

Appendix A

Findings of Fact and Statement of Overriding Considerations

STATEWIDE UTILITY WILDFIRE GENERAL ORDER
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1. Description of the Order

This General Order intends to increase the efficiency and consistency of the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Board (Regional Water Board) permitting of Utility Service operation and maintenance and wildfire mitigation projects while protecting water quality. The General Order supports work mandated by Senate Bill 901 (SB 901), which mandates electrical utility companies or electrical cooperatives (Utility Services) implement Wildfire Mitigation Plans to prevent, combat, and respond to wildfire-causing ignitions resulting from interactions of vegetation with electrical utility infrastructure in their service territories. The types of Project Activities covered under the General Order encompass electrical utility operation and maintenance and wildfire mitigation activities with the potential to discharge waste. These Project Activities are described in detail in Section 2.4.2 – Detailed Description of Electrical Utility Wildfire Mitigation Activities of the Environmental Impact Report (EIR). An individual permitted project may incorporate one or more of these activities:

- **Vegetation Management** – trimming, mowing, removal, pesticide application, or other prevention methods used to manipulate vegetation underneath or adjacent to existing circuits, electrical structures and facilities.
- **Post-fire response** – hazardous tree removal, repair and replacement of burned facilities.
- **Site access development/maintenance** – creation, maintenance, improvements (e.g., grading, blading, graveling, brushing) or roads used to access electric utility facilities; includes maintenance and replacement of drainage crossings, culverts, ditches and side drains. This also includes placement of mats or other materials such as sandbags or sheet piles to gain access and perform work.
- **Staging areas and laydown yards** – areas needed to support operations and maintenance activities; areas contain project-related equipment, vehicles and materials, as well as parking for crews, potable water, project trailers, shelter, etc.
- **Pole/Tower Repairs or Replacement** – repair, replacement, or upgrade of aging and deteriorated poles and/or towers.
- **Substation Maintenance** – repair or replace transformer, switches, fuses, cutouts, meters, and insulators.
- **Transmission Tower Maintenance** – repair or replace tower foundations and/or the upper portion of the tower.
- **Structural Conversion** – structural conversions; for example, conversion of a single pole to an H-Frame structure, tubular steel pole or lattice steel tower.
- **Electric Line Reconductoring** – reconductoring of overhead electric utility lines to replace existing conductors with new conductors, along existing circuits; includes splicing and tensioning of electric lines.

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- **Undergrounding Powerlines** – replacement of overhead powerlines with underground powerlines; includes horizontal boring or trenching underground.
- **Boardwalk Repairs or Replacement** – repair or replacement of access boardwalks used to service transmission facilities.
- **Electric Utility Infrastructure Lowering, Maintenance, Replacement, or Removal** – electric utility infrastructure sections are lowered, maintained, replaced, or removed due to age, size, design, condition, and exposure.

The approving Water Board will determine whether an individual electric utility project is eligible for authorization under the General Order. Project activities must incorporate applicable Best Management Practices and avoidance and mitigation techniques into their project descriptions to be eligible for enrollment in this General Order.

2. Findings Required Under California Environmental Quality Act (CEQA)

CEQA requires that the Lead Agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Mitigation measures or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, subds. (a), (b).)

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an “acceptable” level solely by the adoption of feasible mitigation measures, the agency, in drafting its findings, has no obligation to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact – even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California (“Laurel Heights I”)* (1988) 47 Cal.3d 376, 400-403.)

In these Findings, the State Water Board first addresses the extent to which each significant environmental effect can be substantially lessened or avoided through the adoption of feasible mitigation measures, an effect is significant and unavoidable does the State Water Board address the extent to which alternatives described in the EIR are (i) environmentally superior with respect to that effect and (ii) “feasible” within the meaning of CEQA. In cases in which a project’s significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the “benefits of the project outweigh the significant

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effects on the environment.” (Pub. Resources Code, § 21081, subd. (b); see *also*, Cal. Code Regs., tit. 14, §§ 15093, 15043, subd. (b).)

In the Statement of Overriding Considerations found at the conclusion of these Findings, the State Water Board identifies the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that projects authorized under the General Order would cause.

The California Supreme Court has stated that “[t]he wisdom of approving... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.)

These Findings do not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, a full explanation of these environmental findings and conclusions are presented in the EIR and these findings hereby incorporate by reference the discussion and analysis in the EIR supporting the determination regarding the impacts of the General Order and mitigation measures designed to address those impacts. In making these findings, the State Water Board ratifies, adopts and incorporates in these findings the determinations and conclusions of the EIR relating to environmental impacts and mitigation measures except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

The State Water Board further adopts and incorporates all of the mitigation measures set forth in the EIR and the Mitigation Monitoring and Reporting Program (MMRP) to substantially lessen or avoid the potentially significant and significant impacts of the General Order. The State Water Board adopts each of the mitigation measures proposed in the EIR to reduce or eliminate significant impacts resulting from the General Order. Accordingly, in the event a mitigation measure in the EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure(s) is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the EIR due to a clerical error, the language of the policies and implementation measures, as set forth in the EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the EIR.

