



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

November 18, 2016

Jesse Gronner
Tule Wind, LLC
1125 NW Couch St., Suite 700
Portland, OR 97209

Dear Mr. Gronner:

RE: CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER
FOR THE Tule I Wind (SB16004IN)

Enclosed please find a CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER, authorized by State Water Resources Control Board Executive Director, Mr. Thomas Howard. This Order is issued to Jesse Gronner, Tule Wind, LLC, for Tule I Wind Project (Project). Attachments A through I of the Enclosure are also part of the Order.

This Order is issued in response to an application submitted by Jesse Gronner, Tule Wind, LLC for proposed Project discharges to waters of the state, to ensure that the water quality standards for all waters of the state impacted by the Project are met. You may proceed with your Project according to the terms and conditions of the enclosed Order.

If you require further assistance, please contact me by phone at (916) 558-1709 or by email at Clifford.Harvey@waterboard.ca.gov. You may also contact Bill Orme, Chief of the Water Quality Certification and Wetlands Unit, by phone at (916) 341-5464 or by email at Bill.Orme@waterboards.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Clifford Harvey".

Clifford Harvey
Environmental Scientist
Division of Water Quality – Water Quality Certification and Wetlands Unit
State Water Resources Control Board

Enclosures (1): Order for Tule I Wind

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CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Effective Date: November 18, 2017

Program Type: Fill/Excavation

Project Type: Alternative energy (Wind)

Project: Tule I Wind (Project)

Applicant: Tule Wind, LLC

Applicant Contact: Jesse Gronner
Managing Director, Business Development
Iberdrola Renewables
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Applicant's Agent: Lanika Cervantes
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State Water Board Contact Person:

If you have any questions, please call State Water Resources Control Board (State Water Board) Staff listed above or (916) 341-5478 and ask to speak with the Water Quality Certification and Wetlands Unit Program Manager.

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I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) and attachments A through I is issued at the request of Tule Wind, LLC ¹ (hereinafter, Permittee) for the Project. This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on May 3, 2016. The application was deemed complete on August 30, 2016. Prior to receiving a complete application, State Water Board staff issued a notice of incomplete application and the Permittee responded to the request for application information on the following dates (Table 1).

Table 1: Record of Notice(s) of Incomplete Application	
Date of Notice of Incomplete Application	Date all requested information was received.
5/25/2016	8/30/2016

State Water Board staff requested additional information necessary to supplement the contents of the complete application and the Permittee responded to the request for supplemental information on the following dates (Table 2)

Table 2 Record of Supplemental Application Information	
Date of Request for Supplemental Information	Date all requested information was received.
5/25/2016	7/8/2016, 8/24/2016, and 8/29/2016

II. Public Notice

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from September 6, 2016 to September 27, 2016. The State Water Board did not receive any comments during the comment period. Public notice regarding the EIR/EIS is described in Attachment A, CEQA Findings of Fact.

III. Project Purpose

The purpose of the Project is to provide renewable energy with 67 wind turbines.

IV. 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. The Project will permanently impact 0.121 acres/2,099 linear feet of streambed and temporarily impact 0.341 acres/ 6,510 linear feet of streambed.

Potential later phases of the Tule Wind Project are multi-regional, and would also affect the San Diego Water Quality Control Region. For consistency across permitting of these phases of

¹ Tule Wind, LLC is a subsidiary of Avangrid Renewables. Avangrid Renewables is the U.S. division of parent company Iberdrola, S.A., a multi-national company specializing in renewable energy.

development, the certification for this Project is being administered by the Division of Water Quality through agreement with Colorado Regional Water Board staff.

Project activities will:

- Install a total of 67 three-bladed, horizontal-axis wind turbines.
- Link each of the turbines with a 34.5 kilovolt (kV) overhead and underground collector cable system terminating at a collector substation, including approximately 98,127 feet of trenched underground lines and 37,795 feet of overhead lines suspended from approximately 100 80-foot-tall, 30-inch diameter poles.
- Construct a collector substation to receive the electricity transmitted by the 34.5 kV collection system and convert it to 138 kV output.
- Install a 138 kV transmission line (20,614 feet overhead, 5,230 feet underground) connecting the Project collector substation to the San Diego Gas & Electric (SDG&E) Boulevard Substation located south of Interstate 8 on Old Highway 80 (i.e., the Project's southern terminus is the point where the new transmission line enters the Boulevard Substation).
- Construct 22.49 miles of new access roads and improve 27.86 miles of existing access roads to accommodate construction, delivery and operations equipment and traffic.
- Construct temporary infrastructure including a 10 acre parking and construction trailer area, a 5 acre concrete batch plant and twelve two-acre laydown yards.
- Install three permanent meteorological towers (MET), one Sonic Detection and Range System (SONAR) unit or one light detecting and ranging (LIDAR) unit.

