

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

In the Matter of Water Quality Certification for

**PACIFIC GAS AND ELECTRIC COMPANY
COURTRIGHT INTAKE/DISCHARGE GATE, CYLINDER, AND PIPING
IMPROVEMENTS PROJECT**

Sources: Helms Creek, Courtright Reservoir

County: Fresno

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

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Acronyms and Abbreviations

<i>Antidegradation Policy</i>	<i>Statement of Policy with Respect to Maintaining High Quality Waters in California</i>
<i>Applicant</i>	<i>Pacific Gas and Electric Company</i>
<i>Bay-Delta Plan</i>	<i>Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary</i>
<i>BMPs</i>	<i>best management practices</i>
<i>Central Valley Regional Water Board</i>	<i>Central Valley Regional Water Quality Control Board</i>
<i>CEQA certification</i>	<i>California Environmental Quality Act water quality certification</i>
<i>Deputy Director</i>	<i>Deputy Director of the Division of Water Rights</i>
<i>Dredge or Fill Procedures</i>	<i>State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State</i>
<i>ESA</i>	<i>Endangered Species Act</i>
<i>Executive Officer</i>	<i>Executive Officer of Central Valley Regional Water Board</i>
<i>FERC</i>	<i>Federal Energy Regulatory Commission</i>
<i>I/D</i>	<i>Intake/Discharge</i>
<i>MIF</i>	<i>minimum instream flow</i>
<i>NTU</i>	<i>Nephelometric Turbidity Unit</i>
<i>PG&E</i>	<i>Pacific Gas and Electric Company</i>
<i>Project</i>	<i>Courtright Intake/Discharge Gate, Cylinder, and Piping Improvements Project</i>
<i>Regional Water Boards</i>	<i>California Regional Water Quality Control Boards</i>
<i>SR/SJR Basin Plan</i>	<i>Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin</i>
<i>State Water Board</i>	<i>State Water Resources Control Board</i>
<i>USACE</i>	<i>United States Army Corps of Engineers</i>
<i>USEPA</i>	<i>United States Environmental Protection Agency</i>
<i>Water Boards</i>	<i>State Water Board and Regional Water Boards, collectively</i>

1.0 Project Description

Pacific Gas and Electric Company (PG&E or Applicant) is proposing the Courtright Intake/Discharge Gate, Cylinder, and Piping Improvements Project (Project) to replace equipment at Courtright Dam that has reached the end of its life cycle. Such equipment includes hydraulic lines, cylinders, intake/discharge (I/D) bulkhead gates, and bypass gates and cylinders. All of this equipment has been in use since first commissioned in 1981. Courtright Reservoir, Courtright Dam, and all appurtenant facilities, are part of PG&E's Haas-Kings River Project and Helms Pumped Storage Project (also known as Federal Energy Regulatory Commission [FERC] Project Nos. 1988 and 2735, respectively). Additional Project work includes replacement of oil spill containment domes, which were installed in 2017 but have proven to be ineffective in capturing hydraulic oil leaks from the I/D gate structure. A new system that seals to the top of the existing concrete structure of the I/D gates is proposed to replace the domes. The Project is located on the North Fork Kings River in Fresno County, California, approximately 91 miles northeast of the city of Fresno. Project location maps can be found in Attachment A: Project Overview Maps.

In general, the Project includes: (1) refurbishment of existing access roads, laydown areas and crane pad above and below Courtright Reservoir's ordinary high-water mark; (2) installation of new concrete-encased hydraulics lines, gate position sensors, electrical conduits, and air vent lines; and (3) replacement of: I/D gates, cylinders, and bulkhead gates; bypass valves and hydraulic cylinders; I/D structure access ladders and platforms; and an oil containment structure.

The FERC license¹ for the Helms Pumped Storage Project requires PG&E to maintain a minimum instream flow from Courtright Dam into Helms Creek of 4 cubic feet per second (cfs) from June 1 through November 30, and 2.5 cfs from December 1 through May 31, as measured at a gaging station downstream of the dam (gaging station KI-17). As part of the Project, PG&E is proposing to drawdown the reservoir to an elevation of 7,975 feet above mean sea level using the existing I/D gate. Following drawdown, PG&E will gain access to the I/D structure by dewatering approximately 55,000 gallons of additional water from Courtright Reservoir via installation and use of fine mesh screened pumps that will pump water into water trucks that will be used for dust control on access roads and laydown areas.

Project implementation requires a permit from the United States Army Corps of Engineers (USACE) pursuant to section 404 of the Clean Water Act. PG&E has applied to USACE for coverage under Regional General Permit 2 – Reservoir Maintenance Activities. USACE has assigned the Project a designation number of SPK-2023-00602. A section 404 permit from USACE requires PG&E to obtain a Clean Water Act section 401 certification from the State Water Resources Control Board (State Water Board).

2.0 Water Rights

¹ FERC issued a 50-year license for the Helms Pumped Storage Project on May 18, 1976.

Table A lists Project-related water right permits and licenses maintained by PG&E.

Table A. PG&E's Project-Related Water Rights*

License or Permit No.	Water Right Type	Status Date	Face Amount (acre-feet)	Sources/Locations	Purpose of Use
P016789	Appropriative	12/20/1973	2,714,002	North Fork Kings River, Helms Creek	Power, Domestic
L010747	Appropriative	10/01/1948	41,000	Helms Creek	Power, Domestic, Recreation
L009103	Appropriative	01/14/1948	61,500	Helms Creek	Power, Domestic
L010748	Appropriative	07/22/1958	6,335	Helms Creek	Power, Domestic, Recreation

* Information is from the State Water Board's electronic Water Rights Information Management System.

3.0 Regulatory Authority

3.1 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.” (33 U.S.C. § 1251(g).)

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 and implementation plans 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 prescribe 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. (*Ibid.*)

The 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* memo issued by the Deputy Director on April 20, 2023, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2023a).

