

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the Matter of Water Quality Certification for

**SOUTHERN CALIFORNIA EDISON COMPANY
BIG CREEK DAM NO. 7 FISHWATER GENERATOR ROOM REPAIRS PROJECT**

Sources: Redinger Lake and San Joaquin River

Counties: Fresno and Madera

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

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Acronyms and Abbreviations

<i>Antidegradation Policy</i>	<i>Statement of Policy with Respect to Maintaining High Quality Waters in California</i>
<i>Applicant</i>	<i>Southern California Edison Company</i>
<i>Bay-Delta Plan</i>	<i>Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary</i>
<i>BMPs</i>	<i>best management practices</i>
<i>Central Valley Regional Water Board</i>	<i>Central Valley Regional Water Quality Control Board</i>
<i>CEQA certification</i>	<i>California Environmental Quality Act water quality certification</i>
<i>Deputy Director</i>	<i>Deputy Director of the Division of Water Rights</i>
<i>Dredge or Fill Procedures</i>	<i>State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State</i>
<i>ESA</i>	<i>Endangered Species Act</i>
<i>Executive Officer</i>	<i>Executive Officer of Central Valley Regional Water Board</i>
<i>FERC</i>	<i>Federal Energy Regulatory Commission</i>
<i>Generator Room</i>	<i>Big Creek Dam No. 7 fishwater generator room</i>
<i>MIF</i>	<i>minimum instream flow</i>
<i>ML</i>	<i>Monitoring Location</i>
<i>NTU</i>	<i>Nephelometric Turbidity Unit</i>
<i>Project</i>	<i>Big Creek Dam No. 7 Fishwater Generator Room Repairs Project</i>
<i>Regional Water Boards</i>	<i>California Regional Water Quality Control Boards</i>
<i>SCE</i>	<i>Southern California Edison Company</i>
<i>SR/SJR Basin Plan</i>	<i>Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin</i>
<i>State Water Board</i>	<i>State Water Resources Control Board</i>
<i>USACE</i>	<i>United States Army Corps of Engineers</i>
<i>USEPA</i>	<i>United States Environmental Protection Agency</i>
<i>Water Boards</i>	<i>State Water Board and Regional Water Boards, collectively</i>

1.0 Project Description

Southern California Edison Company (SCE or Applicant) is proposing the Big Creek Dam No. 7 Fishwater Generator Room Repairs Project (Project) to repair and replace equipment located in the Big Creek Dam No. 7 fishwater generator room (Generator Room). The Generator Room is a facility at the base of Big Creek Dam No. 7 that is located approximately 55 miles northeast of the city of Fresno on lands managed by the United States Forest Service in the Sierra National Forest. Big Creek Dam No. 7 is part of the Big Creek No. 4 Hydroelectric Project, Federal Energy Regulatory Commission (FERC) Project No. 2017.

The Project is needed to reduce the risk of Generator Room flooding by increasing sump pump capacity and relocating equipment in Big Creek Dam No. 7 above the flood highwater mark for worker safety. The Generator Room floods due to a rockslide that occurred shortly after construction of Big Creek Dam No. 7, which blocks a portion of the tailwater pool, resulting in water seepage into the Generator Room. In the early 1950s, a sump pump was installed to control seepage. However, during the 2020 Creek Fire the sump pump's power supply was interrupted and the Generator Room experienced sustained flooding.

In general, the Project includes: (1) removing and replacing damaged and end-of-service-life equipment (e.g., existing piping, valves, sump pumps, and electrical equipment) inside the Generator Room; and (2) replacing and relocating the electric panels currently located in the Generator Room to the foundation gallery (a different room in Big Creek Dam No. 7 above the flood high water mark). The existing sump pump has an approximate 100 gallon per minute capacity and will be replaced with two sump pumps, each with an approximate maximum capacity of 300 gallon per minute. Installation of two sump pumps will provide for some operational redundancy.

Per Condition 11 of the Big Creek No. 4 Hydroelectric Project's water quality certification (certification)¹, SCE must maintain a minimum instream flow of 20 cubic feet per second below Big Creek Dam No. 7² unless the water year has been determined to be dry or critically dry, in which case the minimum instream flow is 15 cubic feet per second. As part of the Project, SCE is proposing to dewater approximately 300 feet of the San Joaquin River directly below Big Creek Dam No. 7 to ensure the Generator Room remains dry during Project activities. Dewatering will occur via installation of a temporary bypass pipe that will divert water from Redinger Lake and discharge the water into the San Joaquin River approximately 300 feet downstream of Big Creek Dam No. 7.

¹ The Executive Director for the State Water Resources Control Board issued a certification for the Big Creek No. 4 Hydroelectric Project on June 13, 2003.

² On May 25, 2023, SCE requested a temporary variance to the flow requirements of its Big Creek No 4 Hydroelectric Project certification to implement the Project. On July 17, 2023, SCE stated via email that a flow variance was no longer needed for Project implementation.

Project implementation requires a permit from the United States Army Corps of Engineers (USACE) pursuant to section 404 of the Clean Water Act. SCE anticipates it will obtain coverage for the Project from USACE under Nationwide Permit: 3(a) – Maintenance. A section 404 permit from USACE requires SCE to obtain a Clean Water Act section 401 certification from the State Water Resources Control Board (State Water Board) for the Project. USACE has assigned the Project a designation number of SPK-2023-00351. Project maps can be found in Attachment A: Project Overview Maps.

2.0 Water Rights

Table A lists Project-related water right permits and licenses maintained by SCE.

Table A. SCE’s Project-Related Water Rights*

License or Permit No.	Water Right Type	Status Date	Face Amount (acre-feet)	Sources/Locations	Purpose of Use
L006001	Appropriative	12/03/1941	2,342,848	Redinger Lake, San Joaquin River	Power, Domestic
P20683	Appropriative	09/24/1980	216,810	San Joaquin River	Power
L5732	Appropriative	10/18/1954	11,859.7	Warm Creek	Power
L6002	Appropriative	08/31/1950	110,500	Mono Creek	Power, Domestic
L8739	Appropriative	08/31/1950	1,483,159.5	San Joaquin River, Rock Creek, Ross Creek	Power, Domestic

* Information is from the State Water Board’s electronic Water Rights Information Management System.

