

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

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**In the Matter of Water Quality Certification for**

**SOUTHERN CALIFORNIA EDISON COMPANY'S  
FLORENCE LAKE DAM ARCH 52-54 REPAIR AND LOW-LEVEL OUTLET  
UPGRADE PROJECT**

**Sources: Florence Lake and South Fork San Joaquin River**

**County: Fresno**

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**WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE**

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**Acronyms and Abbreviations**

<i>Antidegradation Policy</i>	<i>Statement of Policy with Respect to Maintaining High Quality Waters in California</i>
<i>Bay-Delta Plan</i>	<i>Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary</i>
<i>BMPs</i>	<i>best management practices</i>
<i>Central Valley Regional Water Board</i>	<i>Central Valley Regional Water Quality Control Board</i>
<i>CEQA certification</i>	<i>California Environmental Quality Act water quality certification</i>
<i>cfs</i>	<i>cubic feet per second</i>
<i>Construction General Permit</i>	<i>General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities</i>
<i>Deputy Director</i>	<i>Deputy Director of the Division of Water Rights</i>
<i>Dredge or Fill Procedures</i>	<i>State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State</i>
<i>ESA</i>	<i>Endangered Species Act</i>
<i>Executive Officer</i>	<i>Executive Officer of Central Valley Regional Water Board</i>
<i>FERC</i>	<i>Federal Energy Regulatory Commission</i>
<i>LLO</i>	<i>low-level outlet</i>
<i>MIF</i>	<i>minimum instream flow</i>
<i>NPDES</i>	<i>National Pollutant Discharge Elimination System</i>
<i>NTU</i>	<i>Nephelometric Turbidity Unit</i>
<i>Project</i>	<i>Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet Upgrade Project</i>
<i>Regional Water Boards</i>	<i>California Regional Water Quality Control Boards</i>
<i>SCE</i>	<i>Southern California Edison Company</i>
<i>SR/SJR Basin Plan</i>	<i>Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin</i>
<i>State Water Board</i>	<i>State Water Resources Control Board</i>
<i>USACE</i>	<i>United States Army Corps of Engineers</i>
<i>USEPA</i>	<i>United States Environmental Protection Agency</i>
<i>Water Boards</i>	<i>State Water Resources Control Board and Regional Water Quality Control Boards, collectively</i>

## 1.0 Project Description

Southern California Edison Company (SCE or Applicant) owns and operates Florence Lake Dam, which is part of the Big Creek 2A, 8, & Eastwood Hydroelectric Project (Federal Energy Regulatory Commission [FERC] Project No. 67). Florence Lake Dam is a concrete multiple-arch dam that is 3,156-feet-long and 149-feet-high. Florence Lake Dam impounds approximately 68,000 acre-feet of water in Florence Lake for hydropower (National Inventory of Dams 2021). Florence Lake Dam is located on the South Fork San Joaquin River in Fresno County, and is approximately 16 miles northeast of Big Creek, California.

As part of relicensing the Big Creek 2A, 8, & Eastwood Hydroelectric Project, SCE is proposing to increase Florence Lake Dam’s minimum instream flow (MIF) release capacity from 27 cubic feet per second (cfs) to 48 cfs (SCE 2022a). SCE is proposing the Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet (LLO) Upgrade Project (Project) to: (1) upgrade the existing LLO system to facilitate increases in MIFs; and (2) make concrete dam safety repairs to Arch Nos. 52, 53, and 54. Additional information on the Project can be found in Attachment A of this water quality certification (certification). Project maps and schematics can be found in Attachment B.

Project concrete repairs are planned for 2022, following SCE obtaining all necessary permits, while upgrades to the existing LLO system are scheduled for 2023. Project implementation will require a permit from the United States Army Corps of Engineers (USACE), pursuant to section 404 of the Clean Water Act. SCE anticipates it will obtain coverage for the Project from the Sacramento USACE District under the Non-Reporting Nationwide Permit 3(a) – Maintenance. A section 404 permit from USACE necessitates a Clean Water Act section 401 certification from the State Water Resources Control Board (State Water Board).

## 2.0 Water Rights

Table A lists the water rights held by SCE for Big Creek 2A, 8, & Eastwood Hydroelectric Project as related to the Project.

**Table A. SCE’s Big Creek 2A, 8, & Eastwood Hydroelectric Project Water Rights Related to this Project\***

Application No.	Source	Priority Date	Place of Storage or Diversion	Purpose of Use
A001343	South Fork San Joaquin River	7/3/1919	Storage in Florence Lake Reservoir, Huntington Lake Reservoir, and/or Shaver Lake Reservoir	Power
A001344	South Fork San Joaquin River	7/3/1919	Storage in Florence Lake Reservoir, Huntington Lake Reservoir, and/or Shaver Lake Reservoir	Power

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

### **3.0 Regulatory Authority**

#### **3.1 Water Quality Certification and Related Authorities**

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

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

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

Water Code section 13383 authorizes the State Water Board to “establish monitoring, inspection, entry, reporting, and recordkeeping requirements” and obtain “other information as may be reasonably required” for activities subject to certification under section 401 of the Clean Water Act. For activities that involve the diversion of water for beneficial use, the State Water Board delegated this authority to the Deputy Director of the Division of Water Rights (Deputy Director), as provided for in State Water Board Resolution No. 2012-0029 (State Water Board 2012). In the *Redelegation of Authorities* memo issued by the Deputy Director on June 6, 2022, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2022).

On April 6, 2022, SCE filed a certification application with the State Water Board under section 401 of the Clean Water Act. On May 9, 2022, State Water Board staff provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the Project on the State Water Board's website.

On June 17, 2022, State Water Board staff requested comments from the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) on a draft certification. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On June 22, 2022, Central Valley Regional Water Board staff provided two comments related to dredge and fill actions associated with the Project and the method of concrete removal. During certification development, State Water Board staff resolved Central Valley Regional Water Board staff comments.

