STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

LINHOLME PROPERTIES LTD. LINDSEY POND BYPASS FACILITIES PROJECT

SOURCE: Unnamed tributary to Mill Creek, thence Forsythe Creek, thence the Russian River

COUNTY: Mendocino

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

I. Background and Project Description

The Lindsey Pond Bypass Facilities Project (Project), proposed by Linholme Properties Ltd. (Applicant), involves the construction of a passive low-flow bypass system around an existing small embankment dam and reservoir. The Project site is located approximately 10 miles northwest of the City of Ukiah, in Mendocino County, California. The Project is in the southeast portion of Linholme Properties Ltd., approximately four miles east of Highway 101 on Reeves Canyon Road. The Project is small, affecting approximately 260 square feet (about 0.006 acres) of channel.

The Applicant is the owner of Water Right Permit nos. 21380 and 21381 (Applications 31059 and 31060, respectively). Permit no. 21380 limits the water that can be beneficially used for frost protection to 2.04 cubic feet per second (cfs) by direct diversion between March 15 to March 31 of each year, and the maximum amount diverted to 5.0 acre-feet per year. Permit no. 21381 limits the quantity of water that may be stored to 17.0 acre-feet per year, to be collected between December 15 and March 31, with the following beneficial uses on 22 acres: irrigation, frost protection, and heat control.

The installation of the bypass system is a requirement of the water rights permits. Both permits authorize diversion of water, via use of passive bypass devices, from the unnamed streams, if the flow is at or above 0.71 cfs, as determined at the point of

diversion. The *Policy for Maintaining Instream Flows in Northern California Coastal Streams*¹ (Policy) establishes principles and guidelines for maintaining instream flows for the protection of fishery resources, while minimizing water supply impacts on other beneficial uses of water, such as irrigation, municipal use, and domestic use. The Policy prescribes protective measures regarding minimum bypass flow, including the maintenance of the February median flow (FMF). The Applicant prepared a Bypass Compliance Plan for the Project to ensure that the FMF bypass will be maintained during the diversion seasons, as required in Permit nos. 21380 and 21381.

Project Construction

The Project includes the construction of three small, concrete, v-notch weirs, one on each of three unnamed streams to facilitate the bypass of flows around the reservoir when flows are less than or equal to the required bypass flow of 0.71 cfs. The minimum flows required by the water rights permits were set for the benefit of instream resources in the unnamed stream downstream of the dam and reservoir. The weir structures will be approximately 2.5 feet in height and 10- to 20-feet in length. Depending on the unnamed tributary, approximately 50 to 100 square feet of each channel will be disturbed during construction of each of the three weir structures. Water will flow over each weir and into chambers from which bypass conveyance pipelines (4-inch or 6-inch diameters) will convey the water. The bypass conveyance pipelines will convey flow by gravity around the reservoir and release the water into the existing dam spillway. Upstream flows in excess of the bypass amount (i.e., 0.71 cfs) will spill into the reservoir. As shown in the attached figure titled "Pond Bypass Plan":

- The diversion structures for the "west" and "middle" tributaries will divert flow into 4-inch diameter polyvinyl chloride (PVC) pipes. These pipes will join near the west tributary, and a 6-inch diameter pipe about 520 feet in length will convey the combined flow around the reservoir for discharge into the dam spillway.
- The diversion structure for the "east" tributary will divert flow into a 6-inch diameter PVC pipe about 330 feet in length that will convey flow around the easterly side of the reservoir for discharge into the dam spillway.

Most excavation is expected to be done using hand tools. However, a backhoe may be used where there is sufficient access to the work areas. A concrete pumper truck will bring concrete to the Project site. Approximately 4–5 cubic yards of concrete will be needed.

Construction Schedule

Work activities in the channel will be completed in the summer months (July through September), when the streams are expected to be dry and there is a minimal chance of precipitation.

¹ The Policy (effective February 4, 2014) implements Water Code section 1259.4, which was added by Assembly Bill 2121 (Stats. 2004, ch. 943, § 3).

II. <u>Regulatory Authority</u>

Water Quality Certification and Related Authorities

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

Section 401 of the CWA (33 U.S.C. § 1341) requires every applicant for a federal license or permit for any activity that 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 CWA, including water quality standards and implementation plans promulgated pursuant to section 303 of the CWA (33 U.S.C. § 1313). CWA section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the CWA and with any other appropriate requirements of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Board is designated as the state water pollution control agency for all purposes stated in the CWA and any other federal act. (Wat. Code, § 13160.) The State Water Board's Executive Director has been delegated the authority to issue a decision on a certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

Water Code section 13383 provides the State Water Board with the authority to "establish monitoring, inspection, entry, reporting and recordkeeping requirements...and [require] other information as may reasonably be required" for activities subject to certification under section 401 of the CWA 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. 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.