V. Project Location

The Project is located in southeastern San Diego County in McCain Valley, approximately 6 miles north of the community of Boulevard (approximate centroid: 32.723106N/-116.261957W). The total Project area involves 447.9 acres within the Salton Sea watershed in the Anza Borrego Hydrologic Unit. A map showing the Project location is found in Attachment B of this Order. Coordinates for each impacted crossing are in the table found in Project Impacts, Attachment C of this Order.

VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of Colorado River Basin Water Quality Control Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plan) for the regions and other plans and policies which may be accessed online at: http://www.waterboards.ca.gov/plans_policies/. The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary

purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Project impact and receiving waters information can be found in Attachment C. Table 1 of Attachment C shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Individual impact location and quantity is shown in Table 2 of Attachment C.

VII. Description of Direct Impacts to Waters of the State

The Project will result in a total of 0.121 acre/2,099 linear feet of permanent impacts and 0.341 acre/6,510 linear feet of temporary impacts to waters of the U.S. and State, at a total of 140 separate impact sites. Of this, 88 impact areas are due to road crossings (improvements to existing as well as new crossings), 41 impact areas are due to the underground/overhead transmission line, nine (9) impact areas are due to the construction of the transmission pole pads, and two (2) impact areas are due to the temporary laydown yard, as summarized in the table below. Impact information for each impact area is provided in Attachment B, Project Impacts.

Total Project fill/excavation quantities for all impacts are summarized in Table 3. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition only.

Riparian impacts are recorded in Table 3 below. Riparian impacts were deemed to be the area between the Ordinary High Water Mark (OHWM) and the top of bank as determined by CDFW.

Table 3: Total Project Fill/Excavation Quantity¹

Aquatic Resource Type	Temporary Impact			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY	LF	Acres	CY	LF	Acres	CY	LF
Lake									
Ocean/bay/estuary									
Riparian Zone	0.344		6,510				0.107		2,169
Stream Channel	0.341		6,510				0.121		2,099
Vernal Pool									
Wetland									

1. Cubic Yards (CY); Linear Feet (LF)

VIII. Avoidance and Minimization

Projects receiving certification from the State Water Board that authorize impacts to waters of the state must demonstrate that the Project design has first avoided and then minimized impacts to waters of the state to the maximum extent practicable. After all opportunities to avoid and minimize impacts to waters of the state have been implemented, any remaining, unavoidable impacts to waters of the state must be offset by compensatory mitigation. Applicant Proposed Measures (APM) and other measures for minimization and mitigation measures are to be implemented to reduce impacts, and are presented in the attached CEQA findings. Project mitigation measures and reporting responsibilities are also summarized in the Environmental and

Construction Compliance Monitoring Plan (ECCMP) which lists all Project Impacts, Project mitigation measures, and parties responsible for implementation and enforcement of those measures. The ECCMP serves as the Project's mitigation monitoring and reporting plan as required by CEQA. The ECCMP is available at: <http://tulewindeccmp.com/ECCMP.pdf>

The Project will add 0.72 acres of new impervious surfaces and no reworked impervious surfaces.² Low Impact Development (LID) treatments are specified in the ECCMP and the Adopted Mitigation Measures cited in Attachment A. With the implementation of Low Impact Development (LID) treatments, the effects of impervious surfaces were minimized to the following waters of the state: Bow Willow Creek, Tule Creek, Walker Creek, and an unnamed northern wash (Basin Plan Hydrologic Units 722.61 and 722.71). In addition, LID practices for the Project are provided in detail as part of the *Tule Wind Project Stormwater Management Plan* (February, 2011), which may be accessed at: <http://www.cpuc.ca.gov/environment/info/dudek/ecosub/TechStudies/StormwaterManagementPlan.pdf>

Impact avoidance and minimization measures will be implemented according to the Project mitigation measures found in the ECCMP, and through compliance with the conditions of this certification and the Stormwater Construction General Permit (order number 2009-0009-DWQ).