### **3.2 Water Quality Control Plans and Related Authorities**

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards and objectives in the *Central Valley Regional Water Board's Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (SR/SJR Basin Plan) (Central Valley Regional Water Board 2019) and the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (Bay-Delta Plan) (State Water Board 2018).<sup>1</sup>

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

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

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<sup>1</sup> Based on the Project's limited scope and distance from the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, impacts to water quality objectives listed for waterbodies in the Bay-Delta Plan are not anticipated to occur from Project activities.

### Sacramento and San Joaquin Rivers Basin Plan

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the SR/SJR Basin Plan (Central Valley Regional Water Board 2019). The SR/SJR Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The SR/SJR Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The SR/SJR Basin Plan identifies existing beneficial uses for Sources to Millerton Lake (which includes the South Fork San Joaquin River) as: municipal and domestic supply; agriculture; power; contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat.

### Bay-Delta Plan

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

### Antidegradation Policy

The State Water Board's **Statement of Policy with Respect to Maintaining High Quality Waters in California** (Antidegradation Policy)<sup>2</sup> (State Water Board 1968) requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. § 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

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<sup>2</sup> State Water Board Resolution No. 68-16 and any amendments thereto. Available at: [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/1968/rs\\_68\\_016.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs_68_016.pdf). Accessed on August 2, 2022.



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

### 3.3 Construction General Permit

SCE will need to obtain coverage under the State Water Board's *National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit)<sup>3</sup> (State Water Board 2009) for activities that disturb one or more acres of soil, or that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activities subject to the Construction General Permit include clearing, grading, and disturbances to the ground, such as stockpiling or excavation, but do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. Coverage is required pursuant to Clean Water Action sections 301 and 402, which prohibit certain discharges of stormwater containing pollutants except in compliance with a NPDES permit. (33 U.S.C. §§ 1311, 1342(p); 40 C.F.R. pts. 122, 123, and 124.)

### 3.4 State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State

On April 2, 2019, the State Water Board adopted the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)<sup>4</sup> (State Water Board 2019), which became effective on May 28, 2020. The Dredge or Fill Procedures provide California's definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of dredged or fill material to waters of the state. The Dredge or Fill Procedures ensure that State Water Board regulatory activities will result in no net loss of wetland quantity, quality, or permanence, compliant with the *California Wetlands Conservation Policy*, Executive Order W-59-93. SCE must comply with the Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

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<sup>3</sup> Water Quality Order No. 2009-0009-DWQ and NPDES No. CAS000002, as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, and any amendments thereto. Available at: [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html) Accessed on August 2, 2022.

<sup>4</sup> The Dredge or Fill Procedures and any amendments thereto. Available at: [https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/wrapp.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html). Accessed on August 2, 2022.

#### **4.0 California Environmental Quality Act**

The California Environmental Quality Act (CEQA) applies to discretionary projects that may cause a direct or indirect physical change in the environment. (Pub. Resources Code, §§ 21000 et seq.) When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of CEQA. The State Water Board determined that the Project is categorically exempt from CEQA under Class 1, existing facilities (Cal. Code Regs, tit. 14, § 15301) and Class 3, new construction or conversion of small structure (Cal. Code Regs, tit. 14, § 15303.) The State Water Board will file a Notice of Exemption with the State Clearinghouse within five days of issuing this certification.

#### **5.0 Rationale for Water Quality Certification Conditions**

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

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

The Dredge or Fill Procedures, adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects subject to satisfaction of specified requirements. California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth information that must be included in certification requests, and section 3860 sets forth standard conditions that shall be included in all certification actions.

Water Code sections 13267 and 13383 authorize the Water Boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste to navigable waters. Water Code section 1051 additionally authorizes the State Water Board to investigate waters diverted for beneficial use. Moreover, this certification ensures continued monitoring, reporting, and assessment of water quality for discharges that may impact waters of the state.

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

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

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

- SCE’s April 2022 application for certification (SCE 2022a) including its attachments (Attachments A-G);
- Supplemental information submitted by SCE on June 17, 2022, including:
  - Revised Dewatering and Diversion Plan (SCE 2022b);
  - Erosion and Sediment Control Plan (SCE 2022c);
  - Fish rescue and relocation measures (SCE 2022d);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the SR/SJR Basin Plan (Central Valley Regional Water Board 2019) and Bay-Delta Plan (State Water Board 2018);
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., Construction General Permit, Dredge or Fill Procedures, etc.);
- Project-related controllable factors;
- Comments provided by Central Valley Regional Water Board staff; and
- Other information in the record.

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

circumstances.” (86 Fed. Reg. 29,543-29,544 (June 2, 2021).) USEPA has maintained its “substantial concerns” and has asked that the Certification Rule be voluntarily remanded in ongoing litigation. Additionally, on June 9, 2022, USEPA published in the Federal Register a proposed rule to revise procedures for implementing section 401 of the Clean Water Act. The proposed rule would replace and update the Certification Rule (USEPA 2022). As explained in this certification, each certification condition is authorized by applicable state and federal law and is necessary to ensure compliance with such laws. This paragraph is hereby incorporated as part of the explanatory statement for each condition of this certification.

## **5.1 Rationale for Condition 1: Diversions and Dewatering**

Water quality monitoring is necessary to develop information and inform corrective actions in response to Project activities. Condition 1 requires the implementation, with modifications, of SCE’s Diversion and Dewatering Plan (Dewatering Plan) as submitted on June 17, 2022, to minimize and identify any Project-related impacts to water quality. The Dewatering Plan includes best management practices (BMPs) to minimize water quality impacts and monitoring to periodically evaluate water quality during Project activities.

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

Project activities that may impact water quality, specifically turbidity and pH, include but are not limited to: (1) dewatering work areas immediately downstream of Arch Nos. 52, 53, and 54 as well as portions of the South Fork San Joaquin River above the existing MIF release location; (2) construction of a new MIF outfall works system and LLO valve downstream of Florence Lake Dam; and (3) concrete repairs to Florence Lake Dam Arch Nos. 52, 53, and 54. These activities have the potential to violate the SR/SJR Basin Plan’s water quality objectives.