The application for certification was received on July 27, 2018. On August 24, 2018, the State Water Board provided notice of receipt of a complete application for the Project to applicable parties pursuant to California Code of Regulations, title 23, section 3835, subdivision (c). The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858, subdivision (c) by posting information describing the Project on the State Water Board's website on April 29, 2019. No comments were received.

State Water Board staff forwarded the portions of the application that have the potential to cause adverse water quality impacts, other than specific impacts resulting from

alterations to instream flows, to the North Coast Regional Water Quality Control Board (North Coast Regional Water Board) on May 13, 2019. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On May 15, 2019, North Coast Regional Water Board staff responded that they had no comments on the application.

The United States Army Corps of Engineers (ACOE) determined that the Project qualifies for authorization under the Department of the Army Nationwide Permit No. 18 for Minor Discharges and Permit No. 40 for Agricultural Activities, pursuant to Section 404 of the CWA. The ACOE identification number for the Project is 2018-00104N. In February 2018, the California Department of Fish and Wildlife (CDFW) issued the Applicant a Lake or Streambed Alteration Agreement for the Project. The CDFW notification number for the Project is 1600-2017-0670-R1.

Water Quality Control Plans and Related Authorities

The Regional Water Quality Control 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. (Wat. Code, § 13170.) For a specified area, the water quality control plans designate the beneficial uses of water to be protected, the water quality objectives established for the reasonable protection of those beneficial uses or 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 that are contained in the water quality control plans, in addition to state and federal anti-degradation requirements, constitute California's water quality standards.

The North Coast Regional Water Board adopted, and the State Water Board and the USEPA approved, the *Water Quality Control Plan for the North Coast Region* (Basin Plan). The Basin Plan identifies existing beneficial uses for the *Upper Russian River hydraulic area* as: municipal and domestic supply; agricultural supply; industrial service supply; groundwater recharge; navigation; water contact recreation; non-contact water recreation; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened or endangered species; migration of aquatic organisms; and spawning, reproduction, and/or early development. Industrial process supply, hydropower generation, and aquaculture are identified as potential beneficial uses.

Construction General Permit

The State Water Board has adopted a Construction General Permit², which is required for activities that disturb one or more acres of soil or projects 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. Due to the size of the Project, it is not expected that a Construction General Permit will be required.

North Coast Low Threat Discharges General Permit

The North Coast Regional Water Board adopted *Waste Discharge Requirements for Low Threat Discharges to Surface Waters in the North Coast Region*³ (Low Threat Discharge General Permit). Coverage under the Low Threat Discharge General Permit must be obtained prior to a planned, short-term, and/or minimized volume discharge from a definable project that results in a point source discharge to surface waters. The purpose of this Low Threat Discharge General Permit is to regulate low threat discharges from discrete point sources to surface water of the North Coast Region, such as may occur if dewatering is necessary as part of the Project.

California Environmental Quality Act

The State Water Board is the lead agency for the Project for purposes of California Environmental Quality Act (CEQA) compliance (Pub. Resources Code, § 21000 et seq.). The State Water Board evaluated this Project as part of the Applicant's larger project⁴ to appropriate water from Mill Creek, associated with Water Rights Permits nos. 21380 and 21381. The State Water Board adopted a Mitigated Negative Declaration (MND) for the larger project on August 15, 2017, and filed a Notice of Determination (NOD) with the State Clearinghouse on August 16, 2017. The State Water Board determined that the larger project, which includes the proposed Project, has a less than significant effect on the environment. The mitigation measures identified in the MND and incorporated in the Mitigation Monitoring and Reporting Plan are strictly related to the diversion of water and the development of the vineyard. The MND did not identify any mitigation measures related to construction of the bypass facilities.

³ Waste Discharge Requirements Order No. R1-2015-2003, National Pollutant Discharge Elimination System No. CAG0024902 and any amendments thereto.
⁴ The larger project is referred to as Application 31059 and 31060 of Linholme

Properties Ltd. to Appropriate Water by Permit.