3.0 Regulatory Authority

3.1 Water Quality Certification and Related Authorities

The federal Clean Water Act (33 U.S.C. §§ 1251-1388) was enacted “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” (33 U.S.C. § 1251(a).) The Clean Water Act relies significantly on state participation and support in light of “the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution” and “plan the development and use” of water resources. (33 U.S.C. § 1251(b).) Section 101 of the Clean Water Act (33 U.S.C. § 1251(g)) requires federal agencies to “co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.” (33 U.S.C. § 1251(g))

Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit that may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will comply with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with “any other appropriate requirement of State law.” (33 U.S.C. §1341(d).) Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project. (*Ibid.*)

The State Water Board is the state agency responsible for Clean Water Act section 401 certification in California. (Wat. Code, § 13160.) The State Water Board has delegated authority to act on applications for certification to the Executive Director of the State Water Board. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

Water Code section 13383 authorizes the State Water Board to “establish monitoring, inspection, entry, reporting, and recordkeeping requirements” and obtain “other information as may be reasonably required” for activities subject to certification under section 401 of the Clean Water Act. For activities that involve the diversion of water for beneficial use, the State Water Board delegated this authority to the Deputy Director of the Division of Water Rights (Deputy Director), as provided for in State Water Board Resolution No. 2012-0029 (State Water Board 2012). In the *Redelegation of Authorities* memo issued by the Deputy Director on April 20, 2023, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2023a).

Procedure, Application, and Noticing

On April 3, 2023, SCE filed a certification application with the State Water Board under section 401 of the Clean Water Act. On April 21, 2023, State Water Board staff provided public notice of the application, pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the Project on the State Water Board's website. No comments were received in response to this notice.

On August 2, 2023, State Water Board staff requested comments from the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) on a draft certification for the Project. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On August 10, 2023, Central Valley Regional Water Board staff responded, declining to comment.

3.2 Water Quality Control Plans and Related Authorities

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards in the Central Valley Regional Water Board's *Water Quality Control Plan (Basin Plan) for the Sacramento River Basin and the San Joaquin River Basin* (SR/SJR Basin Plan) (Central Valley Regional Water Board 2019) and the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (Bay-Delta Plan) (State Water Board 2018)³.

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, industry, agriculture, and fish and wildlife habitat), water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. (Wat. Code, §§ 13241, 13050, subds. (h), (j).) The beneficial uses, together with the water quality objectives contained in the water quality control plans and applicable state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and anti-degradation requirements. (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology* (1994) 511 U.S. 700, 714-719.)

The California Regional Water Quality Control Boards (Regional Water Boards) have primary responsibility for the formulation and adoption of water quality control plans for their respective regions, subject to State Water Board and United States Environmental Protection Agency (USEPA) approval, as appropriate. (Wat. Code, §§ 13240 et seq.) As noted above, the State Water Board may also adopt water quality control plans, which will supersede regional water quality control plans for the same waters to the extent of any conflict. (Wat. Code, § 13170.) The State Water Board and Regional Water Boards (collectively Water Boards) adopt the plans pursuant to their authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313).

SR/SJR Basin Plan

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the SR/SJR Basin Plan. The SR/SJR Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The SR/SJR Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The SR/SJR Basin Plan identifies existing beneficial uses for Sources to Millerton Lake (which includes portions of the San Joaquin River and Redinger Lake) as: municipal

³ Based on the Project's limited scope, duration, and distance from the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, impacts to water quality objectives listed for waterbodies in the Bay-Delta Plan are not anticipated to occur from Project activities.

and domestic supply; agriculture; power; contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat.

Bay-Delta Plan

The Bay-Delta Plan establishes water quality objectives to protect beneficial uses of water in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and tributary watersheds, including drinking water supply, irrigation supply, and fish and wildlife. The State Water Board adopts the Bay-Delta Plan pursuant to its authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313). The beneficial uses in the Bay-Delta Plan are: municipal and domestic supply; industrial service supply; industrial process supply; agricultural supply; groundwater recharge; navigation; water contact recreation; non-contact water recreation; shellfish harvesting; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; estuarine habitat; wildlife habitat; and rare, threatened, or endangered species. In 2018, the Bay-Delta Plan was updated to adopt new and revised Lower San Joaquin River flow objectives and revised southern Delta salinity objectives.

The Bay-Delta Plan generally is not self-implementing and does not allocate the responsibility of meeting objectives to water diverters in the Sacramento River. Subsequent regulatory actions, such as certifications, rulemakings, or water right adjudicative proceedings are required to implement the water quality objectives.

The State Water Board is developing Bay-Delta Plan amendments focused on the Sacramento River and its tributaries, Delta eastside tributaries, Delta outflows, and interior Delta flows. This effort is referred to as the Sacramento/Delta Update to the Bay-Delta Plan. Protection of the Bay-Delta ecosystem and its native aquatic species requires an integrated approach to effectively connect upstream suitable cold water nursery habitat, floodplains, tidal marshland, and turbid open water habitats in the Delta and Bay and to connect those environments to the ocean. Accordingly, the Sacramento/Delta Update to the Bay-Delta Plan would provide for a flow regime that supports a connected and functioning ecosystem linking and integrating inflow, cold water habitat, Delta outflow, and interior Delta flow measures with complementary physical habitat restoration and other nonflow measures. Changes are proposed to the water quality objectives and the program of implementation for those objectives, as well as changes to monitoring, reporting, and assessment requirements. Water users on Bay-Delta tributaries would bear responsibility for achieving flow objectives. (State Water Board 2023b).

Antidegradation Policy

The State Water Board's *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy)⁴ (State Water Board 1968)

⁴ State Water Board Resolution No. 68-16 and any amendments thereto. Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf. Accessed on June 23, 2023.

requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. § 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

In March 2019, the State Water Board submitted to FERC the plans and policies included in the state's comprehensive plan for orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state. This submission included the SR/SJR Basin Plan, the Bay-Delta Plan, the Antidegradation Policy, and other applicable plans and policies for water quality control (FERC 2019).