Condition 1 requires SCE to comply with applicable water quality objectives of the SR/SJR Basin Plan and implement its proposed water quality monitoring and protection measures, as listed in the Dewatering Plan and modified by this certification, to prevent water quality objective violations and impacts to beneficial uses. Beneficial uses of the South Fork San Joaquin River that would be impacted by elevated turbidity and pH levels include, but are not limited to: municipal and domestic supply, agriculture, contact recreation, non-contact recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

## **5.2 Rationale for Condition 2: Project Activities**

As described in Section 5.0, this certification is granted based on the application and supporting information submitted in accordance with the State Water Board’s regulations and subject to requirements of the Porter-Cologne Water Quality Control

Act. Condition 2 requires SCE to implement the Project as described in its April 6, 2022 certification application, its June 17, 2022 supplemental submission, and as modified by the conditions of this certification. Condition 2 will help ensure that the Project is implemented in a manner that protects water quality objectives and avoids unreasonable impacts to beneficial uses. Any changes to the Project description that are inconsistent with the Project application and supplemental documents SCE provided to the State Water Board prior to certification issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new application as well as trigger additional environmental review.

### **5.3 Rationale for Condition 3: Minimum Instream Flow**

At the time of certification issuance, Florence Lake Dam operations and associated MIF releases are established by annual licenses issued for the Big Creek 2A, 8 & Eastwood Hydroelectric Project. Florence Lake Dam flow releases are the predominant flow releases in portions of the South Fork San Joaquin River downstream of Florence Lake Dam. As part of the Project, SCE proposes to maintain MIF releases downstream of Florence Lake Dam, as required by the Big Creek 2A, 8 & Eastwood Hydroelectric Project's FERC license.

Condition 3 requires SCE to maintain MIFs, as required by the Big Creek 2A, 8 & Eastwood Hydroelectric Project's FERC license, as reduced MIF releases have the potential to impact water quality and associated beneficial uses of the South Fork San Joaquin River, as identified in the SR/SJR Basin Plan. Beneficial uses that may be impacted by reduced flow releases include, but are not limited to: municipal and domestic supply; agriculture; power; contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat. MIF discharges directly impact water quality and associated beneficial uses. Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Maintaining MIFs ensures protection of water quality and aquatic resources throughout Project activities.

### **5.4 Rationale for Condition 4: Erosion and Sediment Control Measures**

Erosion and sedimentation can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to eliminate or limit such discharges to protect water quality and associated beneficial uses. Project activities, including vegetation removal, stockpiling, fill and excavation work, and other ground disturbing activities, have the potential to cause erosion of riparian habitat and increased sedimentation in the South Fork San Joaquin River. Increases in erosion and sedimentation can violate water quality objectives (e.g., turbidity) and impact beneficial uses.

Condition 4 also requires SCE, as applicable, to comply with the Construction General Permit, described in Section 3.3, to ensure that construction-related Project activities do not impact water quality and beneficial uses. This is required pursuant to Clean Water Act sections 301 and 402 that prohibit certain discharges of stormwater containing pollutants except in compliance with an NPDES permit. (33 U.S.C. §§ 1311,

and 1342(p); 40 C.F.R. pts. 122, 123, and 124.) Protection of the beneficial uses identified in the SR/SJR Basin Plan requires effluent limitations and other limitations on discharges of pollutants from point and nonpoint sources to the South Fork San Joaquin River. Erosion from Project construction activities has the potential to result in discharges that violate water quality standards. Compliance with the Construction General Permit will help ensure protection of water quality and beneficial uses.

Beneficial uses of the South Fork San Joaquin River that would be impacted by increased erosion and sedimentation include, but are not limited to: warm freshwater habitat, cold freshwater habitat, and wildlife habitat. Condition 4 requires SCE to implement the Erosion and Sediment Control Plan that it submitted to the State Water Board on June 17, 2022, as modified by this certification, to prevent water quality objective violations and unreasonable impacts to beneficial uses from erosion and sediment discharges.

### **5.5 Rationale for Condition 5: Fish Rescue and Relocation**

Project dewatering activities have the potential to strand resident fish, such as rainbow trout, which may impact existing beneficial uses. On June 17, 2022, SCE submitted fish rescue and relocation measures that it proposes to implement as part of the Project. Condition 5 requires implementation of SCE's fish rescue and relocation measures, as modified by this certification. Condition 5 specifies that if a Lake and Streambed Alteration Agreement is issued for the Project by the California Department of Fish and Wildlife and it contains fish rescue and relocation measures, SCE is required to comply with the more stringent requirements between this condition or those of the Lake and Streambed Alteration Agreement. Condition 5 will help avoid impacts to water quality and beneficial uses related to warm freshwater habitat, cold freshwater habitat, and wildlife habitat, and supports the related requirement under Fish and Game Code section 5937 that fish be maintained in good condition below a dam.

### **5.6 Rationale for Condition 6: Hazardous Materials Control Measures**

Implementation of hazardous material management measures are essential to ensure hazardous materials are properly managed in the Project area to avoid and minimize the release of hazardous materials to surface waters, and the associated impacts to beneficial uses. Condition 6 requires SCE to implement hazardous material management measures as proposed in its certification application and as modified by this certification.

The Project involves construction using heavy equipment that will require refueling and servicing. Site management requires implementation of BMPs to prevent, minimize, and/or clean up construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to surface water in violation of water quality standards, including the toxicity and floating material water quality objectives. Condition 6 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

The SR/SJR Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials. Waters must be free of hazardous materials in concentrations that cause nuisance, “detrimental physiological responses in human, plant, animal, or aquatic life,” or “result in a visible film or coating on the surface of the water or on objects in the water” (Central Valley Regional Water Board 2019). Beneficial uses of the South Fork San Joaquin River that would be impacted by hazardous materials include, but are not limited to: municipal and domestic supply; agriculture; contact recreation; non-contact recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat.

This condition protects water quality by ensuring that hazardous materials are not discharged to surface waters when equipment is being used or stored. (Dredge or Fill Procedures, § IV.B.1.) Condition 6 requires implementation of hazardous material management measures to prevent hazardous materials spills into waterways, including containment criteria pursuant to California Code of Regulations, title 27, section 20320.

