

State Water Resources Control Board

**AMENDED ORDER FOR CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION FOR THE PACIFIC GAS AND ELECTRIC COMPANY
PITTSBURG-TESLA RECONDUCTORING PROJECT
FILE NO. SB10007IN / RM 391412
U.S. ARMY CORPS OF ENGINEERS FILE NO. 2010-00231 S**

All changes to the Water Quality Certification (Certification) issued on October 17, 2012, are shown below as additions in **bold underline**, and deletions in **~~bold strikethrough~~**. This does not include minor grammatical edits.

APPLICANT:

Mr. David L. Thomas
Senior Planner
Land and Environmental Management
Pacific Gas and Electric Company (PG&E)
245 Market Street
San Francisco, CA 94109

APPLICANT'S AGENT:

Ms. Samantha Hillaire
Garcia and Associates
435 Lincoln Way
Auburn, CA 95603-4916

PROJECT: Pittsburg-Tesla Reconductoring Project (Project)

This Certification responds to your request to the State Water Resources Control Board (State Water Board) on behalf of PG&E (Applicant) for Clean Water Act Section 401 water quality certification (Certification) for the Project. Your application was received on April 15, 2010, and was determined to be complete on May 14, 2012. A Revised Project Initial Study (IS) and Mitigated Negative Declaration (MND) (State Clearinghouse No. 2011102034) has been completed for this Project. **A project modification proposed by the applicant on July 23, 2013, is necessary to accommodate engineering constraints for the Project. This amendment to the water quality certification (Amended Certification) addresses additional impacts to waters of the state caused by the project modification. This Amended Certification authorizes temporary impacts to waters of the state as described in the project application, revised project description, and the MND. Certification authorizes temporary impacts to waters of the state of 0.006 acre in two locations as described in the Project application and MND. The permitted impacts include 0.011 acre of temporary streambed impacts and 0.005 acre of temporary wetland impacts, as described in a revised Project Information Sheet (Attachment B).** These impacts will be mitigated through site restoration at the conclusion of Project construction.

ACTION:

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|---|---|
| <input type="checkbox"/> Order for Standard Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |

AUTHORIZATION:

This Certification conditionally certifies the construction by PG&E of the Project as described in the Project application for Clean Water Act section 401 water quality certification and the Project's MND and mitigation monitoring and reporting plan (MMRP). The Applicant has submitted a pre-construction notification for coverage under the U.S. Army Corps of Engineers' (Corps) Clean Water Act section 404 Nationwide Permit 12.

STANDARD CONDITIONS:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to the Water Code, section 13330, and the California Code of Regulations, title 23, section 3867 and following.
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent Certification application was filed pursuant to California Code of Regulations, title 23, § 3855, subdivision (b), and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, and owed by the applicant.

ADMINISTRATIVE CONDITIONS:

4. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to the Applicant and/or responsible contractor(s)/sub-contractor(s), if the State Water Board determines that the Project fails to comply with any of the terms or conditions of this Certification.
5. The State Water Board may add to or modify the conditions of this Certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or Clean Water Act section 303.
6. This Certification shall expire upon the expiration, retraction, or substantial modification of the Clean Water Act section 404 permit issued by the Corps, or five (5) years from the date of issuance of this Certification, which ever comes first.

7. A copy of this Certification, the application, and all supporting documentation must be available at the Project site during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Certification and its posted location on the Project site.
8. The Applicant shall grant State Water Board and Regional Water Quality Control Boards (Regional Water Boards, collectively Water Boards) staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the Project may have on waters of the state.

ADDITIONAL CONDITIONS:

9. Permitted activities must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in State Water Board water quality control plans and policies and Regional Water Board water quality control plans (Basin Plans).
10. Endangered Species:
 - a. Permitted activities shall not result in the taking of any state endangered species, threatened species, or candidate species, or the habitat of such a species unless the activity is authorized by the California Department of Fish and Game (CDFG) pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code.
 - b. To the extent that Project impacts to waters of the state include impacts to beneficial uses associated with threatened and endangered species, mitigation obligations pursuant to permit conditions from the California Department of Fish and Game and the U.S. Fish and Wildlife Service shall be deemed adequate to mitigate for those impacts.
11. Other Permits:
 - a. This Certification does not obviate the need to obtain other permits that may be required by federal, state, or local authorities.
 - b. Permit Registration Documents as required under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2010-0014 DWQ, NPDES No. CAS00002) (Construction Storm Water Permit) shall be submitted electronically to the State Water Board to obtain coverage under the Construction Storm Water Permit prior to commencement of construction. The Applicant shall notify the State Water Board staff when this submittal is complete.
12. Construction and operation of the Project shall adhere to all Mitigation Measures (MMs) found in the Project MND and MMRP, as noticed by the State Clearinghouse on April 13, 2012.

