STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

STS HYDROPOWER, LLC'S
REMOVAL AND DECOMMISSIONING OF THE KANAKA POWERHOUSE FOR THE KANAKA HYDROELECTRIC PROJECT LICENSE SURRENDER

FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 7242

Source: **Sucker Run Creek**

County: **Butte**

FINAL WATER QUALITY CERTIFICATION
FOR FEDERAL PERMIT OR LICENSE

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Abbreviations

Antidegradation Policy	*Statement of Policy with Respect to Maintaining High Quality Waters in California*
Bay-Delta Plan	*Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed*
BMPs	*best management practices*
Central Valley Basin Plan	*Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin*
Central Valley Regional Water Board	*Central Valley Regional Water Quality Control Board*
CEQA	*California Environmental Quality Act*
certification	*water quality certification*
cfs	*cubic feet per second*
Construction General Permit	*General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*
Deputy Director	*Deputy Director of the Division of Water Rights*
Dredge or Fill Procedures	*State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*
ESA	*Endangered Species Act*
Executive Officer	*Executive Officer of the Central Valley Regional Water Quality Control Board*
FERC	*Federal Energy Regulatory Commission*
Hydroelectric Project	*Kanaka Hydroelectric Project*
IS/MND	*Initial Study/Mitigated Negative Declaration*
Licensee	*STS Hydropower, LLC*
MMRP	*Mitigation Monitoring and Reporting Program*
NPDES	*National Pollutant Discharge Elimination System*
NTU	*Nephelometric Turbidity Unit*
Project	*Removal and Decommissioning of the Kanaka Hydroelectric Project License Surrender*
Regional Water Boards	*Regional Water Quality Control Boards*
State Water Board	*State Water Resources Control Board*
STS	STS Hydropower, LLC
USACE	*United States Army Corps of Engineers*
USEPA	*United States Environmental Protection Agency*
Water Boards	*State Water Resources Control Board and Regional Water Quality Control Boards, collectively*
WQMPP	*water quality monitoring and protection plans*

1.0 Project Description

STS Hydropower, LLC (STS or Licensee) owns the Kanaka Hydroelectric Project (Hydroelectric Project), also known as Federal Energy Regulatory Commission (FERC) Project No. 7242. The Hydroelectric Project is located on private property on Sucker Run Creek in Butte County, approximately 15 miles east from Oroville, and three miles northwest of the census designated place of Forbestown, California. Sucker Run Creek is a tributary to the South Fork Feather River that flows into Lake Oroville.

In August 2017, the Ponderosa Fire burned approximately 4,000 acres of land and severely damaged the Hydroelectric Project's powerhouse building and ancillary facilities. As a result of the fire, the Hydroelectric Project ceased power generation. STS is proposing the Removal and Decommissioning of the Kanaka Powerhouse for the Kanaka Hydroelectric Project License Surrender (Project) to decommission the Hydroelectric Project and surrender its FERC license.

The Hydroelectric Project currently consists of: (1) Kanaka Diversion Dam (which is privately owned by the current landowner) that is approximately 12-foot-high and 36-foot-long and equipped with a flashboard gate spillway, low-level outlet, 16-inch-diameter bypass gate, and a screened intake that, when operating, would divert up to 30 cubic feet per second (cfs) to a wet well and a 5,669-foot-long penstock that was used for power generation; (2) a 3-foot-high by 8-foot-wide monitoring weir located approximately 80 feet downstream of the diversion dam; (3) a 35-foot by 38-foot Kanaka Powerhouse with a 28-foot-long tailrace that when operating, discharged flow back to Sucker Run Creek; and (4) appurtenant facilities. When operational, Kanaka Diversion Dam entrained 0.23 acre-feet of water and the powerhouse generated up to 1.12 megawatts.

As part of the Project, STS is proposing to: (1) remove the former Kanaka Powerhouse and substation structures and regrade the site to match surrounding contours; (2) install a concrete plug in the screened intake pipe, permanently inhibiting water diversions to the penstock; (3) cut and cap the lower end of the penstock and install a concrete plug to permanently disconnect the penstock from the powerhouse and abandon-in-place the penstock; (4) install a sand and gravel plug in the penstock wet well to stop water collection (5) fill and grade the tailrace with native material to abandon it in place; (6) abandon-in-place the Kanaka Diversion Dam; and (7) rehabilitate an existing unnamed access road by removing vegetation to provide access for the decommissioning of the Hydroelectric Project. Following Project implementation, the road will remain in place.

Once decommissioned, the Kanka Diversion Dam will become the responsibility of the private landowner and natural stream flows will either overtop the diversion dam or flow through the dam's low-level outlet and bypass gate. Project construction is anticipated to take approximately 10 weeks and is anticipated to occur between August to September. Project maps and schematics can be found in *Attachment A: Project Overview Figures*.

2.0 Water Rights

Table A below lists the water right claims related to the Hydroelectric Project.

Table A. Hydroelectric Project Water Rights

Water Right ID	Source	Place of Storage or Diversion	Purpose of Use
E000022	Sucker Run Creek	Point of Direct Diversion at Sucker Run Creek	Power

* Information is from the State Water Resources Control Board's (State Water Board's) electronic Water Rights Information Management System.

3.0 Federal Energy Regulatory Commission and United States Army Corps of Engineers Proceedings

FERC issued a 50-year license for the Hydroelectric Project on August 15, 1985. In letters to FERC dated May 20, 2020, and December 17, 2020, STS states that it did not intend to maintain the Hydroelectric Project due to the Project not being operational as a result of the Ponderosa Fire. On September 30, 2022, STS filed a license surrender application with FERC proposing to surrender the Hydroelectric Project's FERC license and decommission portions of its infrastructure. STS provided FERC with supplemental information to its license surrender application on February 28, 2023.

On March 4, 2024, the United States Army Corps of Engineers (USACE) issued a letter of concurrence that agreed with the aquatic resource delineation STS provided on February 13, 2024 (USACE 2024).

This certification pertains to the Project's FERC license surrender action and does not cover a USACE Clean Water Act section 404 permit as no certification application associated with a USACE permit has been submitted to the State Water Board. If, at a future time, STS applies to the State Water Board for a certification associated with a USACE permit application pursuant to Clean Water Act section 404 in relation to the Project, the State Water Board may consider the applicability of this certification.

4.0 Regulatory Authority

4.1 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).

4.1.1 Procedure, Application, and Noticing

On May 12, 2023, STS filed a certification application for the Project with the State Water Board under section 401 of the Clean Water Act. On April 23, 2024, the State Water Board denied STS's certification application for the Project without prejudice for lack of sufficient information to determine that the Project would comply with water quality requirements. On August 28, 2024, STS submitted a letter to the State Water Board and FERC with a schedule noting when STS would provide additional water quality information addressing the State Water Board's April 2024 denial without prejudice of a certification for the Project

On July 15, 2024, STS filed a new certification application for the Project with the State Water Board under section 401 of the Clean Water Act. On August 14, 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 March 1, 2025, STS filed the *Kanaka Hydroelectric Project License Surrender (FERC P-7242) Revised Water Quality Certification Application Supplement Field Assessment and Proposed Recommendations* with FERC and the State Water Board to supplement its July 15, 2024, Project certification application. The assessment was developed to address the insufficient information issues raised in the State Water Board's April 23, 2024 denial of the previous request for certification of the Project. STS provided an analysis of field inspections that it performed over several months throughout 2024 and 2025 and its plans to address water quality during decommissioning of the Hydroelectric Project.

On June 10, 2025 State Water Board staff shared the certification application with the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board). No comments were received.

The State Water Board released a draft certification for the Project on June 19, 2025 for public review and comment. The public comment period closed on July 7, 2025. One comment letter was received from Save California Salmon. The State Water Board considered these comments in developing the final certification.

4.2 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 (Basin Plan) for the Sacramento River Basin and the San Joaquin River Basin* (Central Valley Basin Plan) (Central Valley Regional Water Board 2019) and the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (Bay-Delta Plan) (State Water Board 2018)[1].