² Water Quality Order 2009-0009-DWQ and National Pollutant Discharge Elimination System No. CAS000002, as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ and any amendments thereto.

CDFW filed a NOD for the Project on February 16, 2018. The State Water Board will file a NOD within five days of issuance of this certification.

All documents and other information that constitute the public record for this Project are maintained and available for public review at the State Water Board, Division of Water Rights, 1001 I Street, Sacramento, California 95814.

III. Findings and Conclusion

When preparing the conditions in this certification, State Water Board staff reviewed and considered a wide range of information including the: (a) certification application, including subsequent submissions; (b) the Basin Plan and other State Water Board plans and policies; (c) existing water quality conditions; (d) Project-related controllable factors; (e) CEQA documents; and (f) other information in the record.

In order to ensure that the Project meets water quality standards as anticipated, to ensure compliance with other relevant state and federal laws, and to ensure that the Project will continue to meet state water quality standards and other appropriate requirements of state law throughout its lifetime, this certification imposes conditions regarding monitoring, enforcement, and potential future revisions. Additionally, California Code of Regulations, title 23, section 3860 requires imposition of certain standard conditions for all certifications, which are included in this certification. The State Water Board finds that, with the conditions and limitations imposed by this certification, the Project will be protective of water quality and consistent with other appropriate requirements of state law.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES THAT THE LINDSEY POND BYPASS FACILITIES PROJECT will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of state law, if Linholme Properties Ltd. complies with the following terms and conditions during the project activities certified herein.

- **CONDITION 1.** All proposed environmental measures described in the application for water quality certification (certification), which includes measures identified in California Department of Fish and Wildlife's (CDFW) Streambed Alteration Agreement, are conditions of this certification. Notwithstanding any more specific conditions in this certification, Linholme Properties Ltd. (Applicant) shall comply with all proposed environmental measures, including avoidance and minimization measures and best management practices, described in the certification application.
- **CONDITION 2.** The Applicant shall only conduct instream work in the unnamed tributaries between July 1 and September 30 when the chance of precipitation and subsequent runoff is low. If the Applicant needs to conduct instream work in the unnamed tributaries outside this period, the Applicant may submit a request to the Deputy Director of the Division of Water Rights (Deputy Director) for approval and shall notify CDFW of the request. The Deputy Director may require modifications as part of any approval. The Applicant shall notify CDFW of any Deputy Director approval for instream work outside of the July 1 September 30 timeframe.
- **CONDITION 3.** The Applicant shall comply with all terms of Water Right Permit no. 21380 and Water Rights Permit no. 21381, and any amendments thereto.
- **CONDITION 4.** Prior to a rain event when there is greater than a 50 percent possibility of rain forecasted by the National Weather Service during the next 24 hours, sediment and erosion control best management practices (BMPs) shall be applied to all disturbed areas. Work may continue during precipitation events of less than 0.25 inches within a rolling 24-hour period. Work shall stop when 0.25 inches of rain occurs within a rolling 24-hour period. Work shall not resume until at least 24 hours has passed with no precipitation.
- **CONDITION 5.** The Applicant shall inspect, photograph, and document the condition of the Project area, prior to and after Lindsay Pond Bypass Facilities Project (Project) implementation. Upon completion of Project construction, all access routes, disturbed areas, and any degradation related to Project activities shall be restored to their pre-construction conditions. All disturbed areas shall be seeded with an appropriate native seed mix.
- **CONDITION 6.** The Applicant shall notify the Deputy Director, in writing, prior to commencing construction activities. Upon request, the Applicant shall provide State Water Board staff with a work schedule. The Applicant shall provide State Water Resources Control Board (State Water Board) and North Coast Regional Water

Quality Control Board (North Coast Regional Water Board) staff access to the Project sites to document compliance with this certification.

- **CONDITION 7.** The Applicant shall conduct preconstruction planning and implement all necessary measures to minimize Project impacts on riparian habitat. Prior to construction, the Applicant shall install construction fencing along the outer edges of the construction zone, where necessary, to prevent accidental entry of personnel into riparian habitat and minimize disturbance to the area. Construction fencing shall be maintained in good condition for the duration of Project work and removed within 30 days of Project completion.
- **CONDITION 8.** Within 30 days of Project completion, the Applicant shall submit a Project Completion Report to the Deputy Director. The Project Completion Report shall include:
 - a. Project area documentation and monitoring data;
 - b. Daily Project work summaries;
 - c. Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements; and
 - d. If applicable, details of Project-related adverse impacts to beneficial uses.