3.3 Clean Water Act Section 303(d) Listing

On January 19, 2022, the State Water Board adopted the [2020-2022 California Integrated Report \(Clean Water Act Section 303\(d\) List/305\(b\) Report\)](#) (State Water Board 2022) and it was approved by USEPA on May 11, 2022. Redinger Lake and Big Creek, downstream of Big Creek Dam No. 7, are not identified as impaired waterbodies in the 2020-2022 California Integrated Report.

3.4 State Wetland Definition and procedures for Discharges of Dredged or Fill Materials to Water of the State

The [State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State](#) (Dredge or Fill Procedures)⁵ (State Water Board 2019 and 2021)⁶ provide California's definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of dredged or fill material to waters of the state. The Dredge or Fill Procedures ensure that State Water Board regulatory activities will result in no net loss of wetland quantity, quality, or permanence, compliant with the *California Wetlands Conservation Policy*, Executive Order W-59-93. SCE must comply with the Dredge or Fill Procedures when

⁵ The Dredge or Fill Procedures and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed on September 11, 2023.

⁶ Resolution No. 2021-0012 is available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wrapp/rs2021_0012.pdf. Accessed on September 11, 2023.

conducting dredge or fill activities that may impact waters of the state, including wetlands.

4.0 California Environmental Quality Act

The California Environmental Quality Act (CEQA) applies to discretionary projects that may cause a direct or indirect physical change in the environment. (Pub. Resources Code, §§ 21000 et seq.) When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of CEQA. The State Water Board determined that the Project is categorically exempt from CEQA under Class 1 (Existing Facilities), Class 2 (Replacement or Reconstruction), and Class 4 (Minor Alterations to Land) (Cal. Code Regs, tit. 14, §§ 15301, 15302, 15304). No exceptions to the applicable exemptions apply. The State Water Board will file a Notice of Exemption with the State Clearinghouse within five working days of issuing this certification.

5.0 Rationale for Water Quality Certification Conditions

This section of the certification explains that the grant of certification, as conditioned, is warranted and why the conditions in Section 7.0 are necessary to ensure that the Project and its discharges will comply with water quality requirements. This section also includes, as necessary, citations to federal, state, or tribal laws that authorize the conditions and sets forth citations to applicable regulatory authority. Section 3.0 also sets forth citations to applicable regulatory authority. The explanation and citations should be evaluated in the context of the certification as a whole, but the certification conditions are set forth only in Section 7.0.

As explained in this section, the conditions in this certification are generally required pursuant to the SR/SJR Basin Plan, as described in Section 3.2, Regulatory Authority.

California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth information that must be included in certification requests, and section 3860 sets forth standard conditions that shall be included in all certification actions. Authorization under this certification is granted based on the description and information in the application submitted. An applicant is required to detail the scope of Project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h).

Water Code sections 13267 and 13383 authorize the Water Boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste to navigable waters. Water Code section 1051 additionally authorizes the State Water Board to investigate waters diverted for beneficial use.

Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Section 5937 and requirements to maintain or monitor flow or other water quality characteristics as required to meet section 5937 are appropriate conditions of state law necessary to protect fishery beneficial uses.

In general, the code citations, plans, and policies that support issuance of this certification that are described in Section 3.0 are not duplicated in this section. The conditions in this certification were developed to ensure compliance with water quality standards and water quality requirements established under the Porter-Cologne Water Quality Control Act and the federal Clean Water Act, including requirements in applicable water quality control plans, and other appropriate requirements of state law. The conditions in Section 7.0 of this certification are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

When preparing the conditions in this certification, State Water Board staff reviewed and considered the following information:

- SCE's April 3, 2023 certification application (SCE 2023a) including its attachments (Attachments A-H), as supplemented on April 21, 2023 (SCE 2023b), June 28, 2023 (SCE 2023c), and July 17, 2023 (SCE 2023e);
- SCE's May 25, 2023 request for instream flow variance (SCE 2023d);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the SR/SJR Basin Plan (Central Valley Regional Water Board 2019);
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs;
- Project-related controllable factors; and
- Other information in the record.

To the extent USACE considers any certification condition to include requirements outside the substantive scope of USEPA's Clean Water Act Section 401 Certification Rule, 85 Fed. Reg. 42, 210 (July 13, 2020) (Certification Rule), the Certification Rule—including but not limited to 40 C.F.R. §§ 121.1(f) and (n), 121.3, 121.7(d)(1), and 121.9(b)—is inconsistent with federal law and controlling case law. Under section 401 of the Clean Water Act, when an activity requiring a federal permit or license “may result in any discharge into the navigable waters,” the applicant is required to obtain a certification that states the discharge will comply with applicable water quality standards and that also sets forth any “limitations” and “monitoring requirements” necessary to assure that the “applicant” will comply with water quality standards and “any other appropriate requirement of State law.” (33 U.S.C. § 1341(a) & (d).) Certification is required for such activity as a whole, not merely for its point-source discharges to waters of the United States. (*PUD No. 1*, supra, 511 U.S. at pp. 711- 712.) USEPA has indicated its intent to revise the Certification Rule because, among other faults, it “may prevent state and tribal authorities from adequately protecting their water quality,” “may result in a state or tribe’s certification or conditions being permanently waived as a result of non-substantive and easily fixed procedural concerns,” and “may limit the flexibility of certifications and permits to adapt to changing circumstances.” (86 Fed. Reg. 29,543-29,544 (June 2, 2021).) USEPA has maintained its “substantial concerns” and has asked that the Certification Rule be voluntarily remanded in ongoing litigation. Additionally, on June 9, 2022, USEPA published in the Federal Register a proposed rule to revise procedures for implementing section 401 of

the Clean Water Act. The proposed rule would replace and update the Certification Rule (USEPA 2022). As explained in this certification, each certification condition is authorized by applicable state and federal law and is necessary to ensure compliance with such laws. This paragraph is hereby incorporated as part of the explanatory statement for each condition of this certification.