IX. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation described in section XIII for temporary impacts that have temporal loss and/or degradation of ecological condition.

The Permittee has agreed to provide compensatory mitigation for direct, described in section XIII for permanent impacts.

X. California Environmental Quality Act (CEQA)

On April 19, 2012, the California Public Utilities Commission (CPUC), lead agency, certified an environmental impact report (EIR) (State Clearinghouse (SCH) No. 2009121079 for the Project.³ The CPUC filed a Notice of Determination (NOD) at the SCH on June 27, 2012. Pursuant to CEQA, the State Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment A.

XI. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

² Impervious surfaces cause: reduced base flows through decreased groundwater recharge; increased erosion and sedimentation via hydro-modification (i.e., any activity that increases the velocity and volume (flow rate) affecting residence time, and alters the natural timing of runoff); and accumulation of pollutants that are subsequently discharged in storm water after construction.

³ The U.S. Department of Interior Bureau of Land Management is Lead Agency for National Environmental Policy Act (NEPA) compliance and cooperated with CPUC in the production of a joint NEPA/CEQA document.

XII. Fees Received

An application fee of \$600.00 was received on May 3, 2016. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator. An additional fee of \$89,400.00 based on total Project impacts was received on October 21, 2016.

XIII. Conditions

The State Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

A. Authorization

Impacts to waters of the state shall not exceed quantities shown in Table 3 unless a request for certification deviation is submitted and approved.

B. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment E, including specifications for photo and map documentation during the Project.

Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment E. All reports must be signed by the Permittee or an authorized representative, who must meet the signatory requirements described in Attachment F.

1. Project Reporting

- a. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the January 31st following the end of the preceding year. Annual reporting shall continue until a *Notice of Project Complete Letter* is issued to the Permittee by State Water Board staff.

2. Project Status Notifications

- a. **Commencement of Construction Report:** The Permittee shall submit a *Commencement of Construction Report* at least seven (7) days prior to start of initial ground disturbance activities.

- b. **Request for Notice of Completion of Discharges:** The Permittee shall submit a *Request for Notice of Completion of Discharges* following completion of active Project construction activities, including any required restoration and permittee-responsible mitigation. This request shall be submitted to the State Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, State Water Board staff shall issue a *Notice of Completion of Discharges* to the Permittee which will end the active discharge period and the associated annual fees.

c. Request for Notice of Project Complete Letter: The Permittee shall submit a *Request for Notice of Project Complete Letter* when construction and/or any post-construction monitoring is complete,⁴ and no further Project activities will occur. This request shall be submitted to State Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the State Water Board staff shall issue a *Notice of Project Complete Letter* to the Permittee which will end the post-discharge monitoring period and associated annual fees.

3. Conditional Notifications and Reports: The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials⁵

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - first call – 911 (to notify local response agency)
 - then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
 - Lastly follow the required OES procedures as set forth in:
<http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill Booklet Feb2014 FINAL BW Acc.pdf>
- ii. Following notification to OES, the Permittee shall notify State Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- iii. Within five (5) working days of notification to the State Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

b. Violation of Compliance with Water Quality Standards: The Permittee shall notify the State Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.

- i. Examples of noncompliance events include: lack of storm water treatment following a rain event, excavation in waters of the state not covered under this certification, and or discharge of hazardous materials to waters of the state.

⁴ Completion of post-construction monitoring shall be determined by State Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.

⁵ "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

- ii. This notification must be followed within three (3) working days by submission of a *Violation of Compliance with Water Quality Standards Report*.

c. In-Water Work

- i. The Permittee shall notify the State Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- ii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to State Water Board staff.

d. Modifications to Project

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to State Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a *Modifications to Project Report*. The Permittee shall inform State Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the certification deviation section of this Order.

e. Transfer of Property Ownership: This Order is not transferable in its entirety or in part to any person or organization except after notice to the State Water Board in accordance with the following terms:

- i. The Permittee must notify the State Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the State Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the State Water Board to be named as the permittee in a revised order.
- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

f. Transfer of Long-Term BMP Maintenance: If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the State Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the State Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

C. Water Quality Monitoring

1. **General:** If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete).
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, State Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.
3. **Post-Construction:** Visually inspect the Project site during the rainy season for years, or until the performance measures of the Habitat Restoration Plan are met, whichever comes first, to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the State Water Board staff member overseeing the Project within three (3) working days. The State Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

D. Standard

1. This Order 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, chapter 28, Article 6 commencing with section 3867. Additionally, the State Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the State Water Board determines that: the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. § 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, 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 Order.

