

**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  
KAWEAH PROJECT**

**FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 298**

**SOURCE: Kaweah River and East Fork Kaweah River**

**COUNTY: Tulare**

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

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## Acronyms and Abbreviations

<i>Acre-feet</i>	<i>ac-ft</i>
<i>Aquatic Weed Control Permit</i>	<i>Statewide National Pollutant Discharge Elimination System Permit for Residual Aquatic Pesticide Discharges to Water of the United States from Algae and Aquatic Weed Control Applications</i>
<i>Basin Plan</i>	<i>Water Quality Control Plan for the Tulare Lake Basin</i>
<i>BMPs</i>	<i>best management practices</i>
<i>CDFW</i>	<i>California Department of Fish and Wildlife</i>
<i>Central Valley Regional Water Board</i>	<i>Central Valley Regional Water Quality Control Board</i>
<i>CEQA</i>	<i>California Environmental Quality Act</i>
<i>certification</i>	<i>water quality certification</i>
<i>cfs</i>	<i>cubic feet per second</i>
<i>Construction General Permit</i>	<i>National Pollutant Discharge Elimination System (NPDES) 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>ESA</i>	<i>Endangered Species Act</i>
<i>ESM</i>	<i>Entrainment Study Measure</i>
<i>FERC</i>	<i>Federal Energy Regulatory Commission</i>
<i>FPMP</i>	<i>Fish Population Monitoring Plan</i>
<i>FLA</i>	<i>final license application</i>
<i>MIF</i>	<i>minimum instream flow(s)</i>
<i>MMRP</i>	<i>Mitigation Monitoring and Reporting Program</i>
<i>NMFS</i>	<i>National Marine Fisheries Service</i>
<i>Procedures</i>	<i>State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State</i>
<i>Regional Water Boards</i>	<i>Regional Water Quality Control Boards</i>
<i>SCE</i>	<i>Southern California Edison Company</i>
<i>SGMP</i>	<i>Stream Gaging Monitoring Plan</i>
<i>State Water Board</i>	<i>State Water Resources Control Board</i>
<i>USEPA</i>	<i>United States Environmental Protection Agency</i>
<i>USFWS</i>	<i>United States Fish and Wildlife Service</i>
<i>USGS</i>	<i>United States Geological Survey</i>
<i>WQMP</i>	<i>Water Quality Monitoring and Protection Plans</i>
<i>WTMP</i>	<i>Water Temperature Monitoring Plan</i>

## **1.0 Project Description**

On December 23, 2019, Southern California Edison Company (SCE) applied to the Federal Energy Regulatory Commission (FERC) for a new license for the Kaweah Project (Project), which is also referred to as FERC Project No. 298. The Project is located on the Kaweah and East Fork Kaweah rivers near the community of Three Rivers in Tulare County, California (Attachment A: Overview Map of the Kaweah Project). The existing FERC boundary encompasses 320.80 acres, including 176.26 acres of public lands administered by the Bureau of Land Management (BLM) and 144.54 acres of SCE-owned or private land. As part of the Project, SCE proposes to reduce the Project's FERC boundary by 5.98 acres, to remove lands no longer necessary for operations.

The Project has a total storage capacity of 11.93 acre-feet (ac-ft) with a dependable generating capacity of 8.85 megawatts (MW). The Project consists of three developments (Kaweah No. 1, Kaweah No. 2, and Kaweah No. 3) which include two diversion dams, three flowlines, and three powerhouses. Water diverted at SCE diversion structures (Kaweah No. 1 Diversion Dam, Kaweah No. 2 Diversion Dam, Marble Fork Diversion Dam (non-Project facility), and Middle Fork Diversion Dam (non-Project facility)) is transported through connecting flowlines and penstocks to each powerhouse (Kaweah No. 1 Powerhouse, Kaweah No. 2 Powerhouse, and Kaweah No. 3 Powerhouse) for non-consumptive hydroelectric energy generation and water deliveries to local users. Water diverted for hydroelectric energy generation is returned to the Kaweah River through each powerhouse tailrace. For additional information on Project developments, please refer to Attachment B.

## **2.0 Water Rights**

Table A below lists the water rights claimed by SCE in relation to the Project.

**Table A. Water Rights Claimed by SCE in relation to Kaweah Project Diversions<sup>1</sup>.**

<b>Statement Number</b>	<b>Source Stream</b>	<b>Priority Date<sup>2</sup></b>	<b>Place of Storage or Diversion</b>	<b>Purpose of Use</b>
S007767	Middle Fork Kaweah River	1905	Kaweah No. 2 Diversion Dam	Power Domestic
S007768	Middle Fork Kaweah River	1905	Kaweah No. 3 Diversion Dam	Power
S007765	Marble Fork Kaweah River	1905	Marble Fork Diversion Dam	Power
S007760	East Fork Kaweah River	1899	Kaweah No. 1 Diversion Dam	Power

1. Information is from the State Water Resource Control Board's electronic Water Rights Information Management System.
2. For priority dates listed prior to 1914, SCE claims a pre-1914 water right with these years identified as first year of use. This water quality certification does not validate SCE's pre-1914 water rights claims.

## **2.1 Southern California Edison's Water Delivery Obligations**

In addition to SCE's water use for non-consumptive hydropower, SCE supplies water to local water users through Kaweah No. 1 and Kaweah No. 2 flowlines consistent with reservations made in various deeds and agreements.

In the Kaweah No. 1 Development, SCE diverts a continuous flow of up to one cubic foot per second from the Kaweah No. 1 Flowline to deliver domestic water to local users. As described by SCE, the deliveries date back to reservations made in a deed executed in 1898 that was then included as a condition in the transfer of property to Mount Whitney Power Company in 1900 (SCE 2019). SCE later purchased the property and the associated contractual requirement to deliver water from the Kaweah No. 1 Flowline.

SCE also provides water deliveries for local users from the Kaweah No. 2 Development. SCE diverts a continuous flow of up to three cubic feet per second (cfs) from the Kaweah No. 2 Flowline to deliver domestic water to local users. The origin of these deliveries dates back to reservations made in a deed between W.F. Dean and the Mount Whitney Power Company dated March 21, 1903, and recorded March 23, 1903 (SCE 2019).

## **3.0 Regulatory Authority**

### **3.1 Federal Energy Regulatory Commission Proceedings**

On December 23, 2019, SCE filed a final license application (FLA) with FERC proposing to relicense the Kaweah Project. On April 15, 2020, FERC issued a *Notice*

*Of Application Accepted For Filing, Soliciting Motions To Intervene And Protests, Ready For Environmental Analysis, And Soliciting Comments, Recommendations, Preliminary Terms And Conditions, And Preliminary Fishway Prescriptions for the Project.*

#### **4.0 Regulatory Authority**

##### **4.1 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 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.” (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 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 conditions necessary to ensure compliance with the Clean Water Act and with any other appropriate requirements of state law. Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project.

The State Water Board is the state agency responsible for such water quality certification (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 Pursuant to Resolution No. 2012-0029* memo issued by the Deputy Director on October 19, 2017, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2017).

On June 5, 2020, SCE filed a certification application for the Project with the State Water Board under section 401 of the Clean Water Act (SCE 2020). On August 25,

2020, 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. The submission of the application predates the effective date of the new Clean Water Act Section 401 Certification Rule (40 C.F.R. part 121), which took effect on September 11, 2020. Thus, this certification is not subject to the requirements of the new regulations.

On April 26, 2021, the State Water Board released for a draft certification for the Project. The comment period for the draft certification concluded on May 17, 2021. The State Water Board received one comment letter on the draft certification from SCE. The State Water Board considered SCE's comments in developing the final certification.

Additionally, on April 26, 2021, the State Water Board requested comments from the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) on the certification (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) Central Valley Regional Water Board staff responded with comments on May 17, 2021, which were considered in developing the final certification.

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

The nine 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.) 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. (*Id.*, § 13170.) For a specific area, the water quality control plans designate the beneficial uses of water to be protected, water quality objectives established for the reasonable protection of those 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 federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act.

The Central Valley Regional Water Board adopted, and the State Water Board and the USEPA approved, the *Water Quality Control Plan for the Tulare Lake Basin* (Basin Plan) (Central Valley Regional Water Board 2018). The Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The Basin Plan specifies that the beneficial uses of any specifically identified water body generally apply to its tributary streams. Therefore, the beneficial uses identified for the Kaweah River above Lake Kaweah apply to the East Fork Kaweah River.

The Basin Plan identifies the beneficial uses for the Kaweah River above Lake Kaweah as: municipal and domestic supply; hydropower generation; water contact recreation; other non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm



and cold freshwater spawning; wildlife habitat; freshwater replenishment; and rare, threatened or endangered species habitat. The State Water Board's certification for the Project must ensure compliance with the water quality standards in the Basin Plan.

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 Basin Plan.

#### 4.3 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>1</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 section 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.)

#### 4.4 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>2</sup> (State Water Board 2019). 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

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<sup>1</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) Last accessed May 21, 2021.

<sup>2</sup> Resolution No. 2019-0015 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). Last accessed May 21, 2021.

Project-related dredge or fill activities that may impact waters of the state, including wetlands.

#### 4.5 Aquatic Weed Control General Permit

The *Statewide National Pollutant Discharge Elimination System Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications (Aquatic Weed Control General Permit)*<sup>3</sup> (State Water Board 2013) applies to projects that require aquatic weed management activities. The Aquatic Weed Control General Permit sets forth detailed management practices to protect water quality from pesticide and herbicide use associated with aquatic weed control.

#### 4.6 California Environmental Quality Act

The State Water Board is the lead agency for the purposes of the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq; Cal. Code Regs., tit. 14, § 15000 et seq.)

On March 25, 2021, the State Water Board released a draft initial study and mitigated negative declaration (IS/MND) for public review and comment (State Water Board 2021). The draft IS/MND included mitigation measures to avoid or substantially reduce potentially significant environmental impacts of the Project. The draft IS/MND was available for public review and comment from March 25, 2021, to April 26, 2021. During the public comment period, two comment letters were received from the California Department of Toxic Substance Control and SCE.

