

Appendix B

Response to Comments on the Draft CEQA Supplement

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Six Big Creek Hydroelectric Projects
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On August 13, 2018, the State Water Resources Control Board (State Water Board) circulated a draft CEQA Supplement for the Six Big Creek Hydroelectric Projects (Projects). The Projects are also known as the Federal Energy Regulatory Commission (FERC) Project Nos. 67, 120, 2085, 2086, 2174, and 2175. The public comment period closed on October 12, 2018. During the comment period, the State Water Board received one comment letter on the draft CEQA Supplement from Southern California Edison Company, dated October 11, 2018. In accordance with the California Environmental Quality Act (CEQA) Guidelines Cal. Code regs., tit. 14, §§ 15000 et seq.), the comments were considered. This document is a summary of the written comments received on the draft CEQA Supplement, State Water Board’s replies to those comments and, where applicable, the page(s) and paragraphs of the final CEQA Supplement where the text was revised to address each comment.

Comment No. (location)	Comment	Response to Comment	Location of Text Revision
1 (page 1)	Overall, the Draft CEQA Supplement is inadequate and deprives the public of a meaningful opportunity to comment on the appropriateness and implications of the conditions proposed by the State Water Board.	<p>Pursuant to CEQA Guidelines, the draft CEQA Supplement (Section 3) augments the environmental analysis completed in FERC’s National Environmental Policy Act (NEPA) documents to include analysis of additional measures identified by the State Water Board to protect water quality, as well as to evaluate resource areas requiring additional analysis under CEQA, evaluate other CEQA considerations, including growth-inducing effects, significant irreversible environmental effects, and cumulative effects, provide a determination of the level of significance of impacts under CEQA, and identify mitigation measures necessary to offset or reduce impacts to a less-than significant level.</p> <p>The draft water quality certification (certification) was issued at the same time as the draft CEQA Supplement in order to solicit public comments on the conditions proposed by the State Water Board. The certification identifies the appropriateness of the proposed conditions, while the CEQA Supplement evaluates the potential environmental impacts as required by CEQA.</p>	None required.
2 (page 1)	SCE specifically requests that the State Water Board revise the project description to clearly articulate the conditions in the Draft 401 Certification under	<p>The draft certification was issued at the same time as the draft CEQA Supplement, which allowed for solicitation of public comments on the conditions proposed by the State Water Board.</p> <p>Section 3.3 of the draft CEQA Supplement analyzes the draft certification conditions that were deemed not adequately analyzed as part of the</p>	None required.

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	consideration and to thoroughly identify and describe the specific differences between the Draft 401 Certification conditions and the conditions analyzed by FERC under the National Environmental Policy Act (NEPA) in the relicensing proceeding and as agreed upon in the Settlement Agreement.	<p>proposed project under NEPA. Additional monitoring included in the draft certification will not have potentially significant effects under CEQA. Implementation activities resulting from monitoring or other studies may necessitate future CEQA analysis prior to approval.</p> <p>See also Response to Comment 1 regarding how the CEQA Supplement analyzes and addresses differences between the NEPA analysis and the project analyzed by the CEQA Supplement.</p>	
3 (page 2)	The Draft 401 Certification includes some conditions that are new or are modified from the conditions described not only in the Settlement Agreement, but also in SCE's Project, the USFS 4(e) conditions, and FERC's FEIS Staff Alternative. These new and modified conditions were not analyzed under NEPA.	Section 3.3 of the draft CEQA Supplement analyzes the draft certification conditions that were deemed to be not adequately analyzed as part of the proposed project under NEPA.	None required.
4 (page 3)	The State Water Board does not clarify that these differences would considerably change operations and other factors used in subsequent analyses as compared to those analyzed under NEPA.	The draft certification conditions that were not considered under NEPA and that have the potential to cause environmental impacts are listed and analyzed in Section 3.3 of the draft CEQA Supplement.	None required.
5 (page 3)	Considering the complexity of the project and volume of the material incorporated by	The draft CEQA Supplement augments the analyses completed in the applicable NEPA documents, however, Section 3.0 of the Supplement describes the additional environmental analyses completed to meet	None required.

