork Feather River as municipal and domestic supply, hydropower generation, contact water recreation, canoeing and rafting, other non-contact water recreation, cold freshwater habitat, cold spawning habitat, and wildlife habitat.

2.3 Clean Water Act Section 303(d) Listing

In 2006, the State Water Board listed the North Fork Feather River, upstream of Lake Oroville, on the Clean Water Act Section 303(d) list of impaired waterbodies. USEPA approved the 2006 303(d) list on June 28, 2007. The North Fork Feather River is impaired for temperature, meaning technology-based effluent limitations on point sources of pollution are inadequate to meet the Basin Plan's applicable water quality objectives for temperature. The State Water Board cited hydromodification and flow regulation/modification as potential sources of the impairment. (State Water Board Resolution No. 2006-0079.) The Project is a source of both hydromodification and flow regulation. Section 303(d) of the Clean Water Act requires total maximum daily loads (TMDLs) to be developed for impaired waterbodies. TMDLs are written plans that define the maximum amount of a pollutant that a water body can receive without exceeding water quality standards and establish waste load allocations for point and nonpoint sources of pollution.

2.4 Statewide Mercury Provisions

On May 2, 2017, the State Water Board adopted Resolution No. 2017-0027, which approved Part 2 of the *Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California – Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions*¹. Resolution No. 2017-0027 provides a consistent regulatory approach throughout the state by setting mercury limits to protect the beneficial uses associated with the consumption of fish by both people and wildlife. The State Water Board also established definitions for three new beneficial use definitions (tribal traditional culture, tribal subsistence fishing, and subsistence fishing) for use by the State Water Board and Regional Water Boards. The State Water Board also approved one narrative and four numeric mercury objectives to apply to inland surface waters, enclosed bays, and estuaries of the state that have any of the following beneficial use definitions: commercial and sport fishing, tribal traditional culture, tribal subsistence fishing, wildlife habitat, marine habitat, preservation of rare and endangered species, warm freshwater habitat, cold freshwater habitat, estuarine habitat, or inland saline water habitat, with the exception of waterbodies or waterbody segments with site-specific mercury objectives. These provisions will be implemented through National

¹ The mercury provisions are available online at:
https://www.waterboards.ca.gov/water_issues/programs/mercury/. Last accessed on February 16, 2021.

Pollution Discharge Elimination System permits, certifications, waste discharge requirements, and waivers of waste discharge requirements.

2.5 State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State

On April 2, 2019, the State Water Board adopted the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Procedures)², which became effective on May 28, 2020. The Procedures provide California's definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of dredged or fill material to waters of the state. The Procedures ensure that State Water Board regulatory activities will result in no net loss of wetland quantity, quality, or permanence, compliant with the *California Wetlands Conservation Policy*, Executive Order W-59-93. PG&E must comply with the Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

3.0 California Environmental Quality Act

The State Water Board determined that the Project is categorically exempt from the California Environmental Quality Act (CEQA) under Class 1, existing facilities. (Pub. Resources Code, § 15301.) The State Water Board will file a Notice of Exemption with the State Clearinghouse within five days of issuing this certification.

4.0 Rationale for Water Quality Certification Conditions

Certification conditions were developed to protect and enhance beneficial uses of California's waters and achieve compliance with associated water quality objectives.³

When preparing this certification, State Water Board staff reviewed and considered the: (1) Basin Plan; (2) PG&E's January 2021 certification application; (3) PG&E's December 2020 application to the USACE for a Clean Water Act section 404 nationwide permit 3 (maintenance); (4) existing water quality conditions; (5) Project-related controllable factors; (6) Central Valley Regional Water Board staff comments; and (7) other information in the record.

4.1 Rationale for Condition 1: Monitoring

The Project involves dredging, excavation, and dewatering of the work area, repairs to Canyon Dam and the access road, and installation of new structures. These activities have the potential to violate the Basin Plan's water quality objectives. Condition 1 requires PG&E to comply with applicable objectives and implement its water quality monitoring program, as modified by this certification, to prevent water quality objective

² The Procedures are available online at:

https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/procedures_confirmed.pdf. Last accessed on February 16, 2021.