Water quality control plans designate the beneficial uses of water that are to be protected (such as municipal and domestic supply, industrial, 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

[1] Based on the Project's limited scope, duration, and distance from the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, and the limited effect on water quality associated with water quality objectives listed for waterbodies in the Bay-Delta Plan are not anticipated to occur from Project activities.

developed to protect those uses, and antidegradation 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).

4.2.1 Central Valley Basin Plan

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the Central Valley Basin Plan. The Central Valley Basin Plan designates beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The Central Valley Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The Central Valley Basin Plan identifies existing beneficial uses for Lake Oroville (which includes Sucker Run Creek) as: power; contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

4.2.2 Antidegradation Policy

The State Water Board's *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy[2]; 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." (Id., § 131.12(a)(1).)

4.2.3 Construction General Permit

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 Permit)[2] (State Water Board 2022a) is required 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 must obtain coverage under the Construction General Permit. 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 Action 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.)

4.2.4 Comprehensive Plan

Section 10(a)(2)(A) of the Federal Power Act requires FERC to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by a project. In March 2019, the State Water Board submitted to FERC the plans and policies included in the state's comprehensive plan for orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state. On August 5, 2024, the State Water Board filed a comprehensive plan supplement to its March 2019 filing that included updated plans and policies for water quality protection. (State Water Board 2024a.) These submissions included the Central Valley Basin Plan, the Bay-Delta Plan, the Antidegradation Policy, and other applicable plans and policies for water quality control. FERC included these updates in its List of Comprehensive Plans in May 2025. (FERC 2025.)

4.3 State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters 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)[3] (State Water Board 2019 and 2021[4]) provide California's definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of

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[2] Water Quality Order No. 2009-0009-DWQ and NPDES No. CAS000002, as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, Order No. 2022-0057-DWQ, and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html Accessed on June 17, 2025.

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

[4] Resolution No. 2021-0012 is available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wrapp/rs2021_0012.pdf. Accessed on September 24, 2024.

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, consistent with Water Code, Division 7, Chapter 28, sections 16200-16201. STS must comply with the Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

4.4 Clean Water Act Section 303(d) Listing

On February 6, 2024, the State Water Board adopted the *2024 California Integrated Report for Clean Water Act Sections 303(d) and 305(b)*[5] (State Water Board 2024c), and USEPA issued a partial approval on December 13, 2024. Sucker Run Creek is listed for toxicity.

5.0 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 is the lead agency for the purposes of the Project's CEQA compliance. (Pub. Resources Code, § 21000 et seq; Cal. Code Regs., tit. 14, § 15000 et seq.).

On May 1, 2025, the State Water Board released a draft initial study and mitigated negative declaration (IS/MND) for public review and comment (State Water Board 2025a). The draft IS/MND public comment period ran from May 1 to June 2, 2025. During the public comment period, three comment letters were received from: (1) United Auburn Indian Community; (2) Save California Salmon, and (3) the Konkow Valley Band of Maidu Indians.

All comments received were considered in the development of the final IS/MND. The final IS/MND includes mitigation measures to avoid or substantially reduce significant environmental impacts of the Project to less than significant.

CEQA requires the lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) for projects where mitigation measures are a condition of project approval. (Pub. Resources Code, § 21081.6; Cal. Code Regs., tit. 14, § 15074, subd. (d).) The State Water Board included a MMRP in its final IS/MND. (Attachment B: Mitigation Monitoring and Reporting Program) Water quality protection measures and associated mitigation, monitoring, and reporting requirements are incorporated into the conditions of this certification in accordance with California Code of Regulations, title 23, section

[5] The 2024 Integrated Report is available at: https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html. Accessed on January 6, 2025.

3859, subdivision (a). Table B identifies resource areas in the State Water Board's purview for which the final IS/MND identified mitigation measures for potential impacts, and associated certification conditions with water quality protection, monitoring, or reporting requirements.

This certification has been informed by the environmental information and analysis contained in the final IS/MND for the Project and other information in the record. These documents and other materials that constitute the public record are located at the State Water Board, Division of Water Rights, 1001 I Street, Sacramento, California. The State Water Board will file a Notice of Determination with the Office of Planning and Research within five working days of issuance of this certification. (Cal. Code Regs., tit. 14, § 15094.)

In accordance with CEQA Guidelines section 15074, the State Water Board, through its Executive Director, considered the final IS/MND and finds that it represents the State Water Board's independent judgement and analysis and that there is no substantial evidence that the Project will have a significant effect on the environment. The State Water Board, through its Executive Director, has determined the final IS/MND, with incorporation of the MMRP, is adequate to support approval of the Project, and hereby adopts the final IS/MND.

Table B. Final IS/MND Mitigation Measures and Corresponding Certification Conditions

Mitigation Measure	Applicable Certification Condition(s)
Water Quality (WQ)-1 Dewatering and Water Quality Monitoring	Condition 2: Dewatering and Water Quality Protection
WQ-2 Best Management Practices and Storm Water Pollution Prevention Plan Development and Implementation	Condition 1: Project Activities and Condition 3: Erosion, Sediment, and Hazardous Materials Control Measures
WQ-3 Erosion, Sediment, and Hazardous Materials Control Measures	Condition 3: Erosion, Sediment, and Hazardous Materials Control Measures
WQ-4 Water Quality Monitoring and Protection Plan	Condition 3: Erosion, Sediment, and Hazardous Materials Control Measures
Biological Resources (BIO)-3 California Red-Legged Frog	Condition 4: Biological Resources
BIO-4 Foothill Yellow-Legged Frog	Condition 4: Biological Resources
BIO-5 Northwestern Pond Turtle	Condition 4: Biological Resources
BIO-7 Waterway Delineation	Condition 4: Biological Resources
BIO-8 Environmental Awareness Training	Condition 4: Biological Resources

6.0 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 8.0 are necessary to ensure that the Project activities 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 4.0 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 8.0.

As explained in this section, the conditions in this certification are generally required pursuant to the Central Valley Basin Plan, as described in Section 4.0, Regulatory Authority.

The Dredge or Fill Procedures, adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects subject to satisfaction of specified requirements. 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.

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. Moreover, this certification ensures continued monitoring, reporting, and assessment of water quality for discharges that may impact waters of the state.

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 4.0 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 8.0 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 and other applicable requirements of state law.

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

- STS's July 15, 2024, Project certification application (STS 2024a);
- State Water Boards April 23, 2024 denial without prejudice of STS's previous 2023 request for certification of the Project (State Water Board 2024b);
- STS's supplemental submissions clarifying and updating Project activities, maps, and plans (STS 2024b, STS 2025a, STS 2025b);
- STS's September 30, 2022 FERC License Surrender Application (STS 2022) and supplemental submission responding to a FERC additional information request (STS 2023b)
- State Water Board's final IS/MND and MMRP (State Water Board 2025b)
- Beneficial uses, water quality objectives, and implementation measures and programs described in the Central Valley Basin Plan;
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., Construction General Permit, Dredge or Fill Procedures, etc.);
- Project-related controllable factors (e.g., Project penstock leaks and associated erosion); and
- Other information in the record.

This certification is issued pursuant to the final 2023 Clean Water Act Section 401 Water Quality Certification Rule (88 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 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—including but not limited to 40 C.F.R. §§ 121.1(f) and (n), 121.3, 121.7(d)(1), and 121.9(b)—the 2020 Rule 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." (88 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 discharge 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.

6.1 Rationale for Condition 1: Project Activities

As described in Section 4.0, 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 STS to implement the Project as described in its July 15, 2024 water quality certification application (STS 2024a), as supplemented in its March 1, 2025 Field Assessment Report, and as modified by the 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 documents STS 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 an amendment or new application as well as trigger additional environmental review.

