

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the

**CITY OF YUBA CITY
FEATHER RIVER FISH SCREEN PROJECT**

SOURCES: Feather River

COUNTY: Sutter

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

I. Project Description

The City of Yuba City's (Yuba City or Applicant) application for water quality certification was received by the State Water Resources Control Board (State Water Board) on November 30, 2011. The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Feather River Fish Screen Project (Project) on the its website on March 19, 2012. No comments were received.

The Project is located on the west bank of the Feather River near River Mile (RM) 28, east of Yuba City and roughly 1-1/4 miles north of the State Route (SR) 20 bridge (10th Street Bridge) in Sutter County.

Yuba City owns and operates the Yuba City (Tierra Buena) Water Treatment Plant (WTP), which provides municipal water through an unscreened intake structure on the Feather River to a population of approximately 60,000 persons. Surface water is delivered to the WTP through an intake structure on the Feather River and a Low-Lift Pump Station (LLPS). Water is drawn through the intake structure by the LLPS, both of which are located on the Feather River approximately one mile east of the WTP.

To address the conversion of domestic water supplies in the Tierra Buena water service area from groundwater to surface water and planned population growth, Yuba City needs to ensure that its surface water supply infrastructure has the capacity to deliver as much as 48 million gallons per day (mgd). In 2005, Yuba City began to upgrade and expand its WTP capacity to meet this need. The completed WTP expansion project resulted in a continuous capacity of 36 mgd and a peak capacity of 42 mgd. To mitigate for potential fish entrainment associated with the City of Yuba City's Extension of Time to Apply Water to Beneficial Use Under City's Permits No. 14045 and No. 18558 (Time Extension Project), Yuba City will replace its unscreened intake structure with a screened intake structure. The Project also includes improvements to the existing road.

The conditions for diversion of water by Yuba City are specified in Permit Nos. 18558 and 14045. Yuba City requested a change in point of diversion to accommodate installation of the fish screen, and the request is being processed by the State Water Board's Division of Water Rights permitting staff. The change will relocate the point of diversion approximately 50 feet from its current location. This water quality certification in no way alters the obligations of Yuba City to comply with the terms of the existing or future water rights permits, once modified.

Project Construction

The construction contractor for Yuba City will develop and implement a Stormwater Pollution Prevention Plan (SWPPP), implementing management practices that are intended to minimize the discharge of sediment into the Feather River. The final selection of best management practices (BMPs) will be subject to review by Yuba City and may include the following:

- Cover soil in inactive construction areas (previously graded areas inactive for 10 days or more) that could contribute sediment to waterways.
- Enclose and cover exposed stockpiles of dirt or other loose, granular construction materials that could contribute sediment to waterways.
- Control and contain soil and filter runoff from disturbed areas using berms, silt fencing, straw bales or wattles, plastic sheeting or geofabric, silt/sediment traps and catch basins, silt fencing, sand bag dikes, temporary vegetation or other groundcover, or other means necessary to prevent the escape of sediment from the disturbed area.
- Ensure that no earth or organic material shall be deposited or placed where it may be directly carried into a stream, marsh, slough, lagoon, or body of standing water.

Project features include the following:

- Installation of a 48 mgd capacity screened intake structure on the Feather River just upstream of the current unscreened intake containing four submersible pumps (three, 15-horsepower [hp] pumps, and one, 30-hp pump).
- Installation of a 54-inch diameter underground pipeline from the new intake structure to the LLPS.
- Removal of the existing traveling screen inside the existing LLPS structure.
- Improvements to the existing LLPS to support auxiliary equipment (e.g., air receivers and control panels for the air-burst cleaning system, manifold piping, etc.) for the new fish screen.
- Construction of an updated façade for the LLPS to protect equipment from weather and vandalism.
- Removal/decommissioning of the existing unscreened intake.
- Improvements to the existing road to enable access during winter months and storm events.

II. Regulatory Authority

Water Quality Certification and Related Authorities

The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to "co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources."

Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance 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 limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Board Executive Director may issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

The Applicant applied for a Nationwide Permit Letter of Permission from the Army Corps of Engineers (ACOE) under section 404 of the Clean Water Act. The Letter of Permission from the ACOE is contingent upon water quality certification by the State Water Board.

The California Department of Fish and Game issued a Streambed Alteration Agreement permit (Fish and Game Code, §§ 1600-1616) with required mitigation measures to protect against construction related impacts to site specific and downstream water quality on the Feather River. Implementing these measures in conjunction with the conditions contained within this water quality certification will protect the beneficial uses of the Feather River.

