149 FERC ¶ 62,148
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

United Water Conservation District Project No. 2153-043

ORDER AMENDING LICENSE AND APPROVING WATER RELEASE PLAN UNDER LICENSE ARTICLE 401(A)

(Issued December 2, 2014)

1. On April 3, 2014, United Water Conservation District (licensee) filed its Water Release Plan with the Federal Energy Regulatory Commission (Commission) for approval, pursuant to Article 401(a) of the project license[1] for the Santa Felicia Project No. 2153. The licensee concurrently requests that the Commission amend the interim flow requirements of license Article 403. The license also requests that the Commission exempt a portion of the minimum flow releases from the public access requirements of the Whitewater Boating Access Plan under license Article 410. The project is located on lower Piru Creek, in Ventura County, California, and occupies 174.5 acres of federal lands administered by the U.S. Forest Service (FS).

Background and License Requirements

2. Article 401(a) of the project license and Condition No. 2(a) of the National Marine Fisheries Service's (NMFS) Reasonable and Prudent Alternative (RPA) require the licensee to prepare a Water Release Plan (Plan) within five months of license issuance. The Plan should detail the water releases necessary to support unimpeded migration, rearing, and spawning sites of the federally-listed southern California steelhead throughout lower Piru Creek downstream of Santa Felicia Dam and the Santa Clara River downstream of the confluence with lower Piru Creek. The Plan should be developed in consultation with NMFS, and as outlined in Article 401(b), would replace the interim minimum flow requirements under Article 403, resulting in an amendment to the project license.

3. By orders dated May 23, 2011,[2] May 31, 2012,[3] November 1, 2012,[4] and November 21, 2013,[5] the Commission granted temporary waivers for the licensee to

[1] Order Issuing New License. 124 FERC ¶ 62,193 (issued September 12, 2008).

[2] Order Granting Temporary Waiver of Minimum Flow Requirements under Article 403. 135 FERC ¶ 62,159

implement its Plan while it was in the process of obtaining a water quality certification from the California State Water Resources Control Board (State Water Board) and preparing a license amendment application for the new proposed flow regime. The orders also temporarily waived the minimum flow requirements of Article 403 so that the licensee could implement the Plan. In the latest November 21, 2013 order, the Commission granted an extension of time until September 22, 2014, or 30 days after the State Water Board's issuance of a water quality certification to file an amendment application to permanently implement the Plan. The order also suspended the minimum flow requirements of Article 403 to December 31, 2014, so that the licensee could temporarily implement the Plan.

Proposed Amendment

4. The licensee requests Commission approval of its Plan, in fulfillment of the requirements of license Article 401(a) and NMFS' RPA 2(a). The licensee also requests that license Article 403 be amended, such that the Water Release Plan replaces the minimum flow requirements of Article 403. Specifically, the licensee requests that Article 403 be revised to state:

> Article 403. *Minimum Flow Releases*. Licensee shall release minimum flows in accordance with the Santa Felicia Water Release Plan dated June 2012. These water releases shall be exempt from whitewater boating access requirements under the license. Minimum flow may be temporarily modified if required by operating emergencies beyond the control of the licensee or for temporary periods upon agreement between the licensee, the California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), and the US Fish and Wildlife Service (FWS). If the required minimum flow is so modified, the licensee shall notify the Commission, CDFW, NMFS, SWRCB, and the FWS as soon as possible but not later than 10 days after each such occurrence.

5. Under the proposed Plan, the licensee would make water releases to the downstream Piru Creek based on three criteria, which include: a habitat water release

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[3] Order Modifying and Approving Extension of Time and Granting Temporary Waiver of Minimum Flow Requirements under Article 403. 139 FERC ¶ 62,169.

[4] Order Denying License Amendment, Modifying and Approving Extension of Time, and Granting Temporary Waiver of Minimum Flow Requirements under Article 403. 141 FERC ¶ 62,082.

[5] Order Granting Extension of Time and Temporary Waiver of Minimum Flow Requirements under Article 403. 145 FERC ¶ 62,130.

schedule; a migration water release schedule; an alternative water release schedule; and a ramping rate schedule. Each of these criteria is further outlined below.

Habitat Water Release Schedule

6. Beginning each October 1st, the licensee would release a minimum flow of 7 cubic feet per second (cfs) into lower Piru Creek below Santa Felicia Dam. The licensee would record daily rainfall at Ventura County rainfall station no. 160 and maintain a running daily cumulative year-to-date total of said rainfall. At the first day of each winter month (January through June), the cumulative rainfall would be compared against the trigger values (column B) in Table 1, given below. When the first-of-the-month rainfall exceeds the corresponding date's trigger value, the minimum release from Santa Felicia would be raised to a value no less than the wet-normal flow (column C) and maintained over the ensuing month. Should the cumulative rainfall at the first of any winter month fail to exceed the trigger value, the minimum discharge for the ensuing period would be reduced to, or maintained at, the minimum of 7 cfs until a subsequent trigger is met. Adjustments for flow increases would be initiated no later than 10:00 a.m., and flow reductions would not be implemented prior to 8:00 a.m. on the first day of each winter month (January through June).

Table 1. Habitat flow water release schedule.

A. When the Cumulative Annual Rainfall at Ventura County Gage #160 measured at 8:00 AM on:	B. Exceeds the following trigger values*:	C. Wet-Normal year flow, Santa Felicia shall begin and continue releases for the ensuing period at a discharge no less than:
January 1st	4.80 inches	15 cfs
February 1st	8.10 inches	20 cfs
March 1st	12.00 inches	20 cfs
April 1st	14.90 inches	20 cfs
May 1st	16.30 inches	10 cfs
June 1st	17.50 inches	9 cfs which would be continued through the following September 30 (October 1 begins a new Water Year.)

*All years - cumulative median value

Migration Water Release Schedule

7. Between January 1st and May 31st each year, the licensee would release or bypass a minimum of 200 cfs during periods of time that fall between the below specified triggers.

Flow Initiation Trigger

8. If the instantaneous rainfall-induced discharge measured at USGS Station No. 11109000 (Santa Clara River near Piru, CA) at 8:00 AM exceeds 200 cfs, AND the subsequent day's (midnight to midnight) mean daily discharge is predicted to exceed 200 cfs by the National Weather Service's "California – Nevada River Forecast Center" at River Guidance Point Piru SCPC1, then the licensee would begin increasing Santa Felicia discharges before 10:00 AM, in accordance with the ramping rate criteria to a value of no less than 200 cfs. If the forecast website has not yet been updated at 8:00 a.m., the licensee would check it on the hour, every hour, until it is updated, to determine if the trigger has been met. In this situation, if the trigger is met, the licensee would begin increasing Santa Felicia discharges within 2 hours of forecast issuance.

Flow Cessation Trigger

9. When the mean daily discharge measured at USGS Station No. 11109000 falls below 200 cfs, the licensee would begin decreasing Santa Felicia discharges, in accordance with the ramping criteria, to a flow no less than that dictated by the habitat water release schedule value.