5.1 Rationale for Condition 1: Diversions and Drawdown

Water quality monitoring during Project implementation will inform corrective actions in response to Project activities, if necessary. Condition 1 requires the implementation, with modifications, of SCE's Diversion and Drawdown Plan (Attachment G of the Project certification application) to minimize and identify any Project-related impacts to water quality (SCE 2023a). SCE's Diversion and Drawdown Plan included best management practices (BMPs) to minimize water quality impacts and mainly visual monitoring to periodically evaluate water quality during Project implementation.

Implementation of the Diversion and Drawdown Plan as modified by this condition is required to ensure beneficial uses are protected and to comply with SR/SJR Basin Plan's water quality objectives, and other appropriate requirements of state law. Monitoring requirements of Condition 1 are consistent with the Water Boards' authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383.

Project activities that may impact water quality, specifically turbidity, dissolved oxygen, temperature, and pH, include, but are not limited to: (1) drawdown of the tailwater pool beneath Big Creek Dam No. 7; (2) diversion from Redinger Lake into the San Joaquin River approximately 300 feet downstream of Big Creek Dam No. 7 to meet existing instream flow requirements; and (3) dewatering the Generator Room. These activities have the potential to violate the SR/SJR Basin Plan's water quality objectives. To prevent water quality objective violations and impacts to beneficial uses, Condition 1 requires SCE to comply with applicable water quality objectives of the SR/SJR Basin Plan and, as modified by this certification, implement its proposed: (1) water quality monitoring and protection measures, as listed in SCE's Diversion and Drawdown Plan; and (2) avoidance and minimization measures as described in Attachment E of the Project certification application. Monitoring at modified monitoring location (ML)-2 is required if fish are present in the tailwater pool, to protect beneficial uses, specifically warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

Beneficial uses of Redinger Lake and the San Joaquin River directly below Big Creek Dam No. 7 that would be impacted by elevated turbidity, reduced dissolved oxygen, elevated temperatures, and pH swings include, but are not limited to: municipal and domestic supply, contact recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

5.2 Rationale for Condition 2: Project Activities

As described in Section 5.0, this certification is granted based on the application and supporting information submitted, in accordance with the State Water Board's

regulations and subject to requirements of the Porter-Cologne Water Quality Control Act. Condition 2 requires SCE to implement the Project as described in its April 3, 2023 certification application, its supplemental information provided via email on June 28, 2023, and July 17, 2023, and as modified by conditions of this certification. Condition 2 will help ensure that the Project is implemented in a manner that protects water quality objectives and avoids unreasonable impacts to beneficial uses. Any changes to the Project description that are inconsistent with the Project application and supplemental information provided to the State Water Board prior to certification issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new certification application as well as trigger additional environmental review.

Additionally, Condition 2 requires SCE to maintain minimum instream flows (MIFs), as required by the Big Creek No. 4 Hydroelectric Project's FERC license, as reduced MIF releases have the potential to impact water quality and associated beneficial uses of the San Joaquin River, as identified in the SR/SJR Basin Plan. Beneficial uses that may be impacted by reduced flow releases include, but are not limited to: municipal and domestic supply; agriculture; power; contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat. Minimum instream flow discharges directly impact water quality and associated beneficial uses. Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Maintaining minimum instream flows ensures protection of water quality and aquatic resources throughout Project implementation.

5.3 Rationale for Condition 3: Erosion, Sediment, and Hazardous Control Measures

Condition 3 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

Erosion and sedimentation can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to eliminate or limit such discharges to protect water quality and associated beneficial uses. Project activities that have the potential to cause erosion and increased turbidity in the San Joaquin River include: installing and operating a temporary diversion at a new location to provide MIFs; drawdown of the tailwater pool of Big Creek Dam No. 7; and construction activities, such as setting up the diversion pipeline. Increases in erosion and sedimentation can violate water quality objectives (e.g., turbidity) and adversely impact beneficial uses.

The Project involves replacing and relocating electrical equipment using equipment that will require refueling and servicing. Site management requires implementation of BMPs to prevent, minimize, and/or clean up construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to surface water in violation of water quality standards, including the toxicity and floating material water quality objectives. Secondary containment around hazardous materials storage sites helps

ensure that any leaks or spills of hazardous materials do not result in a discharge to waters.

The SR/SJR Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials. Waters must be free of hazardous materials in concentrations that cause nuisance, “detrimental physiological responses in human, plant, animal, or aquatic life,” or “result in a visible film or coating on the surface of the water or on objects in the water” (Central Valley Regional Water Board 2019).

Beneficial uses of Redinger Lake and the San Joaquin River that may be impacted by erosion, sediment, or hazardous material discharges associated with the Project include municipal and domestic supply, warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

5.4 Rationale for Condition 4: Fish Rescue and Relocation

Project dewatering activities have the potential to strand resident fish, such as hardhead, pikeminnow, Sacramento sucker, rainbow trout, three-spined stickleback and non-native spotted bass and green sunfish (SCE 2023d), which may impact beneficial uses. Condition 4 requires SCE to survey for fish presence in the tailwater pool during drawdown and, if fish are present, periodically assess if fish rescue and relocation is needed based on water quality monitoring (Condition 1).

Additionally, Condition 4 specifies that if a Lake and Streambed Alteration Agreement is issued for the Project by the California Department of Fish and Wildlife and it contains fish rescue and relocation measures, SCE is required to comply with the more stringent requirements between this condition and those of the Lake and Streambed Alteration Agreement. Condition 4 will help avoid impacts to water quality and beneficial uses related to recreation and cold freshwater habitat and supports the related requirement under Fish and Game Code section 5937 that fish be maintained in good condition below a dam.

5.5 Rationale for Condition 5: Completion Report

Condition 5 requires SCE to notify Central Valley Regional Water Board and State Water Board staff prior to implementing Project activities and to submit a Completion Report following Project completion to document compliance with the certification requirements. The Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation.

5.6 Rationale for Conditions 6 through 26

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions.