³ Designated beneficial uses for surface waters in the Project area are described in Section 2.2 of this certification and in Chapter 2 of the Basin Plan.

violations and impacts to beneficial uses. The modifications of and additions to PG&E's water quality monitoring program included in this certification further ensure that the Project will not substantially impact water quality.

Turbidity. Dredging, excavation, dewatering, re-watering, and other in-water or water-adjacent work may increase turbidity above levels protective of beneficial uses. Beneficial uses in the North Fork Feather River that would be most impacted by increased turbidity levels include cold freshwater habitat, cold spawning habitat, and wildlife habitat. Turbidity affects fish by impairing vision and altering feeding behavior, predator avoidance, and behavioral interaction with other fish. The Basin Plan prescribes numeric turbidity limits based on natural turbidity levels. The Basin Plan allows appropriate averaging periods to be applied when determining compliance with the turbidity limits, provided that beneficial uses will be protected. Condition 1 requires compliance with the Basin Plan's turbidity limits averaged over 24 hours for all in-water and water-adjacent work, as proposed by PG&E (M. Joseph, personal communication, February 22, 2021).

Dissolved oxygen. Increased turbidity can decrease dissolved oxygen, which could adversely impact beneficial uses. Beneficial uses in the North Fork Feather River that would be most impacted by decreased dissolved oxygen levels include cold freshwater habitat, cold spawning habitat, and wildlife habitat. Condition 1 requires PG&E to comply with the Basin Plan water quality objective of 7.0 milligrams per liter for the cold freshwater habitat beneficial use (Central Valley Regional Water Board 2018) and monitor dissolved oxygen during in-water and water-adjacent work to ensure that Project activities do not decrease dissolved oxygen below the objective.

pH. Construction materials, such as cement, can change pH beyond levels protective of beneficial uses. Beneficial uses in the North Fork Feather River that would be most impacted by altered pH levels include cold freshwater habitat, cold spawning habitat, and wildlife habitat. Condition 1 requires PG&E to comply with the Basin Plan pH water quality objective of 6.5 to 8.5 (Central Valley Regional Water Board 2018) and monitor pH during in-water and water-adjacent work to ensure that Project activities do not violate the objective.

4.2 Rationale for Condition 2: Project Activities.

Condition 2 requires PG&E to implement the Project as described in its certification application and as modified by this certification. This condition will ensure that PG&E meets water quality objectives and avoids unreasonable impacts to beneficial uses. Any changes to the Project description after certification issuance could impact the findings, conclusions, and conditions of the certification, as well as trigger additional environmental review.

4.3 Rationale for Condition 3: Minimum Instream Flows

Condition 3 requires PG&E to release a minimum of 35 cubic feet per second of water throughout the construction and associated Project implementation period. This is consistent with PG&E's proposal and its current FERC license. This will avoid

unreasonable impacts to the cold freshwater habitat, cold spawning habitat, and wildlife habitat beneficial uses.

4.4 Rationale for Condition 4: Erosion and Sedimentation Control Measures

Project activities have the potential to cause increased erosion of Project roads and riparian habitat and sedimentation in the North Fork Feather River. Increases in erosion and sedimentation can violate water quality objectives and impact beneficial uses. Beneficial uses in the North Fork Feather River that would be most impacted by increased erosion and sedimentation include cold freshwater habitat, cold spawning habitat, and wildlife habitat. Condition 4 requires PG&E to implement erosion and sedimentation control measures to prevent water quality objective violations and unreasonable impacts to beneficial uses. Condition 4 also includes a post-construction erosion monitoring component to ensure the new Project structures do not cause erosion.