Alternative Operations Water Release Schedule

10. In order to conduct dam safety activities (e.g., inspections, maintenance and repairs) that require closure of the penstock, discharge through the Santa Felicia outlet works would be reduced to a minimum of 5 cfs. Ramping would be conducted in the manner described below for habitat flow scenarios. Dam safety activities requiring closure of the penstock would be scheduled to occur under the following conditions:

- During any period when the reservoir spillway discharge exceeds the prescribed minimum flow

- Under habitat flow release periods when the minimum required flow is no greater than 9 cfs and no rain events that may result in initiation of migration flows are forecasted to occur

11. Periods of reduced flow would be limited as follows:

- Reductions for scheduled inspections would be limited to no more than 12 hours
- Reductions for scheduled maintenance or repair would be limited to no more than 10 days per water year
- Periods of reduction would be minimized by expediting all scheduled activities to the fullest extent practicable and minimum habitat releases would be restored at the earliest possible time. Such expedition would include lighting and around-the-clock activity, should such effort shorten the expected duration of the flow reduction

12. The licensee would also notify the Commission and NMFS a minimum of 15 days prior to any such reduction of flow expected to exceed 12 hours and would also notify the Commission and NMFS within 24 hours, should an intended 12-hour reduction period unexpectedly exceed 12 hours.

Ramping Rate Schedule

Habitat Flows

13. Between January 1 and June 1, when increases in habitat flows are triggered, the licensee would increase discharge such that flow no more than doubles in any 2-hour period. Between January 1 and June 1 when decreases in habitat flows are triggered, the license would ramp discharge down at a rate that does not exceed 2.0 cfs every 30 minutes, until the new target habitat flow is reached.

Migration and Water Conservation Flows[6]

14. Increasing flows: The licensee would increase discharge such that flow no more than doubles in any two-hour period.

15. Decreasing flows: The licensee would reduce discharge to no greater than 50 percent during any 24-hour period. The downward ramping would stop, and discharges would be stabilized, at flows no less than the appropriate habitat flow.

[6] Conservation flows are releases that occur in the fall for the purpose of recharging groundwater aquifers and meeting surface water demands of agricultural customers when new crops are planted in the fall.

Additional measures

16. In addition to the above, the licensee requests that water releases above 200 cfs conducted between January 1 and May 31 be exempted from the boating access requirements of the Whitewater Boating Access Plan under Article 410.[7] The licensee states that the exemption is necessary to avoid adversely impacting potential steelhead spawning and rearing activities, as well as steelhead habitat.

Agency Consultation

17. The licensee developed its proposal in consultation with NMFS, FS, U.S. Fish and Wildlife Service (FWS), and the California Department of Fish and Wildlife (CDFW). In addition, the licensee applied for, and subsequently received a water quality certification for the license amendment from the State Water Board. By letter dated July 3, 2012, NMFS stated that the plan fulfilled the requirements of RPA 2(a). By letter dated December 12, 2012, the FS stated that the amendment request did not affect National Forest lands and therefore, had no comments. By letter dated January 25, 2013, the FWS concurred with the licensee's assertion that the project would not affect the federally-listed arroyo toad, mountain yellow-legged frog, California condor, southwestern willow flycatcher, least Bell's vireo, or California red-legged frog. The FWS also concurred that the proposal would not adversely affect or destroy critical habitat for the southwestern willow flycatcher.

18. In its July 15, 2013 letter regarding temporary implementation of its Plan, the CDFW stated that it was concerned that the plan did not include rationale for a flow reduction to 5 cfs during dam safety actions. Alternatively, the CDFW recommended a minimum of 7 cfs be released during dam safety actions and that it is notified of such occurrences. However, following additional review, the CDFW stated in a July 29, 2013 letter, that it accepted the 5 cfs dam safety flow, provided that activities involve the use of the 72-inch butterfly valve to close and dewater the penstock.

Public Notice

19. On April 15, 2014, the Commission issued a public notice, soliciting comments, motions to intervene, and protests on the licensee's amendment request. The notice established May 14, 2014, as the deadline for filing motions to intervene.

20. On May 13, 2014, California Trout filed a motion to intervene. California Trout states that it generally supports the proposed license amendment and requests

[7] *See* 138 FERC ¶ 62,142 (issued February 21, 2012).

intervention to ensure that the plan is adopted and remains protective of endangered steelhead.

21. On May 13, NMFS filed a motion to intervene and comments. NMFS states that it is in agreement with the Plan. Regarding the licensee's request to exempt January 1 to May 31 water releases from the Whitewater Boating Access Plan, NMFS states that it has not received any information regarding any adverse effects on steelhead or steelhead habitat from the whitewater boating access requirements. Therefore, NMFS stated that it did not have any comment on the licensee's proposal to exempt certain water releases from the whitewater boating access requirements in order to avoid adverse impacts to steelhead or steelhead habitat.

22. On July 9, 2014, the licensee filed a response to NMFS' comments. The licensee states that the boating access site is located in close proximity to projected steelhead spawning and rearing locations, which includes two gravel augmentation sites. Consequently, the licensee states that boaters entering the creek can disturb or destroy spawning redds and emerging and rearing juveniles. Further, the licensee states that high water events would concurrently create the greatest response of steelhead to water releases and would be attractive to boaters that could trample steelhead redds or boats that could crush redds. The licensee also states that boats or boaters could disrupt the habitat created by gravel augmentation and disturb rearing juveniles in the pools created by augmentation. The licensee further states that it did not consult with NMFS on this matter, as it did not believe it to be necessary or required.

23. On August 21, 2014, American Whitewater filed a motion to intervene out-of-time and comment. In its filing, American Whitewater states that Article 410 of the project license required it to be consulted in the development of the Whitewater Boating Access Plan. However, it states that it was not consulted as part of the amendment process nor as part of the proposed amendment to the Whitewater Boating Access Plan. American Whitewater also states that it believes the proposed amendment to Article 403 would also require an amendment to license Articles 409 and 410. Finally, American Whitewater contends that the licensee's proposal does not contain any support or evidence of adverse effects on steelhead from whitewater boating access. Consequently, American Whitewater requests that the Commission require the licensee to consult with it, NMFS, and other interested parties concerning impacts to steelhead from whitewater access. On September 22, 2014, the Commission granted American Whitewater's request for late intervention.

24. On September 18, 2014, the licensee filed a response to American Whitewater's intervention request. The licensee states that it does not believe the proposed amendment requires an amendment to license Articles 409 and 410, or to the Whitewater Boating Access Plan. The licensee states that Article 409 pertains to interim boating access

requirements and that Article 410 has been fulfilled with the filing and approval of the Whitewater Boating Access Plan. The licensee explains that the whitewater plan does not need amendment, due to the fact that escort service around the dam and notification procedures only apply to fall conservation releases, and that no one has ever portaged around the dam. The licensee also states that the migration releases associated with the January through May releases are new, and that the proposed boating exemption would not be restricting current boating opportunities but rather, is intended to clarify that access does not apply to steelhead migration releases. Finally, the licensee reaffirms that adverse impacts can occur to steelhead and habitat in lower Piru Creek from whitewater boating and access.

