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Notice of Determination

Appendix D

To:
Office of Planning and Research
U.S. Mail: P.O. Box 3044
Sacramento, CA 95812-3044
Street Address: 1400 Tenth St., Rm 113
Sacramento, CA 95814

County Clerk
County of:
Address:

From:
Public Agency: State Water Res Control Board
Address: 1001 I St, 15th Floor
Sacramento, CA 96014
Contact: Cliff Harvey, Environmental Scientist
Phone: 916.558.1709

Lead Agency (if different from above):
CA Public Utilities Commission
Address: 505 Van Ness Ave.
San Francisco, CA 94102
Contact: Eric Chiang, Project Manager
Phone: 415.703.1956

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2009121079

Project Title: Tule 1 Wind Project

Project Applicant: Tule Wind LLC

Project Location (include county): Rural eastern San Diego County, north of community of Boulevard

Project Description:
Project would construct 62 wind turbines on public lands managed by the Bureau of Land Management (BLM) and five turbines on private land in southeastern San Diego County. The total Project area is 447.9 acres. Project includes overhead and underground electric transmission lines, access roads, and appurtenant maintenance and communication facilities.

This is to advise that the State Water Resources Control Board has approved the above (Lead Agency or Responsible Agency)

described project on (date) and has made the following determinations regarding the above described project.

- 1. The project will have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan was adopted for this project.
5. A statement of Overriding Considerations was adopted for this project.
6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/EQOSUB.htm

Signature (Public Agency): [Signature] Title: Executive Director

Date: 11/18/16 Date Received for filing: Governor's Office of Planning & Research

NOV 18 2016

Authority cited: Sections 21083, Public Resources Code. Reference Section 21000-21174, Public Resources Code.

STATE CLEARINGHOUSE 2011

A. Environmental Review

On April 19, 2012, the California Public Utilities Commission (CPUC), as lead agency, certified a Final Environmental Impact Report (FEIR)) (State Clearinghouse (SCH) No.2009121079) for the Project and filed a Notice of Determination (NOD) at the SCH on June 11, 2012. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that CPUC's certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3.) The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by CPUC addresses the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by [CPUC for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation.. The following sections of the Project FEIR are referenced in these Findings:

- Biological Resources, section D.2
http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/Final_EIR/D.2_Biological_Resources.pdf
- Public Health and Hazardous Materials, section D.10
http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/Final_EIR/D.10_Public_Health_and_Safety.pdf
- Water Resources, section D.12
http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/Final_EIR/D.12_Water_Resources.pdf
- Geology, Minerals and Soils, section D.13
http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/Final_EIR/D.13_Geology_Mineral_Resources_and_Soils.pdf

- Appendix C – Adopted Mitigation Measures
http://www.blm.gov/style/medialib/blm/ca/pdf/cdd/energy/tule_wind_508_-_volume.Par.95336.File.dat/Appendix%20C_Adopted_MMs.pdf
- Appendix D – Environmental and Construction Compliance Monitoring Plan
http://www.blm.gov/style/medialib/blm/ca/pdf/cdd/energy/tule_wind_508_-_volume.Par.85043.File.dat/Appendix%20D_ECCMP.pdf

The Project FEIR and the following documents are incorporated herein by reference:

- Project mitigation measures and reporting responsibilities are also summarized in the Environmental and Construction Compliance Monitoring Plan (ECCMP) which serves as the Project’s mitigation monitoring and reporting plan. The ECCMP is also available at: <http://tulewindeccmp.com/ECCMP.pdf>
- The Tule Wind LLC’s application for Certification with all attachments, which include detailed project maps, a detailed project description, copies of information provided to other resource agencies, compensatory mitigation plans, and other supporting information.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR. The Project FEIR is available at:

<http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/ECOSUB.htm>

These CEQA findings draw upon the Project EIR/EIS, but only consider those project impacts and mitigations that apply to the selected alternative for the Tule Wind Project; i.e., Tule Wind Alternative 5 – Reduction in Turbines. The Environmental Setting remains the same. Under this selected alternative, the proposed Tule 1 Wind Project would consist of 65 turbines, instead of the originally approved 128 turbines. The proposed Project does not include 63 other specified turbines that were analyzed in the Alternative 5. Therefore, with the exception of removed turbines, the environmental setting under this alternative would be the same as described in Sections D.10.1 and D.10.2 of the EIR.

