STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 29300 MALACHA HYDRO LIMITED PARTNERSHIP Applicant. Collett Reservoir Addition, FERC No. 8296	SOURCE: Pit River COUNTY: Lassen

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

1. Malacho Hydro Limited Partnership (Malacha) has applied to the Federal Energy Regulatory Commission for an Amendment to the License under the Federal Power Act (16USC §791(a), et seq.) to develop a storage facility (Collett Reservoir) for peaking purposes to an existing hydroelectric power project on the Pit River (Muck Hydroelectric Project) in Lassen County and to the State Water Resources Control Board (State Board) for Water Quality Certification Section 401 of the Clean Water Act (33USC §USC §1344).

2. The Federal Clean Water Act (33USC §1251, et seq.) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33USC §1251(a)). Section 101(g) (33USC §1251(g)) requires federal agencies to "cooperate 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 (33USC §1341) requires every applicant for a federal license or permit to provide the responsible federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including Section 303 ("Water

Quality Standards and Implementation Plans", 33USC §1313); directs the state agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law; and provides that state certification conditions shall become conditions of any federal license or permit for the project.

3. The State Board is the agency responsible for water quality certification in California (Section 13160 of the California Water Code); and has delegated this function to the Executive Director by regulation (Section 3838 of Title 23 of the California Code of Regulations).

4. On September 29, 1989, Malacha requested certification that the Collett Reservoir Addition would be in compliance with state and local water quality requirements, including requirements that satisfy the specified provisions of the Federal Clean Water Act.[1]

5. Certification of compliance with state and local water quality requirements is a project subject to the California Environmental Quality Act (Public Resources Code §21000, et seq., "CEQA"). The State Board as lead agency under CEQA must assess potential environmental impacts associated with a proposed project, and must prepare an Environmental Impact Report (EIR) if the project could have significant environmental consequences, or a Negative Declaration.

1 Malacha's original request for water quality certification, made August 31, 1988, was denied without prejudice on August 29, 1989.

6. The State Board prepared, circulated for public comment, and adopted a final EIR for the Collett Reservoir Addition. The EIR identified potential significant impacts, including potential impacts on water quality and instream beneficial uses of the Pit River. The EIR also identified mitigation measures that could avoid or reduce potential impacts to a level below significance.

7. The California Regional Water Quality Control Boards have adopted, and the State Board has approved, Water Quality Control Plans (Basin Plans) for each watershed basin in accordance with provisions of Sections 303 and 304 of the Clean Water Act, related to the establishment of water quality standards and planning (33USC §§1313, 1314). Basin Plans identify beneficial uses of the waters within each Region.

8. Protection of the chemical, physical, and biological integrity of waters of the state for instream beneficial uses identified in the Basin Plans requires maintenance of adequate stream flows as well as effluent limitations and other limitations on discharges of pollutants from point and nonpoint sources to navigable waters and their tributaries.

9. The California Regional Water Quality Control Board, Central Valley Region, has reviewed Malacha's application, and the EIR prepared for this project, for consistency with the Basin Plan for the project area and has made recommendations for water quality protection to the State Board.

ACCORDINGLY, THE STATE BOARD CERTIFIES THAT Malacha's Collett Reservoir Addition will comply with Sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law provided that Malacha constructs and operates the Collett Reservoir Addition to the Muck Valley Hydro Project in accordance with the following terms and conditions:

1. No water stored in Collett Reservoir pursuant to Water Right Application 29300 shall be used to increase power generation for a short period of time in a 24-hour period (peaking) without the construction and use of a reregulatory afterbay below the tailrace of the existing Muck Valley Hydroelectric Project. The reregulatory afterbay and Collett Reservoir Dam design shall be approved prior to construction by the Department of Water Resources Division of Safety of Dams and shall be operated according to the following criteria:

   A. When the Pit River flow measured at the point of diversion for the Muck Valley Hydroelectric Project declines below 50 cfs, or when Collett Reservoir is providing water for peaking power generation, the reregulating afterbay will reregulate powerhouse discharges as follows:

      - 140 cfs or less over a 24-hour period on weekdays and;

      - 70 cfs or less over a 24-hour period on weekends.

   B. Winter peaking operations will also be reregulated at a rate of 140 cfs or less on a 24-hour release schedule from the reregulating afterbay.

2. Malacha shall maintain a minimum pool in Collett Reservoir of 100 acre-feet, measured at the end of the diversion season, except for losses resulting from seepage and evaporation .

3. If Malacha removes sediment from the reregulating afterbay or Collett Reservoir, they must first prepare and receive approval of a sediment removal and storage plan from the Regional Water Quality Control Board.

4. Malacha shall develop a plan which provides for the continuous monitoring and recording of water temperature, turbidity and dissolved oxygen of the receiving waters of the Pit River and the discharge water from the reregulating afterbay when water is being diverted from the Collett Reservoir for power generation. The plan must be submitted and approved by the Chief of the Division of Water Rights prior to the rediversion of water from Collett Reservoir for power generation. The discharge waters from the reregulating afterbay shall not cause the water quality objectives for the receiving waters of the Pit River to be exceeded.