The Applicant shall provide any additional information or clarification requested by the Deputy Director related to the Project Completion Report. Upon request from State Water Board staff, the Applicant shall meet to discuss the Project Completion Report.

- **CONDITION 9.** If dewatering becomes necessary during construction, the Applicant shall: (a) use a method of water disposal other than disposal to surface waters (such as land disposal) approved by the North Coast Regional Water Board; (b) apply for coverage under *Waste Discharge Requirements for Low Threat Discharges to Surface Waters in the North Coast Region*⁵; or (c) obtain an individual National Pollutant Discharge Elimination System permit from the North Coast Regional Water Board. The Applicant shall obtain approval or coverage prior to any dewatering activities.
- **CONDITION 10.** Vehicle use in riparian areas and waterways shall be limited to the designated work areas and access routes. Vehicles shall be inspected and maintained daily for leaks.
- **CONDITION 11.** A copy of this certification shall be provided to all contractors and subcontractors conducting Project work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its

⁵ Waste Discharge Requirements Order No. R1-2015-2003, National Pollutant Discharge Elimination System No. CAG0024902 and any amendments thereto.

contractors and subcontractors. The Applicant, including its contractors and subcontractors, shall report any noncompliance with the conditions of this certification to the Deputy Director within 24 hours of the time when the Applicant, its contractors, or subcontractors become aware of noncompliance with the certification.

CONDITION 12. Appropriate spill containment, absorbent spill clean-up materials, and spill kits shall be available on-site. All spills shall be cleaned up immediately and shall not be buried or washed with water. Initial containment shall be with absorbent material or, if necessary, construction of berms. Used clean-up materials, contaminated materials, and recovered materials that are no longer useable shall be stored and disposed of offsite and in an appropriate manner. Hazardous and non-hazardous material shall be disposed of in the manner specified by the manufacturer. Contaminated soil shall be excavated, contained, and transported to an approved disposal site.

The Applicant and its contractors shall notify all applicable agencies as soon as feasible, but no later than three business days after an incident, as to the type, date, time, and actions taken in response to all spills within their jurisdiction. In the event of a spill affecting plant, wildlife, or aquatic resources or creating public health concerns, the Applicant shall provide proper notification in accordance with all applicable requirements.

- **CONDITION 13.** No unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces shall contact or enter surface waters. No leachate from truck or grout mixer cleaning stations shall percolate into Project area soils. Cleaning of concrete trucks or grout mixers shall be performed in designated washout areas of sufficient size to completely contain all liquid and waste concrete or grout generated during washout procedures. All wash water and hardened concrete or grout shall be disposed of at an authorized landfill or other disposal site, in compliance with state and local laws, ordinances, and regulations.
- **CONDITION 14.** Control measures for erosion, excessive sedimentation, and turbidity shall be implemented and in place at the commencement of, during, and after any ground clearing activities, excavation, or any other Project activities that could result in erosion or sediment discharges to surface waters.

All stockpiles shall be protected, covered, and surrounded with coil rolls, straw wattles, erosion control blankets, liners with berms, or equivalent, to prevent sediment runoff and prevent material from contacting or entering surface waters. Stockpiles shall be located outside of riparian habitat.

CONDITION 15. All equipment shall be washed prior to transport to the Project site and be free of sediment, debris, and foreign matter.