C. Findings

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, the State Water Board makes the following findings:

1. Findings regarding impacts that will be avoided or mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

a.i. Potential Significant Impact: **IMPACT TULE-BIO-2:**

Construction activities would result in substantial adverse effects to jurisdictional waters and wetlands through vegetation removal, placement of fill, erosion, sedimentation, and degradation of water quality. Numerous dry washes and swales (non-wetland waters) would be subject permanent and temporary dredge and fill impacts to waters of the state, including waters of the U.S. Although all areas of the Tule Wind Project may be decommissioned and restored in the future,¹ all impacts are considered permanent for the purposes of this analysis.

a.ii. Facts in Support of Finding:

Mitigation Measures TULE-BIO-1a through TULE-BIO-1d, TULE-BIO-1f, TULE-BIO-1g, and TULE-BIO-2a through TULE-BIO-2c have been provided to mitigate this impact. As concluded in the FEIR, implementation of the these mitigation measures will be adequate to reduce impacts due to temporary and permanent impacts to waters of the state to a less than significant level.

- MM- TULE-BIO-1a will confine all construction and construction-related activities to the minimum necessary area as defined by the final engineering plans.
- MM TULE-BIO-1b will require that the project proponents conduct training in mitigation measure compliance for all developer, contractor and sub-contractor staff.
- MM- TULE-BIO-1c will require that biological construction monitoring during all ground-disturbing and vegetation removal activities.
- MM TULE-BIO-1d will require restoration of all temporary construction areas pursuant to a Habitat Restoration Plan. All temporary work areas not subject to long-term use or ongoing vegetation maintenance shall be revegetated with native species characteristic of the adjacent native vegetation communities in accordance with a Habitat Restoration Plan.
- MM TULE-TULE-BIO-1f will implement fire prevention best management practices during construction and operation activities. Fire prevention best management practices shall be implemented during construction and operation of the project as specified by the Construction Fire Prevention/Protection Plan.

¹ A Decommissioning Plan is in place and may be implemented at the termination of the BLM's ROW authorization. This plan calls for restoration of all turbine locations, support facilities, access roads, and vegetation management areas after decommissioning.

- MM TULE-BIO-1g requires preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) pursuant to the specifications described in Mitigation Measure TULE- TULE-HYD-1 (also discussed below).
- MM BIO-2a limits temporary and permanent impacts to jurisdictional features to the minimum necessary as defined by the final engineering plans.
- MM TULE-BIO-2b requires implementation of a mitigation plan to ensure no net loss of jurisdictional waters and wetlands. Temporary and permanent impacts to all jurisdictional resources shall be compensated through a combination of habitat creation (i.e., establishment), enhancement, preservation, and/or and habitat restoration at a minimum of a 1:1 ratio or as required by the permitting agencies. Any creation, enhancement, preservation, and/or /restoration effort shall be implemented pursuant to a Habitat Restoration Plan, which shall include success criteria and monitoring specifications and shall be approved by the permitting agencies prior to construction of the project.
- MM TULE-BIO-2c requires that, where drainage crossings are unavoidable, construction of access roads will be at right angles to drainages when feasible.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to vegetation removal, placement of fill, erosion, sedimentation, and degradation of water quality to a less than significant level.

b.i. Potential Significant Impact: IMPACT TULE-BIO-3:

Construction and operation/maintenance activities would result in the introduction of invasive, non-native, or noxious plant species. The Tule Wind Project would result in temporary ground-disturbing activities that would result in disturbance or removal of existing vegetation. Ground-disturbance activities expose soils and allow invasive and non-native plant species to become established. Increased human and vehicle activity in the project area during construction would have the potential to introduce seeds of invasive and non-native species into the area. During operation and maintenance of the Tule Wind Project, the human and vehicle activities would have the potential to spread invasive and non-native species throughout the area. The introduction and spread of invasive, non-native, or noxious plant species has the potential to degrade plant and species habitat, including areas known to support special-status species and sensitive natural communities.

b.ii. Facts in Support of Finding:

Mitigation Measures TULE-BIO-1a through TULE-BIO-1d, TULE-BIO-1f, TULE-BIO-1g (discussed above) and TULE-BIO-3a have been provided to mitigate this impact. As concluded in the FEIR, implementation of the these mitigation measures will be adequate to reduce impacts due to the introduction or increase in noxious weed impacts to waters of the state due to a less than significant level.