Procedure, Application, and Noticing

On December 29, 2023, PG&E filed a certification application with the State Water Board under section 401 of the Clean Water Act. On January 26, 2024, State Water Board staff 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. No comments were received in response to this notice.

On April 29, 2024, State Water Board staff requested comments from the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) on the application for certification for the Project. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On May 29, 2024, Central Valley Regional Water Board staff provided comments on the application, which were considered in the development of the certification.

3.2 Water Quality Control Plans and Related Authorities

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards in the Central Valley Regional Water Board's [Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin](#) (SR/SJR Basin Plan) (Central Valley Regional Water Board 2019)² and the [Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary](#) (Bay-Delta Plan) (State Water Board 2018)³. Based on the Project's limited scope, duration, and distance from the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, impacts to water quality objectives listed for waterbodies in the Bay-Delta Plan are not anticipated to occur from Project activities.

² The SR/SJR Basin Plan is available at:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2019_02.pdf. Last accessed on May 30, 2024.

³ The Bay-Delta Plan is available at:
https://www.waterboards.ca.gov/plans_policies/docs/2018wqcp.pdf. Last accessed on May 30, 2024.

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, industry, agriculture, and fish and wildlife habitat), water quality objectives for the reasonable protection of the beneficial uses and 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 contained in the water quality control plans and applicable state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and anti-degradation requirements. (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology* (1994) 511 U.S. 700, 714-719.)

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.) As noted above, 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.) The State Water Board and Regional Water Boards (collectively Water Boards) adopt the plans pursuant to their authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313).

SR/SJR Basin Plan

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the SR/SJR Basin Plan. The SR/SJR Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The SR/SJR Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. Helms Creek is a tributary to the Upper North Fork of the Kings River. The SR/SJR Basin Plan identifies existing beneficial uses for the Upper North Fork of the Kings River (which includes Courtright Reservoir and Helms Creek) as: hydropower generation; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened, or endangered species; spawning, reproduction, and/or early development; and freshwater replenishment.

Bay-Delta Plan

The Bay-Delta Plan establishes water quality objectives to protect beneficial uses of water in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and tributary watersheds, including drinking water supply, irrigation supply, and fish and wildlife. The State Water Board adopts the Bay-Delta Plan pursuant to its authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313). The beneficial uses in the Bay-Delta Plan are: municipal and domestic supply; industrial service supply; industrial process supply; agricultural supply; groundwater recharge; navigation; water contact recreation; non-contact water recreation; shellfish harvesting; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; estuarine habitat; wildlife habitat; and rare,

threatened, or endangered species. In 2018, the Bay-Delta Plan was updated to adopt new and revised Lower San Joaquin River flow objectives and revised southern Delta salinity objectives.

The State Water Board is developing Bay-Delta Plan amendments focused on the Sacramento River and its tributaries, Delta eastside tributaries, Delta outflows, and interior Delta flows. This effort is referred to as the [Sacramento/Delta Update to the Bay-Delta Plan](#)⁴. Protection of the Bay-Delta ecosystem and its native aquatic species requires an integrated approach to effectively connect upstream suitable cold water nursery habitat, floodplains, tidal marshland, and turbid open water habitats in the Delta and Bay and to connect those environments to the ocean. Accordingly, the Sacramento/Delta Update to the Bay-Delta Plan would provide for a flow regime that supports a connected and functioning ecosystem linking and integrating inflow, cold water habitat, Delta outflow, and interior Delta flow measures with complementary physical habitat restoration and other nonflow measures. Changes are proposed to the water quality objectives and the program of implementation for those objectives, as well as changes to monitoring, reporting, and assessment requirements. Water users on Bay-Delta tributaries would bear responsibility for achieving flow and other flow-based objectives. (State Water Board 2023b).

Antidegradation Policy

The State Water Board's [Statement of Policy with Respect to Maintaining High Quality Waters in California](#) (Antidegradation Policy)⁵ (State Water Board 1968) requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. § 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

Construction General Permit

PG&E will need to obtain coverage under the State Water Board's [National Pollutant Discharge Elimination System \(NPDES\) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities](#) (Construction General

⁴ Available at:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/comp_review.html. Accessed on June 25, 2024.

⁵ State Water Board Resolution No. 68-16 and any amendments thereto. Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf. Accessed on May 1, 2024.

Permit) (State Water Board 2022)⁶ for activities that disturb one or more acres of soil, or that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activities subject to the Construction General Permit include clearing, grading, and disturbances to the ground such as stockpiling or excavation, but do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. Coverage is required pursuant to Clean Water Act sections 301 and 402, which prohibit certain discharges of stormwater containing pollutants except in compliance with a NPDES permit. (33 U.S.C. §§ 1311, 1342(p); 40 C.F.R. pts. 122, 123, and 124.)

3.3 Clean Water Act Section 303(d) Listing

On January 19, 2022, the State Water Board adopted the [2020-2022 California Integrated Report \(Clean Water Act Section 303\(d\) List/305\(b\) Report\)](#) (State Water Board 2022) and it was approved by USEPA on May 11, 2022. Courtright Reservoir and Helms Creek, downstream of Courtright Dam, are not identified as impaired waterbodies in the 2020-2022 California Integrated Report.

3.4 State Wetland Definition and Procedures for Discharges of Dredged or Fill Materials to Water of the State

The [State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State](#) (Dredge or Fill Procedures)⁷ (State Water Board 2019 and 2021)⁸ 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 Dredge or Fill 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 Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

4.0 California Environmental Quality Act

The California Environmental Quality Act (CEQA) applies to discretionary projects that may cause a direct or indirect physical change in the environment. (Pub. Resources Code, §§ 21000 et seq.) When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of CEQA. The State Water Board determined that the Project is categorically exempt

⁶ The Construction General Permit is available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html. Last accessed on May 30, 2024

⁷ The Dredge or Fill Procedures and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed on April 10, 2024.

