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## STATE WATER RESOURCES CONTROL BOARD WATER QUALITY ORDER NO. 2012-XXXX-DWQ

WDID NO. SBXXXXXIN

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### WASTE DISCHARGE REQUIREMENTS FOR SOUTHERN CALIFORNIA EDISON COMPANY FOR ANTELOPE TRANSMISSION PROJECT: SEGMENT 3B, KERN COUNTY

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The State Water Resources Control Board (State Water Board) finds:

#### 1. Discharger

Southern California Edison (hereinafter Discharger or SCE) submitted a Report of Waste Discharge (ROWD) to construct the Antelope Transmission Project Segment 3B (Project), located in Kern County, California, on April 3, 2012. The ROWD was deemed complete on May 11, 2012. The Discharger proposes to discharge fill material to waters of the state associated with construction activity at the Project site.

#### 2. Project Location

The Project is located within the Lahontan Regional Water Quality Control Board's (Lahontan Regional Water Board) boundaries in southern Kern County and will extend approximately 9.6 miles from the proposed Highwind Substation, near the town of Tehachapi just south of SR-58, and will terminate at the Windhub Substation west of the city of Mojave (See Attachment D, Figure 1). The U.S. Geological Survey (USGS) 7.5 minute topographic quadrangles, sections, townships, and ranges, and latitude and longitude of the Project are identified in Attachment C. The Project is within the Tehachapi Wind Resource Area, which includes existing wind farms, access roads, and other developed areas.

#### 3. Receiving Waters

The Project area consists of ephemeral drainages that typically originate in the foothills and along steep slopes, with much of the low-lying areas being subject to flash flooding. The topography along the Project alignment is mostly rolling hills and steep mountainous areas with scattered homes or small ranches. The elevation ranges from approximately 2,600 to 4,900 feet above mean sea level. The Project area spans two watersheds: the Fremont Hydrologic Unit (HU) 625.00 and the Antelope HU 626.00. The northern portion of the Segment 3B Project alignment, including the Highwind Substation, is located in the East Tehachapi Hydrologic Area (HA) 625.30 of the Fremont HU. Proctor Dry Lake and Mendibury Creek are the receiving waters for drainages identified in this area. The southern portion of the Project alignment is located in the Chafee HA 626.10 of the Antelope HU. Oak Creek and Rosamond Dry Lake are the receiving waters identified in this area. Oak Creek is the only perennial stream that crosses the Project alignment. Oak Creek is located near the southern portion of the alignment and parallels Construct 3B-33 eastward to Construct 3B-67. Proctor Valley Dry Lake, Rosamond Dry Lake, Oak Creek, and Mendibury Creek are all considered isolated (non-federal) waters.

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### 4. Project Description

The Project is part of the Tehachapi Renewable Transmission Project (TRTP), which is also being constructed by SCE, and will assist in meeting California's Renewable Portfolio Standards goals of 33% renewable energy by the year 2020. TRTP will provide new and upgraded transmission infrastructure for the distribution of electricity generated from wind and solar energy facilities in the Tehachapi Wind Resource Area of California. The TRTP involves a total of 173 miles of transmission line segments along new and existing rights-of-way (ROWs) in southern Kern County, portions of Los Angeles County (including the Angeles National Forest), and the southwestern portion of San Bernardino County, California. The Project is the last component of the Antelope Transmission Project Segments 1, 2, and 3 to be constructed and provides connectivity to Segment 10 of the TRTP. The Project will consist of a new 220 kilovolt (kV) transmission line that originates at the proposed Highwind Substation (a 500/220/66 kV substation) and extends to the Windhub Substation. SCE plans to complete the Project in the fourth quarter of 2012, or earlier, if possible. Construction activities include installation of new structures (transmission towers, outfall structures at Highwind Substation, McCarthy drains, riprap, gabion retaining walls, and concrete v-ditches), temporary and permanent access roads, paved wet crossings, guard poles, wire stringing, zinc ribbons for Alternating Current (AC) Gas Pipeline Mitigation (AC mitigation), crane pads, and impacts associated with other activities. More details about the Project and Project impacts are described in Attachments B–G of this Order.

### 5. Regulatory Authority and Reason for Action

The U.S. Army Corps of Engineers (Corps) claims that all of the affected features are isolated waters (non-federal waters). SCE has requested an approved Jurisdictional Determination (JD) from the Corps that indicates the delineated waters on the Project are isolated, lack federal jurisdiction, and Project activities in waters would not require authorization under section 404 of the Clean Water Act (CWA). A final written JD is pending from the Corps. Regardless of the Corps determination, the waters affected by the Project are waters of the state, as defined by section 13050 of the California Water Code, and are therefore subject to state requirements. Should some Project areas be subject to federal jurisdiction, this Order shall also serve as the water quality certification issued pursuant to section 401 of the CWA.

