

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

**THE SOUTHERN CALIFORNIA EDISON COMPANY
KERN RIVER 1 HYDROELECTRIC PROJECT
REVISED SEDIMENT MANAGEMENT PRACTICES**

Sources: Kern River tributary to Buena Vista Lake thence to the Tulare Lake Basin

County: Kern County

PROJECT DESCRIPTION

The Southern California Edison Company (SCE) operates the Kern River No. 1 Hydroelectric Project (Kern 1) on the Kern River on the western slope of the Sierra Nevada Mountains, approximately 17 miles northeast of Bakersfield and 16 miles southwest of Bodfish, California in Kern County. Kern 1 is operated as a run-of-the-river project with an installed total capacity of 26.3 megawatts. The Kern 1 diversion at Democrat Dam (Democrat) is located 14 miles southwest of Lake Isabella Reservoir. Democrat is an overflow concrete gravity dam with a crest length of 204 feet and a height of 29 feet. The impoundment formed by the dam has a surface area of 27 acres. Water is released to the Kern River either by flow over the dam or through a valve located along the bank of the Kern River.

The maximum diversion capacity at Democrat for power generation is 412 cubic feet per second (cfs). Water diverted through two slide-gate valves is conveyed by a flowline, composed of tunnels and flumes, for a distance of 8.5 miles to the Kern 1 forebay. A 1,693-foot steel penstock extends from the forebay to the Kern 1 powerhouse. These facilities are approximately parallel to the southeast bank of the river.

SCE's entitlement to divert water at Democrat is under a claim recorded with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) under Statement of Water Diversion and Use Number 7761 (Statement) for diversion of up to 420 cfs. The Statement was filed with the Division on January 1, 1971 and the purposes of water use were identified as domestic and industrial supply. It appears that Supplemental Statements have been filed since that time. In 1997, the purpose of water use was changed to power generation.

The hydrology of the lower Kern River is controlled by the operation of Lake Isabella (timing, magnitude, and duration), which is determined by the U. S. Army Corps of

Engineers (ACOE) and the Kern River Watermaster (Watermaster). Outside of flooding releases, peak flows normally occur in the midsummer, in response to the needs of agriculture supply. During some wet years, natural peak flows occur during the late summer and winter. Winter storms and summer and fall thunder shower events are most common in above normal and wet years. Summer releases from Lake Isabella can also be high in these water year types.

Lake Isabella traps most sediment derived from the upper Kern River watershed. There are however several tributaries entering the Kern River between Lake Isabella and the Democrat diversion. These tributaries can introduce significant volumes of sediment to the Democrat impoundment during natural precipitation events. The sediment settles out and accumulates on the upstream face of Democrat and the intake gates. The management of sediment at Kern 1 can be conducted during significant storm events. Peak flow sediment bypass can be performed any time peak flow conditions are imminent based on weather forecasts, or when increased flow and sediment loading are observed. The SCE Kern River Operations and Maintenance Manager or the designated representative determines if a peak flow condition is imminent or in progress based on weather conditions, increased flow, and visual observation of high sediment movement in the lower Kern River and tributaries.

Democrat Dam Operational Background

Sediment that accumulates behind Democrat is managed by sluicing using the low-level outlet (or drain gate) at the bottom of the dam. Sluicing emulates the natural sediment regime of the lower Kern River by allowing naturally occurring sediment to bypass the dam's impoundment and continue through the lower Kern River system at times when the river flow has adequate sediment transport capacity. Operational sluicing is effective in scouring sand from the area in front of the intake gates, but is not effective in managing sediment in the entire impoundment.

There are three operational variations of sluicing at Democrat. When the drain gate is less than 50 percent open, between 100 and 400 cfs are passed through the dam in what is termed a "partial operational sluicing" event. "Full operational sluicing" occurs when the drain gate is opened more than 50 percent, and passes 400 to 800 cfs. Flows greater than 800 cfs can occur downstream if there is also spill over the dam. Both partial and full operational sluicing affects the area in the vicinity of the drain gates. If the gate is fully opened and inflows to the impoundment are less than 800 cfs, then the impoundment eventually drains; a process known as a "full pond drain." This leads to a greater bypass of accumulated sediment than operational sluicing, since the entire impoundment is affected rather than only the area in the vicinity of the drain gate.