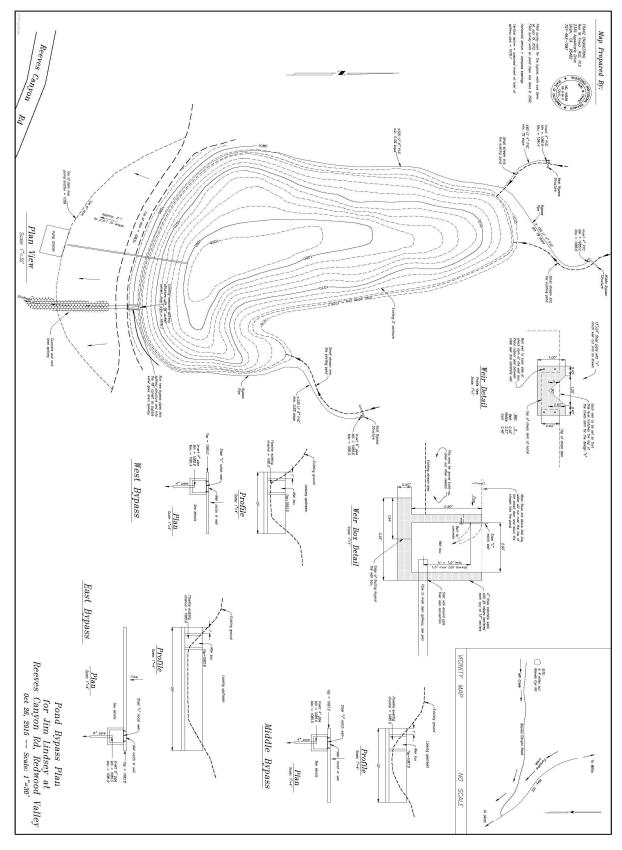
- **CONDITION 16.** Any maintenance or refueling of vehicles or equipment occurring onsite shall be done in a designated area with secondary containment, located away from the riparian area and stream corridor. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (motors, pumps, generators, etc.) and vehicles not in use shall be positioned over drip pans or other types of containment. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained onsite at all locations where such equipment is used or staged.
- **CONDITION 17.** All imported rocks used for construction within or adjacent to any watercourses shall be pre-washed. Wash water generated on-site shall not contact or enter surface waters. Wash water shall be contained and disposed of off-site in compliance with federal, state, and local laws, ordinances, and regulations.
- **CONDITION 18.** Construction material, debris, spoils, soil, silt, sand, bark, slash, sawdust, rubbish, steel, or other inorganic, organic, or earthen material, and any other substances from any Project-related activity shall be prevented from entering surface waters.
- **CONDITION 19.** All construction debris and trash shall be contained and regularly removed from the work area to the staging area during construction activities. Upon completion of construction, all Project-generated debris, building materials, excess material, waste, and trash shall be disposed of at an authorized landfill or other disposal site in compliance with state and local laws, ordinances, and regulations.
- **CONDITION 20.** 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 21.** 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 Water Code section 13167.
- **CONDITION 22.** The Applicant shall comply with all applicable requirements of the *Water Quality Control Plan for the North Coast Region* (Basin Plan). If at any time an unauthorized discharge to surface waters (including river or streams) occurs or monitoring indicates that the Project has or could soon be in violation of water quality objectives, the associated Project activities shall cease immediately, and the Deputy Director and the Executive Officer of the North Coast Regional Water Board (Executive Officer) shall be notified. Associated activities may resume only with written approval from the Deputy Director.

- **CONDITION 23.** Notwithstanding any more specific conditions in this certification, the Project shall be conducted in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to section 303 of the Clean Water Act. The Applicant must take all reasonable measures to protect the beneficial uses of waters identified in the Basin Plan.
- **CONDITION 24.** This certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (ESA) (Fish & Game Code §§ 2050–2097) or the federal ESA (16 U.S.C. §§ 1531–1544). If a "take" will result from any act authorized under this certification or water rights held by the Applicant, the Applicant must obtain authorization for the take prior to any construction of the portion of the Project that may result in a take. The Applicant is responsible for meeting all requirements of the state and federal ESAs for the Project authorized under this certification.
- **CONDITION 25.** In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation is subject to all remedies, penalties, processes, or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
- **CONDITION 26.** In response to a suspected violation of any condition of this certification, the State Water Board and North Coast 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 (Water Code sections 1051, 13165, 13267 and 13383). 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.
- **CONDITION 27.** No Project work shall commence until all necessary federal, state, and local approvals have been obtained. The Applicant is responsible for compliance with all applicable federal, state, and local laws and ordinances.
- **CONDITION 28.** This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
- **CONDITION 29.** 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 30.** Activities associated with construction and maintenance of the Project that threaten or potentially threaten water quality may be subject to further review by the Deputy Director and Executive Officer.
- **CONDITION 31.** The Applicant must submit any changes to the Project which would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the Deputy Director for review and written approval prior to implementation. If the Deputy Director is not notified of a material or significant change to the Project, it will be considered a violation of this certification.
- **CONDITION 32.** This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- **CONDITION 33.** 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 34.** This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28 and owed by the Applicant.
- **CONDITION 35.** Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 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.

ORIGINAL SIGNED BY Eileen Sobeck Executive Director <u>JULY 24, 2019</u> Dated

Attachment: Pond Bypass Plan (construction drawing, dated October 26, 2016)



Attachment: Pond Bypass Plan (construction drawing, dated October 26, 2016)