13. As provided in the MMRP, all contact information for all key Project personnel, including all environmental monitors, shall be provided to the State Water Board. No work on the Project that may result in a discharge to a water of the state shall be permitted until the contact list is received by the State Water Board. The State Water Board shall be provided with any update to this contact list in a timely manner as personnel changes occur.
14. Emergency repairs may be required during the construction and maintenance of the Project to address situations that potentially or immediately threaten the integrity of the Project facilities. In response to emergencies that affect or have the potential to affect waters of the state, all applicable communication protocols and MMs shall be followed to the fullest extent practicable. Once the emergency has abated, any unavoidable environmental damage shall be reported to the Project environmental monitor, who shall notify the State Water Board within 24 hours. If required by the State Water Board, the Applicant shall develop an emergency response plan following cessation of the emergency in order to mitigate for any significant water quality effects caused by the emergency response consistent with all applicable MMs and any other permits issued for the Project.
15. Best Management Practices (BMPs):
 - a. Where on-site restoration of vegetation is planned, the Applicant shall identify a qualified habitat restoration specialist who shall be responsible for implementation of the Project Revegetation and Weed Control Plan. The Applicant shall be responsible for the implementation of the Revegetation and Weed Control Plan.
 - b. Appropriate soil erosion prevention and control BMPs shall be implemented throughout the construction and maintenance of the Project.
 - c. The discharge of petroleum products or other pollutants to surface waters that may result in violation of water quality standards is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream.
 - d. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the state. All vehicle maintenance, staging, storage, and dispensing of fuel shall occur in designated upland areas. Exceptions to this condition may be considered on a site-by-site basis, and may be designated only upon demonstration of unavoidable necessity after approval by State Water Board staff.
16. **Certification Deviations: Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water resources. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations. For purposes of this Certification, a "Certification Deviation" is a Project locational or impact modification that does not require an immediate amendment of the Certification, because the State Water Board has determined that any potential water resource impacts**

that may result from the change are sufficiently addressed by the Certification conditions and the revised IS/MND. Project modifications that warrant or necessitate changes to Certification conditions that are not addressed by existing environmental documents will require an amendment to this Certification and do not qualify for the Certification Deviation procedures set forth in Attachment D. After the termination of construction, this Certification will be amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.

VIOLATIONS:

17. Failure to comply with any condition of this Certification shall constitute a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Any such Certification previously granted shall immediately be revoked, and any or all discharges shall cease. The Applicant may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
18. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under state or federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure 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 Water Boards may require the holder of this Certification to furnish, under penalty of perjury, any technical or monitoring reports the 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.
20. The Applicant shall notify the State Water Board within 24 hours of any noncompliance that may impact the beneficial uses of waters of the state (including but not limited to wetlands, estuaries, rivers or streams). The notification shall include the volume and type of materials discharged and recovered, measures used to contain the discharge, and measures used to prevent future discharges.

REPORTING:

21. Notifications and reports shall be directed to: Program Manager, Certification and Wetlands Program, at the following State Water Board and appropriate Regional Water Board offices:

State Water Resources Control Board
Division of Water Quality – 401 Certification and Wetland Program
1001 I Street, 15th Floor
Sacramento, CA 95814-2828

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

CALIFORNIA ENVIRONMENTAL QUALITY ACT

On October 21, 2011, the State Water Board provided Notice of Intent (NOI) to adopt a mitigated negative declaration (State Clearinghouse No. 2011102034) for Pacific Gas and Electric Company's proposed Pittsburg-Tesla Reconductoring Project (Cal. Code Regs., tit. 14, § 15072). Notice of publication was simultaneously posted with the Alameda and Contra Costa County Clerks and in newspapers of general circulation in those counties. Public comments were received until November 21, 2011.