6.2 Rationale for Condition 2: Dewatering and Water Quality Protection

The Project involves dewatering and other in-water and water-adjacent work that may have direct impacts to water quality in Sucker Run Creek. Project activities that may impact water quality through dewatering and other in-water and water-adjacent work include: (1) removal of Kanaka Powerhouse; (2) abandonment-in-place of Kanaka Diversion Dam and the tailrace; (3) regrading the unnamed access road and parking pad; (4) sealing the penstock (which may require dewatering); and (5) culvert work that includes removing any accumulated soil and rock to prevent future blockage until site decommissioning is complete. Sealing the Kanaka penstock and abandonment of the Kanaka Diversion Dam in place involves filling the diversion pipe with approximately 60 inches of concrete and plugging the penstock wet well with a native mix of sand and gravel.

Water quality parameters that may be impacted by such activities include turbidity, dissolved oxygen, temperature, pH, and visual pollutants (e.g., oils, grease, fuels, turbidity plumes). As part of the CEQA process, State Water Board staff developed and STS agreed to implement Mitigation Measure Water Quality (WQ)-1, which involves STS developing and implementing a Dewatering and Water Quality Monitoring Plan. Consistent with WQ-1, Condition 2 requires STS to develop and implement a Dewatering and Water Quality Monitoring Plan with the addition of visual pollutant monitoring. 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.

Beneficial uses of Sucker Run Creek that may be impacted by the Project dewatering and in water and water adjacent work include: contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.3 Rationale for Condition 3: Erosion, Sediment, and Hazardous Materials 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, including removal of the powerhouse structure, filling and abandoning the tailrace in place, vegetation removal, stockpiling, fill and excavation work, rip rap placement, and other ground disturbing activities, have the potential to cause erosion and increased sedimentation in Sucker Run Creek. Increases in erosion and sedimentation can result in exceedances of water quality objectives (e.g., turbidity) and impacts to beneficial uses.

The Project involves construction using heavy equipment that will require refueling and servicing. Site management requires implementation of best management practices to prevent, minimize, and/or clean up construction spills, including 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 waters of the state.

As part of the CEQA process, the State Water Board identified, and STS agreed to implement WQ-2, -3, and -4. Condition 3 requires STS implement WQ-2, -3, and-4, which includes compliance with the Construction General Permit, implementation of erosion, sediment, and hazardous materials control measures, and, as necessary, development and implementation of approved water quality monitoring and protection plans for activities not otherwise covered by other certification conditions to ensure that the Project does not contribute to degradation of the waters of the state. Compliance with the Construction General Permit is required pursuant to Clean Water Act sections 301 and 402 that prohibit certain discharges of stormwater containing pollutants except in compliance with an NPDES permit. (33 U.S.C. §§ 1311, and 1342(p); 40 C.F.R. pts. 122, 123, and 124.)

Existing beneficial uses for Sucker Run Creek that may be impacted by erosion, sediment, or hazardous material discharges associated with the Project include: contact

recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.4 Rationale for Condition 4: Biological Resources

The Project involves the removal of the Kanaka powerhouse, filling and abandoning of the tailrace in place, filling the intake pipe with concrete, heavy equipment operation and refueling, ground disturbing activities and grading, and road and culvert repairs necessary to ensure proper functionality throughout the term of the Project. Project activities have the potential to impact species listed as threatened or endangered pursuant to the federal Endangered Species Act (ESA) and the California ESA, as well as species of special concern.

The Project area is potential habitat for California red-legged frog (Federal ESA-threatened), foothill yellow-legged frog (Federal ESA-endangered), and Northwestern pond turtle (Federal ESA-proposed threatened). Condition 4 requires measures to prevent or minimize impacts to these species and their potential habitat. These measures include preconstruction surveys by a qualified biologist, measures to delineate and avoid species habitat, worker environmental awareness training, and measures to implement if species are found in the Project area. Measures required by Condition 4 are consistent with Mitigation Measures for Biological Resources -3, -4, -5, -7, and 8, which are identified in the final IS/MND and agreed to by STS.

Beneficial uses of Sucker Run Creek that may be impacted by Project activities and result in impacts to listed species and their habitat include: warm freshwater habitat; cold freshwater habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.5 Rationale for Condition 5: Project Completion Report

Condition 5 requires STS to notify the Central Valley Regional Water Board and State Water Board staff prior to implementing Project activities, provide updates during Project implementation, and submit a Completion Report following completion of the Project to document compliance with the certification requirements. Required updates and the Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation.

Additionally, the Project as proposed by STS would open the Kanaka Diversion Dam release bypass valves to provide for flow downstream of the dam and remove its operating handle (STS 2025b). Condition 5 requires documentation that shows the gates and valves are left in the open position and that the penstock is dry and will remain dry in the future.

Reporting requirements of Condition 5 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. Condition 5 is

required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification. The reporting requirements of Condition 5 are necessary to ensure the Project does not impact water quality and associated beneficial uses including but not limited to: contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm spawning habitat; cold spawning habitat; and wildlife habitat.

6.6 Rationale for Conditions 6 through 25

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions. This section explains why a condition is necessary to assure that the authorized discharge will comply with water quality requirements, and cites to federal, state, or tribal law that authorizes the condition. (40 C.F.R. § 121.7(d)(1).) The statements in this section correspond with the conditions set forth in Conditions 6 through 25. In addition, the code citations, plans, and policies that support issuance of this certification are described in Sections 4.0 and are not duplicated in this section but are incorporated herein. Conditions 6 through 25 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.

Condition 6 is necessary to comply with Water Code section 13167 and Conditions 7 through 10 contain important clarifications concerning the scope and legal effect of this certification, and 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 an 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 6 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 7 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." 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 application state requirements, Condition 8 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 9 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 10 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 11 through 13 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 11 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 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, subdivision (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 13 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, subdivision (c). This fee requirement condition is also required pursuant to California Code of Regulations,

title 23, section 3833, subdivision (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 14 through 25 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 the Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 14, 15, and 16 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 17 and 18 require STS to comply with the Central Valley 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 19 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 20, 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 21 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 22 requires that STS use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 23 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.

Condition 24 ensures permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. This condition is necessary to ensure compliance with state and federal antidegradation policies and is consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts to waters of the state that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) These compensatory mitigation conditions are also consistent with Water Code sections 16200 – 16201. Further, compensatory mitigation requirements must comply with subpart J of the Supplemental State Guidelines. Mitigation requirements related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, § IV.B.5.f.)

In the event that any provision of this certification is found invalid, Condition 25 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

7.0 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.

8.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD certifies that implementation of the Removal and Decommissioning of the Kanaka Powerhouse for the Kanaka Hydroelectric Project License Surrender (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 State Water Resources Control Board (State Water Board) Deputy Director of the Division of Water Rights (Deputy Director), STS Hydropower, LLC (STS or Licensee) shall implement the Project as described in: (1) STS's July 15, 2024 certification application (STS 2024a); (2) (2) STS's March 1, 2025 Field Assessment Report (STS 2025a); and (3) STS's June 18, 2025, email clarifying Project activities (STS 2025b).

CONDITION 2. Dewatering and Water Quality Protection

Consistent with Mitigation Measure Water Quality (WQ)-1, the Licensee shall develop and submit a Dewatering and Water Quality Monitoring Plan (Dewatering Plan) to the Deputy Director for review and consideration of approval. The Dewatering Plan shall be submitted to the Deputy Director a minimum of 30 days prior to the desired date for commencement of Project dewatering, in-water work, or water-adjacent work unless another timeline is approved by the Deputy Director. The Deputy Director may require changes as part of any approval. At a minimum, the Dewatering Plan shall include:

- Descriptions of all construction-related activities that involve dewatering, water diversions, and in-water or water adjacent work. For dewatering or temporary water diversion activities, the description shall include:
    - Equipment and methods that will be used for dewatering and temporary water diversion, including descriptions of procedures that will be used for installation, operation, maintenance, removal, and rewatering (e.g., inspection and follow-up actions, if applicable).
    - Type(s) of barriers that will be installed to isolate work areas from surface waters.
    - List of materials that will be used in or adjacent to the watercourse.
- Site plan map(s), drawings, and/or photo(s) showing areas that may be dewatered and discharge locations, as well as areas where Project work will be completed in-water or adjacent to water.
- Schedule for each stage of dewatering and water diversion activities (i.e., equipment installation, dewatering, barrier installation, temporary diversion, equipment removal, and rewatering).