Water Quality Control Plans

The California Regional Water Quality Control Boards (Regional Water Boards) adopt, and the State Water Board approves, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to section 303 of the Clean Water Act. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans constitute State water quality standards.

The Central Valley Regional Water Board adopted, and the State Water Board and the U.S. Environmental Protection Agency approved, the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (Sac/SJR Basin Plan). The Sac/SJR Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses.

The Sac/SJR Basin Plan identifies existing beneficial uses for the Feather River as municipal and domestic water supply, irrigation, contact and other noncontact recreational use, cold and warm water fish habitat, migration and spawning habitat for anadromous cold and warm water fish, and wildlife habitat.

California Environmental Quality Act

For the Project, Yuba City is the lead agency for the purpose of California Environmental Quality Act (CEQA) compliance, and the State Water Board is a responsible agency. Yuba City issued a draft Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) for the Project on November 4, 2009. Yuba City approved the final MND and MMRP for the Project on December 15, 2009, and filed a Notice of Determination (NOD) with the State Clearinghouse on January 12, 2010. The Applicant's MMRP is included as Attachment A to this water quality certification.

State Water Board staff reviewed and considered the environmental documents as well as the plans and Project description provided by the Applicant in its water quality certification application. Compliance with measures in Yuba City's MMRP that relate to the protection of resources within the State Water Board's purview is required as a condition of approval of this certification. The State Water Board will file a NOD within five days of issuance of this certification.

State Water Board Authority

California Code of Regulations, title 23, section 3860 requires imposition of certain mandatory conditions for all water quality certifications, which are included in this certification. Further, State Water Board staff considered the Sac/SJR Basin Plan, the existing water quality conditions, and Project-related controllable factors.

In order to assure that the Project operates to meet water quality standards as anticipated, and to assure that the Project will continue to meet state water quality standards and other appropriate requirements of state law over its lifetime, this water quality certification imposes conditions regarding monitoring, enforcement, and potential future revisions. These include conditions to ensure that the changes incorporated into the Project through the CEQA process remain part of the Project. Measures Yuba City identified as necessary to mitigate impacts to water resources are marked with an arrow in Yuba City's MMRP (Attachment A) and are incorporated as conditions in this certification.

III. Findings

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

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES THAT THE CITY OF YUBA CITY'S FEATHER RIVER FISH SCREEN PROJECT will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if the Applicant complies with the following terms and conditions during the Project activities certified herein.

CONDITION 1. Any violation of Permit Nos. 18558 or 14045 or subsequently issued licenses thereon, will be a violation of this water quality certification. Violations will be reported to the State Water Board within 48 hours. This report shall document all observed impacts, and include an analysis of how to avoid non-compliance in the future. Fisheries effects (e.g., a fish kill or fish observed in obvious distress) resulting from any deviations from prescribed flow will be reported immediately to the California Department of Fish and Game, the State Water Board and the Central Valley Regional Water Board.

CONDITION 2. All measures described in the application for water quality certification, Yuba City's MMRP for the Project (Attachment A), and the SWPPP are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the Applicant shall comply with all measures described in the application for water quality certification and its supplements.

CONDITION 3. Control measures for erosion, excessive sedimentation and turbidity shall be implemented and be in place at commencement of, during and after any ground clearing activities, excavation, or any other Project activities that could result in erosion or sediment discharges to surface waters. Yuba City may employ any of the following pollutant prevention measures to prevent the passage of silt or other deleterious materials to downstream reaches: silt fencing; coir logs; straw bale dikes; or other siltation barriers. Passage of sediment beyond the sediment barrier(s) is prohibited. A faulty barrier that fails to retain sediment will be replaced immediately by an effective barrier. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy period. Maintenance includes, but is not limited to: removal of accumulated silt and/or replacement of damaged silt fencing; coir logs; coir rolls; and/or straw bale dikes. The Applicant is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed area is stabilized with erosion control vegetation (usually after the first growing season).

CONDITION 4. Project activities shall not cause an increase in turbidity downstream of the Project area greater than those identified in the Sac/SJR Basin Plan. The table below, taken from the Sac/SJR Basin Plan, shows the allowable increases in turbidity compared to natural turbidity.

Natural Turbidity	Maximum Increase
Less than one nephelometric turbidity unit (NTU)	Total Turbidity shall not exceed 2 NTU
1-5 NTU	1 NTU
5-50 NTU	20%
50-100 NTU	10 NTU
Greater than 100 NTU	10%

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If monitoring shows that turbidity has exceeded the water quality objective, construction will cease and the violation will be reported immediately to the State Water Board's Deputy Director for Water Rights (Deputy Director) and the Executive Officer for the Central Valley Regional Water Board. Construction may not re-commence without the permission of the Deputy Director.