Condition 6 is necessary to comply with Water Code section 13167 and Conditions 7 through 10 contain important clarifications concerning the scope and legal effect of this certification, as well as other legal requirements that may apply to the Project.

Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, Condition 6 requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

Pursuant to the California Endangered Species Act (Fish & G. Code, §§ 2050 et seq.) and federal Endangered Species Act (16 U.S.C. §§ 1531 et seq.), Condition 7 of the certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species. An applicant for certification is required to identify other licenses, permits, and agreements in the application. In the event an applicant for certification needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the applicant provide copies of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.” To help ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law, Condition 8 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply, including the state and federal Endangered Species Acts (Condition 7).

Water Code section 13160, subdivision (b)(1), allows the State Water Board to issue a certification when there is “reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements” of state and federal law. To help ensure the integrity of the certification process and its focus on the protection of water quality and compliance with other applicable state requirements, Condition 8 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply. Because agency organization and authorities change over time, Condition 9 provides direction for

continuity of oversight in the event an agency's authority or responsibility is transferred to or subsumed by another agency.

The State Water Board is responsible for the water right, water quality, and drinking water functions of the California state government. (Wat. Code, § 174.) Certain certifications involve an appropriation of water subject to part 2 of division 2 of the Water Code or the diversion of water for certain beneficial uses. (See, e.g., Cal. Code Regs., tit. 23, § 3855, subd. (b)(1)(A).) Condition 10 explains the State Water Board's issuance of this certification is not adjudicating or approving the validity of water rights that may be related to the Project. It also recognizes the State Water Board's authority, independent of its water quality authority, to prevent unauthorized or threatened unauthorized diversions of water. This helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the certification, the certification does not constitute, or excuse the applicant from obtaining any other State Water Board approvals required for the activity.

Conditions 11 and 12 are necessary to assure that any discharge authorized under the certification will comply with water quality requirements. These conditions are included to comply with California Code of Regulations, title 23, section 3860, which sets forth conditions that must be included in all certifications. Condition 11 is a standard condition that "shall be included as conditions of all certification actions" pursuant to California Code of Regulations, title 23, section 3860, subdivision (a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review. Condition 12 is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification's application and ensures that any applicant for a federal license or permit, which may result in a discharge into navigable waters, is subject to the appropriate State certification. Condition 13 is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, title 23, section 3833(b), which requires payment of fees by project proponents applying for certification. Fees are essential to support the Water Boards certification program, which includes the development of certifications and related inspections to ensure the protection of water quality and beneficial uses that may be impacted by a project.

Conditions 14 through 26 are necessary to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law, or that adjustments are made to ensure continued compliance with water quality standards in light of new information, changes to the Project, or changes to the standards themselves.

This certification requires monitoring, reporting, and analysis as important elements to ensure that Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 14, 15, and 16 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of changed conditions to ensure compliance and

prevent violations of water quality standards. In the event of non-compliance, modified conditions may be necessary to return the Project to compliance and prevent violation of water quality standards. Conditions 17 and 18 require the applicant to comply with the SR/SJR Basin Plan and to take all reasonable measures to protect water quality and beneficial uses, in accordance with plans adopted pursuant to state and federal water laws. Water Code section 13267 authorizes the State Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state. Condition 19 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 20, related to site access requirements, is authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the state, including specific site access authorized under Water Code section 13267 and 13383. Site access is needed to ensure compliance with the certification and associated protection of water quality and beneficial uses. Condition 21 requires site personnel and agencies to be familiar with the content of the certification and availability of the document at the Project site. This condition is required to assure that site personnel are familiar with the conditions needed to protect water quality and any authorized discharge will comply with the terms and conditions of this certification, which requires compliance with water quality objectives and beneficial uses adopted or approved under sections 13170 or 13245 of the Water Code, and with other appropriate requirements of state law.

Condition 22 reserves the State Water Board's authority to add or modify conditions of this certification to ensure that Project activities meet water quality objectives and protect beneficial uses.

Condition 23 requires that SCE use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 24 provides that the State Water Board will provide notice and an opportunity to be heard in exercising its authority to add or modify certification conditions.

Condition 25 ensures permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. This condition is necessary to ensure compliance with state and federal antidegradation policies and is consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts to waters of the state that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) These compensatory mitigation conditions are also consistent with Executive Order W-59-93 commonly referred to as California's "No Net Loss" Policy for wetlands. The objective of the No Net Loss Policy is to ensure no overall net loss of and a long-term net gain in the quantity, quality, and permanence of wetland acreage and values in

California. Further, compensatory mitigation requirements must comply with subpart J of the Supplemental State Guidelines. Mitigation requirements related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, § IV.B.5.f.)

In the event that any provision of this certification is found invalid, Condition 26 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

6.0 Conclusion

The State Water Board finds that, with the conditions and limitations imposed by this certification, the Project will be protective of state and federal water quality standards and other appropriate requirements of state law.

7.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that implementation of the Big Creek Dam No. 7 Fishwater Generator Room Repairs Project (Project) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, under the following terms and conditions.

CONDITION 1: Diversions and Drawdown

Unless otherwise approved by the Deputy Director for the Division of Water Rights (Deputy Director), the Applicant shall implement the Diversion and Drawdown Plan submitted to the State Water Resources Control Board (State Water Board) by Southern California Edison Company (SCE or Applicant) as part of its Project water quality certification (certification) application (SCE 2023), and as modified by this condition.