⁸ Resolution No. 2021-0012 is available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wrapp/rs2021_0012.pdf. Accessed on April 10, 2024.

from CEQA under Class 1 (Existing Facilities) and Class 2 (Replacement or Reconstruction). (Cal. Code Regs, tit. 14, §§ 15301, 15302.) No exceptions to the applicable exemptions apply. The State Water Board will file a Notice of Exemption with the State Clearinghouse within five working days of issuing this certification.

5.0 Rationale for Water Quality Certification Conditions

This section of the certification explains that the grant of certification, as conditioned, is warranted and why the conditions in Section 7.0 are necessary to ensure that the Project and its discharges will comply with water quality requirements. This section also includes, as necessary, citations to federal, state, or tribal laws that authorize the conditions and sets forth citations to applicable regulatory authority. Section 3.0 also sets forth citations to applicable regulatory authority. The explanation and citations should be evaluated in the context of the certification as a whole, but the certification conditions are set forth only in Section 7.0.

As explained in this section, the conditions in this certification are generally required pursuant to the SR/SJR Basin Plan, as described in Section 3.2, Water Quality Control Plans and Related Authorities.

California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth information that must be included in certification requests, and section 3860 sets forth standard conditions that shall be included in all certification actions. Authorization under this certification is granted based on the description and information in the application submitted. An applicant is required to detail the scope of Project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h).

Water Code sections 13267 and 13383 authorize the Water Boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste to navigable waters. Water Code section 1051 additionally authorizes the State Water Board to investigate waters diverted for beneficial use.

Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Section 5937 and requirements to maintain or monitor flow or other water quality characteristics as required to meet section 5937 are appropriate conditions of state law necessary to protect fishery beneficial uses.

In general, the code citations, plans, and policies that support issuance of this certification that are described in Section 3.0 are not duplicated in this section. The conditions in this certification were developed to ensure compliance with water quality standards and water quality requirements established under the Porter-Cologne Water Quality Control Act and the federal Clean Water Act, including requirements in applicable water quality control plans, and other appropriate requirements of state law. The conditions in Section 7.0 of this certification are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

When preparing the conditions in this certification, State Water Board staff reviewed and considered the following information:

- PG&E's December 29, 2023 certification application (PG&E 2023) including its attachments;
- Beneficial uses, water quality objectives, and implementation measures and programs described in the SR/SJR Basin Plan (Central Valley Regional Water Board 2019);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the Bay-Delta Plan (State Water Board 2018);
- Comments on the application for water quality certification provided by the Central Valley Regional Water Board;
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs;
- Project-related controllable factors; and
- Other information in the record.

This certification is issued pursuant to the final 2023 Clean Water Act Section 401 Water Quality Certification Rule (Fed. Reg. 66558-66666 (September 27, 2023) [amending 40 C.F.R. Parts 121, 122, 124]) that went into effect on November 27, 2023 (2023 Rule), but also complies with the previous USEPA's Clean Water Act Section 401 Certification Rule, 85 Fed. Reg. 42,210 (July 13, 2020) (2020 Rule) that was in effect for portions of 2020-2023 should it reemerge as a result of litigation or any other reason. To the extent FERC or the USACE considers any certification condition to include requirements outside the substantive scope of the 2020 Rule, the 2020 Rule—including but not limited to 40 C.F.R. §§ 121.1(f) and (n), 121.3, 121.7(d)(1), and 121.9(b)—is inconsistent with federal law and controlling case law. The 2023 Rule restores the scope of certification “that is consistent with not only the statutory language and congressional intent but also longstanding [USEPA] guidance and decades of Supreme Court case law.” (Fed. Reg. 65591-66606 [Scope of Certification].) Under section 401 of the Clean Water Act, when an activity requiring a federal permit or license “may result in any discharge into the navigable waters,” the applicant is required to obtain a certification that states the activity will comply with applicable water quality standards and that also sets forth any “limitations” and “monitoring requirements” necessary to assure that the “applicant” will comply with water quality standards and “any other appropriate requirement of State law.” (33 U.S.C. § 1341(a) & (d).) Certification is required for such activity as a whole, not merely for its point-source discharges to waters of the United States. (PUD No. 1, *supra*, 511 U.S. at pp. 711- 712.) USEPA replaced the 2020 Rule because, among other faults, it “may prevent state and tribal authorities from adequately protecting their water quality,” “may result in a state or tribe’s certification or conditions being permanently waived as a result of non-substantive and easily fixed procedural concerns,” and “may limit the flexibility of certifications and permits to adapt to changing circumstances.” (86 Fed. Reg. 29,543-29,544 (June 2, 2021).) As explained in this certification, each certification condition is authorized by applicable state and federal law and is necessary to ensure compliance with such laws. This paragraph is hereby incorporated as part of the explanatory statement for each condition of this certification.

5.1 Rationale for Condition 1: Project Activities

As described in Section 5.0, this certification is granted based on the application and supporting information submitted, in accordance with the State Water Board's regulations and subject to requirements of the Porter-Cologne Water Quality Control Act. Condition 1 requires PG&E to implement the Project as described in its December 29, 2023, certification application and as modified by conditions of this certification. Condition 1 will help ensure that the Project is implemented in a manner that protects water quality and avoids unreasonable impacts to beneficial uses. Any changes to the Project description that are inconsistent with the Project application and supplemental information provided to the State Water Board prior to certification issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new certification application as well as trigger additional environmental review.

Additionally, Condition 1 requires PG&E to maintain minimum instream flows (MIFs), as required by the Helms Pumped Storage Project's FERC license, as reduced MIF releases have the potential to impact water quality and associated beneficial uses of Courtright Reservoir and Helms Creek, as identified in the SR/SJR Basin Plan. Beneficial uses that may be impacted by reduced flow releases include, but are not limited to: hydropower generation; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened, or endangered species; spawning, reproduction, and/or early development; and freshwater replenishment. MIF discharges directly impact water quality and associated beneficial uses. Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Maintaining MIFs ensures protection of water quality and aquatic resources throughout Project implementation.