- Description of best management practices (BMPs) that will be implemented to avoid potential water quality and aquatic resource impacts during dewatering, in-water, and water adjacent work. BMPs shall 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 (Central Valley Basin Plan) (Central Valley Regional Water Board 2019 and any amendments thereto). BMPs may reference erosion and sediment control measures and biological resource protections required by Conditions 3 and 4, respectively.
- Proposed water quality monitoring and reporting related to dewatering, in-water, and water adjacent work that shall at a minimum include the parameters and monitoring specified below in this condition. The Licensee shall describe the water quality monitoring that will be implemented for the Project, including locations, equipment, frequency, methods, and quality assurance/quality control program.

Water Quality Monitoring. Water quality monitoring shall be performed as described in this condition unless otherwise approved by the Deputy Director. During any required dewatering, in-water, and water-adjacent Project activities with the potential to discharge to state waters, the Licensee shall monitor for turbidity, pH, temperature, dissolved oxygen, and visible pollutants (e.g., oils, greases, fuels, turbidity, plumes). Monitoring for turbidity, pH, temperature, and dissolved oxygen shall be conducted hourly unless otherwise approved by the Deputy Director. Visual monitoring for visible pollutants shall be conducted continuously throughout active work areas with the potential to result in a discharge to waters of the state. Monitoring locations shall at a minimum include a location no more than 300 feet downstream of the work area and at a location upstream that is outside the influence of Project activities and represents background (i.e., existing) water quality conditions. Proposed locations shall be identified in the Dewatering Plan for Deputy Director review and consideration of approval.

The Licensee shall take a global positioning system point and a photograph for each proposed monitoring location and provide them to the Central Valley Regional Water Board and State Water Board staff at least one week prior to starting any activities that may contribute to a discharge to Sucker Run Creek. These locations shall be used for monitoring unless the Deputy Director directs the Licensee to use other monitoring locations, the Deputy Director directs the Licensee to work with State Water Board staff to find an alternate location(s), or the Licensee proposes an alternate location that is approved by the Deputy Director.

The Licensee shall ensure that Project activities comply with the Central Valley Basin Plan water quality objectives. The current water quality objectives for turbidity, pH, temperature, dissolved oxygen, and visible pollutants are provided below for reference:

- *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 1 Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed 2.
    - Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU.
    - Where natural turbidity is between 5 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:* pH shall not be depressed below 6.5 nor raised above 8.5.

- *Dissolved Oxygen:* The Licensee shall not decrease dissolved oxygen below 7.0 milligrams per liter.

- *Temperature:* The Licensee shall not allow temperature to rise more than 5 Fahrenheit above the natural receiving water temperature.

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 an exceedance of a Central Valley Basin Plan water quality objective. Regardless of when such notification occurs, Project activities associated with the Central Valley Basin Plan exceedances shall cease immediately upon detection. Work activities may resume after corrective actions have been implemented, water quality meets the Central Valley Basin Plan water quality objectives, and the Deputy Director has provided approval to proceed. The Deputy Director may require additional actions to help prevent similar exceedances in the future.

The Licensee shall submit the results of water quality monitoring in the Project Completion Report described in Condition 5 and as requested by the Deputy Director.

The Licensee shall not commence Project dewatering or diversion activities prior to Deputy Director approval of the Dewatering Plan. The Licensee shall implement the Dewatering Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Upon approval the Licensee shall submit the updated Dewatering Plan to the Federal Energy Regulatory

Commission (FERC). Any changes to the Dewatering Plan shall be approved by the Deputy Director prior to implementation.

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

3(A) General Measures

Unless otherwise approved by the Deputy Director, the Licensee shall implement the following erosion, sediment, and hazardous materials control measures (consistent with WQ-3).

- The Licensee shall survey the buried sections of the penstock to assess if erosion and sediment measures are necessary to ensure that buried penstock portions remain stable and do not result in future erosion and sediment discharges to surface waters. If portions of the buried penstock require stabilization to prevent future erosion and sediment discharges to surface waters, the Licensee shall implement appropriate erosion and sediment control measures consistent with this condition.
- The Licensee shall bury and stabilize exposed portions of the penstock to ensure the reburied area does not result in future erosion and sediment discharges to surface waters.
- The Licensee shall make any necessary repairs to ensure the proper functionality of the drainage and culvert system within the Project boundary during the term of the Project.
- To the extent feasible, the Licensee shall conduct construction activities during minimal runoff periods (i.e., during the dry season or when rain and runoff are unlikely, typically during the summer or early fall).
- The Licensee shall implement erosion control measures to keep soil in place, which may include but are not limited to applying grass seed, erosion blankets, tackifiers, hydro-mulch, paving or rocking of roads, water bars, cross drains, and retaining walls. Certified weed-free hay, mulch, and straw shall be used for erosion control. Following ground disturbance activities, the disturbed area shall be restored to natural conditions, including, as appropriate, use of native seeding and/or plantings and sloping to prevent future run-off and erosion.
- If more than 0.25 inch of rain is forecast during Project activities, work in and around Sucker Run Creek, use of heavy equipment, and any other Project work with the potential to result in a discharge shall cease and the site shall be secured to avoid discharges until the forecast rainfall event is over.
- Any disposal sites for non-hazardous waste materials shall be away from waterways.
- Sites shall be graded in a manner that prevents erosion and the discharge of sediments to surface waters.
- No vehicles or equipment shall drive off-road through wetlands, environmentally sensitive areas, or riparian areas to access the Project area.
- All vehicles and any ground or vegetation disturbing equipment must be cleaned and free of mud, soil, and plant materials prior to entering the Project area.

- Vegetation removal shall be limited to the minimum amount necessary and be performed in previously disturbed areas consistent with STS's water quality certification application. No cut materials, including chipped materials, shall be disposed of within wetlands, environmentally sensitive areas, surface waters, or riparian areas.
- The Licensee shall have on-site spill response materials. At a minimum, hazardous materials spill kits shall be maintained onsite and in vehicles for small spills for the duration of construction activities. These kits shall include oil-absorbent materials and tarps to contain and control any minor releases. During Project construction, emergency spill supplies and equipment shall be kept adjacent to all work areas and at staging areas and shall be clearly marked.
- Any spills shall be cleaned up immediately using absorbent material or, if necessary, by constructing berms, and shall not be buried or washed with water. Contaminated soil shall be excavated, contained, and transported to an approved disposal site. All media affected by a spill shall be cleaned up and disposed of offsite in accordance with applicable laws and regulations.
- If Project-related hazardous materials are released with the potential to impact surface waters, the Licensee shall immediately cease any activities associated with the Project that resulted in the release and implement measures to limit and clean up the releases. The Licensee shall notify the Deputy Director and the Executive Officer promptly, and in no case more than 24 hours, following the release. The notice shall include the type and quantity of material released, cause of the release, corrective measures taken, and measures the Licensee will implement to prevent future releases. The Deputy Director may require additional actions to help prevent similar releases in the future. The Licensee may resume work upon Deputy Director review and consideration of approval.
- Hazardous materials, including petroleum-based materials, shall not be stored in or near a floodplain.
- Vehicle refueling and maintenance shall be conducted at locations where there is no possibility of hazardous materials being transported into waters of the state.
- 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 spill prevention and response measures. The training shall include identification and reporting to the appropriate onsite person of any visual observations that may indicate a water quality impairment (e.g., oil sheen, etc.).
- Hazardous materials or other materials that can affect water quality shall be stored with secondary containment and shall not be disposed of or released onto the ground, the underlying groundwater, or any surface water.
- All hazardous materials containment structures shall comply with the California Code of Regulations, title 27, section 20320.

These measures shall be implemented prior to the commencement of, during, and after any ground disturbing activities or any other Project activities that could result in erosion, sediment, or hazardous materials discharges to surface waters.