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2.1 Impacts Found to be Less Than Significant or No Impact and Thus Requiring No Mitigation

Consistent with Public Resources Code section 21002.1 and section 15128 of the State CEQA Guidelines, the EIR focused its analysis on potentially significant impacts, and limited discussion of other impacts for which it can be concluded with certainty there is no potential for significant adverse environmental impacts. State CEQA Guidelines section 15091 does not require specific findings to address environmental effects that an EIR identifies as “no impact” or a “less than significant” impact. Nevertheless, the State Water Board hereby finds that, based on substantial evidence in the whole of the record, the adoption of the General Order does not authorize any individual project but it is reasonably foreseeable that Project Activities permitted under the General Order would have either no impact or a less than significant impact to the following resource areas:

- Air Quality
- Energy
- Greenhouse Gases
- Land Use
- Minerals
- Population
- Public Services
- Recreation
- Transportation
- Utilities
- Wildfire

Therefore, these impacts do not require mitigation. These issues have no potential for significant impacts and required no further environmental review or analysis beyond the discussion in Chapter 3 of the EIR. (CEQA Guidelines, § 15128.)

2.2 Significant or Potentially Significant Impacts Reduced to a Less than Significant Impact Through Mitigation Measures

Significant or potentially significant impacts prior to the application of mitigation measures have been identified in the following areas: Biology, Geology, Hazards, and Noise. With the implementation of mitigation measures, these impacts have been reduced and are discussed in further detail below.

Impact Category: Biology

Description of Potential Effects

Project Activities permitted under the General Order could have an impact on biological resources such as special-status species, critical habitat, or sensitive natural

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communities. Special-status wildlife could be crushed by heavy equipment. Special-status plants could be flattened by heavy equipment, trimmed for vegetation management, sprayed with herbicide, or removed from the work area. Project Activities such as road development and facility upgrades could impact wetland hydrology through altering a feature's microtopography conducive of inundation or modifying the water table. Site access or development could contribute significant erosion or sedimentation into waters of the State, which could choke out native species and compromise the water's function. Project Activities could disperse invasive plant seeds into disturbed soils and facilitate an infestation that could outcompete the native biota. Vehicles and other equipment could discharge hazardous materials into waters, including but not limited to fuels and lubricants. Managed utility corridors, including overhead electric facilities located in waters of the state, accommodate fish and wildlife movement after completed construction, and have not been barriers. However, impacts on native fish or wildlife movement may result during Project Activities including facility replacement, access route construction and reconstruction, dewatering, vegetation management and operation of construction equipment.

Project Activities of the type permitted under the General Order are ongoing, and the continuation of these activities does not represent a drastic change to the baseline conditions of the natural communities within and neighboring the utility infrastructure. Wildfire mitigation would be conducted under the new baseline of the postfire environment. All Utility Services enrolled under the General Order would be required to conduct Project Activities in compliance with the protective conditions that will avoid or minimize impacts to biological resources.

Mitigation Measures

The following mitigation measure would reduce impacts from Project Activities related to biological resources:

Mitigation Measure BIO-1: Agency Consultation, Permitting, and Mitigation

If sensitive biological resources occur or have potential to occur in the Project Area, the Utility Service would be required to consult with the applicable regulating agency or agencies to acquire permits, implement mitigation, and coordinate to avoid conflict with existing Habitat Conservation Plans, Natural Community Conservation Plans, or other approved local, regional, or state habitat conservation plans. The regulatory agencies would likely require protocol surveys to qualify and quantify the extent of the sensitive biological resources in the Project Area. Permit conditions would likely require Utility Services to install resource-specific buffers in the Project Area prior to ground disturbance. Mitigation for Utility Services' impact to sensitive biological resources could include purchasing mitigation bank credits and/or enhancing or preserving existing populations or habitat in perpetuity.

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Utility Services would be required to acquire a habitat conservation plan and incidental take permit under federal ESA Section 10(a) or a federal interagency consultation for an incidental take permit under Section 7 from USFWS for impacts to federally listed species. Utility Service impacts to waters of the U.S. could require a CWA Section 404 permit from the U.S. Army Corps and a Section 401 Water Quality Certification from the State or Regional Water Board. Project Activity impacts to aquatic resources that are only under state jurisdiction could require Utility Services acquire a Waste Discharge Requirement from the State or Regional Water Board. Project Activity impacts to streambeds and lakes could require Utility Services acquire a Lake and Streambed Alteration Agreement from CDFW. Utility Services could be required to acquire a Coastal Development Permit from the CCC or local government managing the Local Coastal Program for Project Activities in the coastal zone. Project Activities in the Bay Area could require Utility Services acquire permits from the San Francisco Bay Conservation and Development. Utility Services would be subject to local agency regulations.

Findings

For impacts to biological resources, the State Water Board finds: Changes or alterations have been required in, or incorporated into, the project to avoid or substantially lessen the environmental effects as identified in the EIR. The potential impacts to biological resources from implementation of the General Order are found to be **less-than-significant with mitigation**.