To prevent sediment from damaging the penstock and the downstream Kern 1 hydroelectric plant, a flowline sandbox immediately downstream of the Democrat Dam intake structure acts as a sediment trap. The sandbox intakes contain two slide-gate valves where a portion of the water is diverted to the Kern 1 power plant. The drain gate for Democrat and the intake for the diversion to the Kern 1 powerhouse can be operated simultaneously. The remaining water not diverted to the flowline is released

into the Kern River. A valve is left open year round to provide minimum instream flow releases to the river. Minimum stream flows of 15 cfs are maintained from October 1 through May 31, and 50 cfs from June 1 through September 30 as required by the FERC license.

Some flexibility in application of sediment management practices is necessary because of the variability of the Kern River hydrologic system. For this reason, a stakeholder group was formed to provide a forum for presenting potential adjustments to sediment management components annually. The members of the stakeholder group include governmental agencies, public and private utilities, local water purveyors, consultants, and private parties. The stakeholder group meets each year (generally in February) to discuss and evaluate the sediment management procedures for the coming year.

Basis for Requiring the Water Quality Certification

SCE operates the Kern 1 (Project No. 1930) under license from the Federal Energy Regulatory Commission (FERC). SCE applied to re-license the project in May 1994 and FERC approved the new license in June 1998. The expiration date for the current FERC license is May 31, 2028. Under this license, FERC required the implementation of a sediment monitoring program and sediment management plan. In 1999, SCE developed a sediment management plan based on hydraulic analysis studies and a three-year monitoring study of the bypassed reach of the Kern River to validate the analysis. The *Sediment Monitoring Results and Sediment Management Plan* was developed and approved by a multi-agency stakeholder group in 1999 and approved by FERC in 2000. The *Revised Sediment Management Plan* was submitted in 2005 because preliminary data developed under the original plan needed to be augmented to improve SCE's predictive sediment management tool (i.e. sediment transport capacity curve). The revised plan proposes operational sluicing of sediment behind Democrat Dam, with a frequency and intensity designed that mimics natural sediment transport regimes and protects spawning and rearing habitat for smallmouth bass. The plan also includes proposals for construction maintenance upgrades that would allow the project impoundment to operate at its full capacity, improving power generation.

The ACOE reviewed that sediment management plan and determined it was subject to the requirements of Nationwide Permit No. 3 (NWP). In August 2007, SCE sought coverage for their sediment management practices for a period that would extend beyond the five years under the NWP. Subsequently, the State Water Board, in consultation with SCE, determined that the proposed sediment management and monitoring activities, and proposed construction activities would require a Water Quality Certification pursuant to the requirements of section 401 of the Clean Water Act. The application for certification was submitted in December 2007 for both types of proposed activities.

Proposed Sediment Management Activities

The *Revised Sediment Management Plan* for Kern 1 modified the previously approved plan to incorporate two additional components: 1) a full pond drain on an annual basis

(depending on specific criteria) to bypass sediment before it can significantly accumulate behind Democrat; and 2) management of peak sediment inflow levels, particularly during significant winter storms. The *Revised Sediment Management Plan* was developed with data from existing studies using several years of monitoring data from the downstream reach of Democrat. The sediment management procedures, as described below, were proposed to prevent unnatural sedimentation downstream of Democrat, and for the protection of the fish spawning and rearing habitat.

- Operational Sluicing: This is a standard annual operational procedure and will be performed as needed to bypass entrained sediment that accumulates directly in front of the drain gate through the dam. This procedure will not release an appreciable amount of sediment at any one time. Operational sluicing is subject to increased river flow releases during specific fish spawning and rearing seasons. The goal is to establish continuous sediment pass-through by use of this method when flows are available. External notifications for implementation of normal operational procedures are not required.
- Full Pond Drain: This procedure proposes to bypass sediment before it can significantly accumulate behind Democrat, provided specific flow criteria are met. Inflow forecasts and sediment transport capacity must be sufficient to mobilize temporarily deposited sediment. Bathymetric data will be collected by February 1 and analysis will be completed by March 1 consisting of a comparison of data to baseline conditions to calculate the volume of sediment to be potentially released. Once the sediment accumulation rate in the reservoir is known, bathymetric analysis may be restricted to wet years or years of large sediment inflow.
- Peak Flow Sediment Bypass: This procedure proposes to manage sediment-laden peak flows resulting from natural precipitation events in the lower Kern River watershed that have transported significant amounts of sediment into the Democrat impoundment. The gates at Democrat that turn water into the flowline will be closed and the drain gate fully opened to allow all of the flow through the dam into the reach downstream of the dam. The sediment load will be carried by the un-diverted river flow, thereby mimicking the natural sediment transport regime. As the peak flow recedes, the impoundment will drain and stored sediment will be scoured.