E. General Compliance

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. In response to a suspected violation of any condition of this Order, the State Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provide 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. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.
4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.
6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program for the Project, as described in the Appendix C – Adopted Mitigation Measures and Appendix D – Environmental and Construction Compliance Monitoring Plan (ECCMP) of the Project Final EIR/EIS, which serve as the Mitigation Monitoring and Reporting Plan (MMRP) for the Project.
7. **Construction General Permit Requirement:** The Permittee shall maintain compliance with conditions described in, and required by, NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment F of this Order.
2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. 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 Order held by the Permittee, the Permittee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.

3. The Permittee shall grant State and Regional Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - d. Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
6. Lake and Streambed Alteration Agreement – The Permittee shall submit a signed copy of the Department of Fish and Wildlife's lake and streambed alteration agreement to the State Water Board immediately upon execution and prior to any discharge to waters of the state.

G. Construction

Directional Drilling Activities under Waters of the State

1. Because Horizontal Directional Drilling (HDD) and similar drilling operations may affect water quality, the following conditions shall apply to all drilling operations under waters of the state:
 - a. The discharge of bentonite, drilling muds, lubricants or any drilling compounds into waters of the state is prohibited.
 - b. A draft HDD or drilling plan shall be prepared, and shall be subject to review by State Water Board staff at least 30 days before drilling activities under waters of the state. No HDD or other drilling operations under waters of the state shall commence until the HDD plan is approved by State Water Board staff.
 - c. Release of bentonite, drilling muds, lubricants or any drilling compounds through fractures in the streambed or bank substrate during drilling is referred to as a "frack-out." Because of the potential for frack-outs to occur, the HDD or drilling plan shall

include a frack-out response plan. The frack-out response plan shall specify all measures to be initiated if frack-outs should occur during HDD operations.

- d. For all HDD and other drilling sites, a means of containment (e.g., damming, fluming) or screening capable of capturing all of the potential discharge shall be described in the HDD plan. The downstream end of any such containment structure shall be capable of containing all bentonite or other drilling muds or debris that may be released during boring or drilling. Any drilling mud, spoils, etc. must be completely removed from the streambed prior to removal of the containment structures (e.g., dam, flume, and screen).
- e. An environmental monitor (monitor) shall provide monitoring for compliance with the HDD or drilling plan throughout drilling operations under waters of the state.
- f. Any HDD or other drilling operation shall be designed and directed in such a way as to minimize the risk of spills and discharges of all types including the frack-out release of drilling lubricants through fractures in the streambed or bank substrates. In substrates where frack-outs are likely to occur, experienced HDD contractors shall employ all reasonable means and methods available to minimize potential for frack-out.
- g. All drilling mud will be contained and properly disposed of after drilling activities are completed.
- h. If bore pits are excavated to support drilling operations, spoils shall be stored a minimum of 25 feet from the top of the bank of streams or wetland/riparian boundary. Spoils shall be stored behind a sediment barrier and covered with plastic or otherwise stabilized (i.e., tackifiers, mulch, or detention).

Fugitive Dust

2. Dust abatement activities can cause discharges of sediment to streams and uplands through application of water. Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented and product-specific application plans are approved by State Water Board staff.

Good Site Management "Housekeeping"

3. All work areas shall be kept free of all litter and waste material at all times. Appropriate waste disposal receptacles shall be provided as needed in all work areas. All Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project work areas on a daily basis and placed in proper receptacles for off-site disposal.

4. The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations.
5. Waste management shall be implemented to avoid or minimize exposure of wastes and to precipitation and to prevent waste from entering storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code, section 13050.