5.2 Rationale for Condition 2: Dewatering and Water Quality Monitoring

Project activities, including drawdown of Courtright Reservoir, could impact the beneficial uses of the reservoir and Helms Creek. Water quality monitoring during Project implementation will inform corrective actions in response to Project activities, if necessary.

As part of its certification application, PG&E provided a Draft Water Quality Monitoring Plan to describe the dewatering process and water quality protection measures that will be implemented during Project activities. PG&E's proposed plan lacked sufficient detail to ensure the Project would be protective of beneficial uses.

Condition 2 requires PG&E to develop a comprehensive dewatering and water quality monitoring plan to ensure compliance with applicable water quality objectives of the SR/SJR Basin Plan. Monitoring requirements of Condition 2 are consistent with the Water Boards' authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383.

Project activities that may impact water quality, specifically turbidity, dissolved oxygen, temperature, and pH, include, but are not limited to: (1) drawdown and dewatering of Courtright Reservoir; (2) refurbishment of existing access roads, laydown areas, and crane pad; (3) dredging activities within Courtright Reservoir's ordinary high water mark; and (4) installation of new concrete structures within Courtright Reservoir's ordinary high water mark. These activities have the potential to impact water quality and violate the SR/SJR Basin Plan's water quality objectives.

Beneficial uses of Courtright Reservoir and Helms Creek that would be impacted by elevated turbidity, reduced dissolved oxygen, elevated temperatures, and pH swings include, but are not limited to: warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened, or endangered species; and spawning, reproduction, and/or early development.

Additionally, Condition 2 requires reporting. Reporting requirements of Condition 2 are consistent with the Water Boards' authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. The reporting requirements of Condition 2 are necessary to ensure the Project does not impact water quality and associated beneficial uses.

5.3 Rationale for Condition 3: Erosion, Sediment, and Hazardous Control Measures

Condition 3 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

Erosion and sedimentation can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to eliminate or limit such discharges to protect water quality and associated beneficial uses. Project activities that have the potential to cause erosion and increased turbidity in Helms Creek include: drawdown and dewatering of Courtright Reservoir, using the fish release valve for supplemental flows, excavation of soils along the concrete encasement duct bank, refurbishment and use of access roads, and construction activities such as replacement of intake/discharge gate equipment. Increases in erosion and sedimentation can violate water quality objectives (e.g., turbidity) and adversely impact beneficial uses.

The Project involves replacing the intake/discharge gates, installation of new concrete encased hydraulic lines, sensors, conduits, and air vent lines, as well as refurbishment of existing access roads, laydown areas, and crane pad, using equipment that will require refueling and servicing. Site management requires development and implementation of best management practices to prevent, minimize, and/or clean up construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to surface water in violation of water quality standards, including the toxicity and floating material water quality objectives. Secondary containment around hazardous materials storage sites helps ensure that any leaks or spills of hazardous materials do not result in a discharge to surface waters.

The SR/SJR 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, “detrimental physiological responses in human, plant, animal, or aquatic life,” or “result in a visible film or coating on the surface of the water or on objects in the water” (Central Valley Regional Water Board 2019).

Beneficial uses of Courtright Reservoir and Helms Creek that may be impacted by erosion, sediment, or hazardous material discharges associated with the Project include: warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened, or endangered species; spawning, reproduction, and/or early development; and freshwater replenishment.

Condition 3 requires PG&E to comply with the Construction General Permit and develop and implement a Deputy Director-approved Storm Water Pollution Prevention Plan (SWPPP) to address the potential for hazardous materials, erosion, and sediment transport resulting from Project activities.

5.4 Rationale for Condition 4: Completion Report

Condition 4 requires PG&E to submit a Completion Report to the Deputy Director following Project completion to document compliance with the certification requirements. The Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation.

5.5 Rationale for Conditions 5 through 23

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions.

Condition 5 is necessary to comply with Water Code section 13167 and Conditions 6 through 9 contain important clarifications concerning the scope and legal effect of this certification, as well as other legal requirements that may apply to the Project.

Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, Condition 5 requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

Pursuant to the California Endangered Species Act (Fish & G. Code, §§ 2050 et seq.) and federal Endangered Species Act (16 U.S.C. §§ 1531 et seq.), Condition 6 of the certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species. An applicant for certification is required to identify other licenses, permits, and agreements in the application. In the event an applicant for

certification needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the applicant provide copies of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.” To help ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law, Condition 7 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply, including the state and federal Endangered Species Acts (Condition 6).

Water Code section 13160, subdivision (b)(1), allows the State Water Board to issue a certification when there is “reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements” of state and federal law. To help ensure the integrity of the certification process and its focus on the protection of water quality and compliance with other applicable state requirements, Condition 7 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply. Because agency organization and authorities change over time, Condition 8 provides direction for continuity of oversight in the event an agency’s authority or responsibility is transferred to or subsumed by another agency.

The State Water Board is responsible for the water rights, water quality, and drinking water functions of the California state government. (Wat. Code, § 174.) Certain certifications involve an appropriation of water subject to part 2 of division 2 of the Water Code or the diversion of water for certain beneficial uses. (See, e.g., Cal. Code Regs., tit. 23, § 3855, subd. (b)(1)(A).) Condition 9 explains the State Water Board’s issuance of this certification is not adjudicating or approving the validity of water rights that may be related to the Project. It also recognizes the State Water Board’s authority, independent of its water quality authority, to prevent unauthorized or threatened unauthorized diversions of water. This helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the certification, the certification does not constitute, or excuse the applicant from obtaining any other State Water Board approvals required for the activity.