References

Section 3.04 of the EIR addresses the General Order's biological resources impacts.

Impact Category: Geology

Description of Potential Effects

Project Activities permitted under the Order would not alter the seismic setting or underlying geologic conditions. Electrical utility infrastructure could be subject to strong seismic ground shaking; however, Project Activities are not known to increase the risk to people or structures from seismic-related ground failure or liquefaction. Project Activities could occur on unstable soils or destabilize slopes during access road construction and reconstruction, equipment staging, undergrounding powerlines, and vegetation management. Project Activities could occur in mountainous locations where there is a higher risk of slope failure compared to flatter portions of the Project Area. Project Activities could include excavation, grading, vegetation removal, and other ground disturbances that could reduce slope stability. A post-fire environment may have an increased risk of landslides because of burn scars. The General Order includes conditions requiring site stabilization, runoff controls, and erosion management

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practices, but the General Order could cover Project Activities that directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.

Mitigation Measures

Mitigation Measure GEO-1: Adherence to Utility Earthwork Standards

Utility Services would conduct Project Activities in compliance with all applicable utility and earthwork regulatory standards, including those required by the California Public Utilities Commission, Institute of Electrical and Electronics Engineers 693 standards, California Building Code, and other existing federal, state, and local laws, regulations, and/or standards.

Mitigation Measure GEO-2: Conduct General Project-Level Analysis for Paleontological Sensitive Units

Prior to breaking ground, Utility Services would be required to assess whether the proposed project occurs on a paleontological sensitive unit. If the proposed project occurs on a paleontological sensitive map unit, a qualified paleontologist would develop a paleontological resource monitoring and recovery plan. The paleontological resource monitoring and recovery plan would detail monitoring protocols for ground disturbance proposed in sediment with a moderate to high paleontological sensitivity. The monitoring and recovery plan would be designed and led by a qualified paleontologist to determine the extent of fossiliferous sediment being exposed and affected by erosion and determine whether paleontological resources are being lost. If the loss of scientifically significant paleontological resources is documented, then the recovery program would be implemented. If mitigation measure GEO-2 determines the project occurs on a paleontological sensitive unit, mitigation measure GEO-3 below would also be implemented.

Mitigation Measure GEO-3: Conduct Paleontological Training to Construction Crews

If after implementing mitigation measure GEO-2, the proposed project was determined to occur in a location with moderate to high paleontological sensitivity, a qualified paleontologist shall prepare paleontological resources sensitivity training materials prior to ground disturbance for use during project worker environmental training. This training shall be conducted by an environmental professional under the supervision of the qualified paleontologist. Prior to ground disturbance, all construction personnel onsite will receive the paleontological resources sensitivity training, even if they arrived after initial ground disturbance begins. The paleontological resource sensitivity training shall report the types of resources that could be encountered within the project site and the procedures to follow if they are found; if paleontological resources are detected, all work

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within at least 100 feet should be halted until a qualified paleontological resources specialist evaluates the item for its significance and records the item. Project proponents and/or project contractors shall retain documentation demonstrating that all construction personnel attended the paleontological resource sensitivity training before the start of work on the site and shall provide documentation to the project manager upon request.

Findings

For the above impacts to geology, soils, and seismicity, the State Water Board finds: Changes or alterations have been required in, or incorporated into, the project to avoid or substantially lessen the significant environmental effect as identified in EIR. The potential impacts to geology and soils from the implementation of the General Order are found to be **less-than-significant with mitigation**.

References

Section 3.07 of the EIR addresses the Project's geology and seismicity impacts.

Impact Category: Hazards

Description of Potential Impacts

Project Activities can require use of hazardous substances, such as fuels and lubricants for vehicles and equipment, paints, solvents, and epoxies. Spills could occur during fueling or servicing equipment, or during delivery of fuels and other substances to work sites. Spills have the potential to contaminate soil, surface water, and/or groundwater, potentially resulting in toxic effects on vegetation, wildlife, workers, and the general public. Utility Service facilities are located statewide, and Project Activities requiring the use of hazardous materials and hazardous wastes could take place within 0.25 mile of existing or proposed schools. In the post-fire environment, utilities may need to transport toxic materials, such as burned equipment or contaminated soil. It is possible that this transportation could create a hazard to the public or the environment.

Mitigation Measures

Mitigation Measure HAZ-1: Compliance with Applicable Laws, Regulations, and Ordinances

Utility Services would be required to comply with applicable state, federal, and local laws, regulations, and requirements pertaining to hazardous materials and hazardous wastes. Relevant regulations include the Toxic Substances Control Act, CWA, Solid Waste Disposal Act, Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act. In addition, Utility Services storing hazardous materials that meet or exceed the state thresholds (i.e., 55 gallons for liquids, 500 pounds for solids, and 200 cubic feet for gasses) are required to prepare a

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Hazardous Materials Management Plan; the plan would detail best management practices to minimize the effects to incidental releases, and ensure proper handling, storage, and disposal of hazardous and nonhazardous waste. These regulations establish legal requirements for hazardous materials storage, transportation and handling, and agency oversight.