4.5 Rationale for Condition 5: Diversion and Dewatering Measures

The Project includes in-water work, which will require dewatering of part of the North Fork Feather River and water diversion around the dewatered area. Installation and removal of temporary dams or other artificial obstructions could violate turbidity water quality objectives and impact beneficial uses. Beneficial uses in the North Fork Feather River that would be most impacted by increased turbidity levels include cold freshwater habitat, cold spawning habitat, and wildlife habitat. Condition 5 imposes conditions on any dewatering activities to prevent water quality objective violations and impacts to beneficial uses. Additionally, Condition 5 does not allow for new permanent water diversion, as PG&E's certification application did not propose any permanent diversion or dewatering measures.

4.6 Rationale for Condition 6: Hazardous Material Control Measures

The Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials. Waters must be free of hazardous materials in concentrations that cause nuisance or "detrimental physiological responses in human, plant, animal, or aquatic life" (Central Valley Regional Water Board 2018). Beneficial uses in the North Fork Feather River that would be most impacted by hazardous materials include contact water recreation, cold freshwater habitat, cold spawning habitat, and wildlife habitat. Condition 6 requires implementation of hazardous material management measures to prevent hazardous material spills into waterways, including containment criteria pursuant to California Code of Regulations, title 27, section 20320.

4.7 Rationale for Condition 7: Wetland and Riparian Habitat

Condition 7 requires PG&E to comply with the Procedures and mitigate for permanent impacts to wetland and riparian habitat with the purchase of in-lieu fee credits. The Procedures define what is considered a wetland and clarify requirements for applications to discharge dredged or fill material to waters of the state. The Procedures constitute an appropriate requirement of state law within the meaning of section 401(d) of the Clean Water Act (33 U.S.C. § 1341(d)). PG&E anticipates 0.045 acre of permanent impacts to waters of the United States, including 0.011 acre of impacts to

wetlands (PG&E 2020). Although the Procedures generally require a 1:1 mitigation ratio (mitigation area:permanent impacts), the Procedures require a mitigation ratio greater than one-to-one where necessary to account for the type of compensatory mitigation, the likelihood of success, and temporal losses of aquatic resource functions, among other factors. (Procedures, p. 33.) This certification requires a 2:1 mitigation ratio to account for temporal losses and increased uncertainties associated with implementation of in-lieu fee program funded mitigation projects.

4.8 Rationale for Condition 8: Project Activity Progress Reports

Condition 8 requires PG&E to submit Project Activity Progress Reports (Progress Reports) during construction to document Project status and compliance with certification requirements. The Progress Reports will inform the Deputy Director of potential water quality objective violations and/or impacts to beneficial uses. This will allow quick implementation of remediation measures to limit or prevent any violations and/or impacts.

4.9 Rationale for Conditions 9 through 26

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions. Conditions 9-12, 15-17, and 20-22 are necessary to ensure that the Project operates to meet water quality standards, 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. Conditions 14, 18, 19, and 23 contain important clarifications concerning the scope and legal effect of this certification, and other legal requirements that may apply to the Project. In addition, Condition 13 is necessary to comply with Water Code section 13167 and Conditions 24-26 are required by California Code of Regulations, title 23, section 3860, which requires imposition of these conditions for all certifications.

5.0 Conclusion

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

6.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that implementation of the Canyon Dam Low-level Outlet Install Cutoff Wall Project (Project) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if the Pacific Gas and Electric Company (Applicant) complies with the following terms and conditions.

CONDITION 1. Monitoring

The Applicant shall monitor water quality associated with Project activities as outlined in this condition. Turbidity, dissolved oxygen, and pH shall be maintained in accordance with the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (Basin Plan) water quality objectives.

Turbidity. The turbidity limits for in-water and water-adjacent work shall be:

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

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

Dissolved Oxygen. The Applicant shall not decrease dissolved oxygen below 7.0 milligrams per liter.

pH. The Applicant shall maintain pH between 6.5 and 8.5.

The Applicant shall monitor water quality as described in Appendix D of its certification application and as modified below.