### **5.7 Rationale for Condition 7: Project Activity Progress Reports**

Condition 7 requires SCE to submit Project Activity Progress Reports (Progress Reports) during construction to document Project status and compliance with certification requirements. Additionally, Condition 7 requires SCE to notify Central Valley Regional Water Board and State Water Board staff prior to implementing Project activities and to submit a Project Completion Report (Completion Report) following construction completion to document Project compliance with certification requirements. The Progress Reports and Completion Report will inform the Deputy Director of potential water quality objective violations and/or impacts to beneficial uses. This condition will allow for implementation of measures to limit or prevent any violations and/or impacts to water quality and beneficial uses.

### **5.8 Rationale for Conditions 8 through 28**

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

Condition 8 is necessary to comply with Water Code section 13167 and Conditions 9 through 12 contain important clarifications concerning the scope and legal effect of this certification, and other legal requirements that may apply to the Project.

Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, Condition 8 requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

Pursuant to the California Endangered Species Act (Fish & G. Code, §§ 2050 et seq.) and federal Endangered Species Act (16 U.S.C. §§ 1531 et seq.), Condition 9 of the certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species. An applicant for certification is required to identify other licenses, permits, and agreements in the application. In the event an applicant for certification needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the applicant provide copies of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.” To help ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law, Condition 10 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply, including the state and federal Endangered Species Acts (Condition 9).

Water Code section 13160, subdivision (b)(1) allows the State Water Board to issue a certification when there is “reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements” of state and federal law. To help ensure the integrity of the certification process and its focus on the protection of water quality and compliance with other applicable state requirements, Condition 10 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply. Because agency organization and authorities change over time, Condition 11 provides direction for continuity of oversight in the event an agency’s authority or responsibility is transferred to or subsumed by another agency.

The State Water Board is responsible for the water right, water quality, and drinking water functions of the California state government. (Wat. Code, § 174.) Certain certifications involve an appropriation of water subject to part 2 of division 2 of the Water Code or the diversion of water for certain beneficial uses. (See, e.g., Cal. Code Regs., tit. 23, § 3855, subd. (b)(1)(A).) Condition 12 explains the State Water Board’s issuance of this certification is not adjudicating or approving the validity of water rights that may be related to the Project. It also recognizes the State Water Board’s authority, independent of its water quality authority, to prevent unauthorized or threatened unauthorized diversions of water. This helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the certification, the certification does not constitute, or excuse the applicant from obtaining any other State Water Board approvals required for the activity.

Conditions 13 through 15 are necessary to assure that any discharge authorized under the certification will comply with water quality requirements. These conditions are included to comply with California Code of Regulations, title 23, section 3860, which sets forth conditions that must be included in all certifications. Condition 13 is a standard condition that “shall be included as conditions of all certification actions” pursuant to California Code of Regulations, title 23, section 3860, subdivision (a). This condition places the permittee on notice that the certification action may be modified or



revoked following administrative or judicial review. Condition 14 is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification’s application and ensures that any applicant for a federal license or permit, which may result in a discharge into navigable waters, is subject to the appropriate State certification. Condition 15 is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, title 23, section 3833(b), which requires payment of fees by project proponents applying for certification. Fees are essential to support the Water Boards certification program, which includes the development of certifications and related inspections to ensure the protection of water quality and beneficial uses that may be impacted by a project.

Conditions 16 through 26 are necessary to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law, or that adjustments are made to ensure continued compliance with water quality standards in light of new information, changes to the Project, or changes to the standards themselves.

This certification requires monitoring, reporting, and analysis as important elements to ensure that the Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 16, 17, and 18 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of changed conditions to ensure compliance and prevent violations of water quality standards. In the event of non-compliance, modified conditions may be necessary to return the Project to compliance and prevent violation of water quality standards. Conditions 19 and 20 requires the applicant to comply with the SR/SJR Basin Plan and to take all reasonable measures to protect water quality and beneficial uses, in accordance with plans adopted pursuant to state and federal water laws. Water Code section 13267 authorizes the State Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state. Condition 21 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 22, related to site access requirements, is authorized pursuant to the Water Boards’ authority to investigate the quality of any waters of the state, including specific site access authorized under Water Code section 13267 and 13383. Site access is needed to ensure compliance with the certification and associated protection of water quality and beneficial uses. Condition 23 requires site personnel and agencies to be familiar with the content of the certification and availability of the document at the Project site. This condition is required to assure that site personnel are familiar with the conditions needed to protect water quality and any authorized discharge will comply with the terms and conditions of this certification, which requires compliance with water quality objectives and beneficial uses adopted or approved under sections 13170 or 13245 of the Water Code, and with other appropriate requirements of state law.

Condition 24 reserves the State Water Board's authority to add or modify conditions of this certification to ensure that Project activities meet water quality objectives and protect beneficial uses.

Condition 25 requires that SCE use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 26 provides that the State Water Board will provide notice and an opportunity to be heard in exercising its authority to add or modify certification conditions.

Condition 27 ensures permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. This condition is necessary to ensure compliance with state and federal antidegradation policies and is consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) These compensatory mitigation conditions are also consistent with Executive Order W-59-93 commonly referred to as California's "No Net Loss" Policy for wetlands. The objective of the No Net Loss Policy is to ensure no overall net loss of and a long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California. Further, compensatory mitigation requirements must comply with Subpart J of the Supplemental State Guidelines. Mitigation requirements related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, § IV.B.5.f.)

In the event that any provision of this certification is found invalid, Condition 28 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

## **6.0 Conclusion**

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

## 7.0 Water Quality Certification Conditions

**ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES** that implementation of the Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet (LLO) Upgrade Project (Project) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, under the following terms and conditions.

### **CONDITION 1 Diversions and Dewatering**

The Applicant shall implement the Diversion and Dewatering Plan (Dewatering Plan) submitted to the State Water Resources Control Board (State Water Board) by Southern California Edison Company (SCE or Applicant) on June 17, 2022 (SCE 2022b), as modified by this condition.