CONDITION 5. The sampling location for turbidity monitoring shall be approximately 100 feet downstream of the Project intake pipe within the river channel. The turbidity at the sampling location will be compared before, during, and after the construction activities described in the Project Description section. Monitoring shall continue daily until construction is complete and turbidity levels return to pre-construction levels.

CONDITION 6. Construction material, debris, spoils, soil, silt, sand, bark, slash, sawdust, rubbish, steel, other organic or earthen material, and any other substances which could be hazardous to aquatic life resulting from Project related activities shall be prevented from entering surface waters.

CONDITION 7. No unset cement, concrete, grout, damaged concrete, concrete spoils, and wash water used to clean concrete surfaces shall contact or enter surface waters.

CONDITION 8. Any maintenance or refueling of vehicles or equipment occurring on-site will be done in a designated area with secondary containment, located away from drainage courses to prevent the runoff of storm water and the runoff of spills. All equipment using gas, oil, hydraulic fluid or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (motors, pumps, generator, etc.) and vehicles not in use shall be positioned over drip pans or other types of containment. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained onsite at all locations where such equipment is used or staged.

CONDITION 9. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris and foreign matter.

CONDITION 10. All imported riprap, rocks, and gravels used for construction shall be pre-washed.

CONDITION 11. All construction debris and trash shall be contained and regularly removed from the work area to the staging area during construction activities. Upon completion, all Project-generated debris, building materials, excess material, waste, and trash shall be removed from all the Project sites for disposal at an authorized disposal site.

CONDITION 12. A copy of this certification shall be provided to any contractor and all subcontractors conducting the construction work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractor or subcontractors.

CONDITION 13. The Deputy Director and the Executive Officer for the Central Valley Regional Water Board shall be notified one week prior to the commencement of ground disturbing activities. Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff in order for staff to be present onsite, to answer any public inquiries during construction and to document compliance with this

certification. The Applicant must provide State Water Board and Central Valley Regional Water Board staff access to the Project site to document compliance with this certification.

CONDITION 14. If at any time an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project has or could soon be in violation with water quality objectives, the associated Project activities shall cease immediately and the Deputy Director and the Executive Officer for the Central Valley Regional Water Board shall be notified. Associated activities will not resume without approval from the Deputy Director.

CONDITION 15. The Applicant will comply with the rates of diversion outlined in Permit Nos. 18558 and 14045.

CONDITION 16. Unless otherwise specified in this water quality certification or at the request of the State Water Board, data and/or reports must 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 17. The State Water Board reserves authority to modify this certification if monitoring results indicate that continued operation of the Project could violate water quality objectives or impair the beneficial uses of the Feather River or its tributaries.

CONDITION 18. This certification is contingent on compliance with all applicable requirements of the Sac/SJR Basin Plan. The Applicant must notify the Deputy Director and the Executive Officer for the Central Valley Regional Water Board within 24 hours of any unauthorized discharge to surface waters.

CONDITION 19. Notwithstanding any more specific conditions in this certification, the Project shall be operated 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 must take all reasonable measures to protect the beneficial uses of waters of the Feather River and tributaries.

CONDITION 20. This certification does not authorize any act which results in the taking 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 & Game 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 21. 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, processes or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

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CONDITION 22. 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 (California Water Code sections 1051, 13165, 13267 and 13383). The State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

CONDITION 23. No construction shall commence until all necessary federal, state, and local approvals are obtained.

CONDITION 24. This certification is contingent on compliance with all pertinent permits and orders issued by the Central Valley Regional Water Board, and compliance with terms and conditions of all water right licenses and permits applicable to this Project, existing, or as amended, by the Division of Water Rights.

CONDITION 25. Any requirement in this water quality 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 26. The Applicant must submit any changes to the Project, including Project operation, which would 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. If the State Water Board is not notified of a significant change to the Project, it will be considered a violation of this certification.

CONDITION 27. The State Water Board may provide notice and an opportunity to be heard in exercising its authority to add or modify any of the conditions of this certification.

CONDITION 28. This certification 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).

CONDITION 29. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection 3855(b) of Article 4, Title 23 of the California Code of Regulations and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

CONDITION 30. Certification is conditioned upon total payment of any fee required under Article 4, Title 23 of the California Code of Regulations.



Thomas Howard
Executive Director

4/17/12
Date