This certification is informed by the environmental information and analysis contained in the IS/MND, public comments on the draft IS/MND, and other information in the record. In accordance with California Code of Regulations title 23, section 3859, subdivision (a), mitigation measure *Biology- 1: Water Delivery Prioritization Adaptive Management Measure* (BIO-1) and associated mitigation, monitoring, and reporting requirements were incorporated as Condition 3 of this certification. The final IS/MND is available at the State Water Board's office (1001 I Street, Sacramento, California) and on the [Project webpage](#) at:

[https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_quality\\_cert/kaweah\\_ferc298.html](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/kaweah_ferc298.html)

The State Water Board, through its Executive Director, adopts the final IS/MND and has determined it is adequate to support approval of the Project, with incorporation of the Mitigation, Monitoring, and Reporting Program (MMRP) (Attachment C). In accordance

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<sup>3</sup> Water Quality Order No. 2013 0002 DWQ and NPDES No. CAG990005, as amended by Order No. 2014-0078-DWQ, Order No. 2015-0029-DWQ, Order No. 2016-0073-EXEC, and any amendments thereto. Available at: [https://www.waterboards.ca.gov/water\\_issues/programs/npdes/pesticides/weed\\_control.html](https://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/weed_control.html). Last accessed May 21, 2021.

with CEQA Guidelines section 15074, the State Water Board, through the Executive Director, further finds that: the final IS/MND has been completed in compliance with CEQA; the final IS/MND was presented to, reviewed by, and considered by the State Water Board prior to approving the Project; and the final IS/MND represents the State Water Board's independent judgement and analysis. The State Water Board will file a Notice of Determination for the Project with the Office of Research and Planning within five working days of issuing the certification.

## 5.0 Rationale for Water Quality Certification Conditions

Certification conditions were developed to ensure that the Project complies with water quality requirements and other appropriate requirements of state law, including protecting beneficial uses of California's waters by complying with water quality objectives in the Basin Plan<sup>4</sup> and policies for water quality control, and other applicable water quality requirements. Section 401 of the federal Clean Water Act (33 U.S.C. § 1341) provides that the conditions contained in this certification be incorporated as mandatory conditions of the new license issued by FERC for the Project.

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

- SCE's application for certification (SCE 2020);
- SCE's FLA (SCE 2019);
- FERC's *Ready for Environmental Analysis for Hydropower License* (FERC 2020);
- United States Department of the Interior (DOI), Bureau of Land Management's (BLM) June 12, 2020 preliminary section 4(e) conditions (DOI 2020);
- DOI, National Park Service's (NPS) June 12, 2020 section 10(a) recommendations (DOI 2020);
- Comments and responses associated with the aforementioned documents;
- State Water Board's final IS/MND (State Water Board 2021b), which includes consideration of comments received on the draft IS/MND (State Water Board 2021a);
- Existing and potential beneficial uses, associated water quality objectives, and implementation measures and programs described in the Basin Plan (Central Valley Regional Water Board 2018);
- Project-related controllable water quality factors; and
- Other information in the record.

The following describes the rationale used to develop the conditions in this certification.

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<sup>4</sup> Designated beneficial uses and associated water quality objectives for surface waters in the Project area are described in Section 4.2 of this certification, and in Sections 2 and 3 of the Basin Plan.

### **5.1 Rationale for Condition 1: Water Year Types**

Condition 1 requires implementation of SCE's proposed water year types, which are consistent with existing water year types for the Project. The water year types include two classifications (Dry and Normal) and are defined based on forecasted unimpaired runoff in the Kaweah River below Terminus Reservoir from April 1 through July 31, for the current year, as estimated by the California Department of Water Resources May Bulletin 120. During relicensing studies, SCE compiled historical runoff forecasts for the years 1974 through 2018 and determined that 67 percent of the years were classified as Normal and 33 percent of the years were classified as Dry. The water year types will assist in determining minimum instream flow (MIF) requirements (Condition 2).

### **5.2 Rationale for Condition 2: Minimum Instream Flows**

Instream flows provide habitat for fish and wildlife, contribute to scenic and aesthetic qualities of natural settings, and help support beneficial uses and water quality objectives for surface waters as established in the Basin Plan. During relicensing, SCE proposed to increase MIFs to more closely mimic natural hydrograph conditions.

As proposed by SCE, and required in Condition 2, MIFs in the Kaweah River bypass reach will double in the months of December, January, February, and July during Dry water years. In Normal water years, the MIFs in the Kaweah River will remain unchanged except for near doubling in the month of September. In the East Fork Kaweah River, MIFs in the bypass reach will more than double in all months during Normal years. In Dry years, the MIFs in the East Fork Kaweah River will remain unchanged from existing conditions.

Condition 2 requires MIFs for the bypass stream reaches that are designed to protect and enhance environmental and public resources and are consistent with those proposed by SCE.

### **5.3 Rationale for Condition 3: Water Delivery Prioritizations**

SCE provides domestic water to local users through Project flowlines based on contractual water delivery obligations. Currently, SCE provides two miner's inches (0.04 cfs) to local users along the Kaweah No. 1 Flowline by diverting one cfs from the East Fork Kaweah River; and provides 32 miner's inches (0.64 cfs) to local users along the Kaweah No. 2 Flowline by diverting three cfs from the Kaweah River. The current diversion amounts exceed SCE's contractual water delivery obligations due to the need to provide sufficient conveyance water to the diversion system, with unused water discharged back to the Kaweah River and East Fork Kaweah River at the Project powerhouses (Kaweah No. 1 Powerhouse and Kaweah No. 2 Powerhouse).

During periods where MIF (Condition 2) and contractual water delivery obligations cannot both be met, SCE proposed to prioritize contractual water delivery obligations over MIFs and eliminate the need to seek temporary modifications/variances to MIFs as occurs per the existing license. SCE proposed that, in the event natural inflow into the Kaweah No. 1 Diversion Dam or Kaweah No. 2 Diversion Dam is insufficient to meet

both the MIF requirements and contractual water delivery obligations, the MIF would become the natural inflow minus one cfs in the East Fork Kaweah River and three cfs in the Kaweah River.

Prioritization of SCE's contractual water delivery obligations over MIFs could result in water quality and aquatic resource impacts. Condition 3 requires SCE to implement interim measures and water quality monitoring during periods when instream flows drop below levels identified in Condition 3(A). If any exceedances of Basin Plan water quality objectives occur, SCE is required to implement adaptive management measures identified in the in the Water Prioritization Adaptive Management Plan, which may include measures ranging from increasing interim MIFs to ceasing water deliveries.

#### **5.4 Rationale for Condition 4: Ramping Rates**

Sudden reductions in flows can adversely affect aquatic organisms through stranding as water levels rapidly decrease causing exposure of previously inundated habitat. During relicensing, SCE proposed ramping rates that provide operational flexibility for hydroelectric generation and environmental protections. Condition 4 requires SCE to implement its proposed ramping rates. Based on the relatively limited diversion capacity in the Kaweah No. 1 Flowline and Kaweah No. 2 Flowline and the Project's small storage capacity (approximately 12 acre-feet), the ramping rates are only required when instream flows are less than 80 cfs in the East Fork Kaweah River or less than 290 cfs in the Kaweah River, respectively, as greater flows exceed the control of the Project.

#### **5.5 Rationale for Condition 5: Sediment and Erosion**

Condition 5 includes provisions for the protection of water quality and beneficial uses from erosion and sediment related to Project activities including sediment passage, flowline operations, and construction and maintenance activities.

Condition 5(A) –Sediment Passage. During relicensing, SCE proposed a *Sediment Management and Erosion Control Plan* to ensure sediment passage at Project facilities would be protective of water quality. SCE's proposed *Sediment Management and Erosion Control Plan* was limited to proposed actions associated with sediment passage and did not include water quality monitoring or adaptive management actions to ensure protection of water quality objectives and beneficial uses. Condition 5(A) requires SCE to develop a Sediment Passage Plan to monitor water quality and implement best management practices and adaptive management actions during Project operations that release stored sediments in the Kaweah River and East Fork Kaweah River.

Condition 5(B) – Erosion Control. Project facilities (such as flowlines and forebays) have the potential to leak or break as a result of landslides, aging, or damage. In 2016, a tree fall caused damage and a spill from the Kaweah No. 2 Flowline. In 2018, a landslide damaged the Kaweah No. 1 Flowline. Condition 5(B) requires SCE to proactively inspect and maintain its facilities to protect water quality and beneficial uses from erosion and sediment discharges. SCE is also required to develop water quality protection measures to implement in the event of a flowline failure, leak, or spill event.

Condition 5(C) – Construction and Maintenance. Protection of instream beneficial uses identified in the Basin Plan requires effluent limitations and other limitations on discharges of pollutants from point and nonpoint sources to the Kaweah River, and its tributaries. Erosion from Project-related maintenance activities has the potential to result in discharges that violate water quality standards. Condition 5(C) requires SCE to comply with the Construction General Permit, as applicable, or to develop and implement Water Quality Monitoring and Protection Plans (WQMP Plans) to protect water quality and beneficial uses. WQMP Plans will be developed for construction and maintenance activities with the potential to cause erosion, stream sedimentation, release of hazardous materials, or otherwise impair water quality that are not covered by another condition of the certification.

## **5.6 Rationale for Condition 6: Stream Gages**

Streamflow gages are required to confirm compliance with MIFs and other flow related conditions of this certification (e.g., ramping rates). During relicensing, SCE proposed a *Stream Gaging Monitoring Plan* with gage locations to monitor for MIFs and other requirements of the FERC license. Condition 6 requires SCE to implement its *Stream Gaging Monitoring Plan* with modifications to ensure reporting of any flow deviations to the Deputy Director, in addition to SCE's proposal of reporting deviations to FERC.

## **5.7 Rationale for Condition 7: Monitoring and Adaptive Management**

Monitoring plans are necessary to develop information regarding water quality and aquatic resources in response to changes in environmental conditions associated with Project operations for the term of a new FERC license. Condition 7 requires the development and implementation of monitoring plans to assess for Project-related impacts to fish populations, entrainment, water temperature, and water quality. The methods and frequency of monitoring are designed to periodically evaluate aquatic resources and water quality over the term of the new FERC license, assess Project-related effects, and to determine whether water quality objectives are being met. Condition 7 also requires SCE to propose and implement adaptive management actions based on reporting and other information, and allows SCE to request Deputy Director approval to alter the methodologies or frequencies of monitoring.

Condition 7(A). During relicensing, SCE proposed a *Fish Population Monitoring Plan* to: 1) document fish species composition, distribution, and abundance in the Project's bypass reaches; and 2) characterize fish growth, condition factor, and population age structure. Condition 7(A) requires SCE to implement its *Fish Population Monitoring Plan* as proposed in SCE's FLA (SCE 2019) with allowances for monitoring plan modification and implementation of adaptive management actions.

Condition 7(B). During relicensing, SCE conducted studies on fish entrainment in its Project flowlines. Entrainment data collected in Kaweah No. 2 and Kaweah No. 3 flowlines indicated low entrainment. Entrainment data collection for the Kaweah No. 1 Flowline was delayed due to a landslide. SCE consulted with State Water Board and CDFW staff to develop a revised study plan in which SCE committed to completing the

remaining entrainment sampling in Kaweah No. 1 Flowline following FERC relicensing. Condition 7(B) requires SCE to implement the updated fish entrainment study for the Kaweah No. 1 Flowline to determine if additional management actions are necessary to address the Project's potential flowline-related fish entrainment impacts.