Findings

For the above impacts to hazards and human health, the State Water Board finds: Changes or alterations have been required in, or incorporated into, the project to avoid or substantially lessen the significant environmental effect as identified in the EIR. The potential impacts to hazards and human health from the implementation of the General Order are found to be **less-than-significant with mitigation**.

References

Section 3.09 of the EIR addresses the General Order’s hazards and human health impacts.

Impact Category: Noise

Description of Potential Impacts

Project Activities permitted under the Order could generate noise from the following sources: vehicles such as trucks, helicopters or light aircraft used for inspection patrols and employee access trips; heavy machinery such as cranes, excavators and scrapers used for maintenance; and smaller equipment such as chainsaws or generators used for vegetation management and other Project Activities. In general, Project Activities would be temporary and of short duration. In addition, the linear nature of many Utility Service projects reduces the construction time in a single location, limiting the duration that any one receptor would be exposed to the sound. Some high-impact Project Activities, such as pile driving, may impact the ground and create vibrational waves that radiate outward and downward, away from the point of contact. While these impacts would be temporary and short-lived, sensitive receptors could be exposed to groundbourne vibration and noise. Project Activities could be implemented within an area covered under an adopted airport land use plan, potentially exposing construction workers or nearby residents to excess noise.

Mitigation Measures

Mitigation Measure NOI-01: Adherence to Noise Standards and Policies per the Applicable General Plan, Noise Ordinances, or Other Agency Regulations

Noise-generating Project Activities would follow applicable general plans, noise ordinances, and other agency or agencies regulations for the jurisdiction located within the vicinity of the project.

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Findings

For the above impacts to noise, the State Water Board finds: Changes or alterations have been required in, or incorporated into, the General Order to avoid or substantially lessen the significant environmental effect as identified in the EIR. The potential impacts to noise from implementation of the General Order are found to be **less-than-significant with mitigation**.

References

Section 3.13 of the EIR addresses the General Order's noise impacts.

2.3 Significant and Unavoidable Impacts

The following significant and potentially significant environmental impacts are unavoidable and cannot be mitigated in a manner that would lessen the impact to below the level of significance. For these impacts, the State Water Board adopts the Order due to overriding considerations as set forth below in Section 4, *Statement of Overriding Considerations*.

Impact Category: Aesthetics

Description of Potential Effects

Project Activities permitted under the Order could result in visual impacts to a site, including potential impacts to scenic vistas and the visual character of a public view of the site and its surroundings. Project Activities, including operation and maintenance of utility infrastructure and the construction of access roads, can involve ground disturbing activities and the removal of vegetation. Vegetation management would have significant aesthetic impact because the rights-of-way (ROW) would be managed more often or with greater clearance distances than present baseline conditions to ensure the powerlines have sufficient clearance above the vegetation per California Public Utilities Commission (CPUC) requirements. Project Activities such as trenching, horizontal directional drilling, or the construction of staging areas have the potential to affected areas within or directly adjacent to the ROW. Revegetation of these areas can take several years or may not be permitted to return to previous heights or proximity to utility lines, resulting in impacts to scenic vistas. Upgrading of utility infrastructure could result in permanent, but minor visual changes to the landscape due to increased surface area of reflective surfaces. The construction of access roads would result in permanent additions to the landscape. Poorly constructed access roads could result in erosion that could impact aesthetic resources. It is not anticipated that many access roads would be constructed through scenic resources, however, if a new access route was needed to reach utility infrastructure within 1,000 feet of state scenic highways, it is anticipated that Utility Services would use the path of least resistance and attempt to go around trees, rock outcroppings, and historic buildings.

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Mitigation Measures

The following mitigation measures would reduce impacts from Project Activities related to aesthetics:

Mitigation Measure AES-01: Reduction of Visibility of New Structures in Sensitive Landscapes

The Utility Service would design new structures (e.g., interest poles, additional hardware and equipment being added to existing poles, supporting structures and stub poles, access roads) to minimize the impact on the existing visual character and quality associated in sensitive landscapes (e.g., in, along, or near national, state, or local parks, recreation areas, forest, scenic routes, vista views, or similar). To the extent feasible and consistent with safety of visible guardrails, substations and switching stations, infrastructure would be composed of a non-reflective material to help blend the surfaces in with the surroundings. Utility Services would prioritize constructing access roads in locations not visible to the public.

Findings

For the above impacts to aesthetics, the State Water Board finds: Changes or alterations have been required in, or incorporated into, the project to avoid or substantially lessen the significant environmental effect as identified in the EIR. However, where greater clearance distances need to be maintained or areas are revegetated with plants, there may be significant impacts for which there are not feasible mitigation measures. Therefore, the potential impacts to aesthetics from implementation of the General Order area found to be **significant and unavoidable**. This impact is overridden by project benefits as set forth in the statement of overriding considerations.

References

Section 3.01 of the EIR addresses the General Order's aesthetic impacts.