- TULE-MM BIO-3a requires preparation and implementation of a Noxious Weeds and Invasive Species Control Plan. A Noxious Weeds and Invasive

Species Control Plan shall be prepared and reviewed by applicable permitting agencies. On BLM lands, the plan shall be consistent with an Integrated Pest Management approach per the Vegetation Treatments on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Report (2007). The plan shall be implemented during all phases of project construction and operation. The plan shall include best management practices to avoid and minimize the direct or indirect effect of the establishment and spread of invasive plant species during construction.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to the introduction of invasive, non-native, or noxious plant species to a less than significant level.

c.i. Potential Significant Impact: **IMPACT TULE-HYD-1.**

Construction activity could degrade water quality due to erosion and sedimentation. Construction and decommissioning of the Tule Wind Project would expose severely erodible soils on steep slopes due to ground surface disturbance, heavy equipment traffic, and alteration of surface runoff patterns. Additionally, weathering of freshly exposed soils from trenching, foundation excavation, or access road construction can release various chemicals through oxidation and leaching processes. These activities can then affect the surface water and groundwater quality of down-gradient locations. The existing vegetation would be removed during grading activities, and soils would be disturbed, making the site more susceptible to wind and water erosion. Road and stream crossing construction poses particular risks for erosion. Vehicles and equipment are prone to tracking soil and/or spoil from work areas to paved roadways, which is another form of erosion.

c.ii. Facts in Support of Finding:

Mitigation Measures HYD-1 and GEO-1 have been provided to mitigate this impact. As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to erosion and sedimentation to a less than significant level.

- MM TULE-HYD-1 requires that a Stormwater Pollution Prevention Plan (SWPPP) shall be prepared in compliance with the NPDES General Permit for Storm Water Associated with Construction Activities (Construction General Permit, or CGP). Implementation of the SWPPP according to CGP would effectively reduce erosion to less than significant levels.
- MM TULE-GEO-1 requires that an Erosion Control and Sediment Transport Control Plan be included with the project grading plans submitted to the County of San Diego for review and comment. The plan would be prepared in accordance with the standards provided in the Manual of Erosion and Sedimentation Control Measures and consistent with practices recommended by

the Resource Conservation District of Greater San Diego County. The plan would designate BMPs that would be implemented during construction activities.

Mitigation Measure TULE-HYD-1, which includes measures to prevent significantly altering drainage patterns or increasing erosion or siltation, and Mitigation Measure TULE-GEO-1, which requires the preparation and implementation of an Erosion Control and Sediment Transport Control Plan would mitigate for adverse impacts through preparation and implementation of project-specific stormwater and erosion control plans.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to erosion and sedimentation to a less than significant level.

d.i. Potential Significant Impact: **IMPACT TULE-HYD-2:**

Construction activity could degrade water quality through spills of potentially harmful materials. Construction and decommissioning activities to be performed at the Tule Wind Project site could result in adverse impacts through the accidental release of hazardous materials used during construction and decommissioning.

d.ii. Facts in Support of Finding:

Mitigation Measures have been provided to mitigate this impact. Mitigation Measures TULE-HYD-1, TULE-GEO-1 (previously discussed), and TULE-HAZ-1a through TULE-HAZ-1d, TULE-HAZ-2a, and TULE-HAZ-2b would mitigate for adverse impacts.

- MM TULE-HAZ-1a would require that prior to approval of final construction plans, the applicant or applicant's contractors shall prepare a Hazardous Material Management Plan (HMMP) for the construction phase of the project.
- MM TULE-HAZ-1b: would require that prior to approval of final construction plans, the applicant or applicant's contractors shall prepare a Health and Safety Program for each applicable phase of the project (i.e., construction, operation, and decommissioning).
- MM TULE-HAZ-1c: would require that prior to approval of final construction plans, the applicant or applicant's contractors shall prepare a Waste Management Plan, which shall determine waste procedures, waste storage locations, waste-specific management and disposal requirements, inspection procedures, and waste minimization procedures.
- MM TULE-HAZ-1d: would require that prior to demolition of the existing Boulevard Substation and surrounding buildings, soil, conduit, equipment, and structures shall be tested for environmental hazards including oil, lead-based paint, and asbestos.