3(B) General Construction Permit and Water Quality Monitoring and Protection Plans

The Licensee 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 (consistent with WQ-2); if there is any conflict between the conditions of this certification and applicable conditions in the Construction General Permit, the more stringent shall apply. For any ground-disturbing activities that could impact water quality (including beneficial uses) that are neither addressed by the Construction General Permit nor addressed in other conditions of this certification, site-specific water quality monitoring and protection plans (WQMPP) shall be prepared and implemented following Deputy Director approval (consistent with WQ-4).

Prior to construction or other activity that could impact water quality or beneficial uses and is not covered by another condition of this certification, the Licensee shall submit a WQMPP to the Deputy Director for review and consideration of approval. WQMPPs shall include measures to control erosion, stream sedimentation, dust, soil mass movement, and other potential water quality impairments associated with the proposed activities. The plans shall be based on actual-site geologic, soil, and groundwater conditions and at a minimum include:

- Description of site conditions and the proposed activity.
- Detailed descriptions, design drawings, and specific topographic locations of all control measures in relation to the proposed activity, which may include:
  - Measures to divert runoff away from disturbed land surfaces;
  - Measures to collect and filter runoff from disturbed land surfaces, including sediment ponds at the sites; and
  - Measures to dissipate energy and prevent erosion.
- Revegetation of disturbed areas using native plants and locally-sourced plants and seeds.
- Measures to address other potential water quality impairments associated with the proposed activity.
- A monitoring, maintenance and reporting schedule.

The Deputy Director may require changes as part of any approval. The Licensee shall file with FERC the Deputy Director-approved WQMPP, and any approved changes thereto. The Licensee shall implement the WQMPP upon receipt of Deputy Director approval and any other required approvals, in accordance with the schedule and requirements specified therein.

CONDITION 4. Biological Resources

To reduce the potential impact to California red-legged frogs (*Rana draytonii*), foothill yellow-legged frogs (*Rana boylii*), northwestern pond turtles (*Actinemys marmorata*) and their habitat during Project implementation, the Licensee shall implement the following

measures (consistent with Biological Resources (BIO)-3, BIO-4, BIO-5, BIO-7, and BIO-8).

4(A) Protections for California red-legged frogs, foothill yellow-legged frogs, and northwestern pond turtles

- A qualified biologist[6] shall conduct pre-constructions surveys within the Project area and a 500-foot buffer zone around the Project area no more than three days prior to the start of ground disturbing activities. The qualified biologist shall identify sensitive locations (i.e., potential habitat for listed species) to be protected with fencing or other high visibility materials and shall place stakes to indicate these locations. Fencing shall be installed with a gap between the ground and the bottom of the fence so that small animals do not become trapped inside the fenced area. The fencing or other high visibility materials shall be installed before construction activities are initiated, maintained throughout the construction period, and removed when construction is complete. These areas shall be designated as environmentally sensitive areas and clearly identified on the construction plans/resource protection exhibit and discussed in worker environmental awareness training.
- Work crews shall be restricted to designated and clearly defined work areas and access routes. Staging of equipment and material sites shall be restricted to designated areas.
- A qualified biologist shall make bi-weekly visits to the Project site to ensure that environmentally sensitive areas continue to remain protected and provide environmental awareness training to new crew members.
- Licensee staff and/or site contractors that have been trained by a qualified biologist shall perform daily surveys in the scheduled construction areas before work begins each day. The Licensee shall maintain a log of daily surveys and the presence or potential presence of any threatened or endangered species in or around the Project area and any related communications and direction with the qualified biologist related to such surveys. If California red-legged frogs, foothill yellow-legged frogs, or northwestern pond turtles are identified or believed to be present during these surveys, construction activities shall pause within a 100-foot vicinity, of the animal(s) and a qualified biologist shall be called to the site to confirm the identification and to provide further direction on how to proceed. Project activities shall not resume until the qualified biologist provides clearance to resume activities. When possible, the listed species shall be allowed to volitionally leave the Project work area prior to re-initiating construction activities.

4(B) Environmental Awareness Training

[6] For the purposes of this condition, a qualified biologist is a biologist who is knowledgeable of and experienced with California red-legged frogs, foothill yellow-legged frogs, and northwestern pond turtles and their habitats.

The qualified biologist shall develop and conduct mandatory worker environmental awareness training about special-status species and their habitat and other sensitive resources that could be encountered during Project activities. The training shall include the following:

- Photographs, habitat, and life history information for special-status plant and wildlife species (including listed species), that are known to occur or may potentially occur in the Project vicinity.
- Measures that shall be implemented to protect special-status plant and wildlife species and their habitats during Project activities.
- Reporting procedures for the discovery of special-status plant and wildlife species in the vicinity of the Project.

All personnel shall receive worker environmental awareness training before conducting Project work and new personnel shall receive the training as they are brought onto the Project. Proof of personnel environmental training shall be kept on file by the Licensee (consistent with MM BIO-8).

CONDITION 5. Project Completion Report

5(A) Initial Report and Updates to Project Schedule

At least five days prior to starting Project activities, the Licensee shall notify State Water Board staff that Project activities are anticipated to begin and provide a schedule for the Project. Throughout Project implementation, the Licensee shall provide staff with updates to any major changes to the Project schedule within five days of the schedule change.

5(B) Completion Report

Within 60 days of Project completion, the Licensee shall submit a Project 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.
- Final inspection information with details to ensure the Project area cleanup was satisfactorily completed.
- Details of any environmental protection measure inadequacies found during Project implementation.
- Details of Project-related adverse impacts to beneficial uses, if applicable.
- A list and description of all Project infrastructure that will be retained following Project completion, including but not limited to facilities buried in place. For each piece of Project infrastructure that will be retained, the Licensee shall provide information about whether the infrastructure requires any ongoing oversight and

maintenance, including identification of who will be responsible for such maintenance, if required.
- Confirmation that the diversion from the dam has been eliminated (i.e., all gates and bypasses shall be left open to allow water to pass unhindered and as applicable, handles removed).
- Documentation that the penstock is devoid of water and measures the Licensee implemented to ensure the penstock shall remain dry into the future.
- Photo documentation of facilities before and after Project completion.
- Documentation of biological resource surveys completed in compliance with Condition 4 of the certification.
- A summary of monitoring activities that occurred during the Project, including but not limited to; (1) monitoring locations; (2) a description of the equipment, frequency, methods, and quality assurance process for water quality monitoring; and (3) monitoring results.

Upon request from the Deputy Director or State Water Board staff, the Licensee shall provide additional information or meet with staff to discuss the Completion Report.

The Deputy Director may require the Licensee to implement corrective actions in response to the information provided in the Completion Report or new information in the record.

CONDITIONS 6 – 25

CONDITION 6. 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 Water Code section 13167.

CONDITION 7. 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 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 Licensee, the Licensee 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 Licensee is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

CONDITION 8. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Licensee 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 9. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another local, state, or federal agency, will apply equally to the successor agency.

CONDITION 10. 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 11. 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 12. 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 13. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 14. 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 Licensee 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 review and consideration of approval, the Licensee shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. The Licensee shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 15. 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 Licensee shall, by a deadline required by the Deputy Director, submit a plan that documents why the violation occurred and steps the Licensee will implement to address the violation. The Licensee shall implement the plan upon approval from the Deputy Director, and the Deputy Director may require modifications as part of any approval.

CONDITION 16. The Licensee shall submit any changes 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 other 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 17. This certification is contingent on compliance with all applicable requirements of the Central Valley Basin Plan and other appropriate requirements of state law.

CONDITION 18. 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 Licensee shall take all reasonable measures to protect the beneficial uses of waters of the state, including Sucker Run Creek.

CONDITION 19. 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, & 13383.)

CONDITION 20. Upon request, a Project schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Licensee shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 21. A copy of this certification shall be provided to all contractors and subcontractors conducting Project-related work, and copies shall remain in their possession at the Project site. The Licensee shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

CONDITION 22. The Licensee 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 Lab Accreditation Program-certified laboratories.

CONDITION 23. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or change the conditions of this certification.

CONDITION 24. The Licensee shall ensure no net loss of wetland or riparian habitat functions under the standards and procedures set forth in 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) and Water Code, Division 7, Chapter 28, sections 16200-16201, and any amendments thereto. The Licensee shall demonstrate compliance with the Dredge or Fill Procedures upon request from the Deputy Director.