Impact Category: Cultural Resources

Description of Potential Effects

Project Activities permitted under the Order could be in proximity to architectural resources that qualify as historical resources as defined in State CEQA Guidelines Section 15064.5 and archaeological resources that qualify as archaeological resources as defined in State CEQA Guidelines Section 15064.5 or 21083.2. Project Activities permitted under the Order could be in proximity to human remains, including those interred outside of dedicated cemeteries. In the event of the discovery of human remains, implementation of General Order conditions related to cultural resources and

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adherence to California Public resources Code Section 5097.98 and Health and Safety Code Section 7050.5 are required. The General Order does not authorize any activity adversely impacting an important historical or archeological resource; disturbing any human remains; or eliminating important examples of the major periods of California history or prehistory, unless the activity is authorized by the appropriate historical resource agencies. For certain urgent projects necessary to restore essential public services or facilities, it may not be possible to complete a search for archaeological resources prior to initiating activities. Because the extent and location of Project Activities are not known at this time, it is not possible to conclude that the General Order requirements or equally effective mitigation measures would reduce significant impacts to a less-than-significant level in all cases.

Findings

Project Activities permitted under the Order are the types of activities that have the potential to affect historical (i.e. architectural) resources. However, the exact details, including precise locations, of any such activities have yet to be determined. Therefore, it is not known whether implementing Project Activities permitted under the Order would affect any architectural resources. Factors necessary to identify specific impacts on historical resources include the project's design, footprint, and type; and the precise location of construction activities. For these reasons, even with adherence to General Order conditions, this impact is **significant and unavoidable**. This impact is overridden by project benefits as set forth in the statement of overriding considerations.

References

Section 3.05 of the EIR addresses the General Order's cultural resources impacts.

Impact Category: Tribal Cultural Resources

Description of Potential Effects

Project Activities permitted under the Order are the types of activities that have potential to affect tribal cultural resources. Construction activities and minor expansions of facilities may result in either a direct impact (e.g., physical modification, damage, or destruction) or an indirect impact (e.g., alteration to setting, biological community, or visual setting) on a tribal cultural resource as defined in Public Resources Code section 21074. Depending on the Project Activity, it may be possible to avoid or minimize the impact to the tribal cultural resource by, for example, avoidance of the site, confidentiality of the site location, fence off cap-in place areas of high sensitivity, avoid ground disturbance or route around tribal cultural resource sites, and providing working training. The General Order conditions require Utility Services to comply with a process designed to be protective of tribal and cultural resources, including an evaluation of the

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site, and the potential for tribal consultation on projects with the potential to impact known tribal cultural resources.

Findings

Project Activities permitted under the Order are the types of activities that have the potential to affect tribal cultural resources, including resources included in a private tribal register. However, the exact details, including precise locations of any such activities have yet to be determined. Therefore, it is not known whether implementing Project Activities under the Order would affect any tribal cultural resources. Factors necessary to identify specific impacts on tribal cultural resources include the project's design, footprint, and type; and the precise location and timing (i.e., seasonal access for cultural ceremonies or resources) of construction activities. For these reasons, even with adherence to General Order conditions, this impact is **significant and unavoidable**. This impact is overridden by project benefits as set forth in the statement of overriding considerations.

References

Section 3.18 of the EIR addressed the General Order's tribal cultural resources impacts.

3. Alternatives

The State Water Board considered alternatives to the General Order presented and analyzed in the EIR and presented during the comment period. Some of these alternatives have the potential to avoid or reduce certain significant or potentially significant environmental impacts, as set forth below. The State Water Board finds that these alternatives are infeasible. Based on the impacts identified in the EIR and other reasons summarized below, and as supported by substantial evidence in the record, the State Water Board finds that approval and implementation of the General Order as presented is the most desirable, feasible, and appropriate action and hereby rejects the other alternatives and other combinations and/or variations of alternatives as infeasible based on consideration of the relevant factors set forth in CEQA Guidelines Section 15126.6, subdivision (f) (also CEQA Guidelines, Section 15091, subdivision(a)(3)). Each alternative and the facts supporting the finding of infeasibility are set forth below.

3.1 Summary of Alternatives Considered

The following alternatives were identified and considered for further evaluation in the EIR:

- Alternative 1: The General Order as proposed that is a combined Section 401 Water Quality Certification and Waste Discharge Requirement
- Alternative 2: No Project
- Alternative 3: Fire Prevention Work Only (i.e. excludes postfire activities)
- Alternative 4: Permit Limited to Only High Fire Threat Districts

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- Alternative 5: Create Separate Permits for In-Water Work (401 Certification) and out of water work (Waste Discharge Requirement)

Alternative 2: No Project

Alternative 2 consists of existing conditions at the time the NOP is published, and what would be reasonably expected to occur in the foreseeable future without adoption of the Order, based on current plans and consistent with available infrastructure. Utility Services are required to increase the pace and scale of their wildfire mitigation activities per Senate Bill 901. These projects would remain subject to the requirement to apply for a CWA Section 401 water quality certification and/or waste discharge requirements for each project.