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	<p>reference, it is unreasonable to assume that reviewers of the Draft CEQA Supplement can independently discern such differences, which is critical to understanding the project described in the Draft CEQA Supplement.</p>	<p>CEQA requirements.</p> <p>The State Water Board did not receive any comment letters other than SCE's letter.</p>	
<p>6 (page 3)</p>	<p>The CEQA Supplement does not adequately describe the necessary steps the State Water Board made with respect to fulfilling the federal agency consultation requirement required when planning to rely on a federal agency's FEIS or Finding of No Significant Impact (FONSI). CEQA Guidelines, Section 15223 provides that "[w]hen it plans to use an [F]EIS or finding of no significant impact or to prepare such a document jointly with a federal agency, the lead agency shall consult as soon as possible with the federal agency." SCE asks that the State Water Board provide additional support in demonstrating compliance with this consultation requirement set forth under CEQA Guidelines, Section</p>	<p>In a letter dated June 17, 2004, State Water Board staff submitted to FERC a comment letter on the environmental assessment for the Vermilion Valley Project (FERC No. 2086). In this comment letter, State Water Board staff made comments on FERC, analysis for water resources and aquatic resources.</p> <p>In a letter dated November 3, 2008, State Water Board staff submitted to FERC a comment letter on the draft environmental impact statement (DEIS) for the Big Creek ALP projects (FERC Nos. 67, 120, 2085, and 2175). In this comment letter State Water Board staff described their understanding of SCE's proposed project as it relates to the Settlement Agreement, and their understanding of the connectivity of the Big Creek ALP Projects with the Portal Project (FERC No. 2174) and Vermilion Valley Project (FERC No. 2086).</p> <p>Additionally, in the State Water Board's DEIS comment letter, staff discussed their evaluation of the DEIS to determine its use in satisfying requirements under CEQA. State Water Board staff further suggested additions for FERC to include in the final EIS that would be helpful for the State Water Board's CEQA analysis.</p> <p>In FERC's final EIS, section 1.3.6 briefly outlines the requirements under CEQA. Section 1.3.6 also discusses how Appendix A was developed by FERC (based on State Water Board staff's comments on the DEIS) to facilitate the State Water Board's potential use of the final EIS for CEQA purposes.</p>	<p>None required.</p>

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	15223.	In a letter from SWRCB to SCE (dated May 6, 2009) , State Water Board staff indicated that a document will be created that supplements the FEIS to address resource areas that were not covered in the FEIS. SCE agreed to have its consultant, ENTRIX, prepare the document. Tim Welch (FERC) was cc'd on the correspondence.	
7 (page 3)	Here, the CEQA Supplement indicates that there is little evidence that, in planning to rely on FERC's FEIS and FONSI statements, the State Water Board adequacy consulted with FERC as required by Section 15223 of the CEQA Guidelines.	See Response to Comment 6. Please also refer to section 1.0 (pg 3) of the draft CEQA Supplement for the efforts State Water Board staff made with FERC during the development of the FEIS.	None required.
8 (page 4)	The CEQA environmental analysis presented in Section 3.0 of the Draft CEQA Supplement is incomplete and fails to clearly describe project impacts or to provide justification for proposed conditions in the State Water Board's 401 Certification.	The NEPA documents clearly describe project impacts and Section 3.1 of the CEQA supplement further describes impacts in resource areas where the NEPA documents were insufficient. Also, Section 3.3 of the draft CEQA Supplement analyzes the State Water Board's proposed certification conditions that warrant an analysis under CEQA. Justification for the certification conditions is not a requirement of CEQA. Certification conditions are imposed to ensure water quality standards are satisfied, which differs from the environmental analysis under CEQA for which impacts, and mitigation measures are identified (existing conditions vs. proposed project). The draft certification contains justifications for its conditions.	None required.
9 (page 4)	Notwithstanding this request, the conditions proposed in the Draft 401 Certification to varying degrees amend and modify (and in some cases conflict with) the conditions described not only in the Settlement Agreement, but	State Water Board acknowledges the draft certification conditions vary from the Settlement Agreement, SCE's proposed project, USFS 4(e)s, and FERC's staff alternatives. Section 3.3 of the draft CEQA Supplement analyzes the State Water Board's proposed certification conditions to the degree required by CEQA.	None required.