The Diversion and Drawdown Plan Section 4.2: Monitoring Locations and Section 4.3: Sample Times shall be modified as follows:

- The following sentences shall be removed from the Diversion and Drawdown Plan: *“Monitoring for this Project will consist of visual observations of surface water and contingent water quality sampling if a sediment plume is observed during visual inspections. Visual Monitoring will be conducted during tailwater drawdown activities. If a turbidity plume is observed during drawdown and desilting bags are implemented, samples will be taken first from ML-4 and then second from ML-2 and/or ML-3.”*
- Water quality monitoring shall be required during dewatering⁷ and when flow releases are made through the temporary bypass pipe. At a minimum, water quality sampling shall occur three times a day during Project activities at monitoring locations (MLs): ML-1, ML-2, and ML-4.
 - For the Project, ML-2 shall be moved from the outlet of the dewatering pump to within the tailwater pool at a location representative of the entire tailwater pool. ML-2 need only be sampled if fish are present in the tailwater pool and shall be monitored for temperature, pH, and dissolved oxygen if fish are present in the tailwater pool.
 - Monitoring locations ML-1 and ML-4 shall be monitored for turbidity, pH, dissolved oxygen, and temperature.
- The Applicant shall take a global positioning system point reading and photographs of each water quality monitoring location as well as the re-routed minimum instream flow (MIF) diversion intake and water release points. The Applicant shall provide this information to the State Water Board Project Manager within 24 hours of initiating temporary bypass releases. The Applicant shall notify the Deputy Director if the MIF diversion intake needs to be relocated and

⁷ Dewatering includes initial dewatering to lower the tailwater pool and any discharges of seepage water.

shall provide updated global positioning system point readings and photos, as necessary.

The *Diversion and Drawdown Plan Section 4.7: Contingent Turbidity Sampling* shall be renamed *Diversion and Drawdown Plan Section 4.7: Water Quality Monitoring and modified as follows:*

- Project activities shall meet *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin (SR/SJR Basin Plan)* (Central Valley Regional Water Board 2019 and any amendments thereto) water quality objectives. The water quality objectives for turbidity, pH, temperature, and dissolved oxygen are as follows, unless otherwise updated by an amendment to the SR/SJR Basin Plan:

Turbidity. Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to controllable water quality factors shall not exceed the following limits:

- Where natural turbidity is less than one Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed two NTUs.
- Where natural turbidity is between one and five NTUs, increases shall not exceed one NTU.
- Where natural turbidity is between five and 50 NTUs, increases shall not exceed 20 percent.
- Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.
- Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

In determining compliance with the above limits, an appropriate averaging period, not to exceed 24 hours, may be applied, provided that beneficial uses will be fully protected.

pH. The Applicant shall maintain pH between 6.5 and 8.5.

Temperature. The Applicant shall not allow temperature to rise more than 5° Fahrenheit above natural receiving water temperature.

Dissolved Oxygen. The Applicant shall not allow dissolved oxygen to fall below 7.0 milligrams per liter.

The *Diversion and Drawdown Plan Section 4.8: Protocol for Elevated Readings* shall be modified as follows:

- The Deputy Director and the Central Valley Regional Water Quality Control Board Executive Officer (Executive Officer) shall be notified promptly, and in no case more than 24 hours following a turbidity, dissolved oxygen, pH, or

temperature exceedance of SR/SJR Basin Plan water quality objectives. Regardless of when such notification occurs activities associated with the SR/SJR Basin Plan exceedance shall cease immediately upon detection of the exceedance. Work activities may resume after any appropriate corrective actions have been implemented, water quality meets the applicable SR/SJR Basin Plan water quality objective(s), and the Deputy Director has provided approval to proceed. If the exceedance relates to the temporary MIF diversion, temporary diversions may continue until the normal flow releases are restored through the fishwater bypass valve to maintain MIFs in the San Joaquin River. For determining SR/SJR Basin Plan compliance with turbidity, appropriate averaging periods may be applied, as stated in this condition (e.g., an instantaneous reading showing an exceedance, may not constitute a SR/SJR Basin Plan exceedance when averaged consistent with this condition).

- If water quality sampling indicates that Project activities are affecting pH, turbidity, temperature, or dissolved oxygen, but are still within the SR/SJR Basin Plan water quality limits, the Applicant may implement the procedures outlined in the “First Elevated Readings Event” and “Subsequent Elevated Reading Events” sections of SCE’s Diversion and Dewatering Plan (see Section 4.8: *Protocols for Elevated Readings*), as appropriate.

Water quality monitoring reports described in Section 4.9 of SCE’s Diversion and Dewatering Plan shall be modified to include monitoring results (visual and field collected) and a list of implemented best management practices (BMPs). All field log sheets shall be provided as part of the Completion Report (Condition 5) and if requested during Project activities.

No discharges or dewatering activities shall occur without appropriate BMPs in place, as described in Appendix B of the Diversion and Drawdown Plan and the avoidance and minimization measures as described in Attachment E of the Project water quality certification (certification) application (SCE 2023a). All pumps in Redinger Lake and the tailwater pool shall be screened to prevent entrainment of aquatic species.

Any modifications to the Diversion and Drawdown Plan, including modifications to the BMPs and water quality monitoring, shall be submitted to the Deputy Director for review and consideration of approval. The Deputy Director may require modifications as part of any approval. The Applicant shall implement any Deputy Director-approved modifications to the Diversion and Drawdown Plan upon receipt of Deputy Director and any other required approvals.

CONDITION 2: Project Activities

Unless otherwise modified by conditions of this certification, or approved by the Deputy Director, the Applicant shall implement the Project as described in SCE’s April 3, 2023 certification application (including Avoidance and Minimization Measures as listed in Attachment E) (SCE 2023a), and supplemental submissions clarifying Project activities submitted by SCE on April 21, June 28, and July 17, 2023 (SCE 2023b, SCE 2023c, SCE 2023e).

As described in its certification application, the Applicant shall comply with all MIF requirements below Big Creek Dam No. 7 as listed in the Federal Energy Regulatory Commission (FERC) license for the Big Creek No. 4 Hydroelectric Project (FERC Project No. 2017) throughout Project implementation.