Substantive comments were received from the Department of Fish and Game, the Department of Water Resources, Alameda County Water District, and from SAIC Consulting on behalf of Chevron Corporation. These comments were addressed in an NOI to adopt a Revised IS and Revised Mitigated Negative Declaration (Revised MND) which was posted by the State Clearinghouse on April 13, 2012. Notice of publication was again simultaneously posted with the Alameda and Contra Costa County Clerks and in newspapers of general circulation for those counties. Comments were received until May 14, 2012. No comments were received on the Revised MND.

Impacts and potential impacts identified in the Revised MND include:

- Wildlife and wildlife habitats
- Dredge and fill of waters of the state in two locations
- Erosion and sedimentation
- Hazards and hazardous materials (abandoned pipelines and project materials)
- Cultural resources
- Air traffic coordination
- Vehicular traffic
- Public safety
- Wildland fire hazards
- Noise
- Air quality (exhaust emissions and dust)

Avoidance, minimization, and compensatory mitigation measures for significant and potentially significant impacts that will or could arise as a result of these activities include development of a MMRP with comprehensive mitigation measures specified for all identified impacts.

Mitigation measures include:

1. Preparation of a Construction Stormwater Pollution Prevention Plan (SWPPP) with accidental spill control procedures.

2. Adoption of BMPs for prevention and control of erosion, as required for enrollment under the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (State Water Board Order No. 2010-0014-DWQ, as amended).
3. Establishment of an environmental training program for all Project personnel.
4. Aviation safety and regulatory compliance measures.
5. Pipeline avoidance measures, including Underground Service Alert compliance and notification to abandoned pipeline managers.
6. Wildlife avoidance, minimization and compensatory mitigation measures.
7. Special status plant avoidance measures.
8. Adoption of equipment standards and operational methods which reduce unnecessary emissions.
9. Adoption of measures in coordination with state and local highway and transportation agencies to avoid impacts to traffic flow and vehicle safety.
10. Adoption of measures in coordination with the Department of Forestry and Fire Protection and local fire departments to minimize wildfire risk.

The environmental impacts, mitigation measures and how each impact is mitigated is more specifically set forth in the IS and Revised MND, both of which are incorporated herein by reference. The State Water Board finds that the MMRP adequately comprises a plan to mitigate or avoid significant environmental effects and for reporting on, or monitoring all identified Project impacts (Cal. Code Regs., tit. 14, § 15091). The State Water Board also finds that these measures are, or will be fully enforceable through permit conditions, agreements, or other measures.

The Revised MND reflects the State Water Board staff's independent judgment and analysis. Changes or alterations have been required in, or incorporated into the Project that avoid, or substantially lessen the significant environmental effects as identified in the Revised MND. After considering the IS, Revised MND, and comments received during the public review process, the State Water Board staff hereby determines that the proposed Project, with mitigation measures identified in the Revised MND, supplemented with the provisions in this Certification are adequate to reduce all of the Project's environmental impacts to less than significant levels. Therefore, this 401 Certification also certifies the Revised MND.

No new or previously undisclosed types of impacts would occur as a result of the Project changes which initiated the need for this Amended Certification. The Project changes minimally increase the amount of temporary impacts to waters of the state. None of the Project changes trigger the need for a subsequent environmental document as set forth in California Code of Regulations, title 14, section 15162. Therefore, no additional environmental review is necessary.

In accordance with California Code of Regulations, title 14, section 15075, State Water Board staff ~~will file~~ **filed** a Notice of Determination with the State Clearinghouse ~~within five days from the issuance of this Certification~~ **on November 19, 2012. No new NOD is required.**

The Revised MND and other materials, which constitute the record, are located at the State Water Board, Division of Water Quality, 1001 I Street, Sacramento, CA 95814.

STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Cliff Harvey at (916) 558-1709, or via e-mail at Charvey@waterboards.ca.gov, or by mail at 401 Certification & Wetland Program, Division of Water Quality, State Water Resources Control Board, 1001 I St., 15th Floor, Sacramento, CA 95814. You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (borme@waterboards.ca.gov).

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that as long as all of the conditions listed in this Certification action are met, any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards). This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ that authorizes this Certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Project Information Sheet (Attachment B), and (b) compliance with all applicable requirements of statewide water quality control plans and policies, the Regional Water Boards' water quality control plans and the Revised MND.



Thomas Howard
Executive Director

October 8, 2013

Date

Attachments (4):

- A: Signatory Requirements
- B: Project Information Sheet
- C: Project Area Map
- D. Certification Deviation Procedures**