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March 17, 2025

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SUBJECT: Response to Notice of Intent to Adopt Initial Study/Mitigated Negative Declaration to Satisfy CEQA Requirements for Merced River and Merced Falls Hydroelectric Projects FERC Relicensings and Merced Irrigation District Recreation Facilities Improvement Project Program Environmental Impact Report State Clearinghouse No. 2024051222

Dear Bryan Kelly:

The California Department of Fish and Wildlife (CDFW) received a draft Initial Study/Mitigated Negative Declaration (IS/MND) from Merced Irrigation District (Merced ID) for the above-referenced Projects pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Fully Protected Species: CDFW has jurisdiction over species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take except as specifically provided for in Fish and Game Code; none of those specific exceptions are applicable to this project.

Bird Protection: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Other Special Status Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for the Project.

Federal Energy Regulatory Commission (FERC): CDFW is the appropriate State Fish and Wildlife agency for resource consultation and Federal Power Act (FPA) Section 10(j) (16 U.S.C. §803 (j)) purposes. The fish and wildlife resources of the State of California are held in trust for the people of the state by and through CDFW (Fish & G. Code, § 711.7). CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 1802). The mission of CDFW is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public. It is the goal of CDFW to preserve, protect, and as needed, to restore habitat necessary to support native fish, wildlife, and plant species within the

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FERC-designated boundaries of these Projects, as well as the areas adjacent to these Projects in which resources are affected by ongoing project operations and maintenance activities and recreational use.

CDFW's coordination with the State Water Resources Control Board and other resource agencies is an effective path to codifying our preferred conditions via certifications, because CDFW only has recommendation authority under the FPA. Along with federal land management agencies' mandatory 4(e) conditions and National Oceanic and Atmospheric Administration's (NMFS) Section 18 fishway prescriptions, Certification conditions can be used by state and federal agencies to help mitigate hydropower impacts on riverine ecosystems.

PROJECT DESCRIPTION SUMMARY

Proponent: Merced ID

Project Description/Objective: Merced ID is proposing to relicense the Merced River Hydroelectric Project (P-2179-043) and Merced Falls Hydroelectric Project (P-2467-020) under the auspices of the FERC relicensing process. Merced ID has applied to FERC for licenses with 50-year terms for both projects. Pursuant to California Code of Regulations title 14 section 15072, Merced ID as the CEQA lead agency, prepared a Notice of Intent to adopt an IS/MND for the Merced River and Merced Falls hydroelectric projects FERC relicensings. In addition, Merced ID proposes improvements to its existing recreational facilities and construction of a new recreational facility, which are analyzed in a separate CEQA document (Draft Programmatic Environmental Impact Report for the Merced Irrigation District Recreation Facilities Project or Recreation PEIR; State Clearinghouse No. 2024051222; <https://ceqanet.opr.ca.gov/2024051222>). The draft Recreation PEIR describes the proposed recreation facilities and evaluated potential environmental impacts with the Project and its alternatives. The proposed recreation improvements have been proposed as part of Merced ID's Final License Application filed with FERC. The Proponent intends to use and primarily rely on a Final Environmental Impact Statement from FERC and the Recreation PEIR to satisfy CEQA review requirements for the relicensing of the Merced River and Merced Falls projects.

The Project includes acceptance of new FERC license(s) for the Merced River and Merced Falls hydroelectric projects, continuance of Project operations and maintenance under said licenses, and implementation of new license conditions. The objectives of the proposed Project as stated by the Proponent include the acceptance of a new FERC license(s) to:

1. Continue to operate, maintain, and manage the existing Merced River and Merced Falls Project Facilities;

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2. Remove from licensed facilities, but retain in operation outside the license, the minor facilities associated with the delivery of water to the Merced National Wildlife Refuge. All of the minor facilities are located on private land or land owned by Merced ID;
3. Construct new recreation facilities at all the existing Project recreation areas (i.e., McClure Point, Barrett Cove, Horseshoe Bend, Bagby, and McSwain). Most of the new recreation facilities (Mack Island) would be on private land or land owned by Merced ID;
4. Make minor modifications to the existing FERC boundary; and
5. Implement the other terms and conditions in the new license(s).