Conditions 10 and 11 are necessary to assure that any discharge authorized under the certification will comply with water quality requirements. These conditions are included to comply with California Code of Regulations, title 23, section 3860, which sets forth conditions that must be included in all certifications. Condition 10 is a standard condition that “shall be included as conditions of all certification actions” pursuant to California Code of Regulations, title 23, section 3860, subdivision (a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review. Condition 11 is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification’s application and ensures that any applicant for a federal license or permit, which may result in a discharge into navigable waters, is subject to the appropriate

State certification. Condition 12 is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, title 23, section 3833(b), which requires payment of fees by project proponents applying for certification. Fees are essential to support the Water Boards certification program, which includes the development of certifications and related inspections to ensure the protection of water quality and beneficial uses that may be impacted by a project.

Conditions 13 through 23 are necessary to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law, 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.

This certification requires monitoring, reporting, and analysis as important elements to ensure that Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 13, 14, and 15 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of changed conditions to ensure compliance and prevent violations of water quality standards. In the event of non-compliance, modified conditions may be necessary to return the Project to compliance and prevent violation of water quality standards. Conditions 16 and 17 require the applicant to comply with the SR/SJR Basin Plan and to take all reasonable measures to protect water quality and beneficial uses, in accordance with plans adopted pursuant to state and federal water laws. Water Code section 13267 authorizes the State Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state. Condition 18 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 19, related to site access requirements, is authorized pursuant to the Water Boards’ authority to investigate the quality of any waters of the state, including specific site access authorized under Water Code section 13267 and 13383. Site access is needed to ensure compliance with the certification and associated protection of water quality and beneficial uses. Condition 20 requires site personnel and agencies to be familiar with the content of the certification and availability of the document at the Project site. This condition is required to assure that site personnel are familiar with the conditions needed to protect water quality and any authorized discharge will comply with the terms and conditions of this certification, which requires compliance with water quality objectives and beneficial uses adopted or approved under sections 13170 or 13245 of the Water Code, and with other appropriate requirements of state law.

Condition 21 requires use of analytical methods approved by California’s Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 22 provides that the State Water Board will provide notice and an opportunity to be heard in exercising its authority to add or modify certification conditions.

In the event that any provision of this certification is found invalid, Condition 23 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

6.0 Conclusion

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

7.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that implementation of the Courtright Intake/Discharge Gate, Cylinder, and Piping Improvements Project (Project) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, under the following terms and conditions.

CONDITION 1: Project Activities

Unless otherwise modified by conditions of this water quality certification (certification) or approved by the Deputy Director of the Division of Water Rights (Deputy Director), Pacific Gas and Electric Company (PG&E or Applicant) shall implement the Project as described in PG&E's December 29, 2023, certification application including the Aquatic Resources Delineation, Water Quality Monitoring Plan, and Project Description documents attached as part of the application, and as modified by the certification. The conditions of this certification require updates and Deputy Director approval of documents submitted as part of the certification application. The Applicant shall implement any modifications to the original plans after receiving Deputy Director and any other necessary approvals. As described in its certification application, the Applicant shall comply with all minimum instream flow requirements below Courtright Reservoir as prescribed in the Federal Energy Regulatory Commission (FERC) license for the Helms Pumped Storage Project (FERC Project No. 2735) throughout Project implementation.

At least five days prior to starting Project activities, the Applicant shall notify the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) and State Water Resources Control Board (State Water Board) staff that Project activities are anticipated to begin and provide a description of the anticipated schedule for the Project.

CONDITION 2: Dewatering and Water Quality Monitoring

The Applicant shall develop and submit a Dewatering and Water Quality Monitoring Plan (Dewatering/Monitoring Plan) to the Deputy Director for review and consideration of approval. The Dewatering/Monitoring Plan shall be submitted to the Deputy Director a minimum of 30 days prior to commencement of Project dewatering activities unless another timeline is approved by the Deputy Director. The Deputy Director may require modifications as part of any approval.

The Dewatering/Monitoring Plan shall include procedures for dewatering and diversion, including appropriate best management practices (BMPs) that will be implemented to protect water quality and beneficial uses, including maintaining required instream flows (Condition 1). No discharges or dewatering activities shall occur without appropriate BMPs and monitoring equipment in place. The Applicant shall develop the Dewatering/Monitoring Plan in consultation with State Water Board, California Department of Fish and Wildlife (CDFW), and Central Valley Regional Water Board staff. At a minimum, the Dewatering/Monitoring Plan shall include:

- Monitoring parameters. During drawdown and dewatering activities, the Applicant shall monitor for turbidity, temperature, and dissolved oxygen. During concrete work activities below the ordinary high-water mark, the Applicant shall monitor for pH, turbidity, temperature, and dissolved oxygen. The frequency of monitoring for these parameters shall be included in the plan.
- Description of measures, if needed, that will be implemented to avoid potential water quality and aquatic resource impacts. Such measures may include energy dissipating features at diversion outlets to prevent erosion.
- Actions that will be implemented to ensure discharges associated with dewatering and water diversion will not exceed water quality objectives, as defined in the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (SR/SJR Basin Plan) (Central Valley Regional Water Board 2019 and any amendments thereto).
- Description of the locations, equipment, frequency, methods, quality assurance/quality control process, and reporting for water quality monitoring that will be implemented, including the provisions outlined below for monitoring, reporting exceedances, monitoring reports, and water quality objectives.
- Documentation of consultation with Central Valley Regional Water Board, CDFW, and State Water Board staff, including comments and recommendations made in connection with the plan, and a description of how the plan incorporates or addresses the comments and recommendations.