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	also in SCE's Project, USFS 4(e) conditions, and FERC's FEIS Staff Alternative.		
10 (page 5)	The State Water Board (a) fails to disclose in the Draft CEQA Supplement the threshold of significance used to determine project impacts and/or justify the need to modify conditions already evaluated under NEPA including SCE's Proposed Project, USFS 4(e) conditions, FERC's Staff Alternative and the Settlement Agreement; and (b) relies heavily on conclusions from the NEPA analysis without sufficiently justifying or addressing differences proposed in the 401 Conditions.	The development and use of thresholds of significance are not required by CEQA. However, the statements provided in the checklist in Appendix G of the State CEQA Guidelines served as the thresholds by which impacts are evaluated for each of the resource areas.	None required.
11 (page 5)	In the Draft CEQA Supplement, the brief description of potential Project impacts and justification for modified conditions is limited in nature; absent of any supportive data and analysis; developed without collaboration with the Licensee, Tribes, resource agencies and NGOs; and conflicts with conditions	The purpose of the CEQA Supplement is to fully disclose the potential impacts and level of significance of the Proposed Project. State Water Board acknowledges the draft certification conditions vary from the Settlement Agreement, SCE's proposed project, USFS 4(e)s, and FERC's staff alternatives. The draft certification includes rationale for each specific condition and was issued at the same time as the draft CEQA Supplement, for public comment. Justification for the certification conditions is not a requirement of CEQA.	None required.

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	agreed upon in the Settlement Agreement.		
12 (page 5)	The State Water Board omits in the Draft CEQA Supplement the threshold of significance used to determine project impacts and/or justify the need to modify conditions already evaluated under NEPA including SCE's Proposed Project, USFS 4(e) conditions, FERC's Staff Alternative and the Settlement Agreement and does not adequately describe why proposed measures beyond those agreed upon in the Settlement Agreement are necessary for the protection of water quality or beneficial uses.	The development and use of thresholds of significance are not required by CEQA. However, the statements provided in the checklist in Appendix G of the State CEQA Guidelines served as the thresholds by which impacts are evaluated for each of the resource areas. The draft CEQA Supplement analyzes the proposed project in comparison to existing conditions and then discloses those identified potential environmental impacts. This differs from certification conditions which are imposed to ensure water quality standards are satisfied from existing and proposed operation of the project for up to 50 years. The draft certification includes rationale for each specific condition.	None required.
13 (page 5)	The State Water Board did not meet an objective of its CEQA analysis, namely the "determination of the level of significance for all impacts identified for CEQA resource areas."	Tables 4, 5, and 6 in the CEQA Supplement list the measures under SCE's Proposed Project, and the level of significance for each associated potential impact for each CEQA Resource Area.	None required.
14 (page 5)	The tables and supportive rationale do not analyze the conditions in the Draft 401 Certification under	Section 3.3 of the draft CEQA Supplement analyzes the water quality certification conditions that require analysis under CEQA.	None required.

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	consideration by the State Water Board.		
15 (page 6)	The State Water Board has failed to provide a detailed description (supported by technical information in the administrative record) of any adverse effects on water quality or beneficial uses from existing operations of the Six Big Creek Hydroelectric Projects (baseline) such that the additional/modified conditions proposed in the Draft 401 Certification are warranted.	<p>The draft CEQA Supplement analyzes the proposed project in comparison to existing conditions and discloses the identified potential environmental impacts. This differs from certification conditions which are imposed to ensure water quality standards are satisfied from existing and proposed operation of the project for up to 50 years.</p> <p>The justification for the certification conditions is not a requirement of CEQA. However, the draft certification includes rationale for each specific condition and was issued at the same time as the draft CEQA Supplement, for public comment.</p>	None required.
16 (page 6)	SCE requests that the State Water Board provide more detailed support, including disclosure of baseline/thresholds of significance, which may provide a more meaningful analysis of the impacts of SCE's Proposed Project.	<p>The draft certification includes rationale for each specific condition and was issued at the same time as the draft CEQA Supplement, for public comment.</p> <p>The statements provided in the checklist in Appendix G of the State CEQA Guidelines served as the thresholds by which impacts are evaluated for each of the resource areas.</p>	None required.
17 (page 6)	<p>SCE requests that the State Water Board provide adequate analysis under CEQA documenting:</p> <p>1) Impacts from existing or proposed operations that are potentially significant and require mitigation to reduce to less than</p>	<p>(1) The purpose of the CEQA Supplement is to fully disclose the potential impacts and level of significance of the Proposed Project, not the potential impacts from existing conditions/project operations. Based on the results of the analyses in the CEQA Supplement, no significant impacts were identified, and therefore no mitigation was identified.</p> <p>(2 & 3) Describing the insufficiency of the Settlement Agreement in ensuring adequate protection of water quality is not a requirement of CEQA. The draft certification includes rationale for each specific</p>	None required.