Proposed Sediment Monitoring Activities

Six pools downstream of Democrat have been identified as most likely to accumulate sediment, and monitoring of the sediment accumulation is proposed to characterize surficial fine sediment and to calculate sediment transport capacity through the pools. This evaluation compares sediment volumes with cross-sectional data from the six permanent transect locations. Pool monitoring will also aid the evaluation of the habitat for smallmouth bass, which is the principal target species for this reach of river.

Existing data indicate that in 1997, the beds of pools downstream of Democrat consisted primarily of boulder or bedrock, with minor fine sediment deposits. Deviations in bed elevation from the 1997 baseline were interpreted as resulting from natural

sedimentation due to fire, erosion, and/or sediment releases. Measurements taken after a sediment release in September 2000 indicate that the 1997 baseline represents a relatively scoured condition.

A sediment transport capacity curve (flow in cfs versus sediment load in tons per day) was developed based upon the calculated sediment transport capacity downstream of Democrat and was validated with monitoring data collected from 1995 to 1997¹. The curve is used to determine the highest sediment transport capacity for the river under the conditions of the Lake Isabella water release information.

Sediment monitoring data collected since 1995 was used to evaluate the fate of sediment deposited in the downstream reach of the river, and to develop the *Revised Sediment Management Plan*. Excess sediment has since been scoured from the river channel. As a condition of certification, monitoring of the Democrat impoundment and upstream river reach will continue until the sediment transport rating curve and the proposals in the *Revised Sediment Management Plan* are validated.

Sediment monitoring will be conducted in three phases. The primary elements of sediment monitoring are: 1) measurement of channel bed elevations through time by conducting cross-sectional surveys in previously selected pool habitat sites within the bypass; 2) characterization of the type of surficial fine sediments present in the downstream reach by analyzing grain size variation; and 3) calculation of the sediment transport capacity.

In the first phase of the proposed sediment monitoring plan, a bathymetric analysis will be conducted in the Democrat impoundment to determine the volume of sediment entrained in the reservoir, and channel transects will be surveyed downstream of Democrat in order to determine the current transport capacity. These results will be compared to the baseline condition to determine the volume of sediment that may be released for operational sluicing and a full pond drain. This initial process will continue until the river reach downstream of Democrat is observed to be in a relatively scoured condition.

The second phase of sediment monitoring shall also include bathymetric analysis of the Democrat impoundment and surveying of channel transects downstream of Democrat to record channel response during different flow conditions. Data will be collected for a minimum of three, not necessarily consecutive years, and during three different flow conditions: a) 1,000 to 1,800 cfs; b) 1,800 to 2,500 cfs; and c) greater than 2,500 cfs. The data will be used to either validate or modify the *Revised Sediment Management Plan* and will focus on the full pond drain and peak flow bypass procedures. After this monitoring, the procedures outlined for operational sluicing and full pond drains will be considered validated if supported by the data.

¹ Data was originally reported in SCE's Sediment Monitoring Results and Sediment Management Plan.

In the third phase of the sediment monitoring plan, bathymetric analysis will be discontinued during dry or normal years if a suitable understanding of the sediment accumulation rate in the Democrat impoundment is developed. However, bathymetric monitoring will continue on an as-needed basis until a correlation is established between the runoff and sediment accumulation in the impoundment. As a condition of certification, monitoring will continue until the State Water Board and the stakeholder group agrees that the correlation has been established.

Proposed Construction Maintenance Activities and Best Management Practices (BMPs)

The Kern 1 intake structure to the flowline and the trash rack system at Democrat have deteriorated over time and need to be replaced. Equipment needing replacement include: the existing trash racks and rake cleaning systems, the steel frame structure supporting the trash racks, the concrete anchorage supporting the steel superstructure, and the existing wood decking and intake gate enclosure building.