Water Quality Monitoring. Water quality monitoring shall be performed as described in this condition unless otherwise approved by the Deputy Director. The Applicant shall monitor water quality during in-water and water-adjacent work with the potential to result in a discharge to surface waters, which includes, but is not limited to dewatering activities and concrete work. At a minimum, water quality monitoring shall be performed during dewatering of Courtright Reservoir and any work within the ordinary high-water mark with the potential to impact water quality. At a minimum, monitoring shall be conducted using an automated sensor system for turbidity, pH, dissolved oxygen, and temperature. Additionally, the Applicant shall monitor for visible construction-related pollutants (e.g., oils, greases, fuels) throughout the Project's activities. For determining SR/SJR Basin Plan compliance with turbidity, appropriate averaging periods may be applied (e.g., an instantaneous reading showing an exceedance may not constitute a SR/SJR Basin Plan exceedance when averaged consistent with an approved Dewatering/Monitoring Plan).

Reporting Exceedances. The 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 a turbidity, dissolved oxygen, pH, temperature, or other exceedance of SR/SJR Basin Plan water quality objectives. The notice shall include the cause of the violation, measures taken to correct the violation, and measures the Applicant will implement to prevent future violations. Regardless of when such notification occurs, activities associated with the SR/SJR Basin Plan exceedance shall cease immediately upon detection of the exceedance. Work activities may resume after any appropriate corrective actions have been implemented, water quality meets the applicable SR/SJR Basin Plan water quality objective(s), and the Deputy Director has provided approval to proceed. The Deputy Director may require additional actions to help prevent similar exceedances in the future.

Monitoring Reports. Every 60 days following initiation of Project activities and throughout the term of the Project, the Applicant shall submit water quality monitoring reports to the Deputy Director. Monitoring reports shall include: (1) monitoring results including raw data; (2) a description of monitoring methods, including equipment, frequency of data collection, and quality assurance/quality control protocols implemented; and (3) description of any water quality exceedances or information necessary to understand to results. If determined necessary by the Deputy Director, the Applicant shall consult with State Water Board staff regarding the need for additional site-specific measures to protect water quality.

Water Quality Objectives. Project activities shall comply with the SR/SJR Basin Plan water quality objectives, including those listed below.

Turbidity. Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to controllable water quality factors shall not exceed the following limits:

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

In determining compliance with the above limits, an appropriate averaging period, not to exceed 24 hours, may be applied, provided that beneficial uses will be fully protected.

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

Temperature. The Applicant shall not allow temperature to rise more than 5° Fahrenheit above natural receiving water temperature.

Dissolved Oxygen. The Applicant shall not allow dissolved oxygen to fall below 7.0 milligrams per liter.

The Applicant shall not commence Project dewatering or diversion without receipt of Deputy Director approval of the Dewatering/Monitoring Plan. The Applicant shall implement the Dewatering/Monitoring Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Upon approval, the Applicant shall submit the Deputy Director-approved Dewatering/Monitoring Plan to the United States Army Corps of Engineers. Any changes to the Deputy Director-approved Dewatering/Monitoring Plan shall be subsequently approved by the Deputy Director prior to implementation. The Deputy Director may require modifications as part of any approval.

CONDITION 3: Erosion, Sediment, and Hazardous Materials Control Measures

The Applicant shall comply with the *National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit; State Water Board 2022) and any amendments thereto. If there is any conflict between the conditions of this certification and applicable conditions in the Construction General Permit, the more stringent shall apply.

The Applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the Deputy Director for review and consideration of approval a minimum of 30 days prior to commencement of Project activities unless another timeline is approved by the Deputy Director. The Deputy Director may require modifications as part of any approval. At a minimum, the SWPPP shall include the following:

- Project description and map with an assessment of all areas of construction activity and potential construction pollutant sources that are likely to occur at the construction site and a description of each BMP that will be implemented at the construction site. BMPs should be included to minimize or eliminate the exposure of stormwater to construction materials, equipment, vehicles, waste storage areas, and service areas, as well as to minimize the exposure of stormwater to contaminated soil or toxic materials.
- A schedule for the implementation and maintenance of erosion control measures and a description of the erosion control practices, including appropriate design details.
- Description of BMPs (both preventative and responsive) for addressing hazardous and non-hazardous waste and spills. The Applicant shall have on-site spill response materials throughout Project implementation. At a minimum, hazardous materials spill kits shall be clearly marked and maintained onsite adjacent to all work areas, in staging areas, and in vehicles for small spills. These kits shall include oil-absorbent material and tarps to contain and control any minor releases.
- During construction, stockpiling of construction materials, portable equipment, vehicles, and supplies shall be restricted to designated construction staging areas that shall be located outside of wetlands, surface waters, and riparian habitat. Further, equipment and materials shall be stored in existing disturbed parking areas or at least 100 feet away from waterways.
- In areas prone to run-off, inundation, and/or erosion, structures such as riprap, culverts, or retaining walls may be necessary to protect water quality. Where necessary, the Applicant shall install sediment basins or silt fences to prevent sediment runoff into streams or waterbodies that may result in impacts to water quality and aquatic habitat.
- Overwintering preparation: If construction requires multiple seasons, at the end of each construction season, the work area shall be prepared for overwintering. All construction equipment shall be removed from the site, unless stored at a Helms Pumped Storage Project facility.
- Hazardous materials, including petroleum-based materials, shall not be stored in or near a floodplain.

- Vehicle refueling and maintenance shall be conducted at locations at least 100 feet away from Helms Creek, Courtright Reservoir, and in locations that include spill containment measures.
- All staff and personnel of contractors and subcontractors shall receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws and regulations, including hazardous materials.
- All containment structures shall comply with California Code of Regulations, title 27, section 20320. When not in use, hazardous materials shall be stored away from any watercourse.
- If Project-related hazardous materials are released, appropriate spill response procedures shall be initiated as soon as the incident is discovered. Actions that shall be taken, as applicable, include that any water contaminated by hazardous materials shall be stored in structures compliant with California Code of Regulations, title 27, section 20320, and/or disposed of properly off-site in a manner that does not impair water quality. In addition, the Deputy Director, Executive Officer, and other relevant agencies shall be notified within 24 hours of hazardous materials reaching surface waters. Notification shall include the spill's magnitude, nature, time, date, and location, as well as any actions being taken to control the spill and restore the affected area.