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	<p>significant levels;</p> <p>2) Why the existing Settlement Agreement conditions and project features are insufficient in protecting water quality and beneficial uses (including establishment of thresholds of significance for these determinations, as required under CEQA); and</p> <p>3) How the new conditions are necessary to protect water quality/beneficial uses.</p>	<p>condition. Certification conditions are imposed to ensure water quality standards are satisfied from existing and proposed operation of the project for up to 50 years.</p> <p>The statements provided in the checklist in Appendix G of the State CEQA Guidelines served as the thresholds by which impacts are evaluated for each of the resource areas.</p>	
<p>18 (page 6)</p>	<p>Based on the revised conditions provided in the 401 Certification, the following resource areas are potentially affected and, therefore, should be individually evaluated under CEQA:</p> <ul style="list-style-type: none"> • Biological Resources (including aquatic and terrestrial resources); • Geological and Soils; • Hydrology and Water Quality; • Recreation; and • Transportation. 	<p>Section 3.3 of the draft CEQA Supplement analyzes the draft certification conditions that were deemed to be not adequately analyzed as part of the proposed project under NEPA.</p> <p>Additional monitoring included in the draft certification will not have potentially significant effects under CEQA. Implementation activities resulting from monitoring or other studies may necessitate future CEQA analysis prior to approval.</p>	<p>None required.</p>
<p>19 (page 6)</p>	<p>With respect to Section 3.3, this section minimizes and</p>	<p>The draft certification conditions that would change project operations that were not considered under NEPA are listed in Section 3.3 of the</p>	<p>None required.</p>

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	thereby fails to adequately represent to the public the measures not adequately analyzed under NEPA.	draft CEQA Supplement including an analysis of the potential environmental impacts from operational changes. The draft certification includes rationale for each specific condition and was issued at the same time as the draft CEQA Supplement, for public comment.	
20 (page 6)	The criteria used in evaluating the conditions included in Section 3.3 are not identified; but clearly the State Water Board does not consider the effects on resources of modified and new conditions identified in the Draft 401 Certification compared to conditions in the Settlement Agreement analyzed under NEPA (see previous paragraph).	Sections 3.3.2 and 3.3.3 of the draft CEQA Supplement include an environmental analysis for each measure's potential effects and potential environmental benefit from implementation. This descriptive analysis was used for the level of significance determination.	None required.
21 (page 7)	Of the four conditions addressed in Section 3.3, two conditions (Jackass Meadows sedge bed restoration and Big Creek Fish Hatchery feasibility investigations) are part of a Non-FERC Settlement Agreement and are not necessary for operations or maintenance of the Six Big Creek Projects. Therefore, these conditions are not under FERC jurisdiction nor subject to State Water Board	Comment noted. The two measures have been removed.	Text was revised to not include the Jackass Meadow sedge bed restoration and Big Creek Fish Hatchery feasibility investigations.