Relationship to Project Objectives

Alternative 2 would not achieve the objective to streamline the regulatory process for utility wildfire mitigation and response activities. Additionally, the No Project Alternative (Alternative 2) would not provide a process for permitting ongoing utility operations and maintenance activities in a uniform manner statewide.

Facts in Support of Finding of Infeasibility

As explained above, Alternative 2 does not meet the objectives of the Order. The current framework for permitting wildfire mitigation impacts to waters of the state, which requires individual water quality certifications or waste discharge requirements, would have longer permit processing times. In addition, there are existing emergency orders that permit the immediate initiation of work, but there are some projects that do not qualify as emergencies or are authorized through another existing, non-emergency Corps permit. Where the initiation of project activities is not permitted prior to the receipt of a Notice of Applicability, the initiation of urgent project activities could be delayed, or the discharger could face the prospect of enforcement. Therefore, Alternative 2 is rejected because it does not offer the streamlined approach that is needed to permit wildfire mitigation activities and their impacts to waters of the state. Moreover, individual permits would not provide uniform permitting statewide.

Alternative 3: Fire Prevention Work Only

This alternative would allow a streamlined permitting process for fire prevention work but would be more limited than the General Order. Fire prevention work represents the initial need for streamlined permitting in the wildfire cycle.

Relationship to Project Objectives

While fire prevention work would partially permit utility wildfire mitigation and response activities, it would not include postfire work. Postfire work includes the urgent need to restore power and services to the public.

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Facts in Support of Finding of Infeasibility

As explained above, Alternative 3 partially achieves the project objectives, but this alternative would not fully achieve streamlining of the regulatory process for wildfire related work performed by Utility Services. Therefore, a general order for Fire Prevention Work Only would fail to address the Utility Service’s need for streamlined permitting when there could be a threat to life, safety, or property but are authorized by a non-emergency Corps permit. Electricity outages can pose a potential threat to public health and safety. As a result, this alternative is rejected.

Alternative 4: Limit Permit to Only High Fire Threat Districts

Alternative 4 would allow a streamlined permitting process for utility wildfire mitigation activities and similar operations and maintenance activities only within High Fire Threat Districts as determined by the California Public Utilities Commission (CPUC).

Relationship to Project Objectives

Alternative 4 would address utility wildfire mitigation and response activities within the CPUC designated High Fire Threat Areas, however the potential for catastrophic fire and a resulting loss of Utility Services is not limited to only High Fire Threat Areas. As a result, limiting the scope of the General Order would limit Utility Services to the individual section 401 water quality certifications and Waste Discharge Requirement permitting timeline for fire-related projects that may occur outside of High Fire Threat Areas.

Factors in Support of Finding of Infeasibility

As explained above, Alternative 4 would not achieve all the project objectives. This alternative excludes large areas of the state where wildfire prevention Project Activities will also need to be completed and are also susceptible to impacts from wildfires such that a streamlined permitting process for repairs and restoration of Utility Services would be beneficial. Therefore, this alternative was rejected.

Alternative 5: Create Separate Permits for In-Water Work (401 Certification) and out of water work (Waste Discharge Requirement)

Alternative 5 would be to create separate permits for where there was a discharge of dredged or fill material to waters of the state, often referred to as in-water work, and where there is a discharge of waste that is not a discharge of dredged or fill material, referred to here as out-of-water work.

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Relationship to Project Objectives

Alternative 5 would accomplish the Project Objectives with two permits instead of one. Enrollment in two different permits would potentially be more confusing and therefore be less efficient than one permit.

Factors in Support of Finding of Infeasibility

As discussed above, Alternative 5 would not achieve the project objectives in a timely manner. The adoption of two permits would be potentially confusing and administratively burdensome. Adoption of two permits would not lessen any potential for adverse environmental impacts that are reasonably foreseeable from Project Activities permitted under the General Order. Therefore, this alternative was rejected.

4. Statement of Overriding Considerations

The State Water Board hereby declares that pursuant to State CEQA Guidelines Section 15093, it has balanced the benefits of the General Order against any unavoidable environmental impacts in determining to adopt the General Order. Pursuant to the State CEQA Guidelines, if the benefits of the General Order outweigh the unavoidable adverse environmental impacts, those impacts may be considered acceptable. The State Water Board finds that approval of the General Order, whose potential impacts have been evaluated in the EIR, and as indicated in the Statement of Environmental Effects and Required Findings, discussed above, would result in the occurrence of significant effects that are not avoided or substantially lessened. These significant and unavoidable effects are listed below.

- **Impact AES-1: Substantial adverse effect on a scenic vista.**
- **Impact AES-2: Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.**
- **Impact AES-3: Substantially degrade the existing visual character or quality of public views of the site and its surroundings in nonurbanized areas.**
- **Impact CUL-2: Cause a significant adverse change in the significance of an archaeological resource pursuant to Section 15064.5.**
- **Impact TCR-1: Cause a substantial adverse change in the significance of a tribal cultural resource, as defined in Public Resources Code Section 21074.**

Having reduced the adverse significant environmental impacts of the General Order as identified above to the extent feasible by adopting the mitigation measures contained in the EIR, the MMRP, and this appendix, as well as the conditions contained in the Final General Order; having considered the entire administrative record on the General Order; and having weighed the benefits of the General Order against its unavoidable adverse impact after mitigation, the State Water Board has determined that each of the

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following social, economic, and environmental benefits of the General Order separately and individually outweighs the potentially unavoidable adverse impacts and renders those potential adverse impacts acceptable, based upon the following overriding considerations.