Water Quality Certification

25. Under Section 401(a) of the Clean Water Act (CWA), the Commission may not authorize construction or operation of a hydroelectric project that may result in a discharge from the project unless the state water quality certifying agency has either issued a water quality certification for the project or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA provides that the certification shall become a condition of any federal license that authorizes construction or operation of the project. On September 7, 2012, the licensee filed a water quality certification application with the State Water Board for the proposed license amendment. On August 20, 2013, the licensee simultaneously withdrew and resubmitted its water quality certification application. On March 4, 2014, the State Water Board issued a water quality certification for the proposed license amendment.

26. Condition No. 1 of the water quality certification adopts the licensee's Plan, while Condition No. 2 requires additional water quality monitoring at the project. Specifically, Condition No. 2 requires that the licensee develop a Dissolved Oxygen (DO) Monitoring Plan to determine DO concentrations upstream and below Lake Piru. The plan is to be filed with the State Water Board within six months of a license amendment, and upon its approval, is to be filed with the Commission. By March 31 of each year following DO monitoring, the licensee is also required to submit a report to the State Water Board that describes monitoring efforts of the previous year, including data collected and associated analyses. If within 30 days, the State Water Board does not provide comments on the report, the licensee is to file the report with the Commission. If the State Water Board provides comments on the report, the licensee is required to address the comments and within 30 days, submit the revised report to the State Water Board and the Commission. If the information contained in the report demonstrates compliance with the DO basin plan water quality objectives, the licensee may submit a request to the State Water Board to cease monitoring.

27. If information in the DO monitoring reports indicates that DO measurements violate the basin plan standards, the State Water Board would direct the licensee to develop a DO Improvement Plan to bring the project into compliance with basin water quality objectives. The plan is to be filed with the State Water Board within three months of a determination that the plan is necessary. In the event that the licensee is required to develop a DO Improvement Plan, the licensee would also be required to file a separate annual report with State Water Board by March 31, describing the effectiveness of the plan implementation, and providing data collected and associated analyses. If the State Water Board does not provide comments on the report, the licensee is to file the report with the Commission within 30 days. If the State Water Board provides comments, the licensee is to revise the report and submit it to the Commission and State Water Board within 30 days of receipt of comments. If the information in the DO improvement plan demonstrates compliance with basin plan DO objectives, the licensee may cease DO monitoring efforts, upon State Water Board approval. If DO conditions do not improve in Piru Creek below Santa Felicia Dam, the licensee would be required to consult with the State Water Board regarding alternate ways to improve DO conditions.

Discussion and Conclusions

28. The licensee is requesting Commission approval of its Water Release Plan under Article 401(a), and that it amend the interim minimum flow conditions of Article 403. The licensee is also requesting a modification to the elements of its approved Whitewater Boating Access Plan. The Water Release Plan was developed in consultation with the resource agencies and outlines the flows that would be provided at various times of the year to promote steelhead migration, rearing, and spawning. The licensee obtained a water quality certification to implement the Water Release Plan, which should be incorporated into the project license, and is discussed further below. We also discuss the outstanding issue related to whitewater boating access, highlighted in the comments we received during the public notice period.

29. Condition No. 2 of the State Water Board's water quality certification contains two required plans that do not require Commission approval prior to implementation. In order to ensure that these plans are satisfactory and are properly implemented, the licensee should be required to file its DO Monitoring Plan and DO Improvement Plan (if necessary) with the Commission for approval. These plans should be filed with the Commission within 30 days of approval by the State Water Board. The reporting requirements associated with these plans however, should adequately ensure that the Commission is kept apprised of the monitoring results, and does not need further modification.

30. Review of the licensee's November 21, 2011 Whitewater Boating Access Plan indicates that whitewater boaters are allowed to portage over the Santa Felicia Dam and

put in at the USGS gage no. 11109800, below Santa Felicia Dam on weekends during the licensee's fall water conservation releases over 200 cfs, or any other weekend when greater than 200 cfs is being released. However, review of the Whitewater Boating Access Plan indicates that escorted access to the put-in site below the dam is only required during fall water conservation releases on weekends when flow exceeds 200 cfs and would not apply to the licensee's proposed access restriction. Therefore, it is our determination that the licensee's request to exempt whitewater boating access via portaging during weekends from January 1 through May 31 would require an amendment to the Whitewater Boating Access Plan. On instances where a licensee requests an amendment to an approved plan, it is Commission practice to ensure that the applicable stakeholders were properly consulted during development of the amendment request. However, in this case, it appears that the FS, California Department of Natural Resources, American Whitewater, and Sierra Club (all of whom were required to be consulted in the initial plan development) were not consulted on the proposed plan amendment. Therefore, the licensee's proposal to exempt whitewater boating access to lower Piru Creek below Santa Felicia Dam via portaging, between January 1 and May 31, should not be approved at this time.

31. While we are not necessarily opposed to the proposed modification to the boating access requirement, the licensee should first, consult with the FS, California Department of Natural Resources, American Whitewater, and Sierra Club, prior to filing a request to amend the Whitewater Boating Access Plan. Any future amendment request should include: documentation of consultation with the above stakeholders; the licensee's response to comments; and justification for the proposed amendment. Because neither the Commission nor NMFS has received any specific evidence that boating access is, or could adversely affect steelhead and its habitat, the amendment request should include documentation of, or the potential for adverse effects to, steelhead and its habitat. Provided that such effects are occurring, or may occur, the licensee should also ensure that it consults with NMFS on the potential for adverse effects from boating access.

32. Regarding the licensee's request to amend the language of Article 403, we agree that the Plan should replace the interim minimum flow requirements of Article 403. However, the licensee's request to exempt the whitewater boating access requirements from the Water Release Plan by adding it into Article 403, should not be approved. In addition, due to its approval of the Water Release Plan in its water quality certification, the State Water Board should be added to the list of agencies that should be consulted in the event of an operating emergency or other necessary short-term deviation. Finally, the licensee's plan does not specify where flow compliance will be measured. We note that in its August 31, 2012 request to amend Article 403, the licensee proposed to add text to Article 403 that designated USGS gage no. 11109800 as the gage of compliance. We also note that this gage is referenced in the licensee's approved Water Release and

Ramping Rate Implementation Plan under License Article 401(a).[8] Although the Water Release and Ramping Rate Implementation Plan identifies this gage and contains various contingencies for gaging error and outages, Article 403 should specify USGS gage no. 11109800 as the gage of compliance, but subject to the alternate gaging contingencies of the approved Water Release and Ramping Rate Implementation Plan. The Water Release and Ramping Rate Implementation Plan also anticipates possible updates to gaging and flow release equipment. In the event that gage no. 11109800 is permanently taken out of service or it becomes obsolete with the installation of alternative gaging equipment, the licensee is reminded that it must file a revision to its approved Water Release and Ramping Rate Implementation Plan to reflect the revised gaging location.