Location: The proposed Project is in the Merced River watershed in the western foothills of the Sierra Nevada, in Merced and Mariposa counties, California. Facilities are located on the mainstem of the Merced River, about 23 miles northeast of the City of Merced, California. The proposed Project covers a total of 11,653 acres and ranges in elevation from approximately 880 feet (ft) at the upstream end of Lake McClure to 320 ft at McSwain Reservoir. A portion of the Project is on federal land managed by United States (U.S.) Department of the Interior, Bureau of Land Management.

Completion of the two dams (New Exchequer and McSwain dams) in 1967 created two lakes, Lake McClure and the McSwain Reservoir, which generated many opportunities for public recreation. The lakes are in the foothills on the western slope of the Sierra Nevada Mountain range, approximately 23 miles northeast of Merced. Lake McClure has a storage capacity of about 1,025,000 acre-feet, while Lake McSwain has a storage capacity of 9,730 acre-feet. In total, the lakes combined include a total shoreline length of 94.5 miles.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

The comments and recommendations offered below are limited in scope and content to the environmental information relevant to our statutory responsibilities in connection with the proposed FERC relicensings.

General Scope: On February 13, 2025, the Project Proponent filed a “*Notice of Intent to Adopt Initial Study/Mitigated Negative Declaration to Satisfy CEQA Requirements for Merced River and Merced Falls Hydroelectric Project Relicensings*”. That NOI informed CDFW about the Proponent’s intention to adopt the IS/MND and the separate Recreation PEIR to satisfy CEQA requirements for the FERC relicensings of the Merced hydroelectric projects. CDFW acknowledges that the intent of the draft IS/MND was to supplement FERC’s 2015 Final Environmental Impact Statement (FERC 2015 FEIS) for

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the relicensing of the Merced River Hydroelectric Project (FERC Project No. 2179) and Merced Falls Hydroelectric Project (FERC Project No. 2467).

CDFW expected that the draft IS/MND would satisfactorily explain why the issuance of new FERC licenses for the Merced River projects avoids significant environmental effects through the implementation of mitigation measures necessary for the protection of biological resources. Per CEQA Guidelines Section 15097, the Project proponent must adopt a monitoring and reporting program for the mitigation measures included in this IS/MND. Based on the findings of the IS/MND, Merced ID has concluded that accepting new FERC licenses with mitigation measures to continue to operate and maintain the Merced River and Merced Falls projects would not result in significant adverse effects on the environment. For instance, the Project proponent concludes that the relicensing will have a “less than significant” impact on fish as it is anticipated that it would not interfere substantially with the movement of any native resident or migratory fish. However, water temperatures will remain similar to existing levels, in part because Merced ID proposed flow increases under the FERC license(s) will not be enough to significantly improve temperature issues. The draft IS/MND does not identify that this could adversely impact native resident and migratory fish such as California Central Valley steelhead and fall-run Chinook salmon populations, respectively. CDFW acknowledges an improvement in fish habitat conditions under the mitigation measures designed to minimize environmental impacts under the new FERC licenses; however, some of the impacts to biological resources, such as the case for native fish, cannot be deemed “less than significant”.

FERC License Duration: To continue operation and maintenance of the Merced River and Merced Falls projects, Merced ID must either obtain new federal licenses from FERC or continue to apply and be granted annual temporary licenses until a permanent license is accepted by Merced ID. Merced ID proposed Project includes the acceptance of new FERC licenses to continue operation and maintenance of the Merced hydroelectric projects over multiple decades. Merced ID has applied to FERC for licenses with 50-year terms for both projects.

CDFW acknowledges FERC, under the authority of the FPA, may issue licenses for terms ranging from 30 to 50 years for the continued operation and maintenance of non-federal hydroelectric projects. Regarding this statement, CDFW recommends the Commission issue *30-year licenses* given the difficulties foreseeing and effectively mitigating environmental consequences more than three decades into the future. Uncertainties such as potential shifts in hydrologic and meteorological conditions due to climate change require shorter, more flexible license terms. CDFW is particularly concerned with the potential for decline in the status of the native fish assemblage and other aquatic communities in the Merced River or community shifts that could favor the proliferation of introduced species over the next 30 to 50 years. Regardless of license term, CDFW recommends an explicit “10-year re-opener” statement be included in the license to allow the Commission to consider whether to amend the new license and

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adaptively manage the Merced River projects if new relevant information regarding Project-impacted resources is developing during the new license term.