The considerations taken into account by the State Water Board in making this decision are identified below.

Wildfires ignite in many ways, one of which is malfunctioning power company infrastructure. From 2007 to summer 2020, powerline-caused wildfires have resulted in 31,138 structures lost across California. (California Council on Science and Technology, *The Costs of Wildfire in California (2020)* (“CCST Report”).) Electric utilities can cause destructive wildfires through delayed maintenance of power transmission and distribution equipment or downed power lines due to bad weather. Extreme winds can damage utility equipment directly (particularly if it is faulty or has not been inspected) and can blow nearby trees and branches into lines. Equipment damage or contact often results in deposits of hot metal or burning vegetation onto a dry fuel bed. The conditions most likely to create an ignition are the same as those that lead to explosive fire growth. (*Id.*)

Since 2008, large fires caused by malfunctioning power company infrastructure caused the destruction of nearly 2 million acres of land. (CalMatters Wildfire tracker, available at <https://calmatters.org/california-wildfire-map-tracker/>, last accessed May 2024.) The California Department of Forestry and Fire Protection (CAL FIRE) provides the annual Wildfire Activity Statistics report. In California, the five-year average (2018-2022) was 7,572 fires and 1,889,103 acres burned. (CAL FIRE, 2022 Wildfire Activity Statistics (2022).) In 2022, electrical power, as defined by electrical power distribution or transmission, was responsible for 7% of the fires in the CAL FIRE state responsibility area. (2022 Wildfire Activity Statistics at 17.) The five-year average for fires caused by electrical power in the CAL FIRE state responsibility area was 290.

4.1 Environmental Considerations

A person discharging or proposing to discharge waste to waters of the state is required to file a report of waste of discharge, except if that requirement is waived. (Wat. Code, § 13260.) In the past, dischargers who were not required to obtain coverage under an existing Water Board permit sometimes incorrectly determined that no authorization from the Water Board for necessary. For example, activities that may not have been covered by the NPDES construction stormwater permit because of their size or because they were operation and maintenance activities have not filed a report of waste discharge with the applicable Water Board. Regional Water Board inspections have identified instances of improperly sized culverts, roads that were not constructed to avoid waters, grading performed without benefit of sediment and erosion control measures and associated mass wasting of sediments into waters of the state. (E.g.,

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Central Valley Regional Water Quality Water Board, Order No. R5-2023-0506.) Some of these activities may have been conducted on an expedited basis due to impending or recent wildfires. In such circumstances, particularly when contractors that may not be familiar with California law are used, having a General Order that articulates clear standards and requirements already in place will promote compliance without delaying the activities. Where waste discharge requirements are not already in place, dischargers may be more inclined to take on the risk of enforcement rather than delay the completion of urgent activities. A General Order where project activities are enrolled rather than requesting individual authorization is accordingly expected to result in better compliance with state water quality control plans and policies and better protect water quality and beneficial uses.

Additionally, the increase of catastrophic wildfires negatively impacts the health and resilience of California's forests and other sensitive habitats. California enjoys an immense spectrum of natural beauty and biological diversity, which adds immeasurably to the quality of life of 37 million Californians by providing clean air and water, wildlife habitat, recreation, scenic vistas, and a host of other tangible and intangible benefits. High-severity fires affect the resilience of the state's native ecosystems, hindering the ability of ecosystems to recover and undermining conservation of native biodiversity through the loss of native vegetation and increased vulnerability to non-native, invasive species.

Furthermore, catastrophic wildfires can compromise water quality both during the active burn and after the fire has been contained. (California Water Science Center, Water Quality after a Wildfire, available at <https://ca.water.usgs.gov/wildfires/wildfires-water-quality.html>, last accessed May 2024.) Drinking water sources can be impaired by ash from wildfires, and watersheds can be impacted through increased erosion and flooding. (*Ibid.*) Post-fire runoff can also harm ecosystems and aquatic life such as fish and frogs that live in affected watersheds, some of which are critically endangered. In one 2016 study, trace elements were found in post-fire stormwater water. (Carmen Burton, et. al, Trace Elements in Stormflow, Ash, and Burned Soil following the 2009 Station Fire in Southern California (2016).) The State Water Board finds that the project's potentially significant environmental impacts are acceptable in light of the project's benefits in reducing the risk of uncontrolled, catastrophic fires that cause significant environmental harm.