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	401 authority under the relicensing proceeding and should not be included in the CEQA analysis.		
22 (page 7)	The operational release limitation for Mono Creek was included in the Settlement Agreement and as a USFS Federal Power Act section 4(e) condition and therefore was previously analyzed under NEPA.	<p>The operational release limitation was not included in the analysis of FERC's Environmental Assessment (EA) for the Vermilion Valley Project. FERC's EA for the Vermilion Valley Project is dated May 4, 2004. The operational release limitation for Mono Creek is a U.S. Forest Service (USFS) final section 4(e) term and condition (dated September 2, 2004), specifically Condition 12(A.1.).</p> <p>Further, both SCE's Request for Adoption of Alternative Conditions (dated December 17, 2005), and USFS revised final 4(e)s (dated November 29, 2006) did not edit or change the operational release limitation condition.</p> <p>In addition, while the Big Creek ALP Settlement Agreement did include the Mono Creek Channel Riparian Maintenance Flow Plan, it did not include the seasonal operational release limitation. Also, FERC's final EIS for the Big Creek ALP Projects (dated March 2009) incorporated some flow related measures for Portal but did not include the Mono Creek operational release limitation.</p>	None required.
23 (page 7)	When relying on NEPA documents in lieu of an EIR to satisfy CEQA, CEQA Guidelines, Section 15221(b) requires that any discussion of mitigation measures must be supplemented to fulfill CEQA's requirements. The Draft CEQA Supplement does not sufficiently identify and justify the need for mitigation measures.	Based on the results of the analyses in the CEQA Supplement, no significant impacts were identified, and therefore no CEQA mitigation measures were identified.	None required.

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<p style="text-align: center;">24 (page 7)</p>	<p>SCE requests that the State Water Board provide a clear connection between</p> <ul style="list-style-type: none"> a) the nature and severity of the impact to water quality or beneficial uses considering implementation of previously agreed-upon measures; or b) the applicability of the new/amended condition in addressing the impact. 	<p>No significant impacts were identified in the CEQA Supplement. The draft certification identifies rationale for each condition's inclusion to ensure water quality standards are satisfied in the course of operation of the project during the term of a new FERC license.</p>	<p>None required.</p>
<p style="text-align: center;">25 (page 7)</p>	<p>In those cases where the State Water Board is proposing a condition to reduce potentially significant project effects to water quality and beneficial uses to less than significant levels, the condition must be called out as mitigation and included in the Mitigation, Monitoring and Reporting Plan. Since the State Water Board has not included these as "project features" in its project description, either the analysis of the project impacts has concluded an incorrect level of significance or the mitigation measure is unwarranted.</p>	<p>The draft CEQA Supplement did not identify any potential significant impacts, nor did it include any mitigation measures. A Mitigation Monitoring and Reporting Plan is only required for CEQA mitigation measures. The draft CEQA Supplement analyzes the proposed project in comparison to existing conditions and then discloses those identified potential environmental impacts. This differs from certification conditions which are imposed to ensure water quality standards are satisfied from existing and proposed operation of the project for up to 50 years. The justification for the certification conditions is included in the draft certification rationale section.</p>	<p>None required.</p>

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<p style="text-align: center;">26 (page 7)</p>	<p>In preparing the Draft CEQA Supplement, the State Water Board improperly relied on the FEIS Appendix A Mitigation and Monitoring Summary, which does not include the conditions in the Draft 401 Certification.</p>	<p>In direct response to State Water Board staff's DEIS comment letter, Section 1.3.6 of FERC's FEIS discusses how Appendix A was developed specifically to facilitate the State Water Board's potential use of the FEIS for CEQA purposes. The State Water Board does not rely upon the FEIS's Appendix A as CEQA mitigation measures. The draft CEQA Supplement did not identify any potential significant impacts, nor did it include any mitigation measures. The FEIS's Appendix A was not intended to reflect draft certification conditions.</p>	<p>None required.</p>
<p style="text-align: center;">27 (page 8)</p>	<p>But because the FEIS Mitigation and Monitoring Summary did not capture the conditions set forth in the Draft 401 Certification, a revised mitigation, monitoring, and reporting program should be developed that is inclusive of the conditions in the Draft 401 Certification. Thus, we ask for a more comprehensive discussion of mitigation measures, as discussed in Sections 3.1-3.3.</p>	<p>The draft CEQA Supplement did not identify any potential significant impacts, nor did it include any mitigation measures. A Mitigation Monitoring and Reporting Plan is only required for CEQA mitigation measures.</p> <p>The FEIS's Appendix A was not intended to reflect draft certification conditions.</p>	<p>None required.</p>