Hazardous Materials

6. Hazardous fluid spill containment supplies shall be stockpiled on site in sufficient quantities to facilitate a quick response to any hazardous material leaks or spills.
7. Water containing mud, silt, or other pollutants from equipment washing or other activities must not be discharged to waters of the United States and/or waters of the State.
8. If concrete washout is necessary at a site, washout containment to prevent any discharge shall be used. Washout containment is to be covered 48 hours prior to forecast rain events to prevent overflow. Wastewater may only be disposed of to a sanitary waste water collection system/facility (with authorization from the facility's owner or operator) or a properly licensed disposal or reuse facility.
9. A staging area for equipment and vehicle fueling and storage shall be designated at least one-hundred (100) feet away from waters of the state, in a location where fluids or accidental discharges cannot flow into waters of the state.
10. Stationary equipment (motors, pumps, generator, etc.) and stored or parked vehicles shall be positioned over drip pans or other types of containment. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained on site at all locations where such equipment is used or staged.
11. At no time shall any vehicle or equipment which leaks any substance that may impact water quality be used or stored within 100 feet of any waterbodies or storm drains.
12. All construction vehicles and equipment used on site shall be well maintained and checked daily for fuel, oil, and hydraulic fluid leaks or other problems that could result in spills of toxic materials.
13. No construction related wastes, debris, oil, or petroleum products shall be allowed to enter into waters of the state, or be placed where it may be washed by rainfall or runoff into waters of the state. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the state.
14. No unset cement, concrete, grout, damaged concrete spoils, or wash water used to clean concrete surfaces shall contact or enter surface waters.
15. Construction material, debris, spoils, soil, silt, sawdust, rubbish, steel, other organic or earthen material, or any other substances which could be hazardous to aquatic life

resulting from Project related activities shall be prevented from entering waters of the state.

16. Project activities shall not cause visible oil, grease, or foam in the work area or downstream.

Invasive Species and Soil Borne Pathogens

17. As required by Mitigation Measure BIO-3a, the introduction or spread of noxious/invasive weeds or aquatic invasive species within the Project and staging areas shall be prevented, as described in the Noxious Weeds and Invasive Species Control Plan (Weed Plan). It is the responsibility of the applicant to ensure that all Project personnel are engaged in the implementation of the Weed Plan.
18. Any vehicles arriving at the Project from any known soil borne pathogen area shall be thoroughly disinfected before entering any Project work area.

Post-Construction Storm Water Management

19. All post-construction BMPs shall be implemented and functioning prior to completion of any project.
20. The Permittee must submit to the State Water Board a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Permittee assumes responsibility for the inspection and maintenance of all post-construction structural stormwater BMPs.

Roads

21. As applicable, a method of containment must be used below any bridge, boardwalk, and/or temporary stream crossings to prevent debris from active construction falling into the waters of the state through the entire duration of the Project.
22. The number of access routes, number and size of staging areas, and the total area of the activity will be limited to the minimum necessary to achieve the Project purpose. Routes and boundaries will be clearly marked to prevent vehicular operation outside of designated and permitted routes and work areas.
23. Road-related sediment discharges shall be minimized to the greatest extent possible. All road construction, reworking and maintenance shall be conducted in accordance with design criteria in Attachment G - Road Design. Relief drains, such as rolling dips, water bars, outsloping, and inboard ditch relief culverts shall be installed at intervals sufficient to prevent concentration of runoff and erosion.
24. Project Mitigation Measure TULE-BIO-14 states: "Except when not feasible due to physical or safety constraints, all Project vehicle movement will be restricted to existing access roads and access roads constructed as a part of the Project and

determined and marked by the Project proponent in advance of construction. Approval from a biological monitor will be obtained prior to any travel off of existing access roads." In addition, any proposed off-road travel that may enter waters of the state shall be subject to approval by the Certification compliance monitor.

Trenched Stream Crossings

- 25.** Trenched creek crossings may be employed for some underground features of the Project. Trenched creek crossings may be installed if such can be completed during dry season, with no flows present in the creek. Trench widths shall be minimized. Trench cut material shall not be placed below the top of banks of streams or within 100-year inundated areas. Trench fill shall be compacted and replaced to existing conditions, including matching existing creek bed gradations, and restoring vegetation. Restoration of backfilled trenches shall be completed prior to any wet season flows, and shall include anti-erosion action plans for any unplanned rainfall during construction. In any case, flows will be isolated from open trenching by best management practices mandated by the Stormwater General Construction Permit. Areas of trenching shall be restored and/or vegetated as soon as seasonal conditions allow after completion of work.
- a.** Where creek crossings cannot be completed during the dry season, creek crossings may use appropriate drilling procedures to avoid direct impacts. Drilling shall be conducted in a manner that does not result in discharge of sediment or hazardous materials to the water body. The following measures shall be implemented during drilling operations:
 - b.** Site preparation shall begin no more than 10 days prior to initiating horizontal bores to reduce the time soils are exposed adjacent to creeks and drainages.
 - c.** Trench spoils shall be stored a minimum of 25 feet from the top of the bank or wetland/riparian boundary. Spoils shall be stored behind a sediment barrier and covered with plastic or otherwise stabilized (i.e., tackifiers, mulch, or detention).