33. In conclusion, the licensee's Plan would formalize the minimum flows, pulse flows, contingency flows, and ramping rates that have been implemented on a temporary basis since May 23, 2011. Approval of the licensee's Water Release Plan would continue to provide beneficial migration, rearing, and spawning flows for federally-listed steelhead, while also fulfilling the requirements of NMFS RPA Condition 2(a). The plan fulfills the requirements of license Article 401(a), is supported by the resource agencies, and as modified, should be approved.

The Director orders:

(A) United Water Conservation District's (licensee) Water Release Plan, filed with the Federal Energy Regulatory Commission (Commission) on April 3, 2014, pursuant Article 401(a) of its license for the Santa Felicia Project No. 2153, as modified in paragraphs (D) and (E), is approved.

(B) License Article 403 of the project license for the Santa Felicia Project No. 2153 is hereby amended to read:

> Article 403. *Minimum Flow Releases*. Licensee shall release flows in accordance with the Water Release Plan, filed with the Commission on April 3, 2014. Flow releases shall be verified by measurements at USGS gage no. 11109800, and is subject to the flow measurement contingencies of the approved Water Release and Ramping Rate Implementation Plan. Minimum flow may be temporarily modified if required by operating emergencies beyond the control of the licensee or for temporary periods upon agreement between the licensee, the California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), California State Water Resources Control Board (State Water Board),

[8] *See* 142 FERC ¶ 62,083 (issued February 4, 2013).

and the US Fish and Wildlife Service (FWS). If the required minimum flow is so modified, the licensee shall notify the Commission, CDFW, NMFS, State Water Board, and the FWS as soon as possible, but not later than 10 days after each such occurrence.

(C) The conditions of the March 4, 2014 water quality certification issued by the State Water Board under Section 401 of the Clean Water Act, attached to this order as Appendix A, are adopted as requirements of the license for the Santa Felicia Project.

(D) The licensee must file for Commission approval, a Dissolved Oxygen Monitoring Plan, as outlined in Condition No. 2 of the State Water Board's March 4, 2014 water quality certification. The plan must be filed with the Commission within 30 days of approval by the State Water Board. Should the results of dissolved oxygen monitoring trigger the need to develop a Dissolved Oxygen Improvement Plan (as outlined in Condition No. 2), the ensuing plan must also be filed with the Commission for approval. The Dissolved Oxygen Improvement Plan must also be filed with the Commission within 30 days of approval by the State Water Board.

(E) The licensee's request to amend the Whitewater Boating Access Plan under license Article 410 is not approved.

(F) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 825*l* (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2014). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Thomas J. LoVullo
Chief, Aquatic Resources Branch
Division of Hydropower Administration
and Compliance

APPENDIX A

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the

UNITED WATER CONSERVATION DISTRICT
OPERATIONAL CHANGES AT THE SANTA FELICIA PROJECT

FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2153

SOURCE: Piru Creek

COUNTY: Ventura

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

I. Background and Project Description

On September 4, 2012, United Water Conservation District (UWCD or Licensee) applied to the Federal Energy Regulatory Commission (FERC) for a license amendment for its Operational Changes at the Santa Felicia Project (Project). The Project is located at Santa Felicia Dam in eastern Ventura County approximately five miles north of the city of Piru (Figure 1).

The proposed Project is an amendment to the existing FERC license for the Santa Felicia Hydroelectric Dam Project (SF Dam Project) (FERC Project No. 2153). The proposed Project modifies minimum instream flows released in Lower Piru Creek from Santa Felicia Dam. Current minimum instream flows are described in Article 403 of the existing FERC license for the SF Dam Project, which was issued on September 12, 2008. Per the current FERC license, minimum instream flows for the SF Dam Project are required to be equal to the natural inflow to Lake Piru plus one cubic foot per second (cfs), and typically range from 1.4 to 5 cfs.

Article 401 of the FERC license references the National Marine Fisheries Service (NMFS) May 5, 2008, Biological Opinion (BO)[1]. The BO includes Reasonable and Prudent Alternative (RPA) 2, which requires the UWCD to develop a Final Water Release Plan that details the water releases necessary to support: 1) unimpeded *Oncorhynchus mykiss* (steelhead) migration in Piru Creek downstream of Santa Felicia Dam and in the Santa Clara River from the confluence of Piru Creek downstream to the Vern Freeman Diversion Dam; 2) formation and preservation of freshwater rearing sites for steelhead throughout Piru Creek downstream of Santa Felicia Dam; and 3) creation and maintenance of freshwater spawning sites for steelhead throughout Piru Creek downstream of Santa Felicia Dam. UWCD developed a water release plan in consultation with NMFS staff and on July 2, 2012, UWCD submitted the *June 2012 Water Release Plan* (Plan) to NMFS for approval. In a letter dated July 3, 2012, NMFS approved the Plan.

[1] NMFS. May 5, 2008. Final Biological Opinion for Santa Felicia Dam, FERC Project No. 2153-012. NMFS, Southwest Region, Long Beach, CA. 130pp.

The proposed Project replaces current minimum instream flows with flows listed in the Plan. The Plan consists of three water release schedules with specific ramping rates for each schedule. The three water release schedules are the: 1) Habitat Water Release Schedule; 2) Migration Water Release Schedule; and 3) Alternative Operations Water Release Schedule. These flow schedules are outlined in Condition 1 of this certification.

On December 12, 2012, UWCD submitted the Plan to the United States Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and the United States Forest Service (USFS). Consultation with the agencies concluded on July 15, 2013. USFWS and USFS agreed with the water release schedules in the Plan. CDFW recommended 7 cfs (rather than 5 cfs) under the Alternative Operations Water Release Schedule, stating the flow of 5 cfs for periods of facility modification or repair had no supporting rationale. UWCD responded to CDFW's recommendation by explaining: (1) the Plan was developed in consultation with NMFS; and (2) during the Alternative Operations Water Release Schedule, which would be in effect for scheduled maintenance and repairs, the penstock may need to be closed and the bypass valve that will supply flows to Lower Piru Creek has a maximum capacity of 5 cfs. Following consultation with the agencies UWCD made no changes to the Plan or its proposed Project.

II. Regulatory Authority

Water Quality Certification and Related Authorities

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

Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Resources Control Board (State Water Board) is the state agency responsible for such certification in California. (Wat. Code § 13160.) The State Water Board's Executive Director has been delegated the authority to issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

UCWD filed a water quality certification application with the State Water Board for the Project on September 7, 2012. The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858, subdivision (a) by posting information describing the Project on the State Water Board's website on October 4, 2012. No comments were received. On October 5, 2012, the State Water Board provided notice of receipt of a complete application for the Project to the applicable parties pursuant to California Code of Regulations, title 23, section 3835. On August 20, 2013 UCWD simultaneously withdrew and resubmitted its water quality certification application.