CONDITION 25. Certification that the Project will be protective of water quality and beneficial uses and comply with 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. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the remainder of this certification shall not be affected. 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 15, 2025
Date

[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 February 15, 2023.

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ATTACHMENT A:
PROJECT OVERVIEW FIGURES

FINAL WATER QUALITY CERTIFICATION
FOR
REMOVAL AND DECOMMISIONING OF THE KANAKA POWERHOUSE FOR THE KANAKA HYDROELECTRIC PROJECT (FERC PROJECT NO. 7242) LICENSE SURRENDER PROJECT

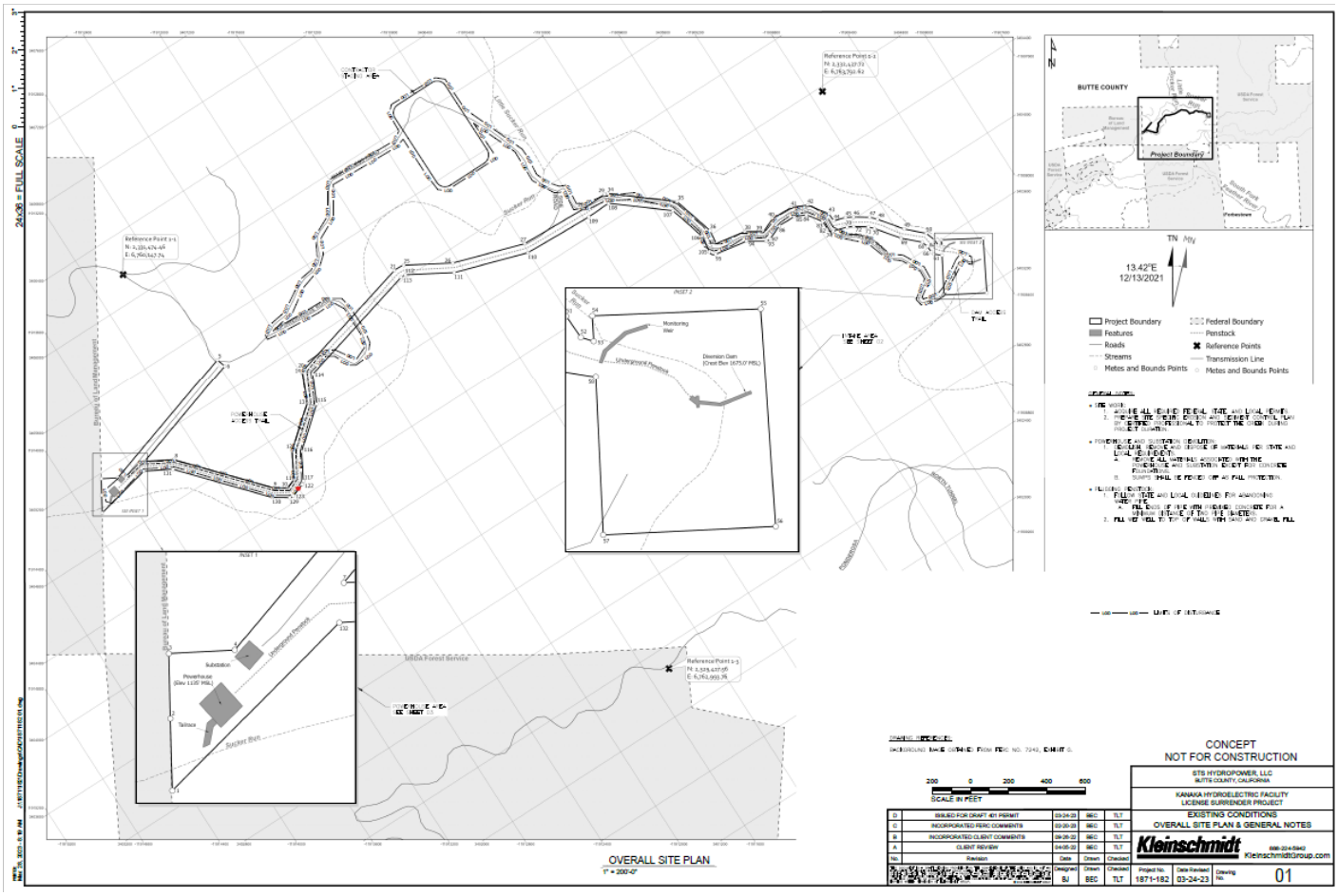

Figure 1. Kanaka Hydroelectric Project Boundaries

ATTACHMENT B:
MITIGATION MONITORING AND REPORTING PROGRAM

FINAL WATER QUALITY CERTIFICATION
FOR
REMOVAL AND DECOMMISIONING OF THE KANAKA POWERHOUSE FOR THE KANAKA HYDROELECTRIC PROJECT (FERC PROJECT NO. 7242) LICENSE SURRENDER PROJECT

Mitigation Monitoring and Reporting Program for the Removal and Decommissioning of Kanaka Powerhouse for Kanaka Hydroelectric Project License Surrender

The State Water Resources Control Board (State Water Board) has developed this Mitigation Monitoring and Reporting Program (MMRP) for the Removal and Decommissioning of Kanaka Powerhouse for Kanaka Hydroelectric Project License Surrender (Proposed Project). This MMRP identifies the mitigation measures that will be implemented for the Project, the individual or entity responsible for implementation, the schedule for mitigation measure implementation, and relevant mitigation and monitoring details. The State Water Board is the lead agency for the Proposed Project.

The entity responsible for implementing each mitigation measure and providing verification of implementation is STS Hydropower, LLC (STS). STS shall maintain records demonstrating compliance with each mitigation measure. These records shall be made available for review by State Water Board staff.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM BIO-1	STS and their construction contractor(s)	Prior to and during construction	To avoid the removal or disturbance of special status plants, a qualified biologist[1] shall conduct a focused survey for CRPR 1 and 2 special status plant species with potential to exist in the Proposed Project area in May and July. CRPR 3 and 4 species will be incidentally observed during the focused CRPR 1 and 2 surveys. CRPR 1 and 2 special status plant species may include; big-scale balsamroot (*Balsamorhiza macrolepis*), dissected-leaved toothwort (*Cardamine pachystigma var. dissectifolia*), white-stemmed clarkia (*Clarkia gracilis ssp. albicaulis*), Mildred's clarkia (*Clarkia mildrediae ssp. mildrediae*), Mosquin's clarkia (*Clarkia mosquinii*), Clifton's eremogone (*Eremogone cliftonii*), fern-leaved monkeyflower (*Erythranthe filicifolia*), minute pocket moss (*Fissidens pauperculus*), Pine Hill flannelbush (*Fremontodendron decumbens*), Cantelow's Lewisia (*Lewisia cantelovii*), Layne's ragwort (*Packera layneae*), Sierra blue grass (*Poa sierrae*), and Siskiyou jellyskin lichen (*Scytinium siskiyouense*). CRPR 3 and 4 special plant species include; True's manzanita (*Arctostaphylos mewukka ssp. truei*), Sierra foothills brodiaea (*Brodiaea sierrae*), thread-leaved beakseed (*Bulbostylis capillaris*), Butte County calycadenia (*Calycadenia oppositifolia*), Brandegee's clarkia (*Clarkia billoba ssp. brandegeeae*), golden-anthered clarkia (*Clarkia mildrediae ssp. lutescens*), streambank spring beauty (*Claytonia parviflora ssp. grandiflora*), clustered lady's-slipper (*Cypripedium fasciculatum*), obtuse starwort (*Engellaria obtusa*), northern Sierra daisy (*Erigeron petrophylus var. sierrensis*), small-flowered monkeyflower (*Erythranthe inconspicua*), Butte County fritillary (*Fritillaria eastwoodiae*), Humboldt lily (*Lilium humboldtii ssp. humboldtii*), sylvan microseris (*Microseris sylvatica*), Tracy's sanicle (*Sanicula tracyi*), giant checkerbloom (*Sidalcea gigantea*), and longfruit jewelflower (*Streptanthus longisiliquus*). The survey shall be performed during May and July to target species' peak blooming period, or during a period where the species can be differentiated from other similar plant species, in accordance with the most current protocols approved by the CDFW, USFWS and the CNPS, as applicable. If focused surveys determine that no special status plant species are present in the impact area for the Proposed Project, then no future

