

October 22, 2021

Ms. Gwen Knittweis, Chief
Hydropower License Planning and Compliance Office
California Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001
Sent via e-mail: Gwen.Knittweis@water.ca.gov

Mr. Simon Zewdu, Director
Regulatory Compliance and Specifications Division
111 North Hope Street, Room 819
Los Angeles, California 90012
Sent via e-mail: Simon.Zewdu@ladwp.com

**South State Water Project
Federal Energy Regulatory Commission Project No. 2426
Los Angeles and Ventura Counties
Piru Creek**

**AMENDMENT TO WATER QUALITY CERTIFICATION FOR RE-OPERATION OF
PYRAMID DAM FOR THE CALIFORNIA AQUEDUCT HYDROELECTRIC PROJECT**

Dear Ms. Knittweis and Mr. Zewdu:

On October 22, 2020, the State Water Resources Control Board (State Water Board) received the Department of Water Resources' (DWR) and Los Angeles Department of Water and Power's (LADWP) (collectively, Licensees) request for an amendment to Condition 2 of the water quality certification¹ (certification) for the South State Water Project² (Project), Federal Energy Regulatory Commission (FERC) Project No. 2426. The Licensees are requesting modifications to Condition 2 to remove the monitoring and reporting requirement for the federal Endangered Species Act listed arroyo toad (*Anaxyrus californicus*) in Piru Creek below Pyramid Dam.

Background

Condition 2 of the certification requires arroyo toad and sensitive species monitoring in the lower portion of middle Piru Creek between Lake Piru and Ruby Canyon.

¹ State Water Board Order WQ 2009-0007, August 4, 2009.

² The Project was formerly named the California Aqueduct Hydroelectric Project.

Per Condition 2 of the certification, the Licensees submitted the *Monitoring Plan for the Arroyo Toad (Anaxyrus californicus) and other Species on Middle Piru Creek* (Plan). The State Water Board-approved Plan went into effect in April 2010. The Plan includes monitoring and reporting for the California red-legged frog, arroyo toad, western pond turtle, and two-striped garter snake.

The monitoring and reporting requirement for arroyo toad and sensitive species in Condition 2 was included under the authority of the Porter Cologne Water Quality Control Act, and is not a mitigation monitoring requirement or other condition incorporated pursuant to the California Environmental Quality Act (CEQA). Monitoring and reporting was included in Condition 2 of the certification to collect information about the status of specific sensitive species in middle Piru Creek and understand how implementation of flushing flows could affect these species. DWR has conducted annual monitoring surveys since 2010, and monitoring has shown that flushing flows, which are released to simulate the natural hydrograph of Piru Creek, are not having an adverse effect on arroyo toad and that the flow releases, particularly in wet years, are enhancing aquatic habitat that provides benefits for the arroyo toad and other aquatic species.

California Environmental Quality Act

Issuance of a certification amendment is a discretionary action under CEQA (Pub. Resources Code, § 21000 et seq.). The cessation of arroyo toad monitoring would not result in any environmental impacts. Further, removal of the monitoring and reporting requirement for arroyo toad from the certification will not lead to an expansion or other changes to the existing use of Project facilities and will not result in any physical changes to the environment. State Water Board staff has reviewed the Licensees' request for amendment to Condition 2 of the certification and has determined that the proposal is categorically exempt from the requirements to prepare environmental documents under California Code of Regulations, title 14, sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities), and 15036 (Information Collection). The State Water Board will file a Notice of Exemption with the Office of Planning and Research within five days of issuance of this certification amendment. (Cal. Code Regs., tit. 14, § 15062.) The Licensees filed a Notice of Exemption for the requested amendment on September 14, 2020.

Noticing and Comments

On November 19, 2020, the State Water Board provided public notice of the Licensees request for an amendment to Condition 2 of the certification, pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the amendment request on the Water Quality Certification Program Public Notices webpage and noticing interested parties via email. The State Water Board received no comments.

Agency Concurrence

On January 13, 2021 and January 22, 2021, State Water Board staff received emails from the California Department of Fish and Wildlife and United States Forest Service, respectively, supporting the Licensees' request to remove arroyo toad monitoring from Condition 2 of the certification.

Amendment Approval

State Water Board staff has reviewed the Licensees' request for a certification amendment and found that the original intent of the arroyo toad monitoring and reporting required under Condition 2 of the certification has been met, and continued monitoring and reporting for the arroyo toad is not needed. The State Water Board finds that the certification amendment, see language below, will comply with state water quality standards and other appropriate requirements of state law. The State Water Board hereby replaces Condition 2 of the Project certification with the following:

2. Sensitive Species Monitoring Condition: DWR shall continue to implement the *Monitoring Plan for the Arroyo Toad (*Anaxyrus californicus*) and other Species on Middle Piru Creek (Sensitive Species Plan)*, with the exception of monitoring and reporting for the arroyo toad. Any revisions to the Sensitive Species Plan shall be approved by the Deputy Director for the Division of Water Rights and filed with FERC prior to implementation.

Approval of this Project certification amendment is granted with the following conditions:

- This certification amendment is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
- This certification amendment 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 certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- This certification amendment is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28 and owed by the applicant.

If you have questions regarding this amendment, please contact Andrea Sellers, Project Manager, in the Water Quality Certification Program of the Division of Water Rights, by email to: andrea.sellers@waterboards.ca.gov. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn: Andrea Sellers
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,



Eileen Sobeck
Executive Director

ec: Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Filed via FERC e-Library

United States Environmental Protection Agency
Region 9 Water Division
Email: R9cwa401@epa.gov

Mr. Justin Seastrand, Natural Resource Specialist
United States Forest Service
Email: Justin.Seastrand@usda.gov

Ms. Renee Purdy, Executive Officer
Los Angeles Regional Water Quality Control Board
Email: Renee.Purdy@waterboards.ca.gov

Ms. Mary Ngo
California Department of Fish and Wildlife
Email: mary.ngo@wildlife.ca.gov

Mr. Jeremiah McNeil
Department of Water Resources
Email: jeremiah.mcneil@water.ca.gov