The Applicant shall conduct water quality monitoring during all in-water work and work adjacent to waterways, including dewatering and re-watering activities. Monitoring locations shall be located upstream of the work area and no more than 400 feet downstream of the work area. The Applicant shall take a global positioning system point and a photograph for each proposed monitoring location and provide them to Central Valley Regional Water Quality Control Board (Central Valley Regional Water

Board) and State Water Resources Control Board (State Water Board) staff at least one week prior to starting construction.

At a minimum, the Applicant shall monitor turbidity, dissolved oxygen, and pH. The Applicant shall monitor these parameters at 15-minute intervals using an automated sensor system.

The Applicant shall conduct visual inspections for turbidity plumes, oily sheens, and signs of construction-related pollutants⁴ continuously throughout the construction period.

The Applicant shall submit monitoring reports to State Water Board staff within 30 days of initiating monitoring and every two weeks thereafter for the remainder of any in-water and water-adjacent work.

The Deputy Director of the Division of Water Rights (Deputy Director) and the Central Valley Regional Water Board Executive Officer (Executive Officer) shall be notified promptly, and in no case more than 24 hours, following an exceedance of a water quality objective or the turbidity averaging period limits, or identification of construction-related pollutants, as identified above. Project activities associated with the exceedance or pollutant shall immediately cease and the Applicant shall immediately implement remedial measures to contain or clean up any pollutant. Construction shall not resume without approval from the Deputy Director.

The Applicant may request modifications to this water quality monitoring program. The Applicant shall submit the request to the Deputy Director for review and consideration of approval at least 30 days prior to starting in-water or water-adjacent work. The request shall include the proposed modifications and rationale.

CONDITION 2. Project Activities

Unless otherwise modified by conditions of this certification, the Applicant shall implement the Project as described in Appendix D of its January 6, 2021 certification application (PG&E 2021).

CONDITION 3. Minimum Instream Flows

During Project activities, the Applicant shall maintain a minimum instream flow of 35 cubic feet per second in the North Fork Feather River below Canyon Dam. The Applicant shall measure flows in 15-minute increments at United States Geological Survey Gage No. 11399500 (PG&E Gage No. NF-2).

⁴ Visible construction-related pollutants may include oil, grease, foam, fuel, petroleum products, uncured concrete, and construction-related excavated, organic, or earthen material.

CONDITION 4. Erosion and Sedimentation Control Measures

The Applicant shall implement erosion, sedimentation, and turbidity control measures as described in Appendix D of its certification application and include the following measures.

- 1) Control measures for erosion, excessive sedimentation, and sources of turbidity shall be implemented and in place 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.
- 2) Stockpiles shall be located outside of riparian habitat and protected in accordance with appropriate best management practices. If more than 0.25 inch of rain is forecasted during the construction season, all stockpiles shall be covered with plastic and surrounded with sediment control technologies or berms to prevent sediment run-off.
- 3) Imported materials (i.e., not from on-site rock borrow locations) used for rock slope protection shall be washed prior to use. If materials are washed on-site, washing shall be performed and wash water shall be stored at least 300 feet from any waterway and either disposed of off-site or used for dust abatement.
- 4) If erosion or sedimentation causes increased turbidity above the limits described in Condition 1, the Applicant shall contain the turbid water using a cofferdam. The turbid water may be released downstream once the water is below turbidity limits, disposed of off-site, or used for dust abatement, in a manner that does not impair water quality.
- 5) Dredged or excavated material shall be either used as backfill or disposed of off-site in a manner that does not impair water quality. Dredged or excavated material shall be stored at least 300 feet from any waterway.
- 6) Upon Project completion, the Applicant shall inspect the Project site for signs of excessive erosion or other water quality impairment monthly through May 31, 2022. The Applicant shall provide its observations to State Water Board staff no more than two weeks following each inspection. If erosion or other impairments are observed, the Applicant shall notify the Deputy Director and Executive Officer and include: (1) a description of the erosion or impairment with photo documentation; (2) potential causes of the erosion or impairment; and (3) proposed measures to prevent future erosion or impairment. The Applicant shall implement the proposed measures upon receipt of Deputy Director approval. The Deputy Director may require modifications to the proposed measures as part of any approval.