[1] A qualified biologist is defined as a person who is knowledgeable and experienced in the biology, life stages, natural history, and identification of local fish and wildlife resources present at the Project site.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
			measures are necessary. If focused surveys determine that a special status plant species is present, or the species is presumed present, then STS shall take the following actions: • If any plant species listed as threatened or endangered by FESA is determined to be present or presumed present, the qualified biologist will establish appropriate exclusion buffers around the threatened or endangered species and no work will occur within the established buffer area. • If construction timing for the Proposed Project requires that ground disturbance of potentially suitable habitat be performed prior to the species' peak blooming period and focused surveys cannot be performed, then the species shall be presumed present in the impact area and appropriate exclusion buffers will be established around the presumed present species' habitat. • If take of individuals cannot be avoided (due to location within the Proposed Project), then STS shall obtain take authorization from the listing agencies before impacting the species (FESA Consultation with the USFWS). Consultation with the listing agencies shall determine the appropriate compensatory measure(s) to reduce impacts on the species. • If focused surveys determine that California Native Plant Rank (CNPR) List 1 or List 2 species are present and the necessary take of state listed individuals would be greater than ten percent of species' population within a one-mile radius of the Proposed Project location, then compensatory mitigation shall be required. Mitigation may include seed collect from individuals in the impact area and planting them within an alternative site with the appropriate microhabitat for this species or other measures as determined in consultation with (CDFW). If construction timing for the Proposed Project requires that ground disturbance of potentially suitable habitat be performed prior to the species' peak blooming period and focused surveys cannot be performed, then the species shall be presumed

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
			present in the impact area and STS, in consultation with (CDFW) shall determine if take of individuals would be greater than ten percent of species populations within a one-mile radius of the Proposed Project location, and if so, implement compensatory mitigation, as described above.
MM BIO-2	STS and their construction contractor(s)	Prior to and during construction	Prior to ground disturbance or vegetation trimming or removal, a qualified biologist shall conduct a focused survey for Crotch bumble bee in the Proposed Project area during the Active Colony Period (April – August) following CDFW (2023e) survey guidelines. Per these guidelines, survey results are valid for only the year they are conducted. A Letter Report shall be prepared by STS to document the results of the pre-construction surveys and shall be provided to CDFW and SWRCB within 30 days of completion of the survey. If no Crotch bumble bee are observed, no further action will be required prior to the next active season (i.e., the following March). If Crotch bumble bee is present, STS shall propose site-specific measures to CDFW to avoid take prior to performing Proposed Project construction activities where take has potential to occur. Following CDFW approval, STS shall implement the site-specific measures. If a ground nest is observed, it shall be protected in place until it is no longer active as determined by the qualified Biologist. An initial protective buffer of at least 100 feet shall be established around the active ground nest until CDFW can be consulted and the buffer adjusted or additional measures implemented as determined in consultation by CDFW. STS shall coordinate with CDFW to determine if an Incidental Take Permit under Section 2081 of the California ESA will be required. A qualified Biologist shall determine the protective buffer distance needed depending on the location with respect to construction activities and the type of construction activities occurring; CDFW shall approve the protective buffer distance needed. If construction is not initiated in the season following the focused surveys (i.e., prior to the next active season the following March), or if construction unexpectedly continues for a second season, the focused surveys shall be conducted again per CDFW (2023e) protocol requirements.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM BIO-3	STS and their construction contractor(s)	Prior to and during construction	To avoid potential injury, mortality or disturbance of California red-legged frog, presence shall be assumed. Pre-constructions surveys within the impact area and a 500-foot buffer zone will be surveyed by a qualified biologist[2] no more than three days prior to the start of construction. The qualified biologist shall identify sensitive locations to be protected with orange construction fencing or other high visibility materials and shall place stakes to indicate these locations. The protected areas shall be designated as environmentally sensitive areas and clearly identified on the construction plans or resource protection exhibit, which shall be prepared after the site review with the contractor and prior to construction. A qualified biologist shall make regular bi-weekly visits to the Proposed Project area to ensure that environmentally sensitive areas continue to remain protected, provide environmental awareness training to new crew members, and determine if general restrictions and guidelines are being followed. Trained STS staff and/or site contractors trained by a qualified biologist shall perform daily surveys in the scheduled construction areas before any work begins each day. If California red-legged frogs are identified or believed to be present during these surveys, construction activities shall pause within a 100-foot vicinity, and a qualified biologist will dispatch to the site to confirm the identification and to provide further guidance on how to proceed safely, which shall include allowing the California red-legged frog to leave the project work area on its own volition prior to re-initiating construction activities.

[2] A qualified biologist is defined as a person who is knowledgeable and experienced in the biology, life stages, natural history, and identification of local fish and wildlife resources present at the Project site.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM BIO-4	STS and their construction contractor(s)	Prior to and during construction	To avoid potential injury, mortality or disturbance of foothill yellow-legged frogs, presence shall be assumed. Pre-constructions surveys within the impact area and a 500-foot buffer zone will be surveyed by a qualified biologist4 no more than three days prior to the start of construction. The qualified biologist shall identify sensitive locations to be protected with orange construction fencing or other high visibility materials and shall place stakes to indicate these locations. The protected areas shall be designated as environmentally sensitive areas and clearly identified on the construction plans or resource protection exhibit, which shall be prepared after the site review with the contractor and prior to construction. A qualified biologist shall make regular bi-weekly visits to the Proposed Project area to ensure that environmentally sensitive areas continue to remain protected, provide environmental awareness training to new crew members, and determine if general restrictions and guidelines are being followed. Trained STS staff and/or site contractors trained by a qualified biologist shall perform daily surveys in the scheduled construction areas before any work begins each day. If foothill yellow-legged frogs are identified or believed to be present during these surveys, construction activities shall pause within a 100-foot vicinity, and a qualified biologist will dispatch to the site to confirm the identification and to provide further guidance on how to proceed safely with project activities, which shall include allowing the Foothill Yellow-legged frog to leave the project work area on its own volition prior to re-initiating construction activities.
MM BIO-5	STS and their construction contractor(s)	Prior to and during construction	To avoid potential injury or mortality of northwestern pond turtles, presence shall be assumed. Pre-constructions surveys within the impact area and a 500-foot buffer zone will be surveyed by a qualified biologist[3] no more than three days prior to the start of construction. The qualified biologist shall identify sensitive locations to be protected with orange construction fencing or other high visibility materials and shall place stakes to indicate these locations. The protected areas shall be designated as environmentally sensitive areas and clearly identified on the construction plans or resource protection exhibit, which shall be prepared after the