The State Water Resources Control Board (Water Board) may rely on this CEQA analysis, as a supplement to the National Environmental Policy Act (NEPA) FEIS, to make its decision regarding whether to issue a Clean Water Act (CWA) Section 401 water quality certification (WQC) for the FERC Merced River and Merced Falls Hydroelectric Projects' relicensing. Therefore, CDFW makes this same recommendation about introducing adaptive management strategies to the Water Board in their granting of a final Clean Water Act, Section 401 Water Quality Certification for the Merced River and Merced Falls hydroelectric projects.

Fish Stocking: One of the broader purposes of the Project is to continue to offer opportunities for public recreational use, including fishing. The Proponent should consider that the adequacy of both the IS/MND and the Recreation DEIR will make it more useful as a basis to issue any permits or project approvals in the future. As such, the IS/MND should consider the importance of fish stocking to support or mitigate the loss of recreational fishing opportunities in the Merced River and Merced Falls after the improvement of fishing access as well as the potential construction, enhancement, repair, and maintenance of infrastructure (e.g., boat-launch facilities, boat docks, fishing ponds).

CDFW recommends the inclusion of fish stocking as a recreation measure in this Project. This measure can be developed based on a previous Memorandum of Understanding (MOU) between CDFW and Merced ID regarding fish stocking at McClure and McSwain reservoirs. Moreover, fish stocking had been included in FERC's final EIS for Merced River and Merced Falls including a recommendation to "[a]nnually stock rainbow trout, fingerling kokanee, and Chinook salmon in Lake McClure and McSwain reservoir for recreational fishing."

Special-Status Species: Special-status species are known to exist in the vicinity of the Project Site and there is the potential for the Project to impact State and federally listed species. Records from the California Natural Diversity Database (CNDDDB) show that the following special-status species, including State and federally listed species (CDFW 2025), could be impacted by construction and operation of the Project: the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*); the State and federally endangered foothill yellow-legged frog (*Rana boylei*); the State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*); the State threatened and fully protected limestone salamander (*Hydromantes brunus*); the State fully protected ringtail (*Bassariscus astutus*) and golden eagle (*Aquila chrysaetos*); the State candidate western burrowing owl (*Athene cunicularia hypugaea*); the State species of special concern and federally threatened California red-legged frog (*Rana draytonii*); the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondi*) and western pond turtle (*Actinemys marmorata*);

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the State species of special concern American badger (*Taxidea taxus*), pallid bat (*Antrozous pallidus*), spotted bat (*Euderma maculatum*), Townsend's big-eared bat (*Corynorhinus townsendii*), western mastiff bat (*Eumpos perotis*), western red bat (*Lasiurus blossevillii*); coast horned lizard (*Phrynosoma cronatum*), American white pelican (*Pelecanus erythrorhynchos*), loggerhead shrike (*Lanius ludovicianus*), long-eared owl (*Asio otus*), short-eared owl (*Asio flammeus*), northern harrier (*Circus cyaneus*), purple martin (*Progne subis*), yellow-breasted chat (*Icteria virens*), yellow warbler (*Setophaga petechia*).

CDFW recommends that a habitat assessment be conducted at and in the vicinity of the Project Site for the aforementioned plant and animal species (hereafter, special status species). While the 2015 FEIS assumed Merced ID will accept the new license and analyzed the potential effects of the Merced River and Merced Falls hydroelectric project's operation and maintenance, construction, and recreation activities and proposed FERC License Articles, BLM 4(e) Conditions and Merced ID Proposed Measures on special-status species, a more recent assessment should be conducted by a qualified biologist knowledgeable with the species and any potentially suitable habitat identified should be surveyed by a qualified biologist for the potential presence of these species as part of the biological technical studies conducted in support of the EIR. If the surveys detect presence of special status species at and/or near the Project Site, the EIR should include measures to minimize, mitigate, and avoid impacts to those species, or require the Proponent to obtain incidental take authorization under Section 2081 of Fish and Game Code if take avoidance of species listed pursuant to CESA is infeasible. Similarly, if the biological surveys detect the presence of special status species, the EIR should require that the Proponent consult with CDFW prior to commencing the Project, to identify and implement appropriate measures to avoid or minimize impacts to those species. It should be noted that when a species, such as ringtail, is State fully protected, no "take", incidental or otherwise, except as specifically provided for in Fish and Game Code can be authorized by CDFW; none of those specific exceptions are applicable to either project and complete avoidance of this species is required to comply with State law.