CONDITION 5. Diversion and Dewatering Measures

The Applicant shall implement surface water diversion and dewatering measures as described in Appendix D of its certification application and include the following measures.

- 1) The Applicant shall develop and implement onsite Project-specific protocols for surface water diversion and dewatering. The protocols shall detail construction equipment types and location, access and staging, structures or equipment used for diversion and dewatering, and specific methods for and duration of diversion and dewatering activities. The protocols shall include all applicable requirements of this certification. The Applicant shall provide the protocols to State Water Board staff upon request.
- 2) Dewatering shall only occur in the Project area.
- 3) For any temporary dam or other artificial obstruction being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain beneficial uses, including compliance with minimum instream flows (Condition 3). Construction, dewatering, and removal of temporary cofferdams shall not violate Condition 1.
- 4) Any temporary dam or other artificial obstruction shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel that will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
- 5) This certification does not authorize permanent water diversion of flow from the receiving water or any other permanent dewatering measure. This certification is invalid as applied to any measure that permanently diverts water.
- 6) The Applicant shall work with the Central Valley Regional Water Board to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit if dewatering may result in discharges to surface water and/or a Waste Discharge Requirement permit if dewatering may result in discharges to land.

CONDITION 6. Hazardous Material Control Measures

The Applicant shall implement hazardous materials⁵ control measures as described in Appendix D of its certification application and include the following measures.

- 1) The Applicant shall develop and implement, as applicable, onsite Project-specific protocols for hazardous materials spill prevention, containment, and clean up. The protocols shall detail construction equipment types and location, access and staging, practices to prevent, minimize, and/or clean up potential spills, and construction sequence. The protocols shall include all applicable requirements of this certification. The Applicant shall provide the protocols to State Water Board staff upon request.

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

- 2) Caution shall be used when handling and/or storing hazardous materials near waterways. Appropriate materials shall be on site to prevent and manage spills to prevent impacts to surface waters. When not in use, hazardous materials shall be stored at least 300 feet from any waterway.
- 3) When not in use, equipment shall be stored in upland areas outside the boundaries of waterways.
- 4) All construction equipment shall be inspected for leaks before entering the Project area. All equipment shall be well maintained and inspected daily while on site to prevent leaks of fuels, lubricants, or other fluids into waters of the United States or waters of the state. Stationary equipment (e.g., generators) within 100 feet of waterways shall be parked over secondary containment.
- 5) Service and refueling procedures shall be conducted in a designated area, at least 300 feet from any waterway, where no potential exists for fuel spills to seep or wash into waterways. Service and refueling areas shall include secondary containment including drip pans and/or placement of absorbent material.
- 6) Wet concrete or cement shall not be placed into stream channel habitat. Concrete or cement shall be completely cured before coming into contact with waters of the United States or waters of the state. Any surface water that contacts wet concrete or cement must be pumped out and disposed of in accordance with applicable laws and regulations.
- 7) Any water contaminated by hazardous materials shall be stored according to item (2) in this condition and disposed of properly off-site in a manner that does not impair water quality.
- 8) Containment areas shall include secondary containment. All containment structures shall comply with California Code of Regulations, title 27, section 20320.

CONDITION 7. Wetland and Riparian Habitat

The Applicant shall comply with the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (State Water Board 2019) and ensure no net loss of wetland or riparian habitat functions. The Applicant shall mitigate permanent impacts to riparian and wetland areas through the purchase of in-lieu fee credits at a 2:1 ratio (mitigation area:permanent impacts). The in-lieu fee credits shall be purchased from the National Fish and Wildlife Foundation's Sacramento District California In-Lieu Fee Program for the Feather River Aquatic Resource Service Area by no later than December 31, 2021, unless otherwise approved by the Deputy Director. If the appropriate number and types of resources credits are not available, the Applicant shall propose another in-lieu fee credit program to the Deputy Director for review and approval.