In order to complete the work, SCE has proposed to drain the Democrat impoundment and to construct a work area adjacent to the intake structure on the impoundment bottom so that the proposed maintenance upgrades can be conducted. The work area will be upstream of and at a higher elevation than the area surrounding the drain gates. A 100-foot buffer to surface water will be established for the work area. If this distance cannot be maintained, containment measures will be implemented as a condition of certification. It is expected that all of the river flow will enter the impoundment drain, and the need for temporary barriers or culverts is not anticipated. However, if a barrier or culvert is needed, then flow will be controlled using sheet piling or rip-rap enclosed in earthen material to inhibit erosion and seepage into the work area.

Construction will begin downstream and continue upstream. The diversion and the means of conveyance should not contribute to potential impacts to the water quality and will remain in place until the maintenance activities are completed. Following removal of the temporary diversion, the low flow channel and impoundment bottom will be returned to pre-existing condition.

SCE proposes to conduct construction maintenance activities during the dry season to prevent erosion and soil mobilization. Erosion and sedimentation will also be controlled by using construction fencing backed by silt fencing in specific areas. Work will be halted during periods of significant rainfall. All disturbed soil will be stabilized by compaction at the completion of the construction activities and will be re-graded so that the historic drainage patterns are maintained.

Drip pans will be used for the equipment, and a spill containment kit will be placed at all work areas. Spills of fuels or other fluids and contaminated soil within the work area will be excavated.

Two staging areas for the proposed construction maintenance activities will also be established outside the river canyon and adjacent to access roads. These staging areas will be used for equipment fueling and maintenance and for storage of

construction debris. All equipment will be maintained to be free of petroleum residue and will be checked daily. A concrete wash out area will also be established by constructing a temporary pit or bermed area within the staging area.

SCE proposes to install a trash boom within the immediate vicinity of the intake structure early in the construction sequence to aid in the demolition and erection of the intake structure. A new construction overhead cable raceway system will also be installed where the cables will span from east to west on the rock walls of the river canyon so that larger materials and equipment can be moved. Materials and equipment too large to be safely handled by the cable raceway will be transported by helicopter from the staging areas.

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

1. The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to "co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources."
2. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance 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). Section 401 of the Clean Water Act directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that State certification conditions shall become conditions of any federal license or permit for the project. The State Water Board has delegated this function to the Executive Director by regulation. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)
3. SCE submitted an application for a water quality certification pursuant to section 401 of the Clean Water Act for the proposed project on December 17, 2007.
4. The federal agency issuing a federal permit for the Project is the ACOE. SCE has applied to the ACOE for Nationwide Permit Number 3 (Corps File No. 200500615) under section 404 of the Clean Water Act.

5. The California Regional Water Quality Control Boards have adopted, and the State Water Board has approved, water quality control plans for each watershed basin in the State. These plans designate the beneficial uses of waters within each watershed basin and water quality objectives designed to protect those uses. Section 303 of the Clean Water Act requires the states to develop and adopt water quality standards. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the plans constitute State water quality standards under section 303.
6. The Central Valley Regional Water Quality Control Board (Central Valley Region) has adopted, and the State Water Board and the U.S. Environmental Protection Agency have approved, the Water Quality Control Plan for the Tulare Lake Basin (Basin Plan). The Basin Plan designates the beneficial uses of waters to be protected along with the water quality objectives necessary to protect those uses.
7. The Basin Plan identifies the beneficial uses for the Kern River from Lake Isabella to the Kern 1 powerhouse as hydropower generation; contact and non-contact recreation; warm and cold freshwater habitat; wildlife habitat; and rare, threatened or endangered species habitat. The beneficial uses downstream of the Kern 1 Powerhouse are identified in the Basin Plan as municipal and agricultural supply; industrial service and process supply; hydropower generation; contact and non-contact recreation; warm freshwater habitat; wildlife habitat; rare, threatened or endangered species habitat; and groundwater recharge. Protection of the instream beneficial uses identified in the Basin Plan requires maintenance of adequate instream flows as well as effluent limitations and other limitations for discharges of pollutants from point and non-point sources to the Kern River and its tributaries.
8. On March 17, 2006, the California Department of Fish and Game (DFG) filed a Notice of Exemption under the California Environmental Quality Act (CEQA) with the Office of Planning and Research and issued Streambed Alteration Agreement Number 2005-0047-R4 for the project. DFG found that the projects would have no significant environmental impacts if completed under the protective features included in the Agreement, which expires in 2018.
9. After reviewing and considering all of the pertinent information available for this project, the State Water Board has determined that there will be no significant effect on the environment from the Project, and that it meets the criteria for both a Class 1 and Class 4 categorical exemption under CEQA for the ongoing operation, repair, and maintenance of an existing facility and the minor alteration of land. (Pub. Resources Code, § 21083; Cal. Code Regs., tit. 14, § 15301 and § 15304.) The State Water Board has prepared a notice for the Class 1 and Class 4 categorical exemptions and will file a Notice of Exemption within five days from the issuance of this certification.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER BOARD CERTIFIES THAT THE IMPLEMENTATION AND OPERATION OF THE KERN RIVER 1 HYDROELECTRIC PROJECT REVISED SEDIMENT MANAGEMENT PRACTICES CONDUCTED BY THE SOUTHERN CALIFORNIA EDISON COMPANY will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, provided that the Southern California Edison Company complies with the following terms and conditions:

Democrat Dam Operational Conditions

1. Operational sluicing is subject to seasonal flow restrictions related to smallmouth bass spawning and rearing habitat downstream of Democrat Dam. Operational sluicing is prohibited when flows are less than 600 cfs, and may be conducted, as needed:
 - from July 1 to March 14 for flows greater than or equal to 600 cfs; and
 - from March 15 to June 30 for flows greater than or equal to 1,200 cfs.
2. A full pond drain is subject to seasonal flow restrictions related to smallmouth bass spawning and rearing habitat downstream of Democrat Dam. A full pond drain is prohibited between March 15 and June 30, and may be conducted, as needed, by March 14 when flow is less than 800 cfs.

Construction Maintenance Conditions

3. Disturbance or removal of vegetation shall be limited to the minimum necessary to complete the Project.
4. The exterior of all equipment using gas, oil, hydraulic fluid or other petroleum products shall be free of oil and grease prior to its use in the waterway. All equipment shall be inspected for leaks prior to use and shall be monitored for leakage.
5. Sheet piling, rip-rap or other protective material shall be used in the barriers constructed to re-divert flows around the work area to inhibit erosion.
6. Best Management Practices for erosion, sediment and turbidity control shall be implemented and be in-place at commencement of, during and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface waters.
7. Debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall not be placed within 100 feet of the high water mark of any stream or reservoir and shall not be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.

8. If a 100-foot setback to water cannot be maintained for project activities, containment measures such as berms and liners shall be implemented.
9. Fresh concrete or grout that has not set shall not be allowed to contact or enter surface waters.
10. Any imported gravel for use for construction or for establishing a staging site is prohibited in accordance with DFG Streambed Alteration Agreement Number 2005-0047-R4 issued on March 17, 2006.
11. Equipment refueling shall only take place in designated and contained areas. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained onsite at all site locations where such equipment is used.
12. Upon completion of the project, all project-generated debris, building materials, excess material, and trash shall be removed from the work area with disposal at appropriate waste disposal sites.

Project Notification and Reporting Conditions

13. A peak flow bypass constitutes an urgent condition where little or no advance warning may be possible, and thus it may not be feasible to make prior agency notifications. Regulatory agencies and stakeholders shall be notified as soon as possible following implementation of peak flow bypass.
14. By March 1, or sooner in wet years, a sediment bypass strategy for the coming season shall be provided to regulatory agencies and stakeholders. The strategy will include the rationale, procedure and schedule for draining the Democrat impoundment and shall be based on the sediment volume estimate from the bathymetric analysis, the sediment transport capacity, and the likely release schedule from the Watermaster. A full pond drain schedule shall be provided to regulatory agencies and stakeholders.
15. Upon concurrence by the stakeholder group that a correlation has been established between the runoff and sediment accumulation in the impoundment, SCE shall provide for approval by the State Water Board Deputy Director for Water Rights (Deputy Director for Water Rights), a Sediment Monitoring Report. The Sediment Monitoring Report shall be submitted within 90 days of concurrence of the stakeholder group.
16. SCE shall provide for approval by the Deputy Director for Water Rights a plan for draining the Democrat impoundment and for flow control around the proposed work area. This plan shall provide, at minimum, the following information:
 - estimated flow rates to be maintained upstream of Democrat during construction;