These Waste Discharge Requirements (WDRs), issued pursuant to Water Code section 13263, regulate the proposed discharge of fill material, including structural material and/or earthen wastes, to waters of the state. WDRs are necessary to adequately address potential and planned impacts to waters of the state, and to ensure compliance with applicable water quality control plans and polices.

### 6. Basin Plans

In accordance with section 13245 of the Water Code, the State Water Board has approved the Water Quality Control Plans for the Lahontan Region (Lahontan Basin Plan). The Basin Plan defines beneficial uses and water quality objectives for waters of the state, including surface waters and ground waters. This Order is in compliance with and implements the Basin Plan.

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### 7. Anti-Degradation

The State Water Board established California's anti-degradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The permitted discharge is consistent with Resolution No. 68-16. Minimal water quality degradation may be allowed if: any change in water quality is consistent with the maximum benefit to the people of the State; the degradation will not unreasonably affect present and anticipated beneficial uses; the degradation will not result in violation of the Lahontan Basin Plan; and, discharges must use the best practicable treatment or control to avoid pollution or a condition of nuisance.

Discharges from the Project may cause minimal degradation, but will be substantially controlled through the application of BMPs for construction and post-construction activities. The State Water Board expects that control measures will be implemented in an iterative manner as needed to meet applicable receiving water quality objectives. The slight changes in water quality are consistent with the maximum benefit to the people of the state, as reviewed in the CEQA findings below.

This Order contains requirements to ensure beneficial uses are maintained or enhanced, such as the mitigation and monitoring requirements for impacts to waters of the State. Implementation of the Habitat Mitigation and Monitoring Plan (see Mitigation Conditions below) will determine whether degradation of water quality is occurring due to the Project and allow for corrections to be made as needed. The Project Best Management Practices, the SWPPP, and the Habitat Mitigation and Monitoring Plan are designed to ensure and verify that the highest level of water quality is maintained.

### 8. California Environmental Quality Act

On March 15, 2007 the California Public Utilities Commission (CPUC), as lead agency, certified a Final Environmental Impact Report (FEIR) for the Antelope Transmission Project Segments 2 and 3 (State Clearinghouse No. SCH 2006041160) for the Project in accordance with the California Environmental Quality Act (CEQA). In making its determinations and findings, the State Water Board must presume that the CPUC certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3, subd. (b).) The FEIR and Notice of Determination may be viewed at the following Web sites:

<http://www.cpuc.ca.gov/Environment/info/aspen/atp2-3/EIR/TOC.htm>

<http://www.ceqanet.ca.gov/NODdescription.asp?DocPK=632246>

The State Water Board has determined that none of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 4, sections 15162 and 15163, exist at this time. The State Water Board concludes that the Project (1) does not have the potential to create a new significant effect not previously analyzed, (2) will not be undertaken under a substantial change in the circumstances requiring major revisions to previous CEQA document, and (3) will not be undertaken without consideration of any new information of substantial importance previously unknown at the time of the original MND.

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### Individual Project Impacts

The State Water Board has reviewed and considered the FEIR and any proposed mitigation measures for individual Project impacts and finds that the FEIR provided by CPUC is adequate. Except as described below (Cumulative Impacts), changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR that are within the purview of the State Water Board. The FEIR includes a Mitigation Monitoring Program, approved and adopted by the CPUC, for the mitigation measures it recommends for the Project. Mitigation measures (MMs) and applicant proposed measures (APMs) from the FEIR which address water quality impacts are listed in Attachment G. They include development of a Construction Stormwater Pollution Prevention Plan (SWPPP) with accidental spill control procedures, establishment of an environmental training program, implementation of flood and erosion structure damage protection measures, implementation of compensatory mitigation for impacts on special-status species, and cessation of Project construction activities during heavy precipitation. Additionally, as required by the requirements of these WDRs and as described in Attachment B and C, a compensatory mitigation and monitoring plan to mitigate unavoidable individual Project impacts to water quality to a less than significant level shall be implemented in accordance with the forthcoming Habitat Mitigation and Monitoring Plan (HMMP), and a monitoring and reporting plan for Mendibury Creek shall be prepared and implemented. State Water Board has determined that the Project will not result in any significant adverse non-cumulative environmental impacts.