Water Code section 13383 provides the State Water Board with authority to "establish monitoring, inspection, entry, reporting and recordkeeping requirements... and [require] other information as may reasonably be required" for activities subject to water quality certification under section 401 of the Clean Water Act that involve the diversion of water for beneficial use. The State Water Board delegated this authority to the Deputy Director for 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 July 6, 2012, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights.

Water Quality Control Plans and Related Authorities

The California Regional Water Quality Control Boards (Regional Water Boards) adopt, and the State Water Board and United States Environmental Protection Agency (USEPA) approves, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to Section 303 of the Clean Water Act. (33 U.S.C. § 1313.) The beneficial uses, together with the water quality objectives contained in the basin plans and state and federal anti-degradation requirements, constitute California's water quality standards under section 303 of the Clean Water Act. Certification that a project will not violate water quality standards is a key component of water quality certification.

The Los Angeles Regional Water Board adopted, and the State Water Board and USEPA approved, the *Water Quality Control Plan for the Los Angeles Region – Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan). The Basin Plan identifies existing beneficial uses for Piru Creek as: industrial service supply; industrial process supply; agricultural supply; groundwater recharge; freshwater replenishment; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened, and endangered species (condor refuge); spawning, reproduction and/or early development; migration of aquatic organisms; and wetland habitat. The Basin Plan also identifies municipal and domestic supply as a potential beneficial use for Piru Creek.

Piru Creek from the confluence with the Santa Clara River to below Santa Felicia Dam is listed as an impaired waterbody on the Clean Water Act Section 303(d) list for: salinity (specific conductance and total dissolved solids); other inorganics (sulfates); and metals/metalloids (boron).

California Environmental Quality Act

UWCD is the lead agency for the purpose of California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) compliance. The State Water Board is a responsible agency under CEQA. UWCD issued a Notice of Exemption (NOE) for a Categorical Exemption under section 15301 (Class 1) of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq). UWCD filed the NOE with the Ventura County Clerk on October 11, 2012. The State Water Board considered the NOE in connection with the issuance of this water quality certification and, based on its independent judgment, agrees that the Project meets the Class 1 exemption. The Class 6 categorical exemption under section 15306 of the CEQA Guidelines also applies to the requirement that UWCD monitor dissolved oxygen (Condition 2). No exceptions to the Class 1 and Class 6 exemptions apply. The State Water Board finds that

there is no substantial evidence in the record that the Project will have a significant effect on the environment. The State Water Board will file an NOE within five days of issuance of this water quality certification.

All documents and other information that constitute the public record for this Project shall be maintained by the Division of Water Rights and shall be available for public review at the following address: State Water Board, Division of Water Rights, 1001 I Street, Sacramento, CA 95814.

III. Rationale and Findings

When preparing the conditions in this water quality certification, the State Water Resources Control Board (State Water Board) reviewed and considered: (a) UWCD's FERC license application; (b) UWCD's NOE filed with the Ventura County Clerk; (c) UWCD's existing FERC license for the SF Dam Project; (d) NMFS's May 5, 2008 BO; (e) UWCD's water quality certification application; (f) USFS final 4(e) terms and conditions on the SF Dam Project; (g) Santa Felicia's 2004 Bioassay study; and (f) resource agencies comments on the Plan. Additionally, the State Water Board considered the Basin Plan, existing water quality conditions, Project-related controllable factors and other information in the record, and developed conditions to ensure protection of the water quality and beneficial uses of the water bodies affected by the Project.

Flow Schedules

Flows contained in the Plan require water releases from Santa Felicia Dam into Lower Piru Creek that are larger than the current releases described in Article 403 of UWCD's FERC license. The increased releases are designed to provide improved habitat and migration opportunities for steelhead in Lower Piru Creek and the Santa Clara River. The increased releases are also designed to improve several beneficial uses for Lower Piru Creek. The flow schedules in the Plan were developed in consultation with NMFS, CDFW, USFS, and USFWS. The flow schedules are more consistent with a natural hydrograph in which higher flows are created by rainfall events.

The ramping rates in the flow schedules (Condition 1) ensure changes in flows will occur gradually and reduce the chance of adversely affecting steelhead. Monitoring conditions listed in this water quality certification and the NMFS's BO will ensure Plan flows are adequately evaluated for steelhead habitat improvements and water quality conditions in Lower Piru Creek. Conditions in this water quality certification will safeguard beneficial uses of Lower Piru Creek.

In compliance with NMFS's RPA 2(b) UWCD will finalize a *Water Release and Ramping Rate Effectiveness Monitoring Plan for Lower Piru Creek* (EMP). The EMP will be designed to describe how UWCD will monitor water releases for migration and habitat improvements for steelhead. UWCD will be required to submit annual reports to NMFS and the State Water Board in accordance with Condition 5 of this certification, which will detail implementation of Plan flows. These annual reports will keep the State Water Board apprised of the Plan's effectiveness at improving steelhead migration, spawning, and rearing. The annual reports will also help inform whether additional actions may be necessary.

Dissolved Oxygen Monitoring

In 2004 UWCD's consultant, Entrix, conducted an in-situ bioassay study on Lower Piru Creek. The bioassay study found dissolved oxygen (DO) concentrations ranged from 3.7 milligrams per

liter (mg/L) to 12.5 mg/L. Of the 144 samples collected in the first two days of the study[2], 78 samples (or 54% of the samples) measured less than 5.0 mg/L, with a mean DO concentration of 5.925 mg/L[3]. The Basin Plan states "at a minimum the mean annual dissolved oxygen concentration of all waters shall be greater than 7 mg/L, and no single determination shall be less than 5.0 mg/L, except when natural conditions cause lesser concentrations." Subsequent to the 2004 bioassay study UWCD modified the SF Dam Project structures and operations to provide minimum flows to lower Piru Creek when the penstock needed to be closed for maintenance activities. UWCD modified the SF Dam Project, as follows:

- Flows: Since June 1, 2011, UWCD has been providing flows contained in the *Santa Felicia Water Release Plan September 2010*. The *Santa Felicia Water Release Plan September 2010* flows were similar to the Plan flows with minor exceptions. For example, the Plan includes the Alternative Water Release Schedule for maintenance or repair purposes. Since November 1, 2012, UWCD has been implementing the Plan flows (outlined in Condition 1).

- Outfall valve: In 2005 UWCD installed a new 12-inch low flow cone valve. The new valve increased water spray, potentially aerating Santa Felicia Dam's discharge to a greater extent than was occurring during the 2004 bioassay study.

Given the structural and operational changes to the SF Dam Project since the last DO data collection effort, it is unknown whether DO levels are currently in compliance with Basin Plan water quality objectives. Furthermore, there is a lack of baseline DO data for the water entering Piru Lake. This baseline data would establish the DO levels of water coming into Piru Lake and could be used to determine the appropriate DO levels for water exiting Piru Lake. DO monitoring will allow the State Water Board to determine if the Project is in compliance with the DO water quality objectives listed in the Basin Plan. Condition 2 requires UWCD to monitor DO upstream of Piru Lake and in Lower Piru Creek to ensure the protection of Piru Creek's beneficial uses under the Project's flow regime, which is outlined in Condition 1.

