

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification For
MAINTENANCE FLUSHING AT DIVERSION DAMS
NORTH FORK, BEAVER CREEK AND MCKAYS POINT DIVERSION DAMS

NORTH FORK STANISLAUS RIVER HYDROELECTRIC PROJECT
FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2409

Certification Requested By Northern California Power Agency (NCPA)

SOURCES: North Fork Stanislaus River and Beaver Creek

COUNTY: Calaveras and Tuolumne

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

1. NCPA proposes to implement a maintenance program to maintain a drainage pathway through the low-level outlets of the North Fork Reservoir, McKays Reservoir, and the Beaver Creek Reservoir. To implement this program, NCPA will flush out accumulated sediments by opening the sluice gates. In accordance with an agreement with the California Department of Fish and Game (DFG), the sluice gates at any facility would only be utilized during periods when the flow past the dam exceeds twice the capacity of the sluice gate. Pursuant to the agreement with DFG, the sluicing operation would only occur for a maximum of 48 hours in any one year.
2. The North Fork Reservoir, McKays Reservoir and Beaver Creek Reservoir are project elements of the North Fork Stanislaus River Hydroelectric Project, which is regulated by the Federal Energy Regulatory Commission (FERC) pursuant to FERC License 2409. By letter dated January 6, 1999, FERC stated that the proposed maintenance program does not interfere with the requirements of FERC License 2409. Consequently, FERC approval is not required in this case.
3. NCPA is seeking authorization from the U.S. Army Corps of Engineers to perform work in the North Fork Stanislaus River and Beaver Creek waterways pursuant to Clean Water Act Section 404 Nationwide Permit (NWP), 17 (hydropower projects). NCPA applied to the State Water Resources Control Board (SWRCB) on March 1, 1999 for Water Quality Certification under section 401 of the Clean Water Act (33 USC §1344).

4. The Federal Clean Water Act (33 USC §1251, et seq.) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 USC §1251(a)). Section 101(g) (33 USC §1251(g)) requires federal agencies to "cooperate with state and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources". Section 401 (33 USC §1341) requires every applicant for a federal license or permit to provide the responsible federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including section 303 ("Water Quality Standards and Implementation Plans", 33 USC §1313); directs the state agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law; and provides that state certification conditions shall become conditions of any federal license or permit for the project.
5. The SWRCB is the agency responsible for water quality certification in California (section 13160 of the California Water Code); and has delegated this function to the Executive Director by regulation (section 3838 of Title 23 of the California Code of Regulations (CCR)).
6. On February 10, 1997, the SWRCB issued statewide water quality certification covering several classes of activities covered under Corps 404 NWP's and at the same time denied certification without prejudice to several classes of NWP's that were found to individually or cumulatively have a significant effect on the environment. The NWP classes that were not certified by the SWRCB were found to result in more than minimal individual impacts or contribute to cumulative impacts as a result of the range of activities contemplated under those Nationwide Permits and therefore require certification on a project by project basis. Section 404 NWP 17 is a class of activities for which the State requires water quality certification on an individual project basis.
7. NCPA prepared a Final Environmental Assessment/Environmental Impact Report (EA/EIR) (State Clearinghouse No. SCH 98072037) for the Maintenance Flushing at Diversion Dams Project in compliance with the requirements of the California Environmental Quality Act. On February 25, 1999, the Commission of NCPA adopted Resolution No. 99-01 certifying the adequacy of the Final EA/EIR. On February 25, 1999, NCPA adopted a Notice of Determination (NOD) which finds that the project will not have a significant effect on the environment. The NOD states that sediment flushing on an episodic basis during flood flow conditions is not expected to result in a significant effect on water quality downstream of the diversion dams. The NOD indicates, however, that this operation could technically be in violation of 40 CFR 131.12 and the SWRCB's Resolution No. 68-16 (antidegradation policies) as well as the California Regional Water Quality Control Board, (CRWQCB) Central Valley Region's *Water Quality Control Plan, San Joaquin River Basin (Basin 5C)* which incorporates the antidegradation policies by reference. SWRCB staff reviewed the final EA/EIR and the findings in the NOD.