Condition 7(C). Water temperature monitoring is important for determining compliance with water quality standards for temperature and examining long-term trends in water temperature as affected by Project operations. During relicensing, SCE proposed a *Water Temperature Monitoring Plan* to periodically document water temperature and meteorological conditions in Project-affected reaches of the Kaweah River and East Fork Kaweah River, and to compare collected information to historical water temperature data. As proposed by SCE in its FLA (SCE 2019), water temperature data will be collected in the second year following license issuance and every 10 years thereafter. Condition 7(C) requires SCE to implement its *Water Temperature Monitoring Plan* with modifications that require reporting to the Deputy Director and implementation of adaptive management actions to address any Project-related water temperature impacts, if needed.

Condition 7(D). Water quality monitoring is important to examine long-term Project-related impacts on water quality and determine compliance with water quality standards. During relicensing, SCE proposed a *Water Quality Monitoring Plan* to periodically characterize the physical, chemical, and bacterial water quality conditions in Project affected reaches of the Kaweah River and East Fork Kaweah River and to compare conditions to the current Basin Plan. As proposed by SCE in its FLA (SCE 2019), water quality monitoring will occur in the second year following license issuance and every 10 years thereafter. Condition 7(D) requires SCE implement its *Water Quality Monitoring Plan* with modification that require reporting to the Deputy Director and implementation of adaptive management actions to address any Project-related water quality impacts, if needed.

## **5.8 Rationale for Condition 8: Real-Time Flow Information**

Providing real-time streamflow data for Project-affected reaches of the Kaweah River and East Fork Kaweah River will allow whitewater boaters and other recreationalists to determine when suitable river conditions exist for their activities. During relicensing, SCE proposed to include a *Dissemination of Real-time Flow Information Measure* (RTFM) to: 1) monitor real-time one-hour flow data at a USGS gage below Kaweah No. 1 Diversion Dam and a USGS gage below Kaweah No. 2 Diversion Dam; and 2) provide real-time flow data for each of these sites on a publicly-accessible website. Condition 8 requires SCE to implement its RTFM as proposed in SCE's FLA (SCE 2019) with modifications to require Deputy Director approval for any modifications to the measure.

## **5.9 Rationale for Condition 9: Hazardous Materials**

Implementation of a Hazardous Substances Plan is essential to ensuring hazardous materials are properly stored, used, transported, and managed in the Project area to

avoid and minimize the release of hazardous materials to water, and the associated impacts to beneficial uses, including impacts to sensitive species and their habitats. Condition 9 requires SCE to develop and implement a Hazardous Substances Plan to address the storage, use, transportation, and disposal of hazardous substances for the protection of water quality.

### **5.10 Rationale for Condition 10: Road and Trail Management**

During relicensing, SCE proposed a *Project Road and Trail Management Plan* to maintain access to Project facilities, protect worker/public health and safety, and to control erosion and sedimentation (SCE 2019). SCE's proposed *Project Road and Trail Management Plan* does not include specific actions to assess and manage Project road and trails for water quality protection. To avoid and minimize potential water quality impacts, Condition 10 requires the development and implementation of a Road and Trail Management Plan that includes assessment of Project roads and trails for their potential to impact water quality. The Road and Trail Management Plan shall build on SCE's proposed *Project Road and Trail Management Plan*.

### **5.11 Rationale for Condition 11: Extremely Dry Condition**

California's history of drought illustrates the importance of planning for extremely dry conditions. It is difficult to anticipate the specific impacts of consecutive dry years or a long-term drought and identify where limited water supplies may be best used during times of shortage. Condition 11 provides the Project flexibility for adaptive implementation during times of extremely dry conditions.

### **5.12 Rationale for Condition 12: Annual Consultation and Annual Review Group**

The formation of a Technical Review Group (TRG) and annual consultation will facilitate communication and ensure that interested parties have an opportunity to engage and discuss license implementation. Condition 12 requires that SCE organize and host TRG meetings, with at least one meeting to be held each year. The TRG meetings will provide an opportunity for communication and coordination between SCE, resource agencies, tribes, nongovernmental organizations, and other interested parties.

### **5.13 Rationale for Conditions 13 through 36**

This certification imposes additional conditions regarding monitoring, enforcement, and potential future revisions, to address issues likely to arise throughout the term of the new FERC license. These are necessary for a variety of reasons, including: to ensure that the Project operates to meet water quality standards as anticipated over time; to ensure compliance with other relevant state and federal laws; to ensure that the Project will continue to meet state water quality standards and other appropriate requirements of state law during the license period; and to provide for adaptation of conditions in light of changing events. Additionally, California Code of Regulations, title 23, section 3860 requires imposition of certain mandatory conditions for all certifications, which are included in this certification.



## **6.0 Conclusion**

The State Water Board finds that, with the conditions and limitations imposed by this certification, the Project will be protective of the state 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 OPERATION OF THE KAWEAH 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. Water Year Types**

Each year following license issuance, the Licensee shall determine the water year type based on the criteria in Table 1. The water year types are based on forecasted unimpaired runoff in the Kaweah River below Terminus Reservoir from April 1 through July 31, for the current year, as estimated by the California Department of Water Resources (DWR) in its May Bulletin 120<sup>5</sup>. The Licensee shall determine the water year type, either as a Normal or Dry water year, and the water year type shall then be used to determine the minimum instream flows (MIFs) (Condition 2) for the period of May 10 of each calendar year through May 9 of the subsequent calendar year. If DWR has not released the May Bulletin 120 by May 9, then the Licensee shall implement the required MIF within 48 hours of the May Bulletin 120 being published.

**Table 1. Water Year Type Determination based on Forecasted Unimpaired Runoff below Terminus Reservoir as estimated by DWR Bulletin 120**

Water Year Type	Forecasted Unimpaired Runoff Thresholds Kaweah River below Terminus Reservoir (acre-feet)
Normal	Greater than 172,000
Dry	Less than or equal to 172,000

**CONDITION 2. Minimum Instream Flows**

**2(A) Minimum Instream Flow Requirements**

The Licensee shall implement the MIFs, presented in Table 2 and Table 3, as soon as reasonably practicable but no later than 90 days following issuance of the new FERC license, unless an alternative timeline is approved by the State Water Resources Control Board (State Water Board) Deputy Director for the Division of Water Rights (Deputy Director).

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<sup>5</sup> Bulletin 120 is a publication issued four times a year, in the second week of February, March, April, and May by DWR. It contains forecasts of the volume of seasonal runoff from California’s major watersheds, and summaries of precipitation, snowpack, reservoir storage, and runoff in various regions of California.

The Licensee shall implement MIFs in the following reaches:

- Kaweah River downstream of Kaweah No. 2 Diversion Dam (Table 2); and
- East Fork Kaweah River downstream of Kaweah No. 1 Diversion Dam (Table 3).

Table 2 and Table 3 specify the time period and MIFs in cubic feet per second (cfs) by water year type (Condition 1), as well as the compliance point for MIFs (e.g., applicable United States Geological Survey [USGS] gage). Flows shall be measured in two ways: (1) as an instantaneous flow; and (2) as the 24-hour average of the flow (mean daily flow). The instantaneous flow is the value used to construct the mean daily flow value and shall be measured in 15-minute or more frequent increments. Each instantaneous flow measurement shall be equal to or greater than 80 percent of the designated minimum flow value. The mean daily flow is the average of the incremental readings of instantaneous flow from midnight (12:00 AM) of one day to midnight of the next day. The Licensee shall record instantaneous flow readings at all gages, consistent with USGS standards, and ensure the gages are calibrated for the full range of flows that are required. Unless otherwise approved by the Deputy Director, the Licensee shall report any deviation from the required flows to the Deputy Director within 48 hours of the deviation.

Flows shall be measured at the specified gage locations unless otherwise approved by the Deputy Director. The Licensee shall comply with applicable California laws and regulations regarding measuring and monitoring water diversions, including California Code of Regulations, title 23, section 933, and amendments thereto, and State Water Board requirements to provide telemetered diversion data on a public website. The Licensee shall post all flow and other applicable data to the California Data Exchange Center (CDEC) website within 24-hours of flow measurement, unless otherwise approved by the Deputy Director.

The Licensee shall publicly notice at an easily accessible location on the internet, all known events that will affect minimum flow releases (e.g., powerhouse outages, construction, etc.) in reaches (identified below) a minimum of 30 days in advance or as soon as known if less than 30 days in advance. The Licensee shall furnish electronic streamflow records to State Water Board staff upon request. Additionally, streamflow data, shall be submitted to the State Water Board in a form consistent with the requirements of Condition 20.

**Table 2. Kaweah River MIFs Downstream of Kaweah No. 2 Diversion Dam (as measured in cfs at USGS Gage No. 11208600)**

Month	Dry Water Year	Normal Water Year
January	20 or NF <sup>1</sup>	20 or NF
February	20 or NF	20 or NF
March	20 or NF	30 or NF
April	30 or NF	30 or NF
May	30 or NF	30 or NF
June	30 or NF	30 or NF
July	20 or NF	20 or NF
August	10 or NF	20 or NF
September	5 or NF	20 or NF
October	5 or NF	11 or NF
November	5 or NF	11 or NF
December	10 or NF	11 or NF

<sup>1</sup> NF = Natural flow. If natural flow is less than the required MIF, the MIF shall be NF until NF equals or exceeds the required MIF.

**Table 3. East Fork Kaweah River MIF Downstream of Kaweah No. 1 Diversion Dam (as measured in cfs at USGS Gage No. 11208730)**

Month	Dry Water Year	Normal Water Year
January	5 or NF <sup>1</sup>	10 or NF
February	5 or NF	10 or NF
March	10 or NF	20 or NF
April	10 or NF	20 or NF
May	10 or NF	20 or NF
June	10 or NF	20 or NF
July	10 or NF	20 or NF
August	5 or NF	20 or NF
September	5 or NF	20 or NF
October	5 or NF	10 or NF
November	5 or NF	10 or NF
December	5 or NF	10 or NF

<sup>1</sup> NF = Natural flow. If natural flow is less than the required MIF, the MIF shall be NF until NF equals or exceeds the required MIF.