Other Conditions

California Code of Regulations, title 23, section 3860 requires imposition of certain mandatory conditions for all water quality certifications, which are included in this water quality certification. Additionally, in order to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law over its lifetime, this water quality certification imposes conditions regarding monitoring, enforcement, and potential future revisions.

State Water Board staff reviewed and considered the application for certification and associated submittals, the Basin Plan, environmental documents, the existing water quality conditions, and Project-related controllable factors. The State Water Board finds that, with the conditions and limitations imposed under this water quality certification, the Project will be protective of the state water quality standards and other appropriate requirements of state law.

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[2] Per UWCD staff, DO data from the bioassay study became unreliable after the second day of DO monitoring due to the monitoring stations being compromised, most likely from algae.

[3] UWCD's DO data were provided in percent saturation. State Water Board staff converted the DO data to mg/l using constants derived from Benson and Kruse's formula of: $Cs = 1.4227 \exp[-173.492 + 24963.39/T + 143.3483 \ln(T/100.) * -0.218492\ T + S(-0.033096 + 0.00014259\ T - 0.00000017\ T^2)$. **Conversion Factor to DO mg/L per saturation**: 0.01 * exp[constant1-S*constant2)]. **DO in mg/L**: Percent saturation * DOmg/L per saturation = DO mg/l. **Values**: T= Water Temperature in degrees Kelvin; S= Salinity (parts per trillion); and Cs= theoretical DO in mg/L. On November 4, 2013, UWCD staff concurred with this conversion process.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTORL BOARD CERTIFIES THAT THE OPERATIONAL CHANGES AT THE SANTA FELICIA DAM PROJECT will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if UWCD complies with the following terms and conditions during the Project activities certified herein.

CONDITION 1: The Licensee shall comply with the water release flows in the schedules below, which are consistent with those identified in the Plan.

Ramping rates for each water release schedule are defined below. During periods of decreasing ramping rates the Licensee is required to ensure that the flows are ramped down at a rate that does not decrease water surface elevations in lower Piru Creek by more than 2 inches per hour as listed in the Licensee's FERC license Appendix B, Terms and Conditions (1)(A).

A) Habitat Water Release Schedule: Each year from October 1 through December 31, the Licensee shall release a minimum instream flow of 7 cfs from Santa Felicia Dam. The Licensee shall record daily rainfall at Ventura County Watershed Protection District (VCWPD) station No. 160 and maintain a daily cumulative rainfall total for the water year (October 1 through September 30). On the first day of each month from January through June, the cumulative rainfall for the water year shall be compared against a corresponding trigger value (Table 1). During this period, when the cumulative rainfall to date meets or exceeds the corresponding monthly trigger value, minimum required habitat water releases from Santa Felicia Dam shall increase to no less than the wet-normal[4] year flow and be sustained for the entire month. For example if the cumulative rainfall from October 1 through January 1 at 8 AM meets or exceeds 4.80 inches, releases shall be increased to at least 15 cfs through the month of January. For the months of January through June, when a trigger is not exceeded, minimum required habitat water releases shall be reduced to or maintained at 7 cfs until the first day of the next month a flow trigger is met. Adjustment for flow increases will be initiated no later than 10:00 AM and flow reductions will not be implemented prior to 8:00 AM on the first day of each month (January through June).

Table 1: Flow Triggers as listed in the Plan.

Cumulative Rainfall at VCWPD Station No.160 Measured at 8 AM	Water Release Plan Trigger Value[5]	Wet-Normal Year Flow[6]
January 1	4.80 inches	15 cfs
February 1	8.10 inches	20 cfs
March 1	12.00 inches	20 cfs
April 1	14.90 inches	20 cfs
May 1	16.30 inches	10 cfs
June 1	17.50 inches	9 cfs which shall be continued through September 30.

[4] "Wet-normal" is a term developed by the Licensee in consultation with NMFS for the Plan and means "normal through wet years."
[5] Value based on VCWPD Station No.160.
[6] As measured at UWCD's flowmeters at the Santa Felicia outlet works.

Habitat Water Release Schedule Ramping Rates:

a) Increasing Flows: From January 1 through June 1 flows shall not increase by more than 100 percent every two hours.

b) Decreasing Flows: From January 1 through June 1 flows shall not be reduced by more than 2 cfs every 30 minutes.

B) Migration Water Release Schedule: Each year from January 1 through May 31 the Licensee shall monitor rainfall-induced discharge at USGS Station No. 11109000 (Santa Clara River above confluence with Lower Piru Creek). At 8:00 AM, if rainfall induced discharge exceeds 200 cfs and the following day's (12:00 AM to 12:00 AM) mean daily discharge is expected to exceed 200 cfs (as indicated by the National Oceanic Atmospheric Association National Weather Service's "California-Nevada River Forecast Center" at River Guidance Point Piru SCPC1[7]), the Licensee shall increase discharge before 10:00 AM from Santa Felicia Dam to no less than 200 cfs[8], in accordance with the Migration Water Release and Conservation Flows Schedule Ramping Rates. Minimum required migration flows of 200 cfs may be reduced to no less than the minimum Habitat Water Release Schedule flows (Table 1) when rainfall-induced discharge falls below 200 cfs at USGS Station No. 11109000.

Migration Water Release and Conservation Flows Schedule Ramping Rates:

a) Increasing Flows: Flows shall not increase by more than 100 percent every two hours.

b) Decreasing Flows: Flows shall not be reduced by more than fifty percent (50%) in a 24-hour period. The decreasing ramping rate shall stop and discharges shall be stabilized at flows no less than the appropriate flows outlined in the Habitat Water Release Schedule (Condition 1A).

C) Alternative Operations Water Release Schedule: The Alternative Operations Water Release Schedule may only be implemented during activities that require penstock closure. During closure of the penstock, discharge through the Santa Felicia outlet works shall be reduced to a minimum of 5 cfs and shall only occur under the following conditions: 1) when the reservoir spillway discharge exceeds the prescribed minimum flow; or 2) under habitat flow release periods when the minimum required flow is no greater than 9 cfs and no rain events are expected to initiate the Migration Water Release Schedule.

The following limitations apply to implementation of the Alternate Operations Water Release flows:

- For inspections, the flows shall be limited to a maximum of 12 consecutive hours; and

[7] SCPC stands for Santa Clara River-Piru.
[8] If by 8:00 AM the forecast is not updated the Licensee shall check the forecast again every hour until the forecast has been updated. In this situation the Licensee shall begin increasing Santa Felicia discharges within two hours of the forecast issuance.

- For scheduled maintenance or repairs, the flows shall be limited to no more than 10 days per water year (October 1 – September 30).