*Dewatering Plan Section 3. Schedule and Diversion/Dewatering Approach shall be modified as follows:*

- A minimum of seven days prior to commencement of Project-related ground disturbing activities, the Applicant shall provide an updated Project schedule for diversion and dewatering activities including which option the Applicant will implement, if necessary, to treat turbid dewatering discharges (i.e., Option No. 1 or Option No. 2). If the Applicant would like to modify which option is used to treat turbid dewatering discharges, the Applicant shall notify the Deputy Director of the Division of Water Rights (Deputy Director) prior to such modification.
- During Project implementation, minimum instream flow (MIF) releases routed through either a temporary bypass pipe at the base of Florence Lake Dam or a pipeline extending over Arch 53, shall be discharged no further downstream than the existing MIF release point (i.e., the MIF Pipe Outfall as shown in Figure A2). The Applicant shall take a global positioning system point reading and photograph of the re-routed MIF release point and provide this information to the State Water Board Project Manager within 24 hours of initiating temporary bypass releases.
- No diversion or dewatering activities shall occur without appropriate best management practices (BMPs), as listed in Section 3.2 of the Dewatering Plan, in place to ensure water quality standards are maintained, as defined in the Central Valley Regional Water Quality Control Board's (Central Valley Regional Water Board) *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (SR/SJR Basin Plan) (Central Valley Regional Water Board 2019).

Dewatering Plan Section 4. Water Quality Monitoring shall be modified as follows:

- Monitoring shall be required whenever dewatering<sup>5</sup> or discharges from initial post-construction performance testing results in discharges to waters of the state.
- The Applicant shall conduct water quality monitoring at the locations specified in SCE's Dewatering Plan (SCE 2022b), which are referred to as ML-1, ML-2, and ML-3 and as identified in Figure 12 of Attachment G of SCE's certification application (SCE 2022a). The Applicant shall take a global positioning system point reading and photograph for each monitoring location (ML-1, ML-2, and ML-3) and provide them to the State Water Board Project Manager at least one week prior to Project construction activities.
- The downstream monitoring location shall be located no further than 300 feet downstream of the Project area unless otherwise approved by the Deputy Director.
- Project activities shall meet SR/SJR Basin Plan water quality objectives. Specifically, objectives for turbidity and pH are as follows, unless otherwise updated by an amendment to the SR/SJR Basin Plan:

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

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

In determining compliance with the above limits, an appropriate averaging period, not to exceed 24 hours, unless otherwise approved by the Deputy Director, may be applied provided beneficial uses will be fully protected.

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

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<sup>5</sup> Dewatering activities include initial dewatering to create a dry work area and any discharge of seepage water.

- Dewatering Plan Section 4.9. Protocols for Elevated Readings shall be modified as follows:
  - If turbidity monitoring indicates turbidity levels greater than natural levels, but less than the SR/SJR Basin Plan water quality limits, monitoring shall be conducted every two hours during Project activities until turbidity levels have returned to natural levels. Additionally, during the period when turbidity levels are greater than natural levels and less than the SR/SJR Basin Plan water quality limits, the Applicant may implement the procedures outlined in the “First Elevated Readings Event” and “Subsequent Elevated Reading Events” sections of SCE’s Dewatering Plan (see Section 4.9), as appropriate.
  - If pH monitoring indicates that Project activities are affecting pH levels, but are still within the SR/SJR Basin Plan water quality limits, pH monitoring shall be conducted every two hours during Project activities. Additionally, the Applicant may implement the procedures outlined in the “First Elevated Readings Event” and “Subsequent Elevated Reading Events” sections of SCE’s Dewatering Plan (see Section 4.9), as appropriate.
- The Deputy Director and the Central Valley Regional Water Board Executive Officer (Executive Officer) shall be notified promptly, and in no case more than 24 hours following a turbidity or pH exceedance of SR/SJR Basin Plan water quality objectives. Regardless of when such notification occurs, activities associated with the SR/SJR Basin Plan turbidity or pH exceedance shall cease immediately upon detection of the exceedance. Work activities may resume after any appropriate corrective actions have been implemented, water quality meets the applicable SR/SJR Basin Plan water quality objective(s), and the Deputy Director has provided approval to proceed.
- Water quality monitoring reports described in Section 4.11, shall be modified to include: monitoring results (visual and field collected), a list of implemented BMPs, and any proposed water quality monitoring or BMP modifications. Following approval by the Deputy Director, Applicant-proposed modifications to water quality monitoring and BMPs in the Dewatering Plan may be implemented.

Any revisions or modifications to the Dewatering Plan, including water quality monitoring components, must be approved by the Deputy Director prior to implementation.

## **CONDITION 2      Project Activities**

Unless otherwise modified by conditions of this certification or approved by the Deputy Director, the Applicant shall implement the Project as described in SCE’s April 6, 2022 certification application (SCE 2022a) and SCE’s June 17, 2022 supplemental submissions (SCE 2022b, 2022c, and 2022d).

## **CONDITION 3      Minimum Instream Flow Compliance**

During Project activities, the Applicant shall comply with all minimum instream flow requirements of the current Federal Energy Regulatory Commission (FERC) license for the Big Creek 2A, 8 & Eastwood Hydroelectric Project (FERC Project No. 67).

#### **CONDITION 4      Erosion and Sediment Control Measures**

The Applicant shall implement the Erosion and Sediment Control Plan (Erosion Plan) submitted to the State Water Board by SCE on June 17, 2022 (SCE 2022c), as modified by this condition.