### Cumulative Impacts

The FEIR evaluates seven cumulative impacts pertaining to water quality that are significant and unavoidable. The seven cumulative impacts are as follows:

#### Hydrology and Water Quality section of the FEIR

- Water quality degradation would result from soil erosion and sedimentation caused by construction activities. (Impact H-1)
- Degradation of water quality would result from the accidental release of hazardous materials during construction activities. (Impact H-2)
- Degradation of water quality would result from the accidental release of hazardous materials during operational activities. (Impact H-3)
- Existing groundwater resources would be disturbed through Project-related excavation activities. (Impact H-4)
- Increased surface water runoff would result through the introduction of new impermeable areas. (Impact H-5)
- Flood hazards would be created through the placement of permanent aboveground structures in a flood hazard area, a floodplain, or a watercourse. (Impact H-7)

#### Biological Resources section of the EIR

- Effects on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish Wildlife Service (Criterion BIO1).

The FEIR contains mitigation measures for Project impacts H-1 through H-4, and H-7 and the application of these mitigation measures will lessen impacts individually. However, the FEIR notes that the application of proposed Project-related mitigation measures to other past, present and foreseeable future projects is not feasible and therefore this Project's

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incremental effect could potentially be cumulatively considerable, even with mitigation. The FEIR evaluated impact H-5 for individual project impacts as a less-than-significant impact and no mitigation was proposed for this impact. This impact would be considered cumulatively significant if at least one other ongoing or reasonably foreseeable future project would introduce new impervious areas that could increase runoff into the same waterways affected by the Project. The FEIR notes that approximately 341 new projects are planned or ongoing within five miles of the proposed Project route (note that FEIR was certified in March 2007). The vast majority of these projects are residential developments, which would require the introduction of new impervious areas. Mitigation could have been proposed for these past, present and foreseeable future projects to require that in areas where a project would result in a decreased permeability of ground cover or ground surface area, the construction material used should allow maximum permeability while fulfilling its intended purpose. However, although this mitigation could theoretically minimize the potential for projects to create surface runoff from new impermeable areas, it would not be feasible to implement such mitigation on these projects, given development standards and practices at the time the FEIR was approved.

Mitigation measures for the proposed Project addressing impacts to biological resources (Criterion BIO1), including effects on Mendibury Creek and any desert wash habitat, would be implemented during construction and operation of the proposed Project in order to avoid or reduce impacts of the proposed Project to a less than significant level. However, based on the continued expansion of residential housing and community developments in the Project vicinity, the proposed Project's incremental effects on biological resources could be cumulatively considerable. No additional feasible mitigation measures beyond those identified in the FEIR are available to reduce the Project's contribution to cumulative impacts.

### **Statement of Overriding Considerations**

As stated above, State Water Board has determined that changes have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR based on the MMs, APMs, and Mitigation Monitoring Program in the FEIR, and the requirements of the WDRs described under **Individual Project Impacts** above. However, specific economic, legal, social, technological, or other considerations make the mitigation measures or any Project alternatives infeasible to avoid or substantially lessen incremental effects that may be cumulatively considerable to hydrology, water quality and biological resources, as noted above.

In the State Water Board's judgment, the Project and its benefits outweigh its cumulative unavoidable significant impacts regarding water quality and biological resources. The following statement identifies the reasons why, in State Water Board's judgment, the benefits outweigh such unavoidable significant impacts. Any one of these reasons is sufficient to justify approval of the project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the State Water Board would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the CPUC's Opinion Granting a Certificate of Public Convenience and Necessity for Decision 07-03-045 ([http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/65666.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/65666.PDF)).

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The State Water Board recognizes the benefits of the Project, which outweigh the impacts of the Project, listed below. The Project will:

- enable compliance with the State's Renewable Portfolio Standard (RPS) Program, which requires retail sellers of electricity such as SCE and PG&E to increase their sale of electricity produced by renewable energy sources to 20 percent by 2010;
- enable the interconnection of various wind generation projects in the Antelope Valley-Tehachapi region to the SCE transmission system;
- eliminate existing constraints to the transmission of renewable energy from the Tehachapi and Antelope Valley areas to Southern California; and
- eliminate potential system-wide power flow and reliability problems due to overloading of the existing transmission system.