- MM TULE-HAZ-2a would require that prior to initiating excavation or grading in areas where the land has been or is currently being farmed; soil samples shall be collected and tested for herbicides, pesticides, and fumigants to determine the presence and extent of any contamination.
- MM TULE-HAZ-2b would require that if soil or groundwater contamination is suspected or encountered during grading or excavation activities (e.g., unusual soil discoloration or strong odor), the applicant's contractors or subcontractors shall immediately stop work and notify the designated environmental field representative. All work in the area of suspected contamination shall cease, the work area shall be cordoned off, and the environmental field representative shall implement appropriate health and safety procedures.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to groundwater, which is waters of the state, due to spills of potentially harmful materials to a less than significant level.

e.i. Potential Significant Impact: **IMPACT TULE-HYD-3:**

Excavation could degrade groundwater quality in areas of shallow groundwater. Excavation activities could contaminate groundwater through accidental material spills. Degradation of groundwater resulting from excavation is unlikely to occur primarily for the reason that groundwater in the project area is not expected to be encountered at the depths of excavation necessary for the project. However, the possibility of adverse impacts resulting from contamination of groundwater in areas of underground springs or shallow alluvium remains.

e.ii. Facts in Support of Finding:

Mitigation Measures have been provided to mitigate this impact. Implementation of Mitigation Measures TULE-HAZ-1a through TULE-HAZ-1d, TULE-HAZ-2a, and TULE-HAZ-2b (previously discussed) and TULE-MM-HYD-2, would mitigate potential adverse impacts. These measures require that the Project be designed and built so that disruptions to natural surface water and watershed functions are avoided and minimized. In addition, MM TULE-HYD-2 is proposed.

- MM TULE-HYD-2 would require avoidance and preventative measures to protect local groundwater during excavation. Prior to excavation, a qualified geologist/hydrologist shall determine the depth of groundwater in areas where excavation would occur. The project shall be designed to avoid areas of shallow groundwater where feasible. In such areas where groundwater cannot be avoided during excavation, the site shall be dewatered during construction, and materials that could contaminate the groundwater shall be kept at least 200 feet from the dewatering activities. An NPDES permit shall be obtained for proper disposal of water. Treatment may be required prior to discharge.

This measure addresses potential impacts to groundwater due to construction dewatering.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to degradation of groundwater quality in areas of shallow groundwater to a less than significant level.

f.i. Potential Significant Impact: **IMPACT TULE-HYD-4:**

The project could deplete local water supplies. Dewatering activities during the project could deplete local water supplies.

f.ii. Facts in Support of Finding:

Impacts to groundwater due to dewatering are unlikely. Where dewatering would be necessary, it would be for limited locations and for short durations. Therefore, adverse impacts associated with groundwater depletion under CEQA would be considered less than significant (i.e., a Class III impact). However, Mitigation Measure MM- TULE-HYD-3, which requires identification of a sufficient water supply, has been provided to further reduce this potential, if unlikely, impact.

- MM TULE-HYD-3 requires that, prior to construction, the applicant will prepare comprehensive documentation that identifies one or more confirmed, reliable water sources that when combined meet the project's full water supply construction needs.

MM- TULE-HYD-3 would ensure that impacts to the local groundwater during construction would not be adverse. This measure would ensure verification by lead and responsible agencies that sufficient groundwater existed prior to use in Project construction or operation. As concluded in the FEIR, implementation of this mitigation measure will further reduce the less than significant impacts to waters of the state due to project dewatering activity.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to depletion of local water supplies to a less than significant level.

g.i. Potential Significant Impact: **IMPACT TULE-HYD-5:**

Creation of new impervious areas could cause increased runoff, resulting in flooding or increased erosion downstream. Construction of the Tule Wind Project O&M/Substation facility would be on a 10-acre site and would include concrete pads for the facility foundations and electrical transformers. Concrete foundations for turbines and transmission towers would also be impervious surfaces that would alter existing drainage patterns that could potentially result in an increase in erosion and siltation.