- Section 4.4, *Concrete Activities* shall be modified to require Project activities to be compliant with SR/SJR Basin Plan water objective for pH as described in Condition 1.
- Control measures for erosion, excessive sedimentation, and sources of turbidity shall be implemented and in place prior to the commencement of, during, and as applicable, after any ground disturbing activities, or any other Project activities that could result in erosion or sediment discharges to surface water.
- Stockpiles shall be located outside of wetlands, surface waters, and riparian habitat.
- Imported materials (i.e., not from on-site rock borrow locations) shall be washed prior to use. If materials are washed on-site, washing shall occur and wash water shall be stored away from any waterway and either disposed of off-site or used for dust abatement.
- No vehicles or equipment shall drive off-road through wetlands or riparian areas to access the Project area. For any surface water crossings, the Applicant shall monitor water quality and implement appropriate BMPs to ensure water quality objectives are met.
- Any disposal sites for non-hazardous waste materials shall be away from waterways and graded in a manner that prevents erosion and the discharge of sediments to surface waters.
- In areas prone to run-off, inundation, and/or erosion, structures such as riprap, culverts, or retaining walls may be necessary to protect water quality. Where necessary, the Applicant shall install sediment basins or silt fences to prevent sediment runoff into streams or waterbodies and negative water quality and aquatic habitat impacts.
- All vehicles and any ground or vegetation disturbing equipment must be cleaned and free of mud, soil, and plant materials prior to entering the Project area.
- Vegetation removal shall be limited to the minimum amount necessary. No cut materials, including chipped materials, can be disposed of within wetlands, surface waters, or riparian areas.
- When applicable, the Applicant shall comply with the ***National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities***<sup>6</sup>

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<sup>6</sup> Water Quality Order No. 2009-0009-DWQ and NPDES No. CAS000002, as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, and any amendments thereto. Available at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html)  
Accessed on August 2, 2022.

(Construction General Permit) and any amendments thereto. To the extent of any conflict between the conditions of this certification and applicable conditions in the Construction General Permit, the more stringent shall apply.

#### **CONDITION 5 Fish Rescue and Relocation**

The Applicant shall implement the Fish Rescue and Relocation Measures submitted to the State Water Board by SCE on June 17, 2022 (SCE 2022d) and as modified by this condition. If a California Department of Fish and Wildlife Lake and Streambed Alteration Agreement is issued for this Project and includes provisions for fish rescue and relocation, the more stringent requirements between this condition or those of the Lake and Streambed Alteration Agreement shall apply.

A qualified aquatic wildlife biologist shall be present during initial dewatering to survey the 530 feet of the South Fork San Joaquin River that is being dewatered for aquatic resources such as rainbow trout and brown trout. If fish are found in the dewatered area, the qualified aquatic wildlife biologist shall implement the fish rescue and relocation measures provided below.

- Collect fish using a combination of block nets, dip nets, and beach seines or hand nets. If necessary, backpack electrofishing equipment may be used to facilitate capture. If electrofishing is determined to be needed, the Applicant shall follow applicable National Marine Fisheries Service guidelines for electrofishing.
- Transport captured fish in buckets with battery-operated aerators to a processing area that is closely located to the release location. The release location shall be located downstream of the work area, at a location outside of potential water quality impacts with similar or better habitat to where the fish was initially located. The qualified aquatic wildlife biologist shall ensure that the fish are appropriately acclimated to the release site's temperature and other water quality parameters prior to release.
- Following acclimation, the qualified aquatic wildlife biologist shall release fish into the release location and observe fish for mortality or stress.
- Within 30 days following relocation efforts, the Applicant shall provide a report to the Deputy Director and California Department of Fish and Wildlife documenting relocation efforts that at a minimum shall include: (1) number and species of fish that were relocated; (2) number and species of fish that experienced mortality; (3) size and condition of fish that experienced mortality; (4) potential causes of fish mortality; and (5) as applicable, proposed compensatory mitigation the Applicant will implement to offset any impacts related to fish mortality.

The Deputy Director may require additional mitigation and/or adaptive management actions to address Project-related fish mortality.

## **CONDITION 6 Hazardous Materials Control Measures**

The Applicant shall implement hazardous materials<sup>7</sup> control measures as described in Section Eight of its certification application (SCE 2022a) and Section 4.13 of its June 17, 2022 Dewatering Plan (SCE 2022b), and as modified below.

- Vehicles and equipment shall not be parked overnight in wetlands, surface waters, or riparian vegetation. BMPs (e.g., oil drip pans, plastic sheeting) shall be required for any vehicles and equipment staged overnight to contain any vehicle and equipment leakage of hazardous materials.
- Before entering the Project area, vehicles and equipment shall be inspected for leaks (e.g., fuel, oil, hydraulic fluids) and repaired prior to entering the Project area. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the United States and/or state and shall be located outside of waters of the United States and/or state in areas where accidental spills are not likely to enter or affect such waters. At a minimum, storing, fueling, and maintenance of vehicles and equipment shall not occur in wetlands, surface waters, riparian areas, or on slopes above and adjacent to these features.
- Training of field personnel and crews shall be conducted to ensure field personnel and crews are aware of and understand all hazardous material requirements prior to conducting Project activities.
- At all times, appropriate types and sufficient quantities of materials shall be maintained on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or state. All containment structures shall comply with California Code of Regulations, title 27, section 20320. When not in use, hazardous materials shall be stored away from any watercourse.
- If hazardous materials reach surface waters, appropriate spill response procedures must be initiated as soon as the incident is discovered. Specifically, any water contaminated by hazardous materials shall be stored in structures compliant with California Code of Regulations, title 27, section 20320, and/or disposed of properly off-site in a manner that does not impair water quality. In addition, the State Water Board, Central Valley Regional Water Board, and other relevant agencies shall be notified within 24 hours of hazardous materials reaching surface waters. Notification shall include the spill's magnitude, nature, time, date, and location, as well as any actions being taken to control the spill and restore the affected area.
- The Applicant shall prevent raw cement, concrete, or washings thereof, asphalt, paint, other coating materials, oil or other petroleum products, or any other substance which can be deleterious to aquatic life from contaminating soil and/or

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<sup>7</sup> Hazardous materials include, but are not limited to: petroleum products, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete or the washing thereof, asphalt, paint, coating material, drilling fluids, or other substances potentially hazardous to water quality and beneficial uses.



entering a river, stream, lake, or other waters of the state. (See Fish and Game Code § 5650.) Wet concrete or cement shall not be placed into stream channel habitat. Concrete or cement shall be completely cured before coming into contact with waters of the United States and/or state. Concrete washouts are not allowed within 50 feet of wetlands, surface water, riparian vegetation, or where associated runoff could drain to surface waters.