If facility modifications are needed to achieve any of the MIF, the Licensee shall submit, no later than 60 days following issuance of the new FERC license, any request for alternative MIF implementation timelines to the Deputy Director for review and consideration for approval. The request shall include: specific information on which facility or facilities require modification, the proposed alternative timeline(s) and MIF(s), and support for the alternative timeline(s) and MIF(s) the Licensee proposes to implement in the interim period between license issuance and completion of facility

modifications. The Licensee shall implement the applicable MIF(s) required by this water quality certification (certification) no later than 30 days following completion of any approved facility modifications. The Deputy Director may require modifications as part of any approval. Upon Deputy Director approval, the Licensee shall file with FERC the Deputy Director-approved alternative MIF implementation timelines.

## **2(B) Planned Temporary Flow Modifications**

The Licensee may request temporary MIF variances for non-emergency facility construction, modification, or maintenance. Non-emergency variance requests shall be submitted to the Deputy Director for approval as far in advance as practicable, but no less than four months in advance of the desired effective date. The Licensee shall notify the California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS) of the proposed temporary MIF variance.

The temporary variance request shall include: a description of the proposed construction, modification, or maintenance; the planned duration and magnitude of the MIF variance; documentation of notification to CDFW and USFWS, and any comments received; measures that will be implemented to protect water quality and beneficial uses; and a schedule for the proposed construction, modification, or maintenance. The Deputy Director may deny the request or require modifications as part of any approval. Upon Deputy Director approval, the Licensee shall provide public notice of the MIF variance. The Licensee shall file with FERC the Deputy Director-approved temporary modifications to flow requirements and any approved amendments thereto.

## **2(C) Unplanned Temporary Flow Modifications**

The flows specified in this condition may be temporarily modified if required by equipment malfunction reasonably beyond the control of the Licensee, as directed by law enforcement authorities, or in emergencies. An emergency is defined as an unforeseen event that is reasonably out of the control of the Licensee and requires the Licensee to take immediate action, either unilaterally or under instruction by law enforcement or other regulatory agency staff, to prevent imminent loss of human life or substantial property damage. An emergency may include but is not limited to: natural events such as landslides, storms, or wildfires; vandalism; malfunction or failure of Projects facilities; recreation accidents; or other public safety incidents. Drought is not considered an emergency for purposes of this condition. The Licensee shall make all reasonable efforts to promptly resume required flows.

When possible, the Licensee shall notify the Deputy Director prior to any unplanned temporary flow modification. In all instances, the Licensee shall notify the Deputy Director within 24 hours of the beginning of any unplanned temporary flow modification. Within 96 hours of the beginning of any unplanned temporary flow modification, the Licensee shall provide the Deputy Director with an update of the conditions associated with the modification and an estimated timeline for returning to the required flows.

No later than 30 days following completion of any unplanned temporary flow modification, the Licensee shall provide the Deputy Director with: (1) a written description of the modification and reason(s) for its necessity; (2) photo documentation of the emergency or reason for the flow modification; (3) a timeline for returning to the required flow or timeline when the flow resumed; (4) a description of corrective actions taken in response to an unplanned temporary flow modification; and (5) a plan to prevent the need for modification of flows resulting from a similar emergency or event in the future. The Deputy Director may require modifications to the Licensee's plan to prevent future modifications of flows resulting from similar emergencies or events. The Licensee shall implement its plan and any modifications required by the Deputy Director.

### **CONDITION 3. Water Delivery Prioritizations**

#### **3(A) Water Deliveries During Low Flow Conditions**

If, during low-flow conditions in the Kaweah River or East Fork Kaweah River, there is insufficient water available for the Licensee to maintain MIFs and meet contractual water delivery obligations, the Licensee may temporarily reduce MIFs below those listed in Table 2 and Table 3, with implementation of the following:

- 1) Cessation of water diversions for power generation.
- 2) Ensure all available stored water in the Mineral King Lakes (located upstream of Kaweah No. 1 Diversion Dam), has been released prior to reducing East Fork Kaweah River MIFs below those required in Table 3.
- 3) Limit diversions to Project flowlines for contractual water deliveries to no more than one cfs from the East Fork Kaweah River, and three cfs from the Kaweah River.
- 4) Operate flow-measurement devices to record the amount of flow in the associated flowline(s) (Southern California Edison Gages No. 204 and No. 202) and in the Kaweah River and East Fork Kaweah River (USGS Gage No. 11208730 and USGS Gage No. 11208600).
- 5) Inspect the domestic water supply intakes and record deliveries to water user manifolds. Unless individual water deliveries are metered, inspections shall take place at least once per water prioritization event and inspection results and water delivery records shall be made available to State Water Board staff upon request.
- 6) Maintain average daily instream flow in the Kaweah River downstream of the Kaweah No. 2 Diversion Dam at or above 9.5 cfs or the minimum flow in Table 2, whichever is less.
- 7) Maintain average daily flow in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion Dam at or above 5.0 cfs.

#### **3(B) Interim Flow Reductions**

Until the Water Prioritization Adaptive Management Plan is approved by the Deputy Director (discussed in Condition 3(C) below) and if water availability prohibits

maintaining flows as specified above in Condition 3(A)(6) and 3(A)(7), the Licensee shall request approval from the Deputy Director to reduce MIFs. The request to reduce MIFs shall include: a description of current and projected water availability in the Kaweah River and East Fork Kaweah River; documentation of consultation with CDFW on the proposed reduced flows; proposed interim flows for the Kaweah River and/or East Fork Kaweah River; and expected duration of interim flows before returning to MIFs required in Table 2 and Table 3. The Deputy Director may require modifications as part of any approval. The Licensee shall not implement flow reductions below those identified in Condition 3(A) without Deputy Director approval.

During Deputy Director-approved flow reduction periods, the Licensee shall monitor water quality. Water quality monitoring data shall be provided to the State Water Board weekly throughout the Deputy Director-approved flow reduction period. To the extent possible, water quality monitoring shall begin a minimum of 24-hours prior to flows being reduced below 9.5 cfs or the MIF in Table 2, whichever is less, on the Kaweah River, or 5.0 cfs on the East Fork Kaweah River (see Condition 3(A)(6) and 3(A)(7)). Monitoring shall continue for a minimum of 24-hours after flows meet or exceed the flows specified in Condition 3(A)(6) and 3(A)(7). Monitoring shall be conducted in 15-minute or more frequent increments. Sampled water quality parameters shall at a minimum include water temperature, turbidity, and dissolved oxygen. Water quality monitoring data shall be provided to the State Water Board weekly throughout the Deputy Director-approved flow reduction period.

Locations monitored shall include sites: 1) below Kaweah No. 1 Diversion Dam on the East Fork Kaweah River; 2) below Kaweah No. 2 Diversion Dam on the Kaweah River; 3) below Kaweah No. 1 Powerhouse; and 4) below Kaweah No. 2 Powerhouse. Exact monitoring locations shall be selected in consultation with State Water Board staff.

The Licensee shall submit a Water Diversion Report to the Deputy Director and CDFW no later than 30 days following the return of instream flows to the flow requirements listed in Condition 3(A)(6) and 3(A)(7):

- 9.5 cfs or the minimum flow in Table 2, whichever is less, in the Kaweah River downstream of the Kaweah No. 2 Diversion Dam; and/or
- 5 cfs in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion Dam.

The Water Diversion Report shall: 1) provide all water quality and flow data collected; 2) summarize the monitoring data; 3) description of quality assurance and quality control procedures used for data verification and/or validation; 4) include an analysis of the monitoring results, identify any impacts to aquatic resources, water quality, and riparian habitat due to the water delivery-related MIF reductions.

### **3(C) Water Prioritization Adaptive Management**

No later than two years following issuance of the new FERC license, the Licensee shall submit a Water Prioritization Adaptive Management Plan to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications

as part of any approval. The Water Prioritization Adaptive Management Plan shall be developed in consultation with representatives from water users receiving water from the Project's flowlines, CDFW, USFWS, and State Water Board staff. The Water Prioritization Adaptive Management Plan shall identify appropriate measures to protect aquatic resources (such as hardhead), riparian habitat, and water quality during periods of flow reductions below those authorized in Condition 3(A), specifically: (1) 9.5 cfs or the minimum flow in Table 2, whichever is less, in the Kaweah River downstream of the Kaweah No. 2 Diversion Dam; and (2) 5 cfs in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion Dam. At a minimum, the Water Prioritization Adaptive Management Plan shall include:

- Implementation of items 1-5 as listed in Condition 3(A);
- Water quality monitoring that at a minimum includes the water quality monitoring parameters listed in Condition 3(B) above;
- Procedures for the Licensee to notify the State Water Board and water users before prioritizing water deliveries over MIFs;
- Procedures for coordination with water users regarding potential temporary reductions in water deliveries, if needed. Reductions may be based on a variety of factors including but not limited to water quality monitoring, other environmental, seasonal, or water availability factors, etc.;
- Potential modifications to flows identified in Condition 3(A)<sup>6</sup> related to prioritization of water deliveries;
- Identification of potential improvements to SCE's water delivery infrastructure that may reduce the amount of water needed for deliveries, including an assessment of the feasibility, utility, cost-benefit and cost-effectiveness of any such potential improvements;
- Verification and refinement, as appropriate, of the minimum amount of conveyance water necessary to make deliveries to water users during low flow periods. This information shall be used to guide future water user deliveries;
- Documentation of consultation with representatives from CDFW, USFWS, State Water Board, and water users receiving water from the Project's flowlines, comments and recommendations made as part of consultation, and a description of how the plan incorporates or addresses the comments and recommendations; and
- Format and schedule for reports to document, summarize, and analyze monitoring results and make recommendations. Reports shall at a minimum: 1) provide all water quality and flow data collected; 2) summarize the monitoring data; 3) analyze the monitoring results and identify any impacts to aquatic resources, water quality, and riparian

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<sup>6</sup> Specifically: (1) 9.5 cfs or the minimum flow in Table 2, whichever is less, in the Kaweah River downstream of the Kaweah No. 2 Diversion Dam; and (2) 5 cfs in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion Dam



habitat due to water delivery-related flow reductions; and 4) discuss adaptive management measures implemented from the Water Prioritization Adaptive Management Plan to reduce impacts to water quality and aquatic resources. Reports shall be submitted to the Deputy Director no later than 30 days after returning to the flow requirements listed in Condition 3(A)(6) and 3(A)(7). The Deputy Director may require implementation of additional monitoring or other actions in response to the information provided in the monitoring reports in order to protect water quality and beneficial uses.

Once the Water Prioritization Adaptive Management Plan is approved by the Deputy Director, it shall supersede requirements in Condition 3(B).

Any modifications to the Water Prioritization Adaptive Management Plan require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC the Deputy Director-approved Water Prioritization Adaptive Management Plan, any approved amendments thereto, and any additional Deputy Director-required actions. The Licensee shall implement the Water Prioritization Adaptive Management Plan, any amendments thereto, and any additional required actions upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein.