Sediment and Erosion Control

- 25.** Best Management Practices (BMPs) for erosion, sediment and turbidity control shall be implemented and in place at commencement of any ground-clearing activities or any other Project activities that could result in erosion or sediment discharges to waters of the state. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.
- 26.** All erosion and sediment control materials and supplies must be on site and ready for use at the onset of construction activity, and must remain in supply and ready for use throughout the construction process. All non-structural BMP materials (e.g., training documents, compliance tracking procedures) must be ready for use at the onset of construction.

- 27.** Appropriate soil erosion prevention and control BMPs shall be implemented throughout the construction and maintenance of the Project.
- 28.** Severe rain may occur in any season. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state. Erosion and sediment control measures shall be used wherever transported sediment could enter waters of the state. Erosion and sediment control structures shall be monitored for effectiveness and shall be repaired or replaced as needed. Buildup of sediment behind sediment control structures (e.g., silt fences, wattles, etc.) shall be removed promptly and any breaches of undermined areas repaired at once. When sediment build-up is reported and treated, sediment sources shall be determined and preventive measures shall be taken to treat or eliminate those sources to the greatest practicable extent.
- 29.** Erosion and sediment control materials and structures shall be implemented and maintained in accordance with manufacturers' specifications governing their proper installation, operation and maintenance.
- 31.** No construction activities shall be conducted within waters of the state during a rainfall event or when there is a forecast of 50% or greater probability of precipitation in the project area in the next 2 days. (The National Oceanic and Atmospheric Administration (NOAA) define a chance of precipitation as a probability of precipitation of 30% to 50% chance of producing precipitation in the project area. NOAA defines the probability of precipitation (PoP) as the likelihood of occurrence (expressed as a percent) of a measurable amount (0.01 inch or more) of liquid precipitation (or the water equivalent of frozen precipitation) during a specified period of time at any given point in the forecast area.) Forecasts are normally issued for 12- hour time periods. Descriptive terms for uncertainty and aerial coverage are as described in Table 8 of the Stormwater Construction General Permit, Order 2009-0009-DWQ, as amended by orders 2010-0014-DWQ and 2012-0006-DWQ, which is accessible at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_complete.pdf. The discharger must obtain the precipitation forecast information from the National Weather Service Forecast Office (<http://www.srh.noaa.gov/>).
- 32.** Project Mitigation Measure TULE-BIO-8 states: "Work Cessation during Heavy Rains: All work will cease during heavy rains, and will not resume until conditions are suitable for the movement of equipment and materials." In addition to this measure, disturbed work areas in or adjacent to waters of the state must be temporarily stabilized to prevent erosion within 48 hours of the predicted commencement of a rainfall event with greater than a 50 percent probability of occurrence, as predicted by the National Oceanic and Atmospheric Administration (NOAA) - National Weather Service.

33. As required by Mitigation Measure APM TULE-BIO-1, appropriate measures shall be used for any stockpile of excavated material to prevent wind erosion of the material, control runoff resulting from precipitation, and prevent material from contacting or entering waters of the state. In addition to the requirements of APM TULE-BIO-1, placement of any stockpiles of soil or earthen material in channels is prohibited.

Site Specific Best Management Practices (BMPs)

34. All areas of temporary disturbance shall be restored in compliance with the restoration plan required by Mitigation Measure APM TULE-BIO-4. As required by APM TULE-BIO-4, the Applicant shall provide a copy of the restoration plan to State Water Board staff before commencement of ground disturbing activity.
35. Where on-site restoration of vegetation is planned, the Applicant shall identify a qualified habitat restoration specialist who shall be responsible for implementation of the Project Habitat Restoration Plan.
36. Project Mitigation Measure TULE-BIO-20 states: "Replace ground cover in disturbed areas as soon as feasible." In addition, compliance with this measure shall be incorporated into the restoration plan.
37. Project Mitigation Measure TULE-BIO-9 states: "A qualified biologist will regularly monitor construction activities to ensure construction is proceeding in compliance with [Permittee's] proposed environmental mitigation measures as well as those measures required by the regulatory agencies." In addition to biological monitors, the Applicant shall provide Certification compliance monitors who are qualified in water quality and hydrology resources for the purposes of monitoring compliance with this Certification. Qualified Stormwater Designers or Qualified Stormwater Practitioners (QSD or QSP) may be assigned to this task. Names and qualifications of monitors assigned to inspections for compliance with this certification shall be submitted to State Water Board staff for approval.
39. The project shall be designed to avoid areas of shallow groundwater where feasible. In such areas where groundwater cannot be avoided during excavation, a dewatering plan shall be prepared and implemented in accordance with Mitigation Measure TULE-HYD-2. 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.