Specifically, without system improvements provided by the Project, SCE and others could not deliver the necessary significant amounts of wind power from the region. As discussed above, wind provides one of the most economical sources of renewable power, and the Tehachapi area offers the largest wind resource in California and has the undeveloped potential of generating about 1,400 gigawatt-hours per year, with about 4,500 MWs of installed capacity. Additionally, there is significant industry commitment to develop the area for RPS purposes; utilities have received winning bids from, and SCE has signed contracts with, developers of wind projects, the output of which cannot be fully delivered without increased transmission capacity that the proposed project will provide.

As described in CPUC's Opinion Granting a Certificate of Public Convenience and Necessity, the CPUC finds that the unavoidable impacts are acceptable in light of these substantial benefits. Each benefit set forth above constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

State Water Board adopts the MMs and the APMs in the FEIR, and the requirements of this Order as described above in **Individual Project Impacts**, and finds that any residual or remaining effects on the environment resulting from the Project, identified as significant and unavoidable in the preceding findings of fact, are acceptable due to the benefits set forth in this Statement of Overriding Considerations.

In accordance with California Code of Regulations, title 14, section 15094, the State Water Board will file a Notice of Determination with the State Clearinghouse within five days from the issuance of this Order.

**IT IS HEREBY ORDERED** that, pursuant to Water Code section 13263, the Discharger must comply with the following:

### STANDARD CONDITIONS

1. These WDRs are subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to the Water Code, section 13330, and the California Code of Regulations (Cal. Code Regs.), title 23, section 3867 and following.
2. These WDRs are not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or

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an amendment to a FERC license, unless the pertinent WDR application was filed pursuant to Cal. Code Regs., title 23, section 3855, subdivision (b), and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. These WDRs are conditioned upon total payment of any fee required under Cal. Code Regs., title 23, and owed by the applicant.

### ADDITIONAL CONDITIONS

1. SCE shall comply with all water quality objectives required by regional and statewide water quality control plans and policies.
2. Best Management Practices (BMPs)
  - a) As applied in these WDRs, waters of the state comprise all water bodies, including wetlands and ephemeral, intermittent and perennial stream channels, in all flow conditions, including effluent dominated and seasonally dry.
  - b) Appropriate BMPs shall be implemented and maintained throughout Project activities to minimize sediment disturbance and suspension within surface waters. These BMPs are described in the Project Storm Water Pollution Prevention Plans (SWPPPs) for the substation and transmission line construction and AC gas pipeline mitigation, and in the Final Environmental Impact Report (FEIR) (December 2006) for the Antelope Transmission Project Segments 2 and 3. All BMP materials shall be on site prior to construction activity and ready for use. BMPs shall be in full compliance with all specifications governing their proper design, installation, operation, and maintenance.
  - c) Substances resulting from construction activities that could be harmful to aquatic life, including but not limited to petroleum lubricants and fuels; cured and uncured cements; epoxies, paints and other protective coating materials; Portland cement, concrete, or asphalt concrete, and washings and cuttings thereof shall not be discharged to waters of the state.
  - d) Vehicles shall not be driven or equipment operated in waters of the state on the Project site, except as necessary to complete the proposed Project.
  - e) Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be outside of waters of the state, and shall not result in a discharge or a threatened discharge to waters of the state.
  - f) A daily log shall be maintained to note the presence and absence of waste releases from vehicles and equipment within or adjacent to waters of the state. Copies of the daily log shall be available on site. Daily visual inspections for waste releases of all vehicles and equipment parked or operating within or adjacent to waters of the state shall be conducted before the vehicles or equipment are operated for the work day. Spillage and leaks shall be reported in the daily log when they occur. Presence of any spillage from leaks shall be reported in the daily log and contaminated soils shall be removed immediately from the site and disposed of at an approved area or facility. State Water Resources Control Board (State Water Board) and Lahontan Regional Water Board may request this information at any time.