#### **CONDITION 4. Ramping Rates**

No later than 30 days following issuance of the new FERC license, the Licensee shall implement the ramping rates specified in this condition. Ramping rates in this condition do not apply to Project operations: (1) during an emergency or equipment malfunction as defined in Condition 2(C); (2) if the natural change of inflow exceeds the control of the Project; or (3) during instances where the Licensee is directed by FERC or the California Division of Safety of Dams (DSOD) to test or exercise valves at Project facilities<sup>7</sup>.

##### **4(A) Ramping Rates for the East Fork Kaweah River**

The Licensee shall operate the Kaweah No. 1 Diversion Dam such that a change in the flowline diversion amount shall not cause instream flows downstream of the diversion dam to decrease at a rate (cfs/hour) greater than 30 percent of the existing streamflow. Based on the existing maximum diversion capacity in the Kaweah No. 1 Flowline, the Licensee shall implement this ramping rate requirement whenever instream flows in the East Fork Kaweah River are less than 80 cfs.

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<sup>7</sup> Whenever possible, the testing of valves should be scheduled to limit impacts to water quality and beneficial uses. Modifications to flows and ramping rates associated with FERC and DSOD testing shall be performed in accordance with Condition 2(B) unless such modifications comply with Condition 2(C).

Ramping rates in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion Dam shall be measured using the USGS Gage No. 11208730 and Southern California Edison's Gage No. 202 for measuring the change in diversion amount.

#### **4(B) Ramping Rates for the Kaweah River**

The Licensee shall operate the Kaweah No. 2 Diversion Dam such that a change in the flowline diversion amount shall not cause instream flows downstream of the diversion dam to change at a rate (cfs/hour) greater than the following:

- Down-Ramping: Instream flows shall not decrease at a rate greater than 30 percent of the existing streamflow per hour as a result of changes in the flowline diversion amount. Based on the existing maximum diversion capacity in the Kaweah No. 2 flowline, the Licensee shall implement this ramping rate requirement whenever instream flows in the Kaweah River are less than 290 cfs.
- Up-Ramping: Instream flows shall not increase more than 25 cfs/hour when the existing streamflow is less than or equal to 40 cfs.

Ramping rates in the Kaweah River downstream of the Kaweah No. 2 Diversion Dam shall be measured using the USGS Gage No. 11208600 and Southern California Edison Gage No. 204 for the change in diversion amount.

### **CONDITION 5. Sediment and Erosion Control**

#### **5(A) Sediment Passage**

No later than one year following license issuance, the Licensee shall submit a Sediment Passage Plan to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The objective of the Sediment Passage Plan shall be to identify and implement effective methods of preventing water quality impacts (e.g., turbidity) associated with Project sediment release activities (e.g., release of accumulated sediments from Project flowlines and forebays). The Licensee shall develop the Sediment Passage Plan in consultation with CDFW, USFWS, Bureau of Land Management (BLM), and State Water Board staff.

At a minimum, the Sediment Passage Plan shall include:

- The material elements of Southern California Edison's *Sediment and Erosion Management Plan* (SCE 2019) except as modified during consultation;
- Description of Project activities at each Project facility with the potential to cause sediment releases into the Kaweah River or East Fork Kaweah River;
- Estimated frequency of sediment release activities;
- Estimated amount of sediment released with each activity;
- Water quality monitoring that will be implemented prior to and during Project-related sediment release activities. Water quality monitoring shall include

monitoring for turbidity in compliance with the *Water Quality Control Plan for the Tulare Lake Basin (Basin Plan) (Central Valley Regional Water Board 2018)*.

- Identification of best management practices (BMPs) and adaptive management actions that will be implemented to reduce water quality impacts associated with Project-related sediment release activities;
- Documentation of consultation with CDFW, USFWS, BLM, and State Water Board staff, consulting agencies' comments and recommendations made in connection with the Sediment Passage Plan, and a description of how the Sediment Passage Plan incorporates or addresses the comments and recommendations; and
- Format and schedule for reports to document, summarize, and analyze monitoring results. Reports shall at a minimum: 1) provide all water quality monitoring data collected; 2) summarize the monitoring data; 3) analyze monitoring results, identify any impacts to aquatic resources and water quality due to sediment release activities; 4) discuss adaptive management measures implemented to reduce impacts to water quality and aquatic resources during sediment release activities; 5) identify additional measures that may be implemented to reduce impacts, if appropriate.

The Licensee shall file with FERC the Deputy Director-approved Sediment Passage Plan and any approved amendments thereto. The Licensee shall implement the Sediment Passage Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any revisions to the Sediment Passage Plan must be approved by the Deputy Director prior to implementation.

If reporting demonstrates Project-related sediment release activities are in compliance with water quality objectives, monitoring efforts may be modified or suspended upon approval by the Deputy Director. The Licensee must submit a request to cease or modify monitoring and provide associated information to support the request.

### **5(B) Erosion Control**

No later than one year following license issuance, the Licensee shall submit an Erosion Control Plan (Erosion Plan) to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The goal of the Erosion Plan is to minimize Project-related erosion and sedimentation impacts associated with operations of the Project facilities (such as flowlines and forebays). The Erosion Plan shall be developed in consultation with CDFW, USFWS, BLM, and State Water Board staff. Condition 5(B) provisions may be incorporated into the Sediment Passage Plan required in Condition 5(A), if desired by the Licensee.

At a minimum, the Erosion Plan shall include:

- Protocols for reducing erosion and sediment releases into surface waters associated with potential failure of Project flowlines or forebays;

- Initial and periodic assessment and monitoring of Project flowlines and forebays by a qualified engineering geologist;
- Identification of spill and leakage locations that need treatment and the measures that will be implemented to prevent erosion and sedimentation into surface waters;
- Criteria for prioritizing and ranking spill and leakage locations for treatment, and an associated schedule for treating each site;
- Anticipated maintenance activities to ensure the long-term and ongoing effectiveness of the measures implemented to address Project-related impacts from spills and leakage, including the timing and frequency of such actions;
- Implementation and effectiveness monitoring;
- Documentation of consultation with CDFW, USFWS, BLM, and State Water Board staff, comments and recommendations made as part of consultation, and a description of how the Erosion Plan incorporates or addresses the comments and recommendations; and
- Format and schedule for reports to document, summarize, and analyze monitoring results and make recommendations. Reports shall include identification of any potential concerns, an assessment of the effectiveness of implemented measures, and any proposed modifications to better address Project-related impacts. Reports shall be submitted to CDFW, USFWS, BLM, and State Water Board staff. The Deputy Director may require implementation of additional monitoring or other actions in response to the information provided in the monitoring reports.

Any modifications to the Erosion Plan require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC the Deputy Director-approved Erosion Plan, any approved amendments thereto, and any additional Deputy-Director required actions. The Licensee shall implement the Erosion Plan, any amendments thereto, and any additional required actions upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein.

### **5(C) Construction and Maintenance**

When applicable, the Licensee shall comply with the State Water Board's *General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit)<sup>8</sup> (State Water Board 2009), and amendments thereto. For construction and maintenance activities with the potential to impact water quality or beneficial uses that are not subject to the Construction General Permit and/or that are not covered by another condition of this certification, the Licensee shall prepare and implement site-specific Water Quality Monitoring and Protection Plans (WQMP Plans) for Deputy Director review and consideration of approval. At a minimum, the WQMP Plans must demonstrate compliance with sediment and turbidity water quality

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<sup>8</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 amendments thereto.

objectives in the Basin Plan (*Central Valley Regional Water Board 2018*). The WQMP Plans shall be consistent with the Water Resources Best Management Practices identified in Appendix L of BLM's *Proposed Resources Management Plan & Final Environmental Impact Statement* or as otherwise updated by BLM (BLM 2012).

The Licensee shall submit WQMP Plans to the Deputy Director for review and consideration of approval at least 120 days prior to the desired start date of the applicable construction or maintenance activity. The objective of the WQMP Plans shall be to identify and implement control measures for construction, maintenance, or other activities with the potential to cause erosion, stream sedimentation, fugitive dust, soil mass movement, release of hazardous materials, or other water quality impairment.

WQMP Plans shall be based on actual site geologic, soil, and groundwater conditions, and at a minimum shall include:

- A description of site conditions and the proposed activity;
- Detailed descriptions, design drawings, and specific topographic locations of all control measures in relation to the proposed activity, which may include:
  - Measures to divert runoff away from disturbed land surfaces;
  - Measures to collect and filter runoff from disturbed land surfaces, including sediment ponds;
  - Measures to dissipate energy and prevent erosion;
- Revegetation measures for disturbed areas, which shall include use of native plants and locally-sourced plants and seeds; and
- A monitoring, maintenance, and reporting schedule.

The Deputy Director may require modifications as part of any approval. The Licensee shall file with FERC the Deputy Director-approved WQMP Plans, and any approved amendments thereto. The Licensee shall implement the WQMP Plans upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein.

#### **CONDITION 6. Stream Gages**

The Licensee shall implement SCE's *Stream Gaging Monitoring Plan* as submitted to FERC on December 23, 2019 (SCE 2019) with the following modifications:

If a deviation occurs regarding compliance with MIF (Condition 2) or ramping rate (Condition 4) requirements, the Licensee shall file a report with the Deputy Director and FERC no later than 30 days following the date that the data becomes available indicating the deviation<sup>9</sup>. The report shall, to the extent possible, identify the cause, severity, and duration of the deviation, any environmental impacts resulting from the

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<sup>9</sup> This requirement is in addition to the requirements to report MIF deviations as outlined in Condition 2.

deviation, a description of the measures implemented to correct the deviation, and the measures the Licensee implemented or proposes to ensure deviations do not recur.

The Deputy Director reserves the right to modify or approve modifications to the requirements referenced in this condition. Modification to the *Stream Gaging Monitoring Plan* require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC any Deputy Director-approved modifications to the *Stream Gaging Monitoring Plan*. The Licensee shall implement any Deputy Director-approved modifications to the *Stream Gaging Monitoring Plan* upon receipt of Deputy Director and any other required approvals.

## **CONDITION 7. Monitoring and Adaptive Management**

### **7(A) Fish Population Monitoring**

The Licensee shall implement Southern California Edison's Proposed Fish Population Monitoring Plan (FPMP) as submitted to FERC on December 23, 2019 (SCE 2019) with the modifications outlined in this condition.