The combined facilities would create approximately 55,000 square feet (1.260 acres) of impervious surface and approximately 513 acres of permanent impacts associated with

access roads, staging areas, and parking areas that would not be paved but that would be maintained as semipermeable surfaces.

g.ii. Facts in Support of Finding: Mitigation Measures have been provided to mitigate this impact. Implementation of Mitigation Measure TULE-HYD-4 would ensure that any increased runoff and impacts due to drainage pattern alteration or increased erosion or siltation would not be adverse.

- MM TULE-HYD-4 requires preparation of a Stormwater Management Plan (SWMP) in compliance with the County of San Diego Major Storm Water Management Plan. The SWMP shall be project specific and developed in conjunction with project design. The SWMP shall include site design best management practices that are sufficient to maintain predevelopment rainfall runoff characteristics, protect slopes and channels, and incorporate low-impact development features into the project.

Implementation of MM- TULE-HYD-4 would ensure that any increased runoff and impacts due to drainage pattern alteration or increased erosion or siltation would be mitigated to a level that is considered less than significant.

As concluded in the FEIR, implementation of this mitigation measure will be adequate to reduce impacts to waters of the state due to increases in impervious surface area to a less than significant level.

h.i. Potential Significant Impact: **IMPACT HYD-6:**

Project features located in a floodplain or watercourse could result in flooding, flood diversions, or erosion, or expose people or structures to significant risk. According to the FEIR, the Tule Wind Project would add structures within areas that include existing drainages. Such structures primarily include access road stream crossings and the underground portions of the cable system that would connect the turbines would cross ephemeral drainages that are non-wetland jurisdictional drainages. Also, runoff from project features that are not constructed in water features could alter drainage patterns and result in adverse impacts from off-site flooding.

h.ii. Facts in Support of Finding:

The proposed O&M/substation facility would be built on a 10-acre site that does not include water features. Water features along the Tule Wind overhead transmission line and 138 kV transmission line routes would be avoided. No turbines would be located in a water feature.

Mitigation Measures TULE-BIO-1a through 1d, TULE-BIO-1f, and TULE-BIO-2a through 2c (previously discussed) have been provided to mitigate risk of impacts to people or structures due to flooding, flood diversions or erosion caused by placement of project features in jurisdictional watercourses. These measures will ensure minimization of impact area, adequate compliance monitoring, worker training in compliance, site

restoration, fire prevention, compensatory mitigation, and appropriate road placement and stormwater planning and design.

In addition, Mitigation Measures TULE-HYD-1 and TULE-HYD-4, (previously discussed) have been provided to mitigate risk of impacts from flooding, flood diversions or erosion caused by placement of project infrastructure in jurisdictional watercourses. These measures include provisions that avoid or minimize construction of features that could disrupt surface water runoff patterns and watershed functions and cause or exacerbate flooding.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to impacts caused by placement of project features in floodplains or watercourses to a less than significant level.

h.i. Potential Significant Impact: IMPACT TULE-HYD-7:

Accidental releases of contaminants from project facilities could degrade water quality.

During operation and maintenance of the Tule Wind Project, adverse impacts as a result of the accidental release of hazardous materials used and stored on the site are possible during routine or emergency maintenance or normal operations.

h.ii. Facts in Support of Finding:

Mitigation Measures TULE-HAZ-5a and TULE-HAZ-5b have been provided to mitigate this impact. As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce to waters of the state due to accidental releases of contaminants causing to a less than significant level. Mitigation Measures TULE-HAZ-5a and TULE-HAZ-5b would mitigate impacts of hazardous material spills and releases during operation and maintenance of the project because they would ensure that the Project prepare and implement a Spill Prevention Control and Countermeasure Plan (SPCC Plan) and a Hazardous Materials Business Plan (HMBP).

- **MM TULE-HAZ-5a: Spill Prevention Control and Countermeasure Plan.** Prior to the facility going online and becoming operational, the applicant or applicant's contractors shall prepare an SPCC plan to address proper procedures for storage, handling, spill response, and disposal of hazardous materials for the ongoing operation of the project. The SPCC plan shall meet all requirements outlined in Title 40 of the Code of Federal Regulations, Part 112 (40 CFR Part 112). The plan shall be amended as required under 40 CFR Part 112. The plan shall be reviewed, evaluated, and updated (if necessary) every 5 years.
- **MM TULE-HAZ-5b: Hazardous Materials Business Plan.** Prior to the facility going online and becoming operational, the applicant or applicant's contractors shall prepare an HMBP in accordance with all related requirements in California Health and Safety Code, Chapter 6.95, Articles 1 and 2. The plan shall

be reviewed and recertified every year and amended as required by California Health and Safety Code, Chapter 6.95, Articles 1 and 2.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to accidental releases of contaminants to a less than significant level.

i.i. Potential Significant Impact: **IMPACT TULE-GEO-1:**

Erosion would be triggered or accelerated due to construction activities (Class II).