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- g) Any waste releases from vehicles or equipment of 5 gallons or more shall be reported to the State Water Board and the Lahontan Regional Water Board within 24 hours with an explanation of how the spillage was remedied.
  - h) All work areas shall be effectively isolated from streamflows using suitable control measures before commencement of any in-water work. The diverted streamflow shall not be contaminated by construction activities. Structures for isolating the in-water work area and/or diverting the streamflow (e.g., cofferdam, geo-textile silt curtain) shall not be removed until all disturbed areas are cleaned of debris and stabilized.
  - i) In the event of rain, the in-water work area shall be temporarily stabilized before streamflow exceeds the capacity of the diversion structure. The streambed shall be stabilized so that the disturbed areas will not come in contact with the streamflow.
  - j) If revegetation of disturbed areas is required, viable seed of native species collected in the Freemont and/or Antelope watersheds shall be used.
  - k) When the Project is completed, any trash, excess material or other debris shall be removed from the work area and disposed of properly.
3. SCE shall obtain coverage under the new National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activities (Order 2009-0009-DWQ as amended by 2010-0014-DWQ)(Construction Storm Water Permit), which became effective on July 1, 2010.
  4. SCE shall implement the Applicant-Proposed Measures (APMs) and Mitigation Measures (MMs) described in the FEIR (December 2006) for the Antelope Transmission Project: Segments 2 and 3 (see Attachment G).
  5. Designs and details for all water body crossings and modifications shall be submitted to State Water Board for review and approval at least 30 days prior to installation of crossings and modifications to water bodies. Water body crossings and modifications shall not be implemented until State Water Board have approved the crossing designs.
  6. Bridges, culverts, dip crossings, or other structures shall be installed so that water flow is not impaired. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be placed at or below stream channel grade.
  7. Storm drain lines/culverts and other stream crossing structures shall be designed and maintained to accommodate at least a 50-year, 24-hour storm event, including associated bedload and debris movement. The storm drain lines/culverts, the outfall structure, and other stream crossing structures shall be properly aligned within the stream and otherwise engineered, installed, and maintained, to ensure resistance to washout and to prevent erosion and/or fill of the stream. Water velocity shall be dissipated at outfalls to reduce erosion.
  8. Cofferdams and water barrier construction shall be adequate to prevent seepage into or from the work area. Cofferdams or water barriers shall not be made of earth or other substances subject to erosion or that contain pollutants. When dewatering is necessary to create a temporary dry construction area, the water shall be pumped through a sediment-settling device before it is returned to the water body. The enclosure and the supportive material shall be removed when the work is completed, and removal shall proceed from downstream to upstream.
  9. Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and provide flows to downstream reaches. Said flows shall be of sufficient quality and quantity,



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and of appropriate temperature, to support fish or other aquatic life normally present both above and below the diversion. Diversions shall be engineered, installed, and maintained to ensure resistance to washout and erosion of the water body. Normal flows shall be restored to the affected stream immediately upon completion of work at that location. All flow diversion facilities shall be removed and the site restored to pre-project conditions.

10. If groundwater dewatering is required for the Project, SCE shall consult with the Lahontan Regional Water Board to determine if additional permits are required.
11. During surface water diversions or dewatering, upstream and downstream monitoring for the following constituents shall be implemented:
  - pH
  - temperature
  - dissolved oxygen
  - turbidity
  - total suspended solids (TSS)

Analysis must be performed using approved U.S. Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to diversion and then monitored on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis thereafter, until instream work is complete. Turbidity measurements shall be collected 1 hour after barrier installation and 1 hour after barrier removal as part of the regular daily and weekly measurements.

Results of the analysis shall be submitted to the State Water Board within 30 days after completing the surface water diversion or dewatering. A map or drawing indicating the locations of the sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or violation of water quality objectives of the receiving waters. Constituent measurements must comply with the limits below. Any violations of these limits may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

a) pH

For waters of the state in the Lahontan Basin with designated beneficial uses of COLD or WARM, changes in normal ambient pH levels shall not exceed 0.5 pH units. For all other waters of the Region, the pH shall not be depressed below 6.5 or raised above 8.5 as a result of controllable water quality factors.

b) Temperature

For waters of the state in the Lahontan Basin, the natural receiving water temperature of all waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Board that such an alteration in temperature does not adversely affect the water for beneficial uses. The maximum allowable upper limits are as follows:

Waters designated WARM shall not be altered by more than five degrees Fahrenheit (5°F) above or below the natural temperature. For waters designated COLD, the temperature shall not be altered.

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c) Dissolved Oxygen

For waters of the state in the Lahontan Basin, the dissolved oxygen content of surface waters shall not be depressed by more than 10%, nor shall the minimum dissolved oxygen concentration be less than 80% of saturation.

d) Turbidity

For waters of the state in the Lahontan Basin, waters shall be free of changes in turbidity that cause nuisance or adversely affect the water for beneficial uses. The maximum allowable upper limit is as follows:

Increases in turbidity shall not exceed natural levels by more than 10%.

e) Suspended Materials

For the Lahontan Basin, surface waters shall not contain suspended materials in concentrations that cause a nuisance or adversely affect beneficial uses as a result of controllable water quality factors. For natural high quality waters, the maximum allowable upper limit is as follows:

The concentration of total suspended materials shall not be altered to the extent that such alterations are discernible at the 10% significance level.