CONDITION 8. Project Activity Progress Reports

Every 30 days during construction, the Applicant shall submit a Project Activity Progress Report (Progress Report) to the Deputy Director. The Progress Report shall include:

- 1) A summary of Project activities performed;
- 2) Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- 3) Details of Project-related adverse impacts to beneficial uses, if applicable; and
- 4) Any proposed modifications to Project implementation to address impacts or other concerns.

The Deputy Director may require the Applicant to implement corrective actions in response to the information provided in a Progress Report. Within 60 days of Project completion, the Applicant shall provide the Deputy Director with a comprehensive Project report summarizing items (1) – (4). The Applicant shall provide any additional information or clarification requested by the Deputy Director related to a Progress Report or the comprehensive Project report. Upon request from State Water Board staff, the Applicant shall meet with staff to discuss a Progress Report or the comprehensive Project report.

CONDITIONS 9 – 26

CONDITION 9. Notwithstanding any more specific provision of this certification, any plan 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 Applicant fails to provide or implement a required item in a timely manner. If a time extension is needed to submit an item for Deputy Director approval, the Applicant shall submit a written request for the extension, with justification, to the Deputy Director no later than 30 days prior to the deadline. The Applicant shall not implement any plan, proposal, or report until after receiving Deputy Director approval and any other necessary regulatory approvals.

CONDITION 10. The State Water Board reserves the authority to add to or modify the conditions of this certification: (1) to incorporate changes in technology, sampling, or methodologies; (2) if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses; (3) to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act; and (4) to require additional monitoring and/or other measures, as needed, to ensure that Project activities meet water quality objectives and protect beneficial uses.

CONDITION 11. 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 12. Unless otherwise specified by conditions in this certification, Project activities shall be conducted in a manner consistent with all applicable water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Applicant must take all reasonable measures to protect the beneficial uses of the North Fork Feather River.

CONDITION 13. 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 14. 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 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.

CONDITION 15. The Applicant shall submit any change to the Project, including operations, facilities, technology changes or upgrades, or methodology, which could have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. The State Water Board shall determine significance and may require consultation with state and/or federal agencies. If the State Water Board is not notified of a change to the Project, it will be considered a violation of this certification.

CONDITION 16. 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 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 of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

CONDITION 17. 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 18. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Applicant 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 19. 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 20. Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Applicant shall provide State Water Board and Central Valley Regional Water Board staff access to the Project site to document compliance with this certification.

CONDITION 21. 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 Applicant shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

CONDITION 22. The Applicant shall use analytical methods approved by California's Environmental Laboratory Accreditation Program (ELAP), where such methods are available. Samples that require laboratory analysis shall be analyzed by ELAP-certified laboratories.

CONDITION 23. 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.

CONDITION 24. This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to 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).

CONDITION 25. 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 26. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.



Eileen Sobeck
Executive Director

March 5, 2021

Date

7.0 References

Central Valley Regional Water Board. 2018. The Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin (Basin Plan). Fifth Edition. Revised May 2018 (with Approved Amendments). Available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/. Accessed March 1, 2021.

PG&E. 2021. PG&E Canyon Dam LLO Install Cutoff Wall Project, Plumas County, California – 401 Water Certification Permit Application.

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 March 1, 2021. Last accessed March 1, 2021.

State Water Board. 2017. *Redelegation of Authorities pursuant to Resolution No. 2012-0029*.

State Water Board. 2019. *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. Resolution No. 2019-0015 and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed March 1, 2021. Last accessed March 1, 2021.

Personal Communication

E-mail from M. Joseph, Senior License Coordinator, Hydro Licensing, PG&E, to S. Downey, Environmental Scientist, State Water Board, regarding background turbidity in the North Fork Feather River, dated February 22, 2021.