- elevations of the intake and pre-and post-construction water levels in the impoundment;
 - diagrams of the barrier that will control flow around the work area;
 - identification of materials and quantities to be used in construction of the flow control barrier;
 - schedule and duration of construction activities; and
 - Identification of any mitigation measures that may be needed to protect the fishery.
17. SCE shall provide a copy of this certification to the contractor and all subcontractors conducting the work, and copies shall remain in their possession at the work site. SCE shall be responsible for work conducted by its contractor or subcontractors.
18. The Deputy Director for Water Rights and the Central Valley Region, Fresno Office (CVR), Assistant Executive Officer shall be notified one week prior to the commencement of ground disturbing activities, and upon request, a construction schedule shall be provided to agency staff in order for staff to be present onsite and to answer any public inquiries during construction, and to document compliance with this certification.
19. If at any time an unauthorized discharge to surface waters (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Deputy Director for Water Rights and the CVR Assistant Executive Officer shall be notified within 24 hours after the unauthorized discharge or water quality problem arises.
20. By March 15 of each year, SCE shall submit a Sediment Monitoring Report to the Deputy Director for Water Rights, DFG and other regulatory agencies when any of the three sediment management methods are used during the previous year. The monitoring report shall document compliance with conditions of this certification. The report shall contain, at minimum, the following information:
- a summary of all maintenance activities performed during the past year;
 - any issues related to protective measures set forth in the project permits;
 - a qualitative description of sediment conditions in the Democrat impoundment and downstream of Democrat,
 - a summary of any quantitative monitoring data collected, if applicable;
 - photographs of the project area; and
 - any anticipated work scheduled for the following year.
21. SCE shall consult with regulatory agencies and stakeholders regarding any modifications to the transport capacity sediment curve, or the Sediment Management Plan. The State Water Board reserves the right to make

modifications to the sediment monitoring program for future activities based on the results of the Sediment Monitoring Report.

General Conditions

22. Notwithstanding any more specific conditions in this certification, the project shall be operated 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. SCE shall take all reasonable measures to protect the beneficial uses of the Kern River.
23. This certification is contingent on compliance with all applicable requirements of the Water Quality Control Plan for the Tulare Lake Basin, except as may be modified by the specific conditions of the certification.
24. DFG Streambed Alteration Agreement Number 2005-0047-R4 issued on March 17, 2006 is incorporated by reference into this water quality certification. SCE shall comply with terms of the Agreement. In the event of conflict between terms of that permit and this water quality certification, the conditions of this certification shall control.
25. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531 - 1544). If a take will result from any act authorized under this certification or water rights held by SCE, SCE shall obtain authorization for the take prior to any construction or operation of the Project. SCE shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.
26. This certification action is not intended and shall not be construed to apply to any discharge from any activity requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b), and the application specifically sought a FERC license or amendment to a FERC license for a hydroelectric facility.
27. The authorization to operate the project pursuant to this certification is conditioned upon payment of all applicable deposits for review and processing of the application for water quality certification and administering the State's water quality certification program provided under California Code of Regulations, title 23, section 3833.
28. All BMPs described in the application for water quality certification and the supplemental information furnished are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific

conditions in this certification, the SCE shall comply with all measures described in the application for water quality certification.

29. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under any 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 assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
30. In response to a suspected violation of any condition of this certification, the State 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.
31. In response to any violation of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
32. SCE must submit any change to the project, including project operations and plans for off-site disposal of excavated materials that would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the Deputy Director for Water Rights for prior review and written approval.
33. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code, section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with § 3867).
34. The State Water Board reserves authority to modify this certification if monitoring results indicate that the Project would violate water quality objectives or impair the beneficial uses of the Kern River.
35. The State Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
36. The State Water Board may add to or modify the conditions of this certification as appropriate to coordinate the operations of this Project and other water development projects, where coordination of operations is reasonably necessary to achieve water quality standards or protect beneficial uses of water.

37. The State Water Board shall provide notice and an opportunity for hearing in exercising its authority under conditions 34, 35, and 36 above.

Dorothy Rice

Dorothy Rice
Executive Director

DEC 16 2008

Date