CDFW acknowledges that Merced ID identified Areas of Critical Environmental Concern (ACEC) for limestone salamander in this IS/MND. The limestone salamander has 48.25 acres in the proposed Project boundary, including lands with any known limestone salamander occurrences or suitable habitat. CDFW recommends that the Proponent conduct focused surveys for limestone salamander. In addition, CDFW recommends that the surveys for foothill yellow-legged frog, California red-legged frog, and western burrowing owl be conducted in accordance with the species-specific protocols which can be found here: <https://wildlife.ca.gov/Conservation/Survey-Protocols>. CDFW recommends that the special status species plant surveys be surveyed for by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" which can also be found at: <https://wildlife.ca.gov/Conservation/Survey->

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Protocols. This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary. If take could occur as a result of Project-related activities, consultation with CDFW to discuss how to avoid take is warranted.

Special-Status Fish:

California Central Valley Spring-run Chinook Salmon

CDFW concurs with the IS/MND statement that adult spring-run Chinook salmon found in the San Joaquin River from Friant Dam downstream to its confluence with the Merced River are part of a Section 10(j) nonessential experimental population related to the National Marine Fisheries Service (NMFS) San Joaquin River Spring-run Chinook Salmon Reintroduction Program. However, the nonessential experimental population designation does not extend to stray fish in the Merced River and their offspring. Although they occur in low numbers, these spring-run Chinook salmon are important to the conservation and recovery of the species. Spring-run experimental Chinook salmon released as part of implementation of the San Joaquin River Restoration Program have been documented in the Merced River in both 2021 and 2023. These fish were recovered in Escapement Surveys in the Merced River and at CDFW's Merced River Hatchery. This data is available on the Regional Mark Processing Center (RMPC) website (<https://www.psmfc.org/program/regional-mark-processing-center-coded-wire-tag-rmpc>) (Figure 1). Therefore, CDFW requests a broader consideration of the proposed Projects' impacts on all native fish in the Merced River, including Spring-run Chinook salmon.

White Sturgeon

The IS/MND states that white sturgeon, a state threatened candidate species, is not likely to occur in the proposed Project area. However, white sturgeon have been documented in the Merced River. The Sacramento-San Joaquin Delta White Sturgeon Acoustic Telemetry Study has provided white sturgeon migration information from over 300 acoustically tagged white sturgeon from 2010-2021. Some of the white sturgeons were detected in the Merced River in 2018, 2019, 2023, and 2024. This detection data is available on the Delta Science Tracker website (<https://sciencetracker.deltacouncil.ca.gov/activities/white-sturgeon-telemetry-synthesis>) (Figure 2)."

Bird Protection: CDFW concurs with the Proponent in that the FERC "2015 FEIS did not analyze in much detail the Proposed Project effects on special-status birds, including CESA-listed and [fully protected] birds during project operations". Therefore, CDFW recommended that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must

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occur during the nesting season (February 1 through September 15), CDFW recommends the Proponent to be responsible for ensuring that implementation does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a general habitat assessment for nesting birds be conducted as part of the biological technical studies conducted in support of the Draft IS/MND. Depending on the results of that assessment, CDFW further recommends that this Project requires that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground- or vegetation-disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project Site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends the EIR include a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project Site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDDB: Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project Site.