Unless otherwise approved by the Deputy Director, the Applicant shall not commence onsite Project work without receipt of Deputy Director approval of the SWPPP. The Applicant shall implement the SWPPP upon receipt of Deputy Director and any other required approvals. Upon approval, the Applicant shall submit the Deputy Director-approved SWPPP to the United States Army Corps of Engineers. Any changes to the Deputy Director-approved SWPPP shall be subsequently approved by the Deputy Director prior to implementation. The Deputy Director may require modifications as part of any approval.

CONDITION 4: Completion Report

Within 60 days of Project completion, the Applicant shall provide the Deputy Director with a Completion Report that comprehensively summarizes:

- Project activities performed;
- Compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Details of any incident of unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces entering surface waters, including information on the location and clean up actions taken;
- Final inspection information with details to ensure the Project area cleanup was satisfactorily completed;
- Details of any BMP inadequacies found during Project implementation; and
- Details of Project-related adverse impacts to beneficial uses, if applicable.

The Deputy Director may require the Applicant to implement corrective actions in response to the information provided in the Completion Report. The Applicant shall provide any additional information or clarification requested by the Deputy Director

related to the Completion Report. Upon request from State Water Board staff, the Applicant shall meet with staff to discuss the Completion Report.

CONDITIONS 5 – 23

CONDITION 5. 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 6. 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 7. 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 8. 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 9. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 or riparian 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 10. This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 11. 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 12. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 13. Notwithstanding any more specific provision of this certification, any plan or report 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. Notwithstanding any other condition of this certification, 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 15 days prior to the deadline. The Applicant shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 14. In the event of any violation or threatened violation of the conditions of this certification, including if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses, 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 or threatened violation of the conditions of this certification, the Applicant shall, by a deadline required by the Deputy Director, submit a plan that documents why the violation occurred and steps the Applicant will implement to address the violation. The Applicant shall implement the plan upon approval from the Deputy Director, and the Deputy Director may require modifications as part of any approval.

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. This certification is contingent on compliance with all applicable requirements of the SR/SJR Basin Plan.

CONDITION 17. Unless otherwise specified by conditions in this certification, Project activities shall be conducted 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 Clean Water Act. The Applicant shall take all reasonable measures to protect the beneficial uses of waters of the state, including Helms Creek and Courtright Reservoir.

CONDITION 18. 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 19. 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 Project sites to document compliance with this certification.

CONDITION 20. 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 21. The Applicant shall use analytical methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Laboratory Accreditation Program-certified laboratories.

CONDITION 22. 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 23. Certification that the Project will be protective of the state and federal water quality standards and other appropriate requirements of state law is dependent upon the conditions and limitations imposed by this certification; however, to ensure the validity of this certification upon any challenge that is not addressed by another condition of this certification, the provisions of this certification are severable. Upon remand from determination on administrative or judicial review that a provision of this certification is invalid or affects the validity of the certification the State Water Board may adopt an alternative term that addresses the water quality issue while avoiding the invalidity.



Eric Oppenheimer
Executive Director

July 3, 2024
Date

8.0 References

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ATTACHMENT A:

PROJECT OVERVIEW MAPS

**WATER QUALITY CERTIFICATION
FOR
COURTRIGHT INTAKE/DISCHARGE GATE, CYLINDER, AND PIPING
IMPROVEMENTS PROJECT**

Courtright Intake/Discharge Gate, Cylinder, and Piping Improvements Project
Water Quality Certification
July 2024