5. All surface flows generated within or as a result of the Collett Reservoir project which are discharged to surface waters or stormwater runoff conveyance systems shall not contain the following substances:

   A. coloration that causes a nuisance or adversely affects beneficial uses;

   B. substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic organisms;

C. perceptible floating material including, but not limited to, solids, liquids, foams or scums which could result in degradation of water quality;

D. suspended or settleable material in concentrations that cause a nuisance or adversely affect beneficial uses;

E. oil, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water;

F. substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant or animal life;

G. identifiable chlorinated hydrocarbons, organophosphates, carbamates, or other pesticide or herbicide groups in detectable concentrations;

H. the pH shall not be depressed below 6.5 nor raised above 8.5. Changes in normal ambient pH levels shall not exceed 0.5 units in fresh waters with designated COLD or WARM beneficial uses;

I. coliform organisms attributable to human wastes.

6. The discharge of Collett Reservoir water to the Muck Valley Hydroelectric Projects' reregulating afterbay shall not cause the following conditions or alterations in surface waters of the Pit River below the reregulating afterbay:

A. Turbidity - waters shall be free of changes in turbidity that causes nuisance or adversely affects beneficial uses.

Increases in turbidity attributable to controllable water quality factors shall not exceed the following units:

- Where natural turbidity is between 0 and 50 Jackson Turbidity Units (JTU), increases shall not exceed 20 percent.

- Where natural turbidity is between 50 and 100 JTU, increases shall not exceed 10 JTU.

- Where natural turbidity is greater than 100 JTU, increases shall not exceed 10 percent.

B. Waters shall not contain substances in concentrations that result in the deposition of material that causes nuisance or adversely affects beneficial uses.

C. The monthly median of the mean daily dissolved oxygen concentration shall not fall below 85 percent of saturation in the main water mass and the 95 percentile concentration shall not fall below 75 percent of saturation. The dissolved oxygen concentrations shall not be reduced below 5.0 mg/l level at any time.

D. At no time or place shall the temperature of WARM intrastate waters be increased more than 5° F. above the natural receiving water temperature.

E. Waters shall not contain concentrations of coliform organisms attributable to human wastes. The fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean of 200/100 ml, nor shall more than 10 percent of total samples during any 30-day period exceed 400/100 ml.

F. The concentration of biostimulatory substances of waters shall not be altered in an amount that could promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

7. Best Management Practices

A. Prior to any disturbance of existing soil conditions, the permittee or licensee shall install temporary erosion control facilities to prevent transport of eroded earthen materials and other wastes off the property into waters of the state.

B. All areas not subject to construction but which are subject to unauthorized vehicle use shall be adequately protected from disturbance or such use by installation of barriers and signs.

C. There shall be no significant modification of existing drainage ways or existing stream channel geometry except for the purpose of stabilization or enhancement of water quality. All modifications of the bed, channel or bank of a stream shall require a prior written agreement with the California Department of Fish and Game.

D. All slopes steeper than 2:1 shall be mechanically stabilized by installation of riprap, gabions, or other facilities approved by the Executive Officer of the Central Valley Regional Water Quality Control Board.

E. All soil disturbance activities shall cease and temporary erosion control measures immediately installed if adverse weather conditions threaten the transport of disturbed soils from the project site to waters of the state.

F. All disturbed areas including riparian vegetation shall be adequately restablized or revegetated. Revegetated areas shall be maintained until vegetation becomes established.

G. Prior to October 15 of each year, the permittee or licensee shall provide permanent or temporary (if project is incomplete) stabilization of all disturbed or eroding areas through commencement of revegetation or completion of mechanical stabilization measures. Revegetation shall consist of seeding, planting, mulching, initial fertilization as needed, and initial watering as needed.

H. Surface flows from the project site shall be controlled so as not to cause downstream erosion at any point.

I. All surplus spoil materials shall be removed from the project site and deposited only at a legal point of disposal, or restabilized on-site in accordance with erosion control plans previously reviewed by the Central Valley Regional Water Quality Control Board.

J. At no time shall waste earthen materials be placed in surface water drainage courses or in such a manner as to allow the discharge of such materials to any surface water drainage course.

K. Fresh concrete or grout shall not be allowed to contact or enter surface waters.

L. The permittee or licensee shall immediately clean up and transport to a legal site any spilled petroleum products to the maximum extent practicable.

8. General Requirements and Prohibitions

A. The discharge of oil, gasoline, diesel fuel or any other petroleum derivative or any toxic chemical or hazardous waste is prohibited.

B. The discharge of waste shall not cause pollution or threaten pollution as defined in Section 13050 of the California Water Code.

C. Neither the treatment nor the discharge of waste shall cause a nuisance as defined in Section 13050 of the California Water Code.

9. Project Operation

Malacha shall, at all times, operate the Collett Reservoir Addition in accordance with the terms and conditions identified above and any permit or license issued on Application 29300, and any subsequent order of the State Board modifying such terms and conditions, to the extent that such terms and conditions are applicable to maintenance of the chemical, physical and biological integrity of the waters of the state or beneficial uses thereof.

APR 6 - 1990

Chief Deputy Director

for James W. Baetge

Executive Director