H. Mitigation for Temporary Impacts

1. The Permittee shall restore all areas of temporary impacts to waters of the state and all Project site upland areas of temporary disturbance which could result in a discharge of waters of the state in accordance with the Tule Habitat Restoration Plan dated August, 2016 (Attachment H) and incorporated herein by reference. Restoration of temporary

impacts in compliance to the conditions of this certification, as shown in Table 4 below, shall be sufficient compensatory mitigation for temporary impacts.

2. The State Water Board may extend the monitoring period beyond requirements of the restoration plan upon a determination by State Water Board Executive Director that the performance standards have not been met or are not likely to be met within the monitoring period.

3. If initial restoration of temporary impacts to waters of the state is not completed within ninety days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state. Initial implementation work shall include regrading of the site to original contours, redistribution of any stockpiled topsoils, and planting of appropriate vegetation. Seeding should be completed prior to October 15. If completion of construction occurs more than 90 days in advance of the appropriate planting season, temporary cover (e.g., mulch, hydromulch, erosion control blankets, etc.) sufficient to protect the site from erosion and encroachment by invasive species shall be put in place until the appropriate planting season begins. In such cases, planting shall be initiated as soon as the planting season begins.

Table 4: Required Project Mitigation Quantity for Temporary Impacts*

*Impact quantities shown are commitments related to impacts permitted by the State Water Board. These quantities are not in addition to mitigation amounts provided to other agencies, including Department of Fish Wildlife and U.S. Army Corps of Engineers.

Aquatic Resource Type	Res. Type	Units	Method				
			Est.	Re-est.	Reh.	Enh.	Pres.
Stream Channel	PR	Acres			0.344		
Stream Channel	PR	LF			6,510		
Riparian Zone	PR	Acres			0.341		
Riparian	PR	Lin. Ft.			6,510		
Wetland	PR	Acres					

I. Compensatory Mitigation for Permanent Impacts⁶

Final Compensatory Mitigation Plan: The Permittee shall provide compensatory mitigation for impacts to waters of the state in accordance with Attachment D, the Draft Tule I Wind Draft Project Habitat Mitigation and Monitoring Plan (HMMP) dated October 18, 2016, which has been approved as the final version. Any deviations from, or revisions to, the final approved HMMP must be pre-approved by State Water Board staff. The monitoring period shall continue until the State Water Board staff determines that performance standards have been met. This may require the monitoring period to be extended.

Mitigation for permanent impacts to riparian areas shall be provided as upland mitigation under permits issued by the Department of Fish and Wildlife, and as described in the HMMP and the Project Habitat Restoration Plan (See Section XIII.H).

1. Irrevocable Letter of Credit

- a. The Permittee shall establish in favor of the State Water Board, an irrevocable letter of credit in an amount sufficient to pay for the cost of the Permittee's required compensatory mitigation under this Order within 30 days of issuance of this Order. The Permittee shall prepare a draft letter of credit and submit it to the State Water Board staff for written acceptance. The letter of credit shall allow the State Water Board to immediately draw on the letter of credit if the State Water Board staff determines in its sole discretion that the Permittee has failed to meet its mitigation obligations.
- b. If the Permittee is unable to establish a letter of credit, it shall arrange an alternate security instrument with State Water Board staff within 30 days of issuance of this Order. Alternate instruments are subject to approval by State Water Board staff.
- c. The Permittee shall finalize and execute the security instrument within sixty (60) days after the State Water Board staff approves the draft security instrument. The Permittee shall have a security instrument in place until the Permittee has completed the required compensatory mitigation and achieved all performance standards.
- d. If the Permittee has not completed the required compensatory mitigation and achieved all performance standards within sixty (60) days prior to the security instrument's expiration date, the Permittee shall obtain an extension or a new security instrument. The new security instrument shall be subject to State Water Board staff acceptance following the same procedure described in the conditions above.