If monitoring activities occurred in the previous year pursuant to this condition, the Licensee shall submit a Fish Population Monitoring Report to the Deputy Director for review and consideration of approval. The report shall be submitted to the Deputy Director a minimum of 30 days prior to the annual meeting (Condition 12). The Licensee shall provide USFWS, BLM, CDFW, and State Water Board staff a minimum of 60-days to review and comment on the Fish Population Monitoring Report prior to its submission to the Deputy Director. In addition to the items identified in the FPMP, the Fish Population Monitoring Report shall include: 1) identification of any potential Project-related impacts to fish populations; 2) Licensee-proposed adaptive management actions or monitoring plan modifications to address potential Project-related impacts to fish populations based on the monitoring results; and 3) comments and recommendations made by USFWS, BLM, CDFW, and State Water Board staff on the Fish Population Monitoring Report along with a description of how the report incorporates or addresses the comments and recommendations. The Deputy Director may require modifications to the FPMP, including actions to address potential Project-related impacts to fish populations, based on the report. The Licensee shall file with FERC the Deputy Director-approved Fish Population Monitoring Report, together with any required FPMP modifications.

Any modifications to the FPMP shall be approved by the Deputy Director prior to implementation. The Licensee shall file with FERC any Deputy Director-approved modifications to the FPMP. The Licensee shall implement any Deputy Director-approved modifications to the FPMP upon receipt of Deputy Director and any other required approvals.

### **7(B) Kaweah No. 1 Flowline Entrainment Monitoring**

No later than 18 months following issuance of the new FERC license, SCE shall complete entrainment sampling at the Kaweah No. 1 Flowline consistent with the

approach described in the Revised AQ 9 – Entrainment Technical Study<sup>10</sup> (filed with FERC on December 11, 2018) with the modifications outlined in this condition.

No later than six months following the completion of Kaweah No. 1 Flowline entrainment sampling, the Licensee shall submit a Kaweah No. 1 Flowline Entrainment Report to the Deputy Director for review and consideration of approval. The Deputy Director may require modifications to the report or other actions based on the study results. The Licensee shall provide CDFW and State Water Board staff a minimum of 30-days to review and comment on the Kaweah No. 1 Flowline Entrainment Report prior to its submission to the Deputy Director. The report shall include: 1) a summary of sampling results including identification of entrainment numbers in the Kaweah No. 1 Flowline; 2) Licensee proposed adaptive management actions to address potential fish entrainment impacts of the Kaweah No. 1 Flowline, if any, based on monitoring results; and 3) comments and recommendations made by CDFW and State Water Board staff on the report along with a description of how the report incorporates or addresses the comments and recommendations. The Licensee shall file the Deputy Director-approved Kaweah No. 1 Flowline Entrainment Report, together with any required adaptive management actions, with FERC. The Licensee shall implement any Deputy Director-approved modifications to the Kaweah No. 1 Flowline Entrainment Report upon receipt of Deputy Director and any other required approvals.

### **7(C) Water Temperature Monitoring**

The Licensee shall implement SCE's Water Temperature Monitoring Plan (WTMP) as submitted to FERC on December 23, 2019 (SCE 2019) with the modifications outlined in this condition.

If monitoring activities occurred in the previous year pursuant to this condition, the Licensee shall submit a Water Temperature Monitoring Report to the Deputy Director for review and consideration of approval. The report shall be submitted to the Deputy Director a minimum of 30 days prior to the annual meeting (Condition 12). The Licensee shall provide Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) and State Water Board staff a minimum of 60-days to review and comment on the Water Temperature Monitoring Report prior to its submission to the Deputy Director. The Water Temperature Monitoring Report shall include: 1) water temperature data collected; 2) identification of any potential Project-related water temperature impacts; 3) Licensee-proposed adaptive management actions or monitoring plan modifications to address potential Project-related water temperature impacts based on monitoring results; and 4) comments and recommendations made by commenting agency staff on the Water Temperature Monitoring Report along with a description of how the report incorporates or addresses the comments and recommendations. The Deputy Director may require modifications

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<sup>10</sup> This document was last accessed on April 8, 2021 and can be accessed (FERC Accession Number 20181212-5130) at:  
[https://elibrary.ferc.gov/eLibrary/filelist?document\\_id=14728021&optimized=false](https://elibrary.ferc.gov/eLibrary/filelist?document_id=14728021&optimized=false)

to the WTMP, including actions to address potential Project-related water temperature impacts, based on the report. The Licensee shall file with FERC the Deputy Director-approved Water Temperature Monitoring Report, together with any required modifications.

Any modifications to the WTMP require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC any Deputy Director-approved amendments to the WTMP. The Licensee shall implement any Deputy Director approved amendments to the WTMP upon receipt of Deputy Director and any other required approvals.

#### **7(D) Water Quality Monitoring**

The Licensee shall implement SCE's *Water Quality Monitoring Plan* (WQMP) as submitted to FERC on December 23, 2019 (SCE 2019) with the modifications outlined in this condition.

If monitoring activities occurred in the previous year pursuant to this condition, the Licensee shall submit a Water Quality Monitoring Report to the Deputy Director for review and consideration of approval. The report shall be submitted to the Deputy Director a minimum of 30 days prior to the annual meeting (Condition 12). The Licensee shall provide Central Valley Regional Water Board and State Water Board staff a minimum of 60 days to review and comment on the Water Quality Monitoring Report prior to its submission to the Deputy Director. The Water Quality Monitoring Annual Report shall include: 1) water quality data collected; 2) identification of any potential Project-related water quality impacts; 3) Licensee proposed adaptive management actions or monitoring plan modifications to address potential Project-related water quality impacts based on monitoring results; and 4) comments and recommendations made by Central Valley Regional Water Board and State Water Board staff on the Water Quality Monitoring Report along with a description of how the report incorporates or addresses the comments and recommendations. The Deputy Director may require modifications to the WQMP, including implementation of actions to address Project-related water quality impacts, based on the report. The Licensee shall file with FERC the Deputy Director-approved Water Quality Monitoring Report, together with any required WQMP modifications.

Any modifications to the WQMP require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC any Deputy Director-approved amendments to the WQMP. The Licensee shall implement any Deputy Director-approved amendments to the WQMP upon receipt of Deputy Director and any other required approvals.

#### **CONDITION 8. Real-Time Flow Information**

The Licensee shall implement SCE's Dissemination of Real-Time Flow Information Measure as submitted to FERC on December 23, 2019 (SCE 2019) with the modifications outlined in this condition.



Any modifications to the Real-Time Flow Information Measure require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC any Deputy Director-approved amendments to the Dissemination of Real-Time Flow Information Measure. The Licensee shall implement any Deputy Director-approved amendments to the Dissemination of Real-Time Flow Information Measure upon receipt of Deputy Director and any other required approvals.

**CONDITION 9. Hazardous Materials**

No later than one year following license issuance, the Licensee shall submit a Hazardous Substances Plan to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The Hazardous Substances Plan shall address the storage, spill prevention, cleanup, and disposal of oil and hazardous substances associated with Project activities. The Licensee shall consult with Central Valley Regional Water Board, BLM, and State Water Board staff in the development of the plan. At a minimum, the Hazardous Substances Plan shall include:

- The Licensee's plan to maintain in the Project area a cache of spill cleanup equipment suitable to contain any Project spill;
- Periodic reporting to inform the State Water Board and Central Valley Regional Water Board of the location of the spill cleanup equipment and of the location, type, and quantity of oil and hazardous substances stored in the Project area;
- Immediate reporting to the State Water Board, Central Valley Regional Water Board, and other relevant agencies of the magnitude, nature, time, date, location, and action taken for any spill;
- A monitoring and reporting component that details water quality monitoring and corrective measures to reduce water quality impacts that will be taken if spills occur, as well as information on how hazardous substances will be properly disposed of once their useful life has past or as part of cleanup activities;
- Evaluation of any release and cleanup of hazardous substances. This evaluation shall be completed no later than 120 days after the release and include consultation with the agencies and a report submitted to the Deputy Director with any proposed updates to plan; and
- Documentation of consultation with BLM, Central Valley Regional Water Board, and State Water Board staff, including comments and recommendations made in connection with the plan, and a description of how the plan incorporates or addresses the comments and recommendations.

The Deputy Director may require implementation of additional actions in response to the information provided as part of a report following a release or other information indicating a threat to water quality or beneficial uses. Any modifications to the Hazardous Substances Plan require approval by the Deputy Director prior to implementation. The Licensee shall file with FERC the Deputy Director-approved Hazardous Substances Plan, any amendments thereto, and any additional Deputy Director-required actions. The Licensee shall implement the Deputy Director-approved

Hazardous Substances Plan, any amendments thereto, and any additional required actions upon receipt of Deputy Director and any other required approvals.

**CONDITION 10. Road and Trail Management**

No later than one year following issuance of the new FERC license, the Licensee shall submit a Road and Trail Management Plan to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The objective of the Road and Trail Management Plan is to ensure the maintenance of Project roads and trails in a manner that is protective of water quality. The Licensee shall develop the Road and Trail Management Plan in consultation with State Water Board, Central Valley Regional Water Board, and BLM staff.

At a minimum, the Road and Trail Management Plan shall include:

- 1) The material elements of SCE's Project Road and Trail Management Plan (SCE 2019) except as modified during consultation;
- 2) An inventory and map of all roads and trails associated with the Project, including locations of drainage structures, streams, and surface water bodies;
- 3) An assessment of Project roads and trails to determine if any drainage structures or road segments are impacting or have the potential to impact water quality;
- 4) Proposed measures and an implementation schedule to: 1) rehabilitate or upgrade existing roads and trails; and 2) minimize erosion from Project roads and trails. The Licensee shall consider developing the measures consistent with the Water Resources Best Management Practices identified in Appendix L of BLM's *Proposed Resources Management Plan & Final Environmental Impact Statement* or as otherwise updated by BLM (BLM 2012);
- 5) A schedule and plan for inspection and maintenance of Project roads and trails throughout the term of the new FERC license and any extensions; and
- 6) Documentation of consultation with State Water Board, Central Valley Regional Board, and BLM staff including consulting agencies' comments and recommendations made in connection with the Road and Trail Management Plan, and a description of how the Road and Trail Management Plan incorporates or addresses the comments and recommendations.

The Licensee shall file with FERC the Deputy Director-approved Road and Trail Management Plan and any approved amendments thereto. The Licensee shall implement the Road and Trail Management Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any revisions to the Road and Trail Management Plan must be approved by the Deputy Director prior to implementation.