4.2 Economic Considerations

Electric Utility Service wildfire mitigation activities that fall outside the scope of existing permits, such as Nationwide Permits and Regional General Emergency Permits, must obtain an individual water quality certification and/or waste discharge requirements from the State Water Board and/or the appropriate Regional Board. This process can require greater time and expense and provides less regulatory certainty and consistency for

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electric utility project proponents than would be expected to request authorization under a General Order. As stated in the EIR Section 1, the objective of the Order is to help expedite permitting of wildfire mitigation and operation and maintenance activities statewide that have potential to discharge to waters of the state and make the regulatory process efficient by interpreting state standards in a uniform manner to ensure that applicable projects are consistent with federal and state water quality laws.

Electric Utility Service wildfire mitigation activities require considerable funding to implement. In 2019, the State's three largest utilities reported spending \$4.7 billion in combined expenditures. (CCST Report at pp. 37-38.) The majority of spending was on grid design and system hardening, vegetation and asset management, and inspections. (*Id.*) But electric utility companies also incur costs associated with public safety power shutoffs and from increased liability exposure due to wildfires. (*Id.* at pp. 39-40.) For example, PG&E was found liable for causing the 2018 Camp Fire, the state's most deadly and destructive on record.

In developing this permit, the Water Board considered and developed the permit language to be consistent with or similar to existing industry standard design manuals. For example, many of the road requirements are similar to design and construction requirements set forth in the Handbook for Forest, Ranch, and Rural Roads prepared by Pacific Watershed Associates. The handbook focuses on how to construct efficient, low cost and low maintenance roads designed to have a low impact on water quality and aquatic habitat. This guidance represents feasible best management practices used in the construction industry in areas where much of the project activities will occur. In addition, the water boards reviewed other regulatory programs and consulted with other agencies to ensure requirements could be implemented efficiently and without conflicting with the other program requirements. Specifically, the Water Board has reviewed and attempted to harmonize with the California Department of Forestry and Fire Protection Resource Management, Forest Practice Program. Other General Order conditions are commonly included in water quality certifications and construction stormwater permits for other activities, so that the Utility Services dischargers should be familiar with implementation of best management practices and other measures for compliance.

Adoption and implementation of the General Order would result in more streamlined Water Board authorization for wildfire prevention activities that reduce the risk of wildfires, including catastrophic megafires, that impose enormous economic costs to California. In 2022, fires in the CAL FIRE state responsibility area that were found to be caused by electrical power caused an estimated \$10.9 million in damages. (CAL FIRE 2022 Wildfire Activity Statistics at 29.) This estimate is comprised of estimates of the total property and contents dollar loss in terms of replacement in like kind and quantity and property and contents damaged by fire, smoke, water, and overhaul, but does not include the cost of fire suppression or indirect costs. In 2020, fire suppression costs

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surpassed \$1 billion for the first time.

(<https://calmatters.org/newsletters/whatmatters/2023/08/california-wildfires/>.) These estimates of damages do not include other costs that are not currently being tracked and are difficult to estimate, such as the costs of business disruption, damage to uninsured homes, ecosystem damage, and secondary health impacts.

The State Water Board finds that the project's potentially significant environmental impacts are acceptable in light of the project's benefits in reducing the risk of uncontrolled, catastrophic fires that cause significant economic harm.

4.3 Social Considerations

As a result of climate change, wildfires are increasing in intensity and size; and as California gets hotter and drier, the threat of wildfire continues to increase. This increase in incidents of wildfire results in catastrophic losses of personal property, utility service infrastructure, and can negatively impact human health.

Larger and more frequent wildfires are also a public health concern because smoke threatens public health with both short-term and long-term consequences. (CCST Report at p. 94.) U.S. EPA has found that wildfire smoke was the largest contributor of particulate matter of 2.5 micros or less, which is small enough to affect every organ in the body and is associated with lung inflammation, cardiovascular disease, stroke, allergies, autoimmune disorders, diabetes, Alzheimer's disease, lower childhood IQ, autism, lung cancer, bladder cancer, and childhood leukemia. (*Id.* at pp. 94-97.) Particulate matter from wildfire smoke can travel hundreds of miles, impacting areas far beyond the burn area. (*Id.* at 100-01.) Wildfires also produce a range of harmful air pollutants, such as benzene, volatile organic compounds, carbon monoxide, lead, mercury, and other heavy metals and toxins, all of which are associated with detrimental health impacts. (*Id.* at 97.)

A General Order is an effective approach to enable faster approval of essential electrical utility wildfire mitigation activities and electrical utility infrastructure operations and maintenance while ensuring the work is completed in a manner protective of water quality. The Project Activities permitted under the Order are consistent with existing environmental goals and standards and support the mandate of SB 901. The State Water Board finds that the project's potentially significant environmental impacts are acceptable in light of the project's benefits in reducing the risk of uncontrolled, catastrophic fires that cause significant social harm.

4.4 Summary

Accordingly, the State Water Board concludes that the General Order benefits outweigh and override its unavoidable significant impacts for the reasons detailed above. The State Water Board reached this decision after having done all of the following: (1) adopted all feasible mitigation measures, (2) rejected alternatives that do not fully meet

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the Project objectives or are infeasible, (3) recognized all significant, unavoidable impacts, and (4) balanced the benefits of the Project against its significant and unavoidable impacts.

4.5 References

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