Approximately 90% of soils at the Tule Wind Project site have been assigned a “severe” rating for erosion hazard. The remaining 10% contains Calpine soil series, which has a moderate potential for erosion. Erosion of the project site would have the potential to decrease the water quality of receiving waters and to impair watershed functions.

i.ii. Facts in Support of Finding:

Mitigation Measures TULE-HYD-1 and TULE-GEO-1 (previously discussed) have been provided to mitigate this impact. Preparation of a project SWPPP in compliance with the CGP and preparation of an Erosion Control and Sediment Transport Control Plan in compliance with County regulations

Decommissioning activities are anticipated to have similar type of impacts as that of construction-related activities and would therefore also have potentially adverse impacts on soils. Mitigation Measures TULE-HYD-1 and TULE-GEO-1 would also apply to decommissioning activities and would also adequately mitigate these adverse impacts.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to erosion triggered by construction and decommissioning of the Project to a less than significant level.

j.i. Potential Significant Impact: **IMPACT TULE-HAZ-3:**

Previously unknown soil and/or groundwater contamination could be encountered during grading or excavation. Past agricultural activities on and around the Tule Wind Project site may have employed the use of pesticides or herbicides. As surface soils may be disturbed during the construction phases of the project, this may present a significant impact to the health of construction workers and the public who may come in contact with contaminated soil and/or groundwater.

j.ii. Facts in Support of Finding:

Mitigation Measures TULE-HAZ-2a and TULE-HAZ-2b (discussed above) have been provided to mitigate this impact. As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to discovery of previously unknown soil or groundwater contamination to a less than significant level. As concluded in the FEIR, by testing for residual pesticides/herbicides (Mitigation Measure TULE-HAZ-2a) and implementing a contingency plan if suspected contamination is identified (Mitigation Measure TULE-HAZ-2b), potential hazards to the

public or the environment resulting from previously unknown soil and/or groundwater contamination encountered during grading activities would be mitigated to a less than significant level.

k.i. Potential Significant Impact: **IMPACT TULE-HAZ-5:**

Impacts to soil or groundwater could result from an accidental spill or release of hazardous materials during operations and maintenance: During operation and maintenance of the project, various hazardous materials would be used and stored. Spills could occur, posing potential impacts to soil and groundwater.

a.ii. Facts in Support of Finding:

Mitigation Measures have been provided to mitigate this impact. Implementation of an SPCC plan would identify where hazardous materials and waste would be stored on site, how spill prevention measures would be implemented, and where spill kits would be located (Mitigation Measure TULE-HAZ-5a, discussed above). The SPCC plan would also identify the appropriate spill response action for each material or waste and procedures for notifying the appropriate authorities. In addition, an HMBP (Mitigation Measure TULE-HAZ-5b, discussed above) would include basic information on the location, type, and quantity of hazardous materials stored or used by the facility, as well as the health risks associated with each hazardous material.

As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to spills of hazardous materials to a less than significant level.

k.i. Potential Significant Impact:**IMPACT TULE-GEO-1:**

Erosion would be triggered or accelerated due to construction activities: Approximately 90% of soils at the Tule Wind Project site exhibit a severe rating for erosion. The remaining 10% contains soils with a moderate potential for erosion. Erosion of the project site would have the potential to decrease the stability of structures on the project site and to decrease the water quality of nearby waterways.

k.ii. Facts in Support of Finding:

Mitigation Measures TULE-Hyd-1 and TULE-Geo-1 (discussed above) have been provided to mitigate this impact. As concluded in the FEIR, implementation of these mitigation measures will be adequate to reduce impacts to waters of the state due to erosion caused by construction and decommissioning activities to a less than significant level.

D. Determination

The State Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water quality or supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).) The State Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, §§ 15096, subd. (i).)