**CONDITION 11. Extremely Dry Conditions**

In the event of extremely dry conditions, which may include a year in which the Governor of the State of California or Tulare County Board of Supervisors declares a

drought emergency for Tulare County, the Licensee may request modification of the flow and related requirements of this certification. If the Licensee anticipates that it may request modification pursuant to this condition, the Licensee shall notify CDFW, USFWS, BLM, and the Deputy Director of the Licensee's concerns related to flows and related requirements as early as possible. If the Licensee requests modification pursuant to this condition, the Licensee shall develop a Revised Operations Plan in consultation with the agencies listed above and State Water Board staff for flows during the extremely dry conditions.

The Licensee shall provide interested parties with notice of the proposed Revised Operations Plan at least seven days prior to submittal to the Deputy Director. Whenever possible, the Licensee shall provide an opportunity for interested parties to comment on the proposed Revised Operations Plan prior to submittal to the Deputy Director, and provide such comments to the Deputy Director as part of submittal of the Revised Operations Plan. At a minimum, the Licensee's request shall include: proposed water diversion amounts, ramping rate changes, alternative MIFs, and beneficial uses that will benefit from the proposed changes; a timeline for the return to regular operations; proposed monitoring for the revised operations, including an estimation of any impacts the revised operations may have on any beneficial uses of water; identification of measures to reasonably protect beneficial uses under the circumstances; and proposed water conservation measures that will be implemented. If conservation measures are not applicable, the Licensee shall describe the circumstances and justification for not implementing water conservation measures.

The Licensee shall submit the proposed Revised Operations Plan to the Deputy Director for review and consideration for approval. The Licensee shall also provide a summary of any comments received and how the comments were addressed. The Deputy Director may require modifications to the Revised Operations Plan as part of any approval. The Licensee may implement the Revised Operations Plan upon receipt of Deputy Director and other required approvals, in accordance with the schedule and requirements specified therein. The Licensee shall file with FERC the Deputy Director-approved Revised Operations Plan, and any approved amendments thereto.

#### **CONDITION 12. Annual Consultation and Technical Review Group**

No later than one year following issuance of the new FERC license, the Licensee shall establish a Technical Review Group (TRG) and host annual meetings in June, unless otherwise agreed to by the TRG, regarding implementation of the Project license. At a minimum, representatives from the State Water Board, CDFW, USFWS, BLM, and interested tribes and nongovernmental organizations (TRG members) shall be invited to participate in the TRG. The annual meeting shall be noticed at least 30 days in advance to the TRG members, the Licensee's Project interested parties email list, and on the Licensee's Project webpage. The annual meeting shall be open to the public. The TRG shall establish communication protocols to facilitate interactions between TRG members and other participants that allow for open participation and communication between all parties. The first TRG meeting shall be held in the first full calendar year following license issuance.

At the annual meetings, the TRG shall:

- 1) Review the status of implementing license and certification conditions;
- 2) Review monitoring data from all monitoring conducted the previous year and monitoring planned for the coming year (i.e., at least the next 12 months following the TRG meeting);
- 3) Review prior year's maintenance activities and planned routine and non-routine maintenance for the coming year;
- 4) Review prior year's changes and discuss foreseeable changes to Project facilities or features in the coming year and beyond;
- 5) Discuss necessary revisions or modifications to plans related to the certification; and
- 6) Discuss:
  - a) Needed protection measures for species newly listed or proposed special status species;
  - b) Changes to existing plans for actions that may no longer be necessary due to delisting of a species; and
  - c) Changes to existing plans to incorporate new information about species requiring protection.

Materials shall be provided to TRG members at least 30 days prior to the annual meeting. The Licensee shall submit a report to State Water Board staff that summarizes the annual consultation meeting no later than 60 days following the annual consultation meeting.

### **CONDITIONS 13 – 36**

**CONDITION 13.** Notwithstanding any more specific conditions in this certification, the Licensee shall comply with all mitigation measures, monitoring, and reporting requirements described in the Mitigation, Monitoring, and Reporting Program (Attachment C).

**CONDITION 14.** Notwithstanding any more specific provision of this certification, any plan 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 proposal, plan, or report prior to approval. The State Water Board may take enforcement action if the Licensee 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 Licensee shall submit a written request for the extension, with justification, to the Deputy Director no later than 60 days prior to the deadline. The Licensee shall file with FERC any Deputy Director-approved time extensions. The Licensee shall not implement any plans or reports until after receiving Deputy Director approval and any other necessary regulatory approvals.

**CONDITION 15.** 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 continued operation of the Project 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; (4) to coordinate the operations of this Project and other hydrologically connected water development projects, where coordination of operations is reasonably necessary to meet water quality objectives and protect beneficial uses of water; and (5) to require additional monitoring and/or other measures, as needed, to ensure that continued Project operations meet water quality objectives and protect beneficial uses.

**CONDITION 16.** Future changes in climate projected to occur throughout the term of the new FERC license may significantly alter the assumptions used to develop the conditions of this certification. The State Water Board reserves authority to add to or modify the conditions of this certification, to require additional monitoring and/or other measures, as needed, to verify that Project operations meet water quality objectives and protect the beneficial uses assigned to Project-affected stream reaches.

**CONDITION 17.** 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 18.** This certification is contingent on compliance with all applicable requirements of the Basin Plan.

**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 Licensee shall take all reasonable measures to protect the beneficial uses of the Kaweah River and East Fork Kaweah River.

**CONDITION 20.** 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 21.** 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 & 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 Licensee, the Licensee 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 Licensee is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

**CONDITION 22.** The Licensee shall submit any change to the Project, including operations, facilities, technology changes or upgrades, or methodology, 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. The State Water Board shall determine significance and may require consultation with 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. If such a change would also require submission to FERC, the change must first be submitted and approved by the Executive Director of the State Water Board unless otherwise delegated in this certification or other State Water Board approval.

**CONDITION 23.** 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 24.** 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 25.** This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Licensee 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 26.** 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 27.** Upon request, a construction schedule shall be provided to agency staff. The Licensee shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

**CONDITION 28.** 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(s). The Licensee shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project related work.

**CONDITION 29.** Onsite containment for storage of chemicals classified as hazardous shall be away from watercourses and include secondary containment and appropriate management as specified in California Code of Regulations, title 27, section 20320.

**CONDITION 30.** Activities associated with operation and maintenance of the Project that threaten or potentially threaten water quality shall be subject to further review by the Deputy Director and Executive Officer of the Central Valley Regional Water Board.

**CONDITION 31.** 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 32.** This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to 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 33.** 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 34.** This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

**CONDITION 35.** The Licensee shall ensure no net loss of wetland or riparian habitat functions and is responsible for their own compliance with the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (State Water Board 2019) and the California Wetlands Conservation Policy (Governor's Executive Order W-59-93 (Aug. 23, 1993)), and any amendments thereto.

**CONDITION 36.** The Licensee shall comply with the terms and conditions in the State Water Board's Statewide National Pollutant Discharge Elimination System Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from *Algae and Aquatic Weed Control Applications*<sup>11</sup> (State Water Board 2013), and ongoing amendments during the life of the Project.



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Eileen Sobeck  
Executive Director

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June 4, 2021  
Date

- Attachment A – Overview Map of Kaweah Project
- Attachment B – Project Description
- Attachment C – Mitigation, Monitoring, and Reporting Program

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<sup>11</sup> Water Quality Order No. 2013-0002-DWQ and NPDES No. CAG990005, as amended by Order No. 2014-0078-DWQ, Order No. 2015-0029-DWQ, Order No. 2016-0073-EXEC, and any amendments thereto. Available at: [https://www.waterboards.ca.gov/water\\_issues/programs/npdes/pesticides/weed\\_control.html](https://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/weed_control.html). Last accessed May 24, 2021.



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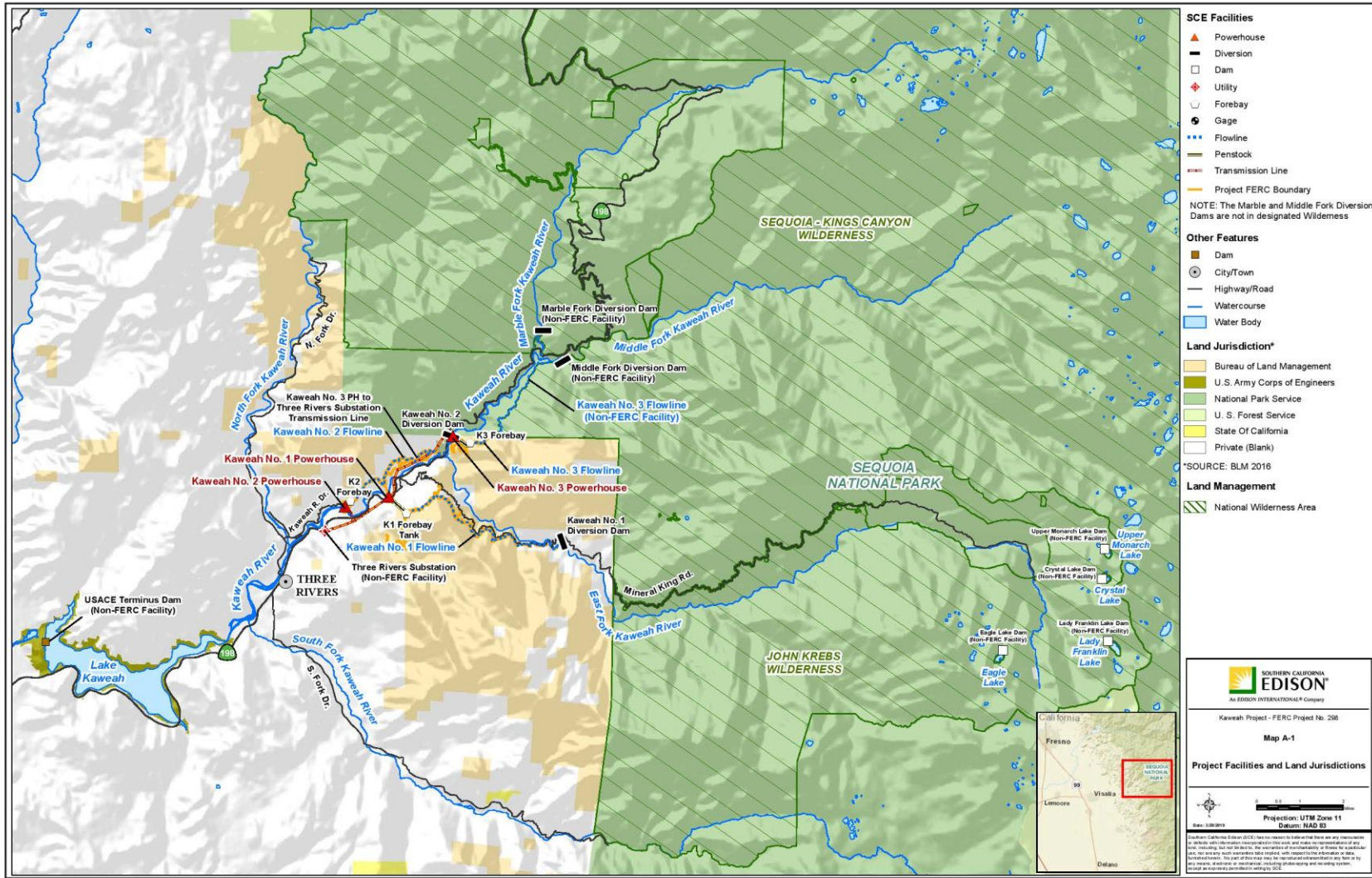
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**ATTACHMENT A**  
**OVERVIEW MAP OF THE KAWEAH PROJECT**