In all cases, the period of time the Alternate Operations Water Release flows are in place shall be minimized by expediting all scheduled activities to the fullest extent practicable. Minimum habitat releases shall be restored as soon as possible.

Alternative Operations Water Release Schedule Ramping Rates:

a) Increasing Flows: Flows shall not increase by more than 100 percent every two hours.

b) Decreasing Flows: Flows shall not be reduced by more than 2 cfs every 30 minutes.

CONDITION 2: Within three months of license issuance, the Licensee shall consult with State Water Board staff on the development of a draft DO Monitoring Plan (DOMP). The DOMP shall be designed to provide information to determine DO concentrations directly upstream/entering Lake Piru and below Santa Felicia Dam during the water release schedules (Condition 1), including under conditions when the Habitat Water Release Schedule triggers are not met and the minimum flow of 7 cfs is occurring. At a minimum the DOMP shall include sampling methods, locations, and frequency; quality assurance/quality control protocols; and the elements listed below. Following consultation with State Water Board staff and within six months of license issuance, the DOMP shall be submitted to the Deputy Director for review and approval. The Deputy Director may require modifications as part of the approval. The Licensee shall file the Deputy Director's approval, together with any required DOMP modifications, with FERC. UWCD shall implement the DOMP upon receiving all necessary approvals.

Method: Analyses shall be conducted using USEPA analytical methods and/or standard methods adequately sensitive to detect DO levels to determine compliance with the Basin Plan DO objective. In accordance with the Basin Plan, DO shall be reported in mg/L.

Location: DO shall be measured at representative locations in Piru Creek directly above its inflow to Lake Piru and below Santa Felicia Dam. Monitoring below Santa Felicia Dam will occur on the property owned by the Licensee directly below Santa Felicia Dam. Where applicable, DO monitoring locations may be co-located with sites identified in the EMP.

Frequency: Monitoring shall begin within two months of DOMP approval by the Deputy Director or within two months of receipt of all necessary approvals if such approvals are received subsequent to Deputy Director approval. Upon request, and after approval by the Deputy Director, the DOMP start date may be delayed to coincide with the beginning of NMFS's EMP.

DO levels shall be measured and recorded hourly for the first two weeks of each water release schedule unless the Deputy Director approves otherwise. If DO levels measured at flows of 7 cfs demonstrate compliance with DO Basin Plan objectives, UWCD may request Deputy Director approval to discontinue DO monitoring. However, if DO levels violate DO Basin Plan objectives at a flows of 7 cfs, UWCD shall measure and record DO levels for the remaining water release schedules.

By March 31 of each year following monitoring, the Licensee shall submit a report to the Deputy Director that describes the monitoring efforts of the previous calendar year (i.e., January – December), including the data collected and associated analyses. The Deputy Director may provide comments on the report. If the Deputy Director does not provide comments on the annual report within 30 days of submittal, the Licensee shall file the report with FERC. If the Deputy Director provides comments, the Licensee shall revise the report to address the comments and submit the revised report to FERC and the Deputy Director within 30 days of receipt of comments.

If the information contained in the report demonstrates compliance with the DO Basin Plan water quality objective for protection of associated Lower Piru Creek beneficial uses, monitoring efforts may cease upon approval by the Deputy Director. The Licensee must submit a request to cease monitoring and provide associated documents and information to support such a request.

If information in the report indicates DO measurements violate Basin Plan objectives for Lower Piru Creek, the Deputy Director will direct UWCD to develop a DO Improvement Plan (DOIP) to bring the Project into compliance with the DO Basin Plan water quality objectives. The Licensee shall submit the DOIP to the Deputy Director within three months of a determination by the Deputy Director that such a plan is required based on the DO reports. The Deputy Director may require modifications as part of the approval. The Licensee shall implement the DOIP upon receiving Deputy Director and all necessary regulatory approvals.

DOIP Implementation and Follow Up

If the Deputy Director determines that the DOIP is necessary, the Licensee shall continue to monitor DO conditions to evaluate the effectiveness of DOIP implementation. By March 31 of each year following monitoring, the Licensee shall submit a report to the Deputy Director that describes the effectiveness of DOIP implementation, data collected and associated analyses. The Deputy Director may provide comments on the report. If the Deputy Director does not provide comments on the report within 30 days of submittal, the Licensee shall file the report with FERC. If the Deputy Director provides comments, the Licensee shall revise the report to address the comments and submit the revised report to FERC and the Deputy Director within 30 days of receipt of comments.

If the information in the report demonstrates compliance with the DO Basin Plan water quality objectives, the Licensee may cease monitoring efforts upon Deputy Director approval. The Licensee must submit a request to cease monitoring and provide any associated documents and information to support such a request. If DO conditions do not improve in Piru Creek below Santa Felicia Dam, the Licensee shall consult with State Water Board staff regarding alternate ways to improve DO conditions. The Deputy Director may require additional measures to improve DO based on the outcome of the DO monitoring and DOIP.

CONDITION 3: The Licensee shall ensure that all required bypass flows and diversion(s) are consistent with the conditions of Water Right Permit Nos. 011181 and 019373 throughout the term of the license and any extensions.

CONDITION 4: The Licensee shall notify the Deputy Director and FERC a minimum of 15 days prior to any reduction of flow associated with the Alternative Operations Water Release Schedule that is expected to exceed 12 hours. The Licensee shall notify the Deputy Director

and FERC within 24 hours if a scheduled 12 hour flow reduction period (as allowed per the Alternative Operations Water Release Schedule – Condition 1C) unexpectedly exceeds 12 hours.

CONDITION 5: The Licensee shall provide annual reports to the State Water Board regarding implementation of the EMP. The annual reports shall include an evaluation of the effectiveness of the flows at providing habitat and unimpeded migration for steelhead. If the flows outlined in the Plan (Condition 1) are inadequate to facilitate unimpeded steelhead migration and habitat improvements, the Licensee shall consult with NMFS and provide recommendations to the Deputy Director for review and approval regarding modifications that may improve flow conditions and protect beneficial uses. The Deputy Director may make modifications to the recommendations as part of the approval. The Licensee shall implement the recommendations upon approval by the Deputy Director and any other necessary regulatory approvals.

CONDITION 6: If flows contained in the Plan are modified due to operational emergencies beyond the Licensee's control, the Licensee shall notify the State Water Board no later than 10 days after each occurrence.

CONDITION 7: Notwithstanding any more specific conditions in this water quality certification, the Licensee shall comply with all measures described in the application for water quality certification and its supplements.

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

CONDITION 9: The Deputy Director or State Water Board's approval authority includes the authority to withhold approval or to require modification of a proposal or plan prior to approval. The State Water Board may take enforcement action if the Licensee fails to provide or implement a required plan in a timely manner.