CONDITION 3: Erosion, Sediment, and Hazardous Materials Control Measures

Unless otherwise approved by the Deputy Director, the Applicant shall implement the Erosion and Sediment Control Plan (Erosion Plan) and Avoidance and Minimization Measures as submitted to the State Water Board by SCE as Attachment E of SCE's April 3, 2023 certification application (SCE 2023a), and as modified by this condition. The Erosion Plan contains erosion, sediment, and hazardous material control measures. The Erosion Plan shall be modified to include the following:

- During construction, stockpiling of construction materials, portable equipment, vehicles, and supplies shall be restricted to the designated construction staging areas that shall be located outside of wetlands, surface waters, and riparian habitat.
- In areas prone to run-off, inundation, and/or erosion, structures such as riprap, culverts, or retaining walls may be necessary to protect water quality. Where necessary, the Applicant shall install sediment basins or silt fences to prevent sediment runoff into streams or waterbodies that may result in impacts to water quality and aquatic habitat.
- Overwintering preparation (not proposed as part of Project): If construction requires multiple seasons, at the end of each construction season, the work area shall be prepared for overwintering. All construction equipment shall be removed from the site, unless stored at a Big Creek 4 Hydroelectric Project facility.
- The Applicant shall have on-site spill response materials throughout Project implementation. At a minimum, hazardous materials spill kits shall be clearly marked and maintained onsite adjacent to all work areas, in staging areas, and in vehicles for small spills. These kits shall include oil-absorbent material and tarps to contain and control any minor releases.
- Hazardous materials, including petroleum-based materials, shall not be stored in or near a floodplain.
- Vehicle refueling and maintenance shall be conducted at locations at least 50 feet away from the San Joaquin River, Redinger Lake, and in locations that include spill containment measures.
- Equipment and materials shall be stored in existing disturbed parking areas or at least 50 feet away from waterways.
- All staff and personnel of contractors and subcontractors shall receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws and regulations, including hazardous materials.
- All containment structures shall comply with California Code of Regulations, title 27, section 20320. When not in use, hazardous materials shall be stored away from any watercourse.
- If Project-related hazardous materials are released, appropriate spill response procedures shall be initiated as soon as the incident is discovered. Actions that

shall be taken, as applicable, include that any water contaminated by hazardous materials shall be stored in structures compliant with California Code of Regulations, title 27, section 20320, and/or disposed of properly off-site in a manner that does not impair water quality. In addition, the Deputy Director, Executive Officer, and other relevant agencies shall be notified within 24 hours of hazardous materials reaching surface waters. Notification shall include the spill's magnitude, nature, time, date, and location, as well as any actions being taken to control the spill and restore the affected area.

Any modifications to the Erosion Plan shall be submitted to the Deputy Director for review and consideration of approval. The Deputy Director may require modifications as part of any approval. The Applicant shall implement any Deputy Director-approved modifications to the Erosion Plan upon receipt of Deputy Director and any other required approvals.

CONDITION 4: Fish Rescue and Relocation

Unless otherwise approved by the Deputy Director, the Applicant shall implement the fish assessment and rescue measures as described in Attachment E: *Avoidance and Minimization Measures* of SCE's certification application, and as modified by this condition.

- During drawdown and periodically throughout Project activities (e.g., based on water quality monitoring results indicating water quality conditions that may result in fish stress or mortality), a qualified biologist shall monitor the tailwater pool to determine if: (a) fish are present; and (b) fish rescue and relocation is necessary.
- If fish rescue and relocation is performed, the Applicant shall submit a Fish Relocation Report to the State Water Board and California Department of Fish and Wildlife within 30 days of Project completion. The Fish Relocation Report shall at a minimum include:
 - Date of capture and relocation;
 - Method of capture;
 - Fish species, life stage, fork length, and weight;
 - Location of relocation as depicted on a map that includes the Project area; and
 - Total number of fish captured and relocated.

If a California Department of Fish and Wildlife Lake and Streambed Alteration Agreement is issued for this Project and includes provisions for fish rescue and relocation, the more stringent requirements between this condition and those of the Lake and Streambed Alteration Agreement shall apply.

CONDITION 5: Completion Report

At least five days prior to starting Project activities, the Applicant shall notify the Central Valley Regional Water Quality Control Board (Regional Water Board) and State Water Board staff that Project activities are anticipated to begin and provide a brief description of the anticipated schedule for the Project.

Within 60 days of Project completion, the Applicant shall provide the Deputy Director with a Completion Report that comprehensively summarizes:

- Project activities performed;
- Compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Details of any incident of unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces entering surface waters, including information on the location and clean up actions taken;
- Final inspection information with details to ensure the Project area cleanup was satisfactorily completed;
- Details of any BMP inadequacies found during Project implementation; and
- Details of Project-related adverse impacts to beneficial uses, if applicable.

The Deputy Director may require the Applicant to implement corrective actions in response to the information provided in the Completion Report. The Applicant shall provide any additional information or clarification requested by the Deputy Director related to the Completion Report. Upon request from State Water Board staff, the Applicant shall meet with staff to discuss the Completion Report.

CONDITIONS 6 – 26

CONDITION 6. Unless otherwise specified in this certification or at the request of the Deputy Director, data and/or reports shall be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board’s water quality database systems in compliance with California Water Code section 13167.

CONDITION 7. This certification does not authorize any act which results in the take 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 (ESA) (Fish & G. Code, §§ 2050 – 2097) or the federal ESA (16 U.S.C. §§ 1531 – 1544). If a “take” will result from any act authorized under this certification or water rights held by the Applicant, the Applicant 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 Applicant is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

CONDITION 8. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Applicant is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of Project activities.

CONDITION 9. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.

CONDITION 10. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 or riparian claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.

CONDITION 11. This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 12. This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent application for certification was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b), and that application for certification specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

CONDITION 13. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 14. Notwithstanding any more specific provision of this certification, any plan or report developed as a condition of this certification requires review and approval by the Deputy Director. The State Water Board's approval authority, including authority delegated to the Deputy Director or others, includes the authority to withhold approval or to require modification of a plan, proposal, or report prior to approval. The State Water Board may take enforcement action if the Applicant fails to provide or implement a required item in a timely manner. If a time extension is needed to submit an item for Deputy Director approval, the Applicant shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. The Applicant shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 15. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to any violation of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

CONDITION 16. The Applicant shall submit any change to the Project, including, operations, facilities, technology changes or upgrades, or methodology, which could have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. The State

Water Board shall determine significance and may require consultation with other state and/or federal agencies. If the State Water Board is not notified of a change to the Project, it will be considered a violation of this certification.

CONDITION 17. This certification is contingent on compliance with all applicable requirements of the SR/SJR Basin Plan.