8. The CRWQCBs have adopted, and the SWRCB has approved, Water Quality Control Plans (Basin Plans) for each watershed basin in accordance with provisions of section 303 of the Clean Water Act, related to the establishment of water quality standards and planning (33 USC §§1313). Basin Plans identify beneficial uses of the waters within each Region.
9. The CRWQCB, Central Valley Region (hereinafter CVRWQB), has identified in its Basin Plan the beneficial uses of Beaver Creek and North Fork Stanislaus River as municipal, irrigation, stockwatering, hydroelectric generation, contact and non-contact recreation, and freshwater habitat (warm and cold).
10. Protection of the chemical, physical, and biological integrity of waters of the state for instream beneficial uses identified in the Basin Plans requires maintenance of adequate stream flows as well as effluent limitations and other limitation on discharges of pollutants from point and nonpoint sources to navigable waters and their tributaries.
11. The SWRCB section 401 Certification dated February 14, 1992 for the McKay's micro-turbine (FERC Project No. 2409-CA) prohibits operation for peaking power generation purposes and limits use of the micro-turbine to incidental power generation. This certification shall be consistent with the certification for FERC Project No. 2409.
12. FERC License No. 11563 uses the project facilities of FERC Project No. 2409 for purposes of generating hydroelectric power. This certification shall be consistent with the SWRCB section 401 Certification for FERC Project No. 11563 dated March 11, 1996.

ACCORDINGLY, THE SWRCB CERTIFIES THAT the maintenance flushing at North Fork, Beaver Creek and McKays Point Diversion Dams project will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law provided NCPA complies with the following terms and conditions during the prosecution of the work certified herein.

1. The sluice gates at North Fork Reservoir, McKays Reservoir or Beaver Creek Reservoir will only be utilized for purposes of maintenance flushing during periods when the flow past the North Fork, Beaver Creek or McKays Point Diversion dams exceeds twice the capacity of the sluice gate. Thus, sluicing may occur when flows at North Fork, Beaver Creek and McKays Point Diversion dams exceed, respectively, 400 cubic feet per second (cfs), 400 cfs and 5,200 cfs. The sluicing operation at any of these facilities shall only occur for a maximum of 48 hours in any one water year. The 48-hour maximum may be calculated separately for each facility; however, sluicing may only occur once in a given water year at any one facility. A water year begins on October 1 of each year and ends on September 30 of the following calendar year.
2. NCPA shall develop and implement a monitoring program prior to implementation of the maintenance flushing at the three reservoirs. The monitoring program shall include a sampling protocol to sample for dissolved oxygen, turbidity and settleable materials. The monitoring program shall specify the allowable limit for settleable materials. The

monitoring program shall be provided to the SWRCB, CVRWQCB and DFG for their approval as to its adequacy prior to implementation. 24-hour notice shall be provided to the identified agencies prior to implementation of any maintenance flushing, to enable those agencies to send field personnel to observe the flushing activity. All sampling and monitoring results shall be reported to the SWRCB, CVRWQCB and DFG within two weeks after samples are collected.

3. NCPA shall monitor dissolved oxygen and turbidity within 200 feet downstream of the dam during the period when sluicing is occurring and for 24 hours after sluicing operations end. The monitoring program may be reduced in future years after review of the data submitted by NCPA. The measuring location may be modified upon written concurrence of the CVRWQB and written notification to the SWRCB. Should the dissolved oxygen levels fall below 5.0 parts per million (ppm) for a period of more than two hours NCPA shall cease the sluicing operation.

Turbidity levels shall be measured within a 24-hour period immediately prior to commencement of the sluicing operation. If natural turbidity is between 0 and 5 NTU, increases shall not exceed 1 NTU; where natural turbidity is between 5 and 50 NTU, increases shall not exceed ~~20~~ NTU; and where the natural turbidity is between 50 and 100 NTU increases shall not exceed 10 NTU. Where natural turbidity is greater than 100 NTU, increases shall not exceed 10 percent.

4. Project activities shall not cause the water downstream of the dams to contain substances or materials that cause deposition of settleable materials in a manner that causes a nuisance or adversely affects beneficial uses.
5. The permittee or licensee shall notify the CVRWQCB and DFG immediately and provide written notification to the Executive Director of the SWRCB if the above criteria for turbidity or settleable matter are exceeded.
6. This water quality certification is only for the NCPA project titled "Maintenance Flushing At Diversion Dams". This water quality certification cannot be used for any FERC licensing or relicensing activity. This 401 Certification does not supercede or in any way modify the terms and conditions established in the February 14, 1992 section 401 Certification for the McKay's micro-turbine project (FERC Project No. 2409) or the March 11, 1996 section 401 Certification for FERC License No. 11563.

ORIGINAL SIGNED BY:

Walt Pettit
Executive Director

Date:

MAY 28 1999