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Project Alternatives Analysis: CDFW recommended that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the project's CEQA document be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts: CDFW recommended that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Hydrology and Water Quality Impacts: Continued operation of the Merced River and Merced Falls project under new FERC licenses is anticipated to impact water quality resources in the Merced River. CDFW recommends that Section 3.3.10 of the draft IS/MND includes a broader discussion of FERC relicensing potential impacts or synergies with regional planning efforts including the Bay Delta Plan and the Groundwater Sustainability Plans (GSP). The Bay Delta Plan provides a water quality control plan that includes water quality objectives for the Merced River and the Merced Subbasin GSP proposes groundwater recharge using water from the Merced River. The discussion of measures to protect water quality (i.e., Appendices E & F – Preliminary Water Quality Certification Conditions) in the IS/MND should be enhanced with the addition of considerations from the Bay Delta Plan and the Merced Subbasin GSP. Both planning efforts have been incorporated in a draft 401 Water Quality Certification issued by the Water Boards for the Merced River and Merced Falls projects and that should be consistent with the projects CEQA analyses.

Lake and Stream Alteration: CDFW may rely on the IS/MND analysis, as a supplement to the 2015 FERC FEIS, to decide whether to issue Fish and Game Code Section 1602 Lake and Streambed Alteration Agreements for individual projects at the Merced River and Merced Falls projects. In addition, the Recreation EIR supplemental to this IS/MND includes a general description of the types of construction activities required to achieve the proposed project types common to multiple recreation areas. An evaluation of these types of activities suggests that portions of the Project may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600

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et seq. (e.g., In-Lake Work). Some types of projects that require in-lake work such as expanding and rehabilitating boat ramps, or adding sand for inland expansion of existing beach areas are important to support fish stocking activities in the Merced River and Merced Falls areas.

Fish and Game Code section 1602 requires the Proponent notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. The EIR should address the potential Project-related impacts to all streams at and near the Project Site. For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration (LSA) Program at (559) 243-4593, or R4LSA@willife.ca.gov.

CDFW is required to comply with CEQA in the issuance of an LSA Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For additional information on notification requirements, please contact staff in the Central Region LSA Program at (559) 243-4593 or R4LSA@willife.ca.gov, or visit the Lake and Streambed Alteration Program website at <https://wildlife.ca.gov/Conservation/LSA>.

Federally Listed Species: CDFW recommends consulting with the U.S. Fish and Wildlife Service (USFWS) on potential impacts to federally listed species including, but not limited to the aforementioned foothill yellow-legged frog, California red-legged frog, western spadefoot, and western pond turtle. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.

CONCLUSION

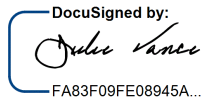
Under the FERC relicensing processes, several environmental management plans were developed which would benefit biological and other resources. The IS/MND results suggest that the proposed Project activities could result in significant impact to biological and water quality resources. Therefore, CDFW recommends the adoption and implementation of the CDFW Section 10(j) recommendations from the FERC relicensing process, the mandatory conditions in the SWRCB draft 401 water quality certification, and other biological management plans and mitigation measures from the 2015 FEIS

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Staff recommendations, post-FEIS updated conditions (Merced ID 2021a and b), and the 2025 Recreation PEIR.

CDFW appreciates the opportunity to provide comments on this draft Initial Study/Mitigated Negative Declaration (IS/MND). If you have any questions, please address any questions or concerns regarding these comments to Abimael León, the Regional FERC Coordinator, at Abimael.Leon@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachments

ec: Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
Via electronic submittal

State Clearinghouse
state.clearinghouse@opr.ca.gov

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REFERENCES CITED

CDFW (California Department of Fish and Wildlife). 2025. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed March 6, 2025.

FERC (Federal Energy Regulatory Commission). 2015. Final Environmental Impact Statement for Hydropower Licenses: Merced River Hydroelectric Project--FERC Project No. 2179-043) – California, Merced Falls Hydroelectric Project--FERC Project No. 2467-020-California. Federal Energy Regulatory Commission, Washington, D. C. December 2015. FERC/EIS-0259.

Merced Irrigation District. 2021a. Merced River Hydroelectric Project, FERC Project No. 2179-043-California, Amendment to License Application. Letter to FERC. December 17, 2021.