2. Permittee-Responsible Compensatory Mitigation Responsibility

- a. Permitted Project activity may commence before mitigation installation and enhancement work is complete. Permittee responsible compensatory mitigation installation and enhancement work shall be completed by October 28, 2017. Any such request shall state the request, the reason the extension is needed, and the requested new completion date. Extensions may be reasonable to extend the monitoring period, and

⁶ Compensatory Mitigation is for permanent physical loss and/or permanent ecological degradation of a water of the state.

may be reason to require additional compensation to account for temporal loss of waters.

- b.** The Permittee is responsible for the required compensatory mitigation in perpetuity. However, the Permittee may transfer the compensatory mitigation requirements associated with long-term management when the following conditions have been met:
 - i.** Performance standards are met.
 - ii.** A Transfer Agreement to a third party has been approved by State Water Board staff.
 - iii.** An endowment fund has been provided by the Permittee to a third party for management in perpetuity of the mitigation site.
 - iv.** A conservation easement, deed restriction, or other appropriate restrictive covenant for the mitigation site has been recorded and approved by State Water Board staff.
- c.** **Transfer of Long-Term Permittee-Responsible Compensatory Mitigation and Management Responsibility**
 - i.** A transfer agreement shall be submitted from an authorized representative of the new party (transferee) for acceptance by State Water Board staff. This agreement shall demonstrate acceptance and understanding of the responsibility to comply with and fully satisfy the required compensatory mitigation and long-term management conditions. Failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the State Water Board under Water Code section 13385, subdivision (a).
 - ii.** Notification of transfer of responsibilities meeting the above condition must be provided to the State Water Board staff. A draft transfer agreement is due to State Water Board staff no less than thirty (30) days prior to the transfer of the mitigation responsibility. A final transfer agreement is due to State Water Board staff within 30 days of the completion of the transfer.

3. Total Required Compensatory Mitigation

- a.** The Permittee is required to provide compensatory mitigation for the authorized impacts to Streams through implementation of the Project HMMP.
- b.** The Permittee is required to provide compensatory mitigation for the ecological degradation to stream channels by enhancement and preservation of approximately 4500 linear feet of the ephemeral stream drainages and 0.08 acre of wetlands.
- c.** Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 5.

Table 5: Required Project Compensatory Mitigation Quantity for Permanent Degradation of Ecological Condition								
Aquatic Resource Type	Comp Mit. Type ⁷	Units	Method ⁸					
			Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	PR	Acres				0.036	4.134	
Stream Channel	PR	LF				1,575	13,693	
Riparian Zone	PR	Acres					2.81	
Riparian Zone	PR	LF					13,693	
Wetland	PR	Acres					0.080	

J. Certification Deviations

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water resources. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations as set forth in Attachment I. For purposes of this Certification, a "Certification Deviation" is a Project locational or impact modification that does not require an immediate amendment of the Order, because the State Water Board has determined that any potential water resource impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.
2. A Project modification shall not be granted a Certification Deviation if the proposed modification impacts are not addressed in the Project's environmental document or the conditions of this Order. In those cases, a supplemental environmental review and a new or amended Order will be required.

⁷ Compensatory mitigation type may be: In-Lieu-Fee (ILF); Mitigation Bank (MB); Permittee-Responsible (PR)

⁸ Methods: establishment (Est.), reestablishment (Re-est.), rehabilitation (Reh.), enhancement (Enh.), preservation (Pres.). Unknown applies to advance credits with an unknown method and or location.

XIV. Water Quality Certification

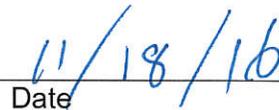
I hereby issue the Order for the Tule I Wind Project, Identification no SB-16004IN, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

The State Water Board will file a Notice of Determination (NOD) at the SCH within five (5) working days of issuance of this Order. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.



Thomas Howard
Executive Director
State Water Resources Control Board


Date

- Attachment A** CEQA
- Attachment B** Project Area Map
- Attachment C** Project Impacts
- Attachment D** Habitat Mitigation and Monitoring Plan
- Attachment E** Reporting
- Attachment F** Signatory Requirements
- Attachment G** Road Design
- Attachment H** Tule Habitat Restoration Plan
- Attachment I** Certification Deviations