[3] A qualified biologist is defined as a person who is knowledgeable and experienced in the biology, life stages, natural history, and identification of local fish and wildlife resources present at the Project site.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
			site review with the contractor and prior to construction. A qualified biologist shall make regular bi-weekly visits to the Proposed Project area to ensure that environmentally sensitive areas continue to remain protected, provide environmental awareness training to new crew members, and determine if general restrictions and guidelines are being followed. Trained STS staff and/or site contractors trained by a qualified biologist shall perform daily surveys in the scheduled construction areas before any work begins each day. If northwestern pond turtles are identified or believed to be present during these surveys, construction activities shall pause within a 100-foot vicinity, and a qualified biologist will be dispatched to the site to confirm the identification and to provide further guidance on how to proceed safely with project activities prior to re-initiating construction activities.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM BIO-6	STS and their construction contractor(s)	Prior to and during construction	To avoid potential disturbance of nesting birds, if vegetation clearing and ground disturbing activities are initiated during the breeding season for nesting birds/raptors (i.e., February 15–August 31), a pre-construction survey shall be conducted by a qualified biologist for nesting birds and/or raptors within three days prior to clearing of any vegetation or any work near existing structures. The nesting bird survey area shall include a buffer of 100 feet around the work area for nesting birds and a buffer of 500 feet around the work area for nesting raptors. If the qualified biologist does not find any active nests within or immediately adjacent to the impact area, the vegetation clearing and construction work shall be allowed to proceed. Disturbance to native vegetation will be limited to the construction area and necessary access routes and staging areas. Existing native vegetation will be retained as practicable. If the qualified biologist finds an active nest within or immediately adjacent to the construction area and determines that the nest may be impacted or breeding activities substantially disrupted, the qualified biologist shall delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the nature of the construction activity. The active nest shall be protected until nesting activity has ended. To protect any nest site, the following restrictions to construction activities shall be required until the nest is no longer active, as determined by a qualified biologist: (1) clearing limits shall be established within a protective buffer around any occupied nest (the protective buffer shall be 15–100 feet for nesting birds, and 300–500 feet for special status bird species or nesting raptors), and (2) access and surveying shall be restricted within the protective buffer of any occupied nest. Encroachment into the protective buffer around a known nest shall only be allowed if the qualified biologist determines that the proposed activity would not disturb the nest occupants. Construction can proceed when the qualified biologist has determined that fledglings have left the nest, or the nest has failed.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM BIO-7	STS and their construction contractor(s)	Prior to and during construction	To avoid and minimize impacts to waters of the United States and waters of the state, the Proposed Project's boundaries adjacent to Sucker Run Creek shall be clearly delineated to minimize the work area and avoid the potential for inadvertent work to occur outside the work area or unnecessarily in the waterway.
MM BIO-8	STS and their construction contractor(s)	Prior to and during construction	Environmental Awareness Training: The training program shall present the environmental regulations and applicable permit conditions that the Proposed Project site team shall comply with. The training program shall include applicable measures established for the Proposed Project to minimize impacts to water quality and avoid sensitive resources, habitats, and species. Subsequent training events shall be scheduled to support the training of new personnel, as needed. Dated sign-in sheets for attendees at these meetings shall be maintained at the Proposed Project site, which will be shared with State Water Board staff.
MM CUL-1	STS and their construction contractor(s)	Prior to and during construction	Prior to commencement of ground disturbance activities (earthmoving) STS shall retain a qualified Archaeologist for on-call services in the event of a discovery of cultural resources during ground disturbance activities. The Archaeologist shall be present at the pre-grade conference; and shall establish, in cooperation with STS, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the cultural resources (artifacts). Should these resources be found during ground-disturbing activities for the Project, the Archaeologist shall first determine whether it is a "unique archaeological resource" pursuant to the California Environmental Quality Act (CEQA, i.e., Section 21083.2.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
			subdivision (g) of the Public Resources Code), or a "historical resource" pursuant to Section 15064.5, subdivision (a) of the CEQA Guidelines. If the above-mentioned resources are found during earthmoving activities, the Archaeologist shall formulate a report and a mitigation plan in consultation with the State Water Board and local Native American community (if resources are precontact in origin) that satisfies the requirements of the above-referenced sections. The report shall follow guidelines of the State Historic Preservation Office (SHPO), and s/he shall record the site and submit the recordation form to the State Water Board and the California Historic Resources Information System (CHRIS) at the NIC at California State University, Chico. For all archaeological resources the disposition of the resources shall be subject to approval by the State Water Board and the local Native American community (if resources are precontact in origin). If resources are discovered, work may proceed in other areas of the site, subject to the direction of the Archaeologist.
MM CUL-2	STS and their construction contractor(s)	Prior to and during construction	If human remains are encountered during ground disturbing activities, all work is required to halt in the immediate vicinity of the discovery and the County Coroner (coroner) must be notified (Pub. Resources Code, § 5097.98). The coroner is required to determine whether the remains are of forensic interest. If the coroner, with the aid of an archaeologist, determines that the remains are precontact, s/he is required to contact the Native American Heritage Commission (NAHC). The NAHC is responsible for designating the most likely descendant (MLD), who is responsible for the ultimate disposition of the remains, as required by Section 7050.5 of the Health and Safety Code. The MLD is required to make his/her recommendation within 48 hours of being granted access to the site. The MLD's recommendation is required to be followed if feasible and may include scientific removal and non-destructive analysis of the human remains and any items associated with Native American burials (Health & Saf. Code, § 7050.5). If the landowner rejects the MLD's recommendations, the landowner is required to rebury the remains with appropriate dignity on the property in a location that will not be subject to further subsurface disturbance (Pub. Resources Code, § 5097.98).

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM WQ-1	STS and their construction contractor(s)	Prior to, during, and after construction	STS shall develop and submit a Dewatering and Water Quality Monitoring Plan (Dewatering/Monitoring Plan) to the Deputy Director of the Division of Water Rights of the State Water Board for review and approval. The Dewatering/Monitoring Plan shall be developed to protect water quality objectives and beneficial uses from impacts resulting from Proposed Project activities, such alterations in turbidity, dissolved oxygen, pH, and temperature. At a minimum, the Dewatering/Monitoring Plan shall include: • A minimum of two monitoring locations that shall be located above and below the Proposed Project activity sites. • Monitoring frequency, and duration. • Water quality monitoring for turbidity, pH, dissolved oxygen, and temperature. • Report requirements and frequency of reporting to the State Water Board. • Adaptive management actions or procedures that STS shall implement if water quality objectives are determined to be adversely impacted by the Proposed Project. Adaptive management procedures will include stopping Project activities causing the water quality exceedance, if an exceedance occurs. STS shall not commence construction until the State Water Board Deputy Director of the Division of Water Rights approves the Dewatering and Water Quality Monitoring Plan.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
MM WQ-2	STS and their construction contractor(s)	Prior to and during construction	STS shall comply with all applicable construction Best Management Practices (BMPs) specified in STS's License Surrender Application and Water Quality Certification application, as well as the statewide General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), as authorized by the State Water Board. The General Permit requires elimination or minimization of non-stormwater discharges from construction sites and requires development and implementation of a Storm Water Pollution Prevention Plan.
MM WQ-3	STS and their construction contractor(s)	Prior to and during construction	To minimize the potential water quality effects of the Proposed Project and to maintain compliance with SJR/SR Basin Plan water quality objectives and associated beneficial uses, STS shall develop a list of Erosion, Sediment and Hazardous Materials Control Measures. The Erosion, Sediment, and Hazardous Materials Control Measures shall include BMPs to address soil stabilization, sediment control, wind erosion control, vehicle tracking control, non-stormwater management, and waste management practices. The BMPs shall be based on the best available technology. At a minimum, the Erosion, Sediment, and Hazardous Materials Control Measures shall include: • Description of site characteristics, including runoff, streamflow, and soil erosion characteristics. • Description of construction procedures. • Guidelines for proper application of erosion and sediment control BMPs. • Description of measures for temporary storage of hazardous materials. • Description of measures to control toxic materials spills. • Description of construction site housekeeping practices. • Hazardous Material Spill and Discharge Reporting.

Mitigation Measure	Responsibility for Implementation	Implementation Schedule	Mitigation and Monitoring Details
			• A list that shall include BMPs from all the various plans and permits associated with the Project, including but not limited to Construction General Permits.
MM WQ-4	STS and their construction contractor(s)	Prior to and during construction	For any ground-disturbing activities that could impact water quality that are not addressed by the Construction General Permit or other mitigation measures, a site-specific water quality monitoring and protection plan (WQMPP) shall be prepared and implemented. The WQMPP shall be based on site conditions and at a minimum include: • Description of site conditions and the proposed activity. • Detailed descriptions, design drawings, and specific topographic locations of all control measures in relation to the proposed activity, which may include: o Measures to divert runoff away from disturbed land surfaces. o Measures to collect and filter runoff from disturbed land surfaces, including sediment ponds at the sites. o Measures to dissipate energy and prevent erosion. • Revegetation of disturbed areas using native plants and locally-sourced plants and seeds. • A monitoring, maintenance, and reporting schedule.