CONDITION 18. Unless otherwise specified by conditions in this certification, Project activities shall be conducted in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Applicant shall take all reasonable measures to protect the beneficial uses of waters of the state, including the San Joaquin River and Redinger Lake.

CONDITION 19. In response to a suspected violation of any condition of this certification, the State Water Board or Central Valley Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. (Wat. Code, §§ 1051, 13165, 13267, and 13383.)

CONDITION 20. Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Applicant shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 21. A copy of this certification shall be provided to any contractor and all subcontractors conducting Project-related work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

CONDITION 22. The State Water Board reserves the authority to add to or modify the conditions of this certification: (1) to incorporate changes in technology, sampling, or methodologies; (2) if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses; (3) to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act; and (4) to require additional monitoring and/or other measures, as needed, to ensure that Project activities meet water quality objectives and protect beneficial uses.

CONDITION 23. The Applicant shall use analytical methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Laboratory Accreditation Program-certified laboratories.

CONDITION 24. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or modify the conditions of this certification.

CONDITION 25. The Applicant shall ensure no net loss of wetland or riparian habitat functions under the standards and procedures set forth in the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)⁸ (State Water Board 2019 and 2021) and the California Wetlands Conservation Policy (Governor’s Executive Order W-59-93 (August 23, 1993)) and any amendments thereto. The Applicant shall demonstrate compliance with the Dredge or Fill Procedures upon request from the Deputy Director.

CONDITION 26. The provisions of this certification are severable. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the State Water Board reserves authority to consider whether an alternative term would address the water quality issue without being found invalid or resulting in a waiver determination. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the remainder of this certification shall not be affected.



Eileen Sobeck
Executive Director

September 12, 2023
Date

⁸ The Dredge or Fill Procedures and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed on September 11, 2023.

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ATTACHMENT A:

PROJECT OVERVIEW MAPS

WATER QUALITY CERTIFICATION

FOR

BIG CREEK DAM NO. 7 FISHWATER GENERATOR ROOM REPAIRS PROJECT

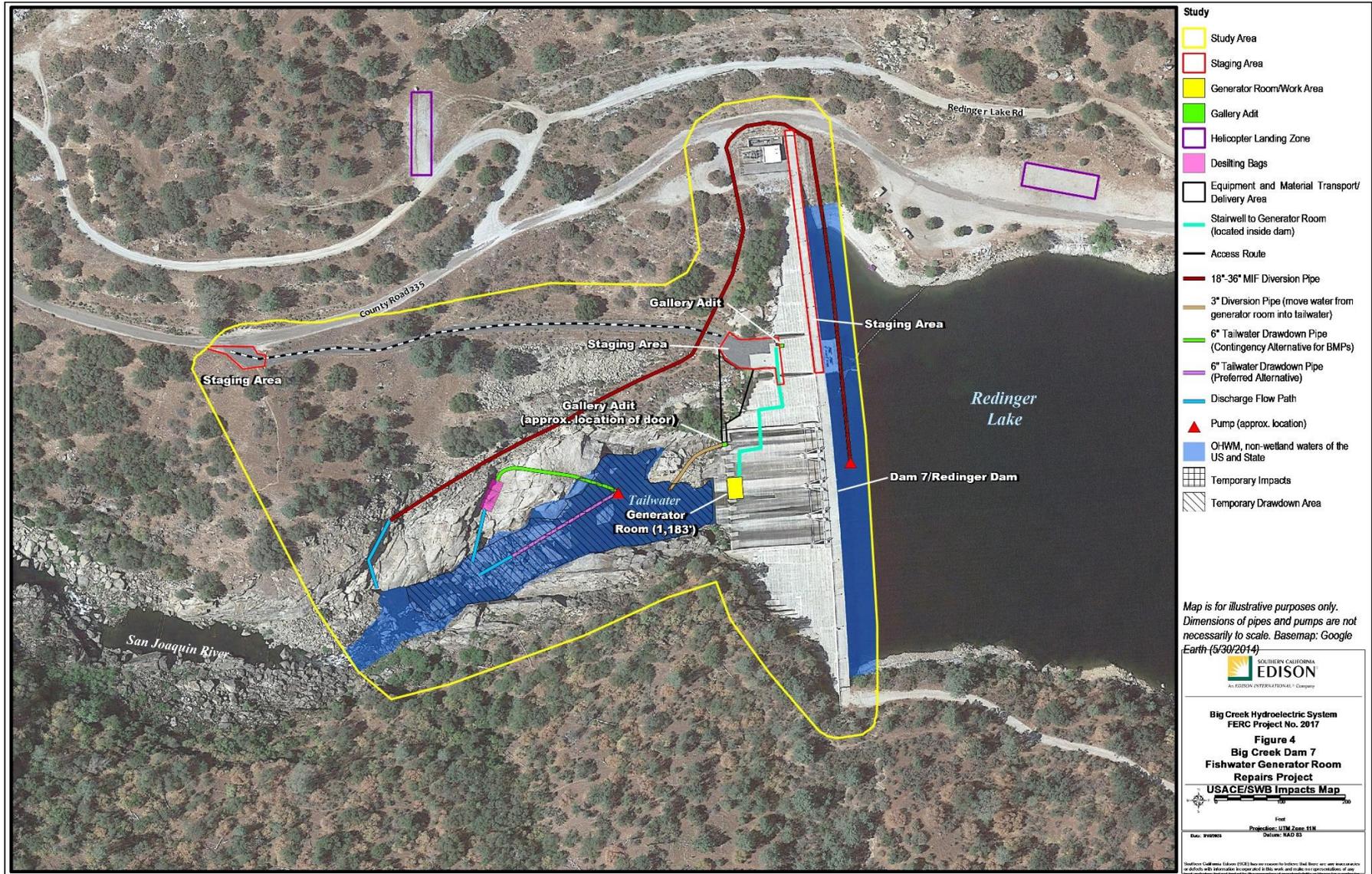


Figure A2. Aerial View of Big Creek Dam No. 7 Fishwater Generator Room Repairs Project (SCE 2023)