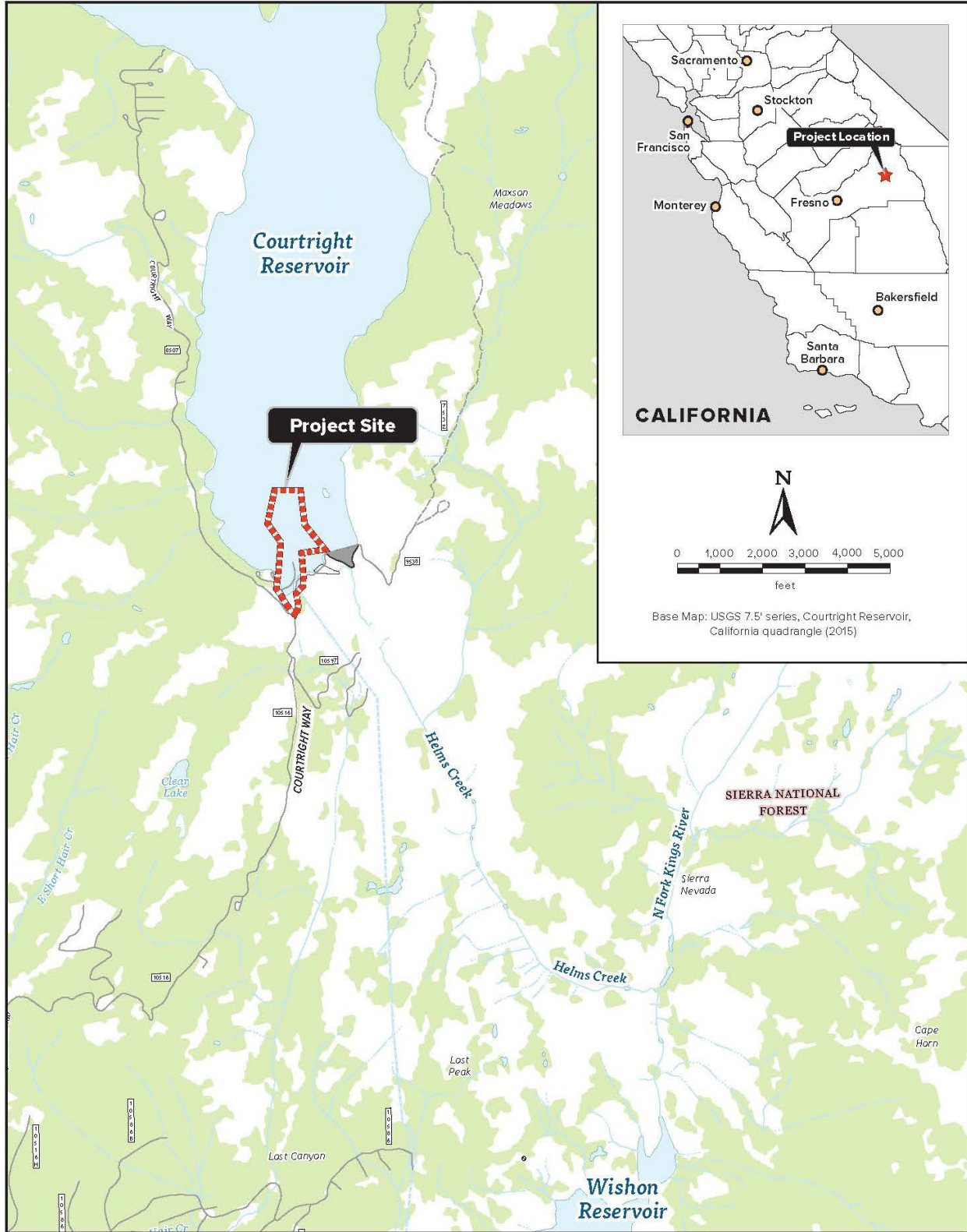


Figure A1. Courtright Intake/Discharge Gate, Cylinder, and Piping Improvements Project Location (PG&E 2023)

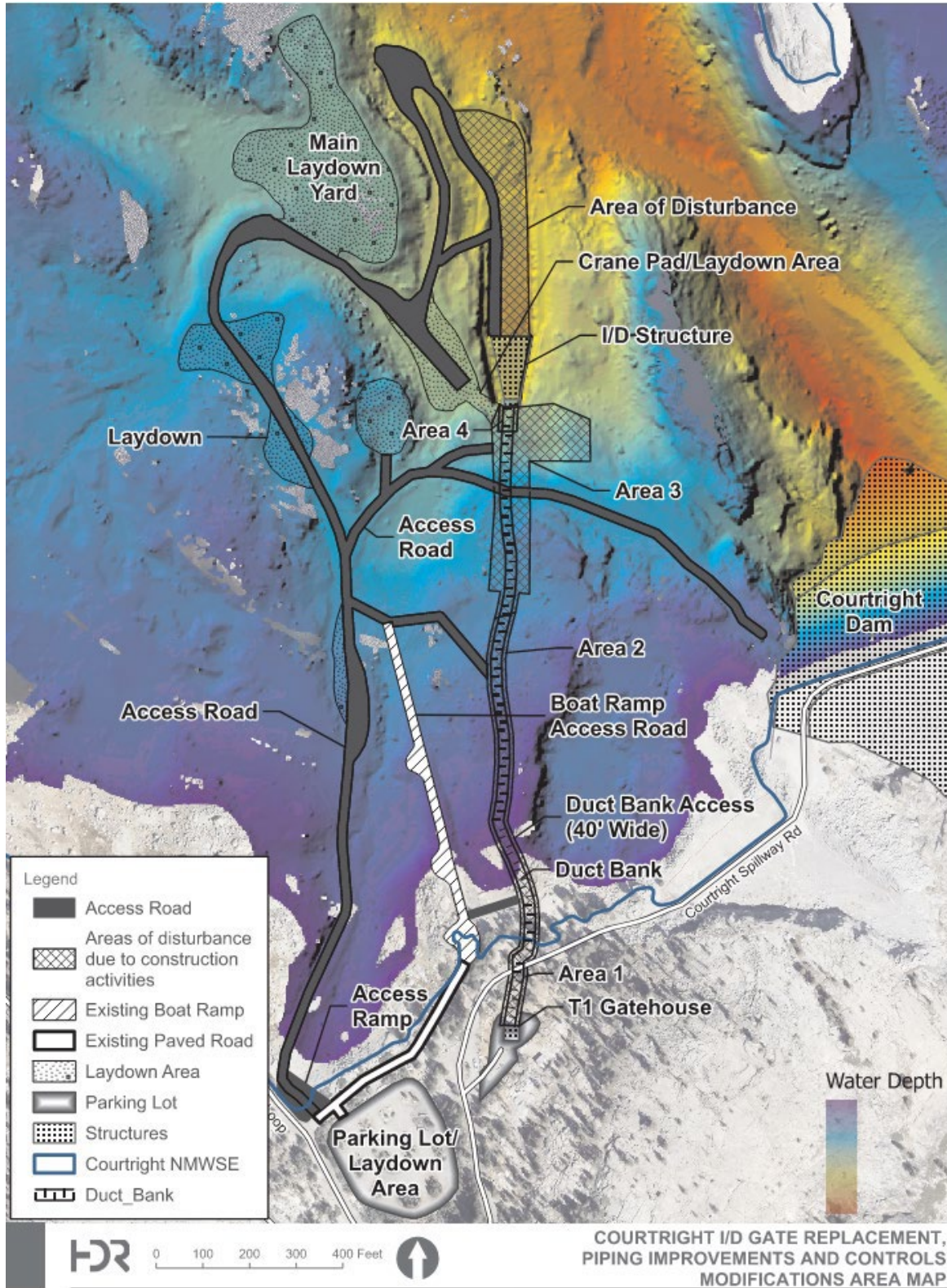


Figure A2. Courtright Intake/Discharge Gate, Cylinder, and Piping Improvements Project Overview (PG&E 2023)