12. A copy of these WDRs must be provided to the contractor and all subcontractors who will work at the work site, and must be in their possession at the work site. The Project proponent and all contractors and subcontractors shall be familiar with all requirements of these WDRs.

### MITIGATION CONDITIONS

1. Amount of impacts. Total Project impacts are 0.40 acre, including 0.19 acre and 1,321 linear feet of permanent impacts and 0.20 acres and 1,863 linear feet of temporary impacts on jurisdictional waters (acreage totals may not be exact due to rounding)(See Attachment E).
2. SCE responsibilities. SCE shall retain responsibility for all compensatory mitigation requirements for the Project as required herein and shall direct any agreement(s) to obtain services related to fulfilling these responsibilities.
3. Mitigation Plan. SCE shall prepare a Habitat Mitigation and Monitoring Plan (HMMP) to guide and report compensatory mitigation activities for temporary and permanent impacts to waters of the state. The HMMP shall include the following:
  - a) HMMP submittal dates. A draft HMMP shall be submitted for State Water Board approval within 6 months of issuance of these WDRs. A Final HMMP shall be submitted for State Water Board approval within 24 months of issuance of the WDRs.
  - b) The HMMP content.
    - I. Protection in perpetuity. The HMMP shall describe the mechanisms of protection and management of the compensatory mitigation site(s) in perpetuity.

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- II. Management and reporting plans for compensatory mitigation sites. The HMMP shall include interim and long-term management and reporting plans for the compensatory mitigation site(s) as follows:
- (a) Site selection. A description of the factors considered during the site selection process. This should include consideration of watershed needs, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation site.
  - (b) Baseline information. A map of suitable scale and description of the ecological characteristics of the compensatory mitigation project site(s) and how that replaces the functions and services of the impact site(s). This may include descriptions of historical and existing plant communities, historical and existing hydrology, soil conditions, and other site characteristics appropriate to the type of water body proposed as mitigation.
  - (c) Determination of credits/financing. A description of the amount of financing to be provided, including a brief explanation of the rationale for this determination. In addition, a description of the type or mechanism of financing.
  - (d) Site work plan. Detailed written specifications and work descriptions for the development of the compensatory mitigation site(s), including timing, sources of water (include proof of pertinent water right(s), if applicable), methods for establishing desired plant communities, erosion control measures, etc.
  - (e) Maintenance plan. A description and schedule of maintenance requirements to ensure the continued viability of the aquatic resources once initial construction is completed.
  - (f) Performance standards. Ecologically based standards that will be used to determine whether the compensatory mitigation objectives are being met.
  - (g) Monitoring and reporting requirements. A description of parameters to be monitored in order to determine whether the compensatory mitigation is on track to meet performance standards and whether adaptive management is needed. A schedule for monitoring and reporting must be included.
  - (h) Long-term management plan. A description of how the compensatory mitigation sites(s) will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management.
  - (i) Adaptive management plan. A management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation site(s). The adaptive management plan will guide decisions for revising the compensatory mitigation plans and implementing measures to address both foreseeable and unforeseen circumstances.

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4. Temporary Project impacts.
  - a) SCE shall stabilize and restore all temporarily disturbed areas according to the requirements of the Construction Storm Water Permit.
  - b) In addition to requirement 4 a) above, SCE shall treat all temporary impacts to waters of the state in accordance with the HMMP which shall provide the following two options:
    - I. SCE shall either provide additional off-site compensatory mitigation for temporary impacts to waters of the state in accordance with the timeframes described in Mitigation Condition 5 below; or
    - II. SCE shall develop and implement a long-term management and monitoring plan for the on-site restoration of temporary impacts to waters of the state within 6 months of the issuance of this Order.
5. Timeframes. SCE shall be responsible for meeting the following requirements within the timeframes described below:
  - a) An agreement demonstrating acquisition and purchase of compensatory mitigation sites.
    - I. Agreement. SCE shall execute an agreement with a mitigation sponsor (sponsor) to purchase and manage the compensatory mitigation sites for the Project. A copy of the draft agreement between SCE and the sponsor shall be provided to the State Water Board for review within 6 months of issuance of these WDRs. The agreement shall clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation site(s) in accordance with the HMMP. SCE shall remain responsible for all compensatory mitigation requirements as described herein. The sponsor is responsible for implementing the compensatory mitigation as described in the HMMP.
    - II. The agreement shall provide for adequate funding from SCE to purchase and maintain the compensatory mitigation site(s) to satisfy the compensatory mitigation requirements of the Project as described in the HMMP.
  - b) Compensatory Mitigation timing. All compensatory mitigation site(s) shall be acquired or secured by the sponsor within 12 months of issuance of these WDRs. Any delay in acquiring or securing the compensatory mitigation site(s) by the sponsor shall require an amendment to these WDRs and may result in higher mitigation ratio requirements to offset the additional temporal loss of waters of the state. SCE shall be responsible for satisfying any mitigation requirements for additional temporal losses.
  - c) If SCE is unable to provide a draft copy of an agreement with a sponsor within 6 months of the issuance of these WDRs, or acquire and secure compensatory mitigation as described in the Mitigation Conditions herein or as determined by the State Water Board as adequate within 12 months of issuance of these WDRs, SCE will be in violation of these WDRs and subject to administrative civil liabilities under the California Water Code, section 13385.
6. Compensatory Mitigation Site Approval.
  - a) State Water Board approval shall be obtained prior to acquiring or securing any compensatory mitigation site(s). State Water Board shall provide a decision on the proposed mitigation site within 60 days, after receiving complete information on the