Overview Map of the Kaweah Project

**ATTACHMENT B**  
**PROJECT DESCRIPTION**

The Kaweah Project (Project) consists of three developments (Kaweah No. 1, Kaweah No. 2, and Kaweah No. 3) which include two diversion dams, three flowlines, and three powerhouses as summarized below:

- Kaweah No. 1 development which is located on the East Fork Kaweah River and includes: (1) a six-foot high, 20-foot wide overflow concrete dam; (2) a 30,723 foot-long steel flume with a maximum diversion capacity of 24 cubic feet per second (cfs); (3) a 24-foot diameter steel forebay tank with a capacity of 0.18 acre-feet (ac-ft); (4) a 3,340 foot-long buried steel penstock; and (5) a 2.25 megawatt (MW) powerhouse with associated office, maintenance, and storage buildings.
- Kaweah No. 2 development which is located on the Kaweah River and includes: (1) a seven-foot high, 161-foot wide masonry overflow dam; (2) a 21,607 foot-long flowline (16,738 feet of concrete ditch, 3,822 feet of steel flume, and 1,047 feet of 50-inch diameter steel pipe) that parallels the north side of the Kaweah River with a maximum diversion capacity of 87 cfs; (3) a 180-foot-by-13-foot forebay with a capacity of 0.75 ac-ft; (4) a 1,012-foot long buried steel penstock; and (5) a 1.8 MW powerhouse with associated river access parking area consisting of five regular and one handicapped parking spots.
- Kaweah No. 3 development which is located on the Kaweah River and includes: (1) a 2,975 foot-long segment of the concrete box flume flowline with a maximum diversion capacity of 97 cfs; (2) an embankment concrete forebay with a capacity of 11 ac-ft; (3) a 3,151-foot long buried steel penstock; and (4) a 4.8 MW powerhouse.

SCE owns and operates other facilities in the Kaweah River system that are not part of the Project. In relation to Kaweah No. 1 development, SCE operates four small reservoirs (Eagle Lake, Lady Franklin Lake, Crystal Lake, and Upper Monarch Lake within the Sequoia National Park (SNP) (collectively referred to as the Mineral King Lakes)) that release water during the late summer and fall months to augment flows in the East Fork Kaweah River. In relation to Kaweah No. 3 development, SCE operates Middle Fork Diversion Dam and Marble Fork Diversion Dam that divert water from the Middle Fork and Marble Fork of the Kaweah River to the Kaweah No. 3 Flowline. These portions of the Kaweah No. 1 and Kaweah No. 3 developments are located within the SNP and are currently operated under a Special Use Permit (Permit Number PWR-SEKI-6000-2016-015) issued to SCE by the National Park Service. The current Special Use Permit expires on September 8, 2026, and will require a separate Clean Water Act Section 401 water quality certification prior to renewing its operations. Since these portions of Kaweah No. 1 and No. 3 developments are not part of the Project, they are not addressed in this water quality certification.

In addition to continued operations, the Project includes the following changes: 1) Increased minimum instream flows and ramping rate adjustments; 2) Modifications to the Project boundary; and 3) additional Project maintenance activities and recreation enhancements at the Kaweah No. 2 Powerhouse River Access Parking Area.

Additional information on the Project facilities, current operations, and proposed operations can be found in Exhibit E of SCE's 2019 Final License Application (SCE 2019).

**ATTACHMENT C**  
**MITIGATION, MONITORING, AND REPORTING PROGRAM**



## **Introduction**

The State Water Resources Control Board (State Water Board) prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in response to Southern California Edison Company's (SCE) application for a water quality certification for continued operation and maintenance of the Kaweah Project (Project) as part of relicensing the Project through the Federal Energy Regulatory Commission (FERC; Project No. 298). The Project includes modification to existing operations, new and modified environmental measures, management and monitoring plans, modification to the existing FERC project boundary, facility enhancements, and additional maintenance activities.

This Mitigation, Monitoring, and Reporting Program (MMRP) has been prepared in conformance with the California Environmental Quality Act (CEQA) (Public Resources Code, section § 21081.6000 *et seq.*) and section 15097 of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*) section 15097.

## **Organization**

As shown in the following table, each mitigation measure for the Project is listed and categorized by resource area, with identification of:

- Mitigation Measure identification;
- Actions required as mitigation; and
- Implementation Schedule – The phase of the Project during which the mitigation measures shall be monitored.

The responsible party for implementing each mitigation measure and providing verification of implementation is SCE. SCE shall maintain records demonstrating compliance with each mitigation measures. Such record shall be made available to the State Water Board upon request.

Mitigation Measure	Implementation Schedule
<b>Water Quality and Biological Resources</b>	
<p><b>Bio-1: Water Delivery Prioritization Adaptive Management Measure.</b></p> <p>A. During low-flow conditions in the Kaweah River and East Fork Kaweah River, SCE shall not prioritize water deliveries over minimum instream flows (MIFs) in the Kaweah River downstream of the Kaweah No. 2 Diversion, or in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion (Table 2-6 and 2-7) unless SCE implements the following measures:</p> <ul style="list-style-type: none"> <li>• Not divert water for power generation at the associated powerhouse.</li> <li>• Initiate prioritization at the Kaweah No. 1 Diversion, only after such time that available storage in the Mineral King Lakes has been released to meet water delivery and MIFs competing requirements.</li> <li>• Operate flow-measurement devices to record the amount of flow in the associated flowline and in the river.</li> <li>• Inspect the domestic water supply intakes and record deliveries to water user manifolds.</li> <li>• Keep average daily stream flow in the Kaweah River downstream of the Kaweah No. 2 Diversion at or above 9.5 cubic feet per second (cfs) or the minimum flow in Table 2–6, whichever is less, or in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion at or above 5.0 cfs.</li> </ul> <p>B. Until the Adaptive Management Plan is approved (see below), SCE must request and receive approval from the Deputy Director prior to reducing flows below the levels authorized in Section A. During approved reduction periods, SCE will collect water quality and flow data. The data will be provided to the State Water Board weekly throughout the duration of the approved reduced flow period.</p>	<p>During Project Operations</p>

<b>Mitigation Measure</b>	<b>Implementation Schedule</b>
<ul style="list-style-type: none"> <li>• Water quality and flow monitoring will occur a minimum of 24 hours prior to the flows dropping below 9.5 cfs or the minimum flow, whichever is less (Kaweah River), or 5.0 cfs (East Fork Kaweah River), to the extent possible based on forecasting, to establish baseline conditions. Monitoring shall continue for a minimum of 24 hours after flows meet or exceed the target flows identified above.</li> <li>• Water quality parameters shall at a minimum include water temperature, turbidity, and dissolved oxygen.</li> <li>• Locations shall include sites: 1) below Kaweah No. 1 Diversion Dam on the East Fork Kaweah River; 2) below Kaweah No. 2 Diversion Dam on the Kaweah River; 3) below Kaweah No. 1 Powerhouse; and 4) below Kaweah No. 2 Powerhouse. Exact monitoring locations shall be selected in consultation with the State Water Board.</li> <li>• Monitoring shall occur at a maximum of 15-minute intervals.</li> <li>• Reporting: Within 30 days of the instream flow in the Kaweah River downstream of the Kaweah No. 2 Diversion and in the East Fork Kaweah River downstream of the Kaweah No. 1 Diversion returning to 9.5 cfs or the minimum flow / 5.0 cfs, respectively, SCE shall submit a Water Diversion Report to the Deputy Director. The Water Diversion Report shall: 1) provide all water quality and flow data collected; 2) summarize the monitoring data; and 3) based on monitoring results, identify any impacts to aquatic resources, water quality, and riparian habitat due to reducing MIFs for water deliveries.</li> </ul> <p>C. Within two years of license issuance, SCE will collaborate with State Water Board, California Department of Fish and Wildlife (CDFW), and representatives of the water users in the development of an Adaptive Management Plan (Plan). The Plan will inform decision making regarding further reductions in stream flows to levels below those authorized in Section A. The Plan also will identify any appropriate measures to protect aquatic resources (such as hardhead), riparian habitat, and water quality and ensure compliance with the Tulare Basin Plan’s water quality objectives. At a minimum, the Adaptive Management Plan shall include:</p>	

<b>Mitigation Measure</b>	<b>Implementation Schedule</b>
<ul style="list-style-type: none"> <li>• Procedures for consulting with State Water Board, CDFW, and water users during low-flow conditions in the Kaweah River and East Fork Kaweah River;</li> <li>• Notification of low-flow periods and voluntarily reductions of water deliveries by water users for a short duration;</li> <li>• Adjustments to instream flows related to prioritization of water deliveries;</li> <li>• Identify potential improvements to SCE’s water delivery infrastructure that may reduce the amount of water needed for deliveries, including an assessment of the feasibility, utility, cost-benefit and cost-effectiveness of any such potential improvements;</li> <li>• Refinement/verification of the minimum amount of conveyance water necessary to make deliveries to the water users during low flow periods. Use this information to guide future water user deliveries; and</li> <li>• Monitoring and reporting, including a report on adaptive management measures taken, to the Deputy Director within 30 days of the conclusion of the low-flow condition.</li> </ul> <p>Until the Adaptive Management Plan is approved by the Deputy Director, SCE must request and receive approval from the Deputy Director prior to reducing instream flows below levels authorized in Section A.</p>	
<b>Tribal Cultural Resources</b>	
<p><b>TCR -1: Implementation of Historic Properties Management Plan</b></p> <p><b>Implementation Schedule: During Project Operations</b></p> <p>During regular maintenance and operations, if a resource is encountered and may be a Tribal Cultural Resource (TCR) as defined by the Public Resources Code, Section 20174; as appropriate, avoidance and</p>	<p>During Project Operations</p>

<b>Mitigation Measure</b>	<b>Implementation Schedule</b>
resource protection measures as listed in Section 4.5.3 of the Historic Properties Management Plan shall be implemented.	