CONDITION 10: The State Water Board reserves the authority to modify the conditions of this water quality certification: (1) if monitoring results indicate that continued operation of the Project could violate water quality objectives or impair the beneficial uses of Piru Creek or its tributaries; (2) to coordinate the operations of this Project and other hydrologically connected water development projects, where coordination of operations is reasonably necessary to achieve water quality standards or protect beneficial uses of water; (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; or (4) to incorporate load allocations developed in a total maximum daily load developed by the State Water Board or a Regional Water Board.

CONDITION 11: Notwithstanding any more specific conditions in this water quality 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.

CONDITION 12: This water quality 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 water quality certification or associated 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 shall be responsible for meeting all requirements of the applicable ESAs for the Project authorized under this water quality certification.

CONDITION 13: In the event of any violation or threatened violation of the conditions of this water quality certification, the violation or threatened violation is subject to any remedies, penalties, process or sanctions as provided for under any 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 water quality certification.

CONDITION 14: In response to a suspected violation of any condition of this water quality certification, the State Water Board may require the holder of any federal permit or license subject to this water quality 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). The State Water Board may add to or modify the conditions of this water quality certification as appropriate to ensure compliance.

CONDITION 15: No construction shall commence until all necessary federal, state, and local approvals have been obtained.

CONDITION 16: Any requirement in this water quality certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.

CONDITION 17: The Licensee must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this water quality certification, to the State Water Board for prior review and written approval. If the State Water Board is not notified of a significant change to the Project, it will be considered a violation of this certification.

CONDITION 18: Nothing in this water quality 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.

CONDITION 19: The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to modify any of the conditions of this water quality certification.

CONDITION 20: This water quality certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 21: This water quality 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 water quality 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 23: This water quality certification requires compliance with all applicable requirements of the Basin Plan. The Licensee must notify the Deputy Director and the Executive Officer of the Los Angeles Regional Water Board within 24 hours of any unauthorized discharge to surface waters.

CONDITION 24: Upon request, the Licensee shall provide State Water Board and Regional Water Board staff access to the Project site to document compliance with this water quality certification.

CONDITION 26: Future changes in climate projected to occur during the license term may significantly alter the baseline assumptions used to develop the conditions in this water quality certification. The State Water Board reserves authority to modify or add conditions in this water quality certification to require additional monitoring and/or other measures, as needed, to verify that Project operations are meeting water quality objectives and protect beneficial uses.

CONDITION 27: The State Water Board reserves authority to modify this water quality certification if monitoring results indicate that operation of the Project would cause a violation of water quality objectives or impair beneficial uses.

CONDITION 28: Violation of any of the conditions of this water quality certification shall be reported immediately to the State Water Board.

CONDITION 28: In response to any violation of the conditions of this water quality certification the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance in the future.

CONDITION 29: The authorization to operate the Project pursuant to this water quality certification is conditioned upon payment of all applicable fees for review and processing of the application for water quality certification and administering the State's water quality certification program, including but not limited to the timely payment of any annual fees or similar charges that may be imposed by future statutes or regulations for the State's reasonable costs of a program to monitor and oversee compliance with conditions of water quality certification.

Thomas Howard
Executive Director

3/4/14
Date

Figure 1. Overview of Project Area

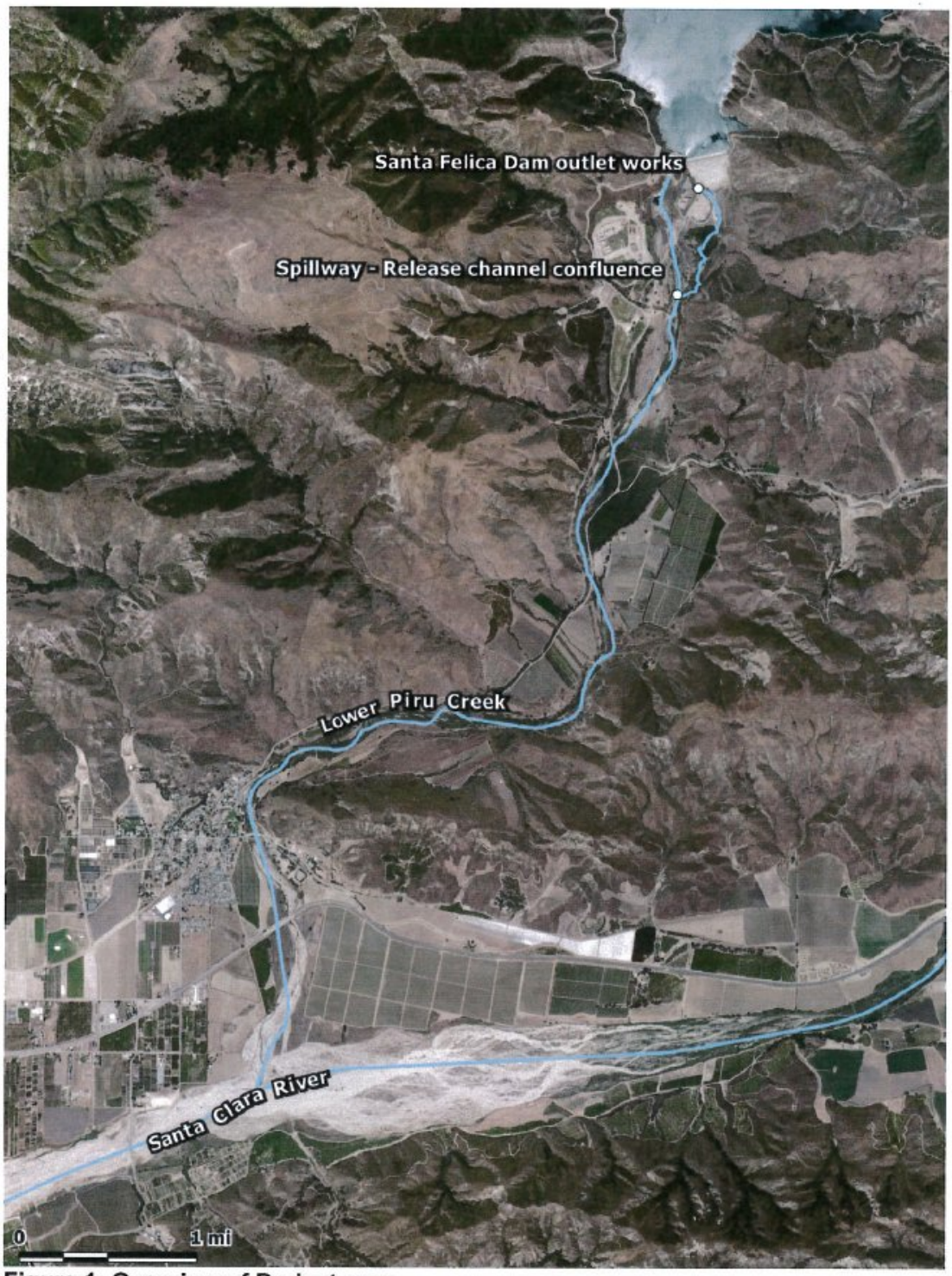

Figure 1: Overview of Project area.

Document Content(s)