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mitigation site as described below. As part of the approval process, the following shall be provided by SCE:

- I. Delineation maps and a tabular accounting of the acreage, linear feet of channel, and type of waters of the state on the compensatory mitigation site(s) based on a delineation that has been field-verified.
- II. A description of the condition of all waters of the state on the compensatory mitigation site(s).

### 7. Conservation Easement Deed.

- a) A copy of the Conservation Easement Deed for the land preserve will be provided to State Water Board within 18 months of issuance of these WDRs. The Conservation Easement Deed will indicate the "Grantor" (property owner) and "Grantee" (holder) of the Conservation Easement Deed.
- b) For the purposes of independent review, the holder of the Conservation Easement Deed shall not be the mitigation sponsor. SCE shall provide sufficient funds to the holder of the Conservation Easement Deed to allow the holder to monitor the preserve in perpetuity and to ensure compliance with the conservation easement and report to the agencies. Funds shall be provided by SCE to the holder within 18 months of issuance of these WDRs.
- c) The Conservation Easement Deed must ensure that the property for compensatory mitigation will be retained in perpetuity and maintained as described in the HMMP.
- d) The Conservation Easement Deed must provide the Assessor's Parcel Numbers for all the properties in the preserve.

### 8. Endowment funding for the interim and long-term management of the land preserve.

- a) The endowment holder shall not be the mitigation sponsor.
- b) SCE must provide to the State Water Board proof of full funding for the endowment fund for the interim and long-term management of the compensatory mitigation sites in accordance with the HMMP within 18 months of issuance of the WDRs.

### 9. Letter of credit.

- a) Within 6 months of issuance of these WDRs, SCE shall provide the State Water Board an irrevocable letter of credit in an amount determined by the State Water Board to be sufficient for the value of (1) the acquisition of site(s) in the land required for compensatory mitigation, (2) the estimated amount of the endowment fund, and (3) the estimated amount of the conservation easement endowment. SCE shall prepare a draft letter of credit and submit it to the State Water Board for its approval within 90 days of issuance of the WDRs. The letter of credit shall allow the State Water Board to immediately draw on the letter of credit if the State Water Board determines in its sole discretion that SCE has failed to meet its mitigation obligations.
- b) SCE's bank shall finalize and execute the letter of credit after the State Water Board approves the draft letter of credit.
- c) If SCE has not met its mitigation obligations within 60 days prior to the letter of credit's expiration date, SCE shall confirm with its bank that the expiration date will be extended. If the bank elects not to extend the expiration date, SCE shall establish a new letter of credit to replace the original letter of credit. The new letter of credit shall be subject to

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the State Water Board's approval following the same procedure described in the requirements above. SCE shall have a letter of credit in place, as described above, until SCE has met its mitigation obligations.

- d) If SCE is unable to establish a letter of credit, it shall arrange a different security instrument with the State Water Board.