## **CONDITION 7 Project Activity Progress Reports**

Every 30 days following initiation of Project construction and throughout Project construction, the Applicant shall submit Project Activity Progress Reports (Progress Reports) to the Deputy Director. The Progress Reports shall include:

- (1) A summary of Project activities performed;
- (2) Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- (3) Details of Project-related adverse impacts to beneficial uses, if applicable;
- (4) Any anticipated Project implementation activities (e.g., construction, dewatering, or diversion) differing from those described in the certification application or required by this certification;
- (5) Requests for consultation regarding the need for development of additional BMPs for water quality protection;
- (6) Requests for Deputy Director approval of any newly developed additional site-specific construction measures;
- (7) A description of upcoming activities that may cause erosion; and
- (8) Any additional Project-specific water quality parameters that will be monitored as part of the Project.

The Deputy Director may require the Applicant to implement corrective actions in response to the information provided in a Progress Report. Within 60 days of Project completion, the Applicant shall provide the Deputy Director with a Project Completion Report (Completion Report) that comprehensively summarizes bullets 1 – 3, above. The Applicant shall provide any additional information or clarification requested by the Deputy Director related to a Progress Report or the Completion Report. Upon request from State Water Board staff, the Applicant shall meet with staff to discuss a Progress Report or the Completion Report.

## **CONDITIONS 8 – 28**

**CONDITION 8.** Unless otherwise specified in this certification or at the request of the Deputy Director, data and/or reports shall be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board's water quality database systems in compliance with California Water Code section 13167.

**CONDITION 9.** This certification does not authorize any act which results in the take of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (ESA) (Fish & G. Code, §§ 2050 – 2097) or the federal ESA (16 U.S.C.

§§ 1531 – 1544). If a “take” will result from any act authorized under this certification or water rights held by the Applicant, the Applicant must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Applicant is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

**CONDITION 10.** This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Applicant is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of Project activities.

**CONDITION 11.** Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.

**CONDITION 12.** Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 or riparian claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.

**CONDITION 13.** This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

**CONDITION 14.** This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent application for certification was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application for certification specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

**CONDITION 15.** This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

**CONDITION 16.** Notwithstanding any more specific provision of this certification, any plan or report developed as a condition of this certification requires review and approval by the Deputy Director. The State Water Board’s approval authority, including authority delegated to the Deputy Director or others, includes the authority to withhold approval or to require modification of a plan, proposal, or report prior to approval. The State Water Board may take enforcement action if the Applicant fails to provide or implement a required item in a timely manner. If a time extension is needed to submit an item for Deputy Director approval, the Applicant shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. The Applicant shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

**CONDITION 17.** In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to any violation of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

**CONDITION 18.** The Applicant shall submit any change to the Project, including, operations, facilities, technology changes or upgrades, or methodology, which could have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. The State Water Board shall determine significance and may require consultation with other state and/or federal agencies. If the State Water Board is not notified of a change to the Project, it will be considered a violation of this certification.

**CONDITION 19.** This certification is contingent on compliance with all applicable requirements of the SR/SJR Basin Plan.

**CONDITION 20.** Unless otherwise specified by conditions in this certification, Project activities shall be conducted in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Applicant shall take all reasonable measures to protect the beneficial uses of waters of the state, including the South Fork San Joaquin River and Florence Lake.

**CONDITION 21.** In response to a suspected violation of any condition of this certification, the State Water Board or Central Valley Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. (Wat. Code, §§ 1051, 13165, 13267, and 13383.)

**CONDITION 22.** Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Applicant shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

**CONDITION 23.** A copy of this certification shall be provided to any contractor and all subcontractors conducting Project-related work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

**CONDITION 24.** The State Water Board reserves the authority to add to or modify the conditions of this certification: (1) to incorporate changes in technology, sampling, or methodologies; (2) if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses; (3) to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act; and (4) to require additional monitoring and/or other measures, as needed, to ensure that Project activities meet water quality objectives and protect beneficial uses.

**CONDITION 25.** The Applicant shall use analytical methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Lab Accreditation Program-certified laboratories.

**CONDITION 26.** The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or modify the conditions of this certification.

**CONDITION 27.** The Applicant shall ensure no net loss of wetland or riparian habitat functions under the standards and procedures set forth in the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures) (State Water Board 2019) and the California Wetlands Conservation Policy (Governor's Executive Order W-59-93 (August 23, 1993)) and any amendments thereto. The Applicant shall demonstrate compliance with the Dredge or Fill Procedures upon request from the Deputy Director.

**CONDITION 28.** The provisions of this certification are severable. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the State Water Board reserves authority to consider whether an alternative term would address the water quality issue without being found invalid or resulting in a waiver determination. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the remainder of this certification shall not be affected.



\_\_\_\_\_  
Eileen Sobeck  
Executive Director

\_\_\_\_\_  
August 4, 2022  
Date

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**ATTACHMENT A:  
PROJECT DESCRIPTION**

**WATER QUALITY CERTIFICATION  
FOR  
FLORENCE LAKE DAM ARCH 52-54 REPAIR AND LOW-LEVEL OUTLET  
UPGRADE PROJECT**

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The purpose of the Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet (LLO) Upgrade Project (Project) is to ensure compliance with minimum instream flow (MIF) release requirements from Florence Lake Dam following Federal Energy Regulatory Commission (FERC) relicensing in addition to making dam safety repairs. The Project involves two main activities: (1) concrete repairs to Florence Lake Dam Arch Nos. 52, 53, and 54; and (2) upgrades to the existing LLO system. Additional details are provided below.

### Arch Repairs:

Florence Lake Dam Arch Nos. 52, 53, and 54 repairs involve removing up to one inch of dam concrete on the downstream side of the dam. The area will then be repaired by replacing concrete with new mortar that will be set flush with the surrounding concrete. Leakage from cracks in the repair area will be stopped by injecting epoxy resin into dam cracks. Additionally, deteriorated concrete in lower arch buttress triangles will be reinforced with approximately a six-inch thick layer of shotcrete that will be installed with dowels and epoxy injection. Work will be conducted in dry conditions which may require localized dewatering pumps on the downstream side of each dam arch.