### 10. Temporary and permanent mitigation reporting requirements.

- a) SCE shall provide proof to State Water Board that the Notice of Termination associated with Construction Storm Water Permit for the Project has been approved by the State Water Board.
- b) Mitigation and monitoring reporting shall be conducted for the compensatory mitigation site(s) and submitted to the State Water Board. A report shall be provided to the State Water Board after the completion of baseline surveys of aquatic resources at the compensatory mitigation sites, and annual reports of the compensatory mitigation sites shall be provided during the interim management period. During the long-term management period, mitigation and monitoring reporting for compensatory mitigation sites shall be prepared every 5 years until all long-term performance measures of the HMMP have been met with the approval of the State Water Board. It is the obligation of SCE to provide the reporting. The reports will document conditions on the mitigation sites so changes can be tracked and management issues identified and addressed. The reports shall include the following:
  - I. All reports shall include the file number of these WDRs: SBXXXXXIN.
  - II. Photographs and Surveys. SCE shall submit a baseline survey and photo documentation showing the condition of waters of the state and habitats in the upland areas following final acquisition of properties. Baseline surveys and photo documentation shall be conducted annually during the interim management period, and every five years during the long-term management period. This information shall be included in the mitigation and monitoring reports.
  - III. Results of general preserve conditions, global positioning system (GPS) recordation of jurisdictional waters, and changes in hydrology. Any recommendations for habitat enhancement measures, changes in the monitoring program, or issues such as weed removal and erosion control will be included in the report.
  - IV. All reports shall include the annual monitoring report by the easement holder documenting compliance with the conservation easement.
- c) Monitoring and Reporting Plan for Mendibury Creek (Feature 3B-1-S-1)
  - I. SCE shall develop a monitoring and reporting plan for annual cross-section measurements at selected locations in Mendibury Creek adjacent to the Highway Substation site for a 5-year period. The purpose of the plan is to monitor potential post-project erosion and channel stability within Mendibury Creek.
  - II. SCE shall obtain approval on the monitoring and reporting plan by the State Water Board prior to plan implementation.
  - III. SCE shall submit a monitoring and reporting plan for Mendibury Creek for State Water Board approval within 30 days of issuance of these WDRs

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### ADMINISTRATIVE CONDITIONS

1. The State Water Board reserves the right to suspend, cancel, or modify and reissue these WDRs, after providing notice to SCE and/or responsible contractor/subcontractor, if the State Water Board determines that the Project fails to comply with any of the terms or requirements of these WDRs.
2. A copy of these WDRs, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. A copy of these WDRs also must be provided to the contractor and all subcontractors who will work at the Project site. All personnel performing work on the proposed Project shall be familiar with the content of these WDRs and its posted location on the Project site.
3. SCE shall grant State Water Board and Lahontan Water Board staffs, or an authorized representative upon presentation of credentials and other documents as may be required by law, permission to enter the Project site at reasonable times, to ensure compliance with the terms and requirements of these WDRs and/or to determine the impacts the Project may have on waters of the state.

### VIOLATIONS

1. SCE, or its contractor, or subcontractors shall verbally report any noncompliance to the WDR Program Manager of the State Water Board within 24 hours of the time when SCE or its contractor, or subcontractors become aware of the circumstances of noncompliance.
2. SCE or its contractor, or subcontractors shall report all violations of any terms or requirements of this Order in writing to the State Water Board and Lahontan Regional Water Board within seven (7) consecutive days from the time SCE becomes aware of the violation. The written report shall contain:
  - a) A description of the violation and its cause.
  - b) The period of the violation event, including dates and times, and if the violation has not been corrected, the anticipated time the violation is expected to continue.
  - c) Steps taken or planned to reduce, eliminate, and prevent recurrence of the violation.
3. In the event of any violation or threatened violation of the requirements of this Order, the violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under State law. If some Project areas are subject to federal jurisdiction, then, for purposes of the CWA section 401(d), the applicability of any State law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with the water quality standards and other pertinent requirements incorporated into this Order.
4. In response to a suspected violation of any requirement of this Order, the State Water Board may require the holder of any permit or license subject to these WDRs to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including the cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
5. In response to any violation of the requirements of this Order, the State Water Board may add to or modify the requirements of this Order as appropriate to ensure compliance.

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### STATE WATER BOARD AUTHORITY

The State Water Board may revise or modify this Order for reasons including, but not limited to, revised application for activities at the TRTP site, and ensuring consistency with changes in the State Water Board's riparian and wetland policy. The State Water Board delegates the authority to approve any necessary changes to this Order and its attachments as set forth above and as necessary to implement the Project to the Executive Director. The Executive Director may delegate these responsibilities to the Chief Deputy Director or the Deputy Director of the Division of Water Quality.

### CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 21, 2012.

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Jeanine Townsend  
Clerk to the Board

### Attachments to Board Order No: 2012-XXXX-DWQ

- Attachment A: Signatory Requirement
- Attachment B: Project Information Sheet
- Attachment C: Supplemental Project Information Sheet
- Attachment D: Maps
- Attachment E: Project Impact Tables
- Attachment F: Mitigation Tables
- Attachment G: Mitigation Measures and Applicant Proposed Measures