### LLO System Demolition:

LLO system infrastructure that will be demolished includes:

- An 18-inch diameter, 530-foot-long minimum instream flow (MIF) pipe and two, six-inch-diameter drain pipes;
- Five concrete saddle blocks (each is approximately three-feet-long, six-feet-wide, and two-feet-high) and two thrust blocks used to support the current MIF pipe. The thrust blocks vary in size, with the larger being seven-feet-long, 14-feet-wide, and four-feet-tall;
- Two concrete walls near the base of the dam. Both concrete walls are a half-foot-thick and five-feet-high, but one wall is 9.5-feet-long while the other wall is two-feet-long;
- Existing MIF valve enclosure and an additional thrust block near the MIF outfall; and
- Valve platform at the base of the dam and various small gate valves, electrical equipment, and solar panels near the MIF pipe outfall.

### LLO System Upgrades:

Proposed upgrades include:

- Joining the two existing 36-inch-diameter outlet pipes and installation of two secondary 36-inch gate valves to allow MIFs to continue during future maintenance. The two outlet pipes will be connected to the new 24-inch diameter MIF pipe;
- Installation of a new 24-inch-diameter MIF pipe that extends approximately 530 feet to the existing discharge location. The new MIF pipe will be supported



by five concrete supports, installed at intermittent locations along the length of the pipe, and three thrust blocks;

- Installation of an anchor block with erosion protection walls near the base of the dam and beyond the junction of the two existing 36-inch-diameter outlet pipes;
- Installation of a new drainage pipe that will collect dam seepage water from existing drainage pipes on either side of Arch No. 53 and convey seepage water along the length of the MIF pipe to the same discharge location. The new drainage pipe will also be supported by the concrete supports and thrust blocks;
- Installation of a flow meter enclosure, plunger valve and communication enclosure, and outflow basin near the outfall of the new MIF pipe; and
- Installation of safety features including grated walkway platforms and stairwell.

**ATTACHMENT B:  
PROJECT OVERVIEW MAPS**

**WATER QUALITY CERTIFICATION  
FOR  
FLORENCE LAKE DAM ARCH 52-54 REPAIR AND LOW-LEVEL OUTLET  
UPGRADE PROJECT**

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# Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet Upgrade Project Water Quality Certification

August 2022

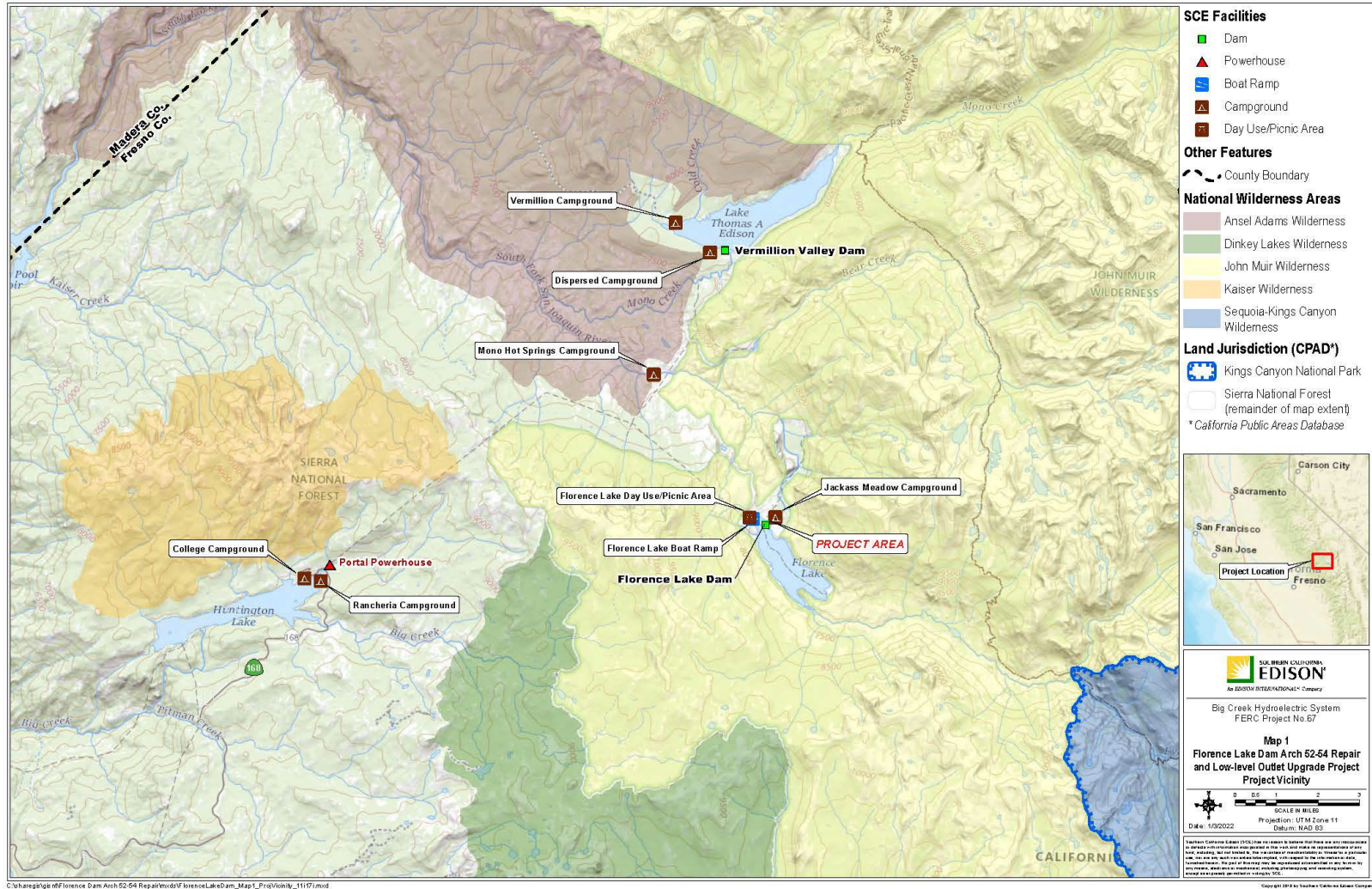


Figure A1. Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet Upgrade Project Location (SCE 2022a)





Figure A2. Aerial View of Florence Lake Dam Arch 52-54 Repair and Low-Level Outlet Upgrade Project (SCE 2022a)