Merced Irrigation District. 2021b. Merced River Hydroelectric Project, FERC Project No. 2179-043-California, Amendment to License Application. Letter to FERC. December 17, 2021.

Figure 1. California Central Valley Spring-run Chinook Salmon Code-Wire Tag Data from the Merced River (Source: CDFW San Joaquin River Restoration Program)

Figure 2. White Sturgeon Detection Data from the Merced River

White Sturgeon Detection Data

Tag Information for All White Sturgeon in the Merced River

Tag Code	Tag Date	FL (cm)	F.sex	B.sex	Tag Location	PIT Tag	Recap Date	Comments
A69-9001-19549	4/3/2016	116	M	M	N37 42.529 W121 16.503	985F121021143929		
A69-9001-27466	3/21/2014	109	U	F?	N37 34.604 W121 09.522	985F121021156258		
A69-9001-19543	11/29/2016	100	U		N37 44.470 W121 17.685	900H226000765233		N37.74116 W121.29475

****tag cocdes ending in 4 digits are trout, no tagging info****

All Acoustic Detections in the Merced River for the Fish with Tag Code A69-9001-27466

Date and Time (UTC)	Receiver	Transmitter	Transmitter Name	Station Name	Latitude	Longitude	Transmitter Type	Sensor Precision
4/2/2018 4:50	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 4:52	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 20:43	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 20:45	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 20:47	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 20:49	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 20:50	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/2/2018 23:59	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:02	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:04	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:05	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:08	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:12	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:13	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:15	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:29	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:49	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 0:51	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 2:41	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 2:42	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/3/2018 2:44	113020	A69-9001-27466		MR DS	37.348	-120.971		
4/8/2018 5:56	113007	A69-9001-27466		MR US	37.421	-120.707		
4/13/2018 11:02	113007	A69-9001-27466		MR US	37.421	-120.707		
4/13/2018 18:28	113007	A69-9001-27466		MR US	37.421	-120.707		
4/14/2018 16:45	113007	A69-9001-27466		MR US	37.421	-120.707		
4/16/2018 21:19	113007	A69-9001-27466		MR US	37.421	-120.707		
4/16/2018 22:36	113007	A69-9001-27466		MR US	37.421	-120.707		
4/16/2018 22:38	113007	A69-9001-27466		MR US	37.421	-120.707		
4/16/2018 22:40	113007	A69-9001-27466		MR US	37.421	-120.707		
4/16/2018 22:42	113007	A69-9001-27466		MR US	37.421	-120.707		

Date and Time (UTC)	Receiver	Transmitter	Transmitter Name	Station Name	Latitude	Longitude	Transmitter Type	Sensor Precision
4/17/2018 8:48	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 8:50	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 10:23	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 10:25	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 10:33	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 10:35	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 11:18	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 11:28	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 11:29	113007	A69-9001-27466		MR US	37.421	-120.707		
4/17/2018 11:32	113007	A69-9001-27466		MR US	37.421	-120.707		
4/18/2018 1:58	113007	A69-9001-27466		MR US	37.421	-120.707		
4/18/2018 2:00	113007	A69-9001-27466		MR US	37.421	-120.707		
4/18/2018 20:26	113007	A69-9001-27466		MR US	37.421	-120.707		
4/20/2018 21:22	113020	A69-9001-27466		MR DS	37.348	-120.971		
3/8/2023 12:01	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:02	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:04	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:06	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:08	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:10	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:28	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:29	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		
3/8/2023 12:30	VR2W-113020	A69-9001-27466		MR DS	37.34953	-120.96311		

All Acoustic Detections in the Merced River for the Fish with Tag Code A69-9001-19543

Date and Time (UTC)	Receiver	Transmitter	Transmitter Name	Station Name	Latitude	Longitude	Transmitter Type	Sensor Precision
2/28/2019 6:40	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 6:41	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 6:43	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 6:44	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 6:46	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 10:48	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 10:52	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 10:57	113020	A69-9001-19543		MR DS	37.348	-120.971		
2/28/2019 10:58	113020	A69-9001-19543		MR DS	37.348	-120.971		
3/29/2019 12:37	113020	A69-9001-19543		MR DS	37.348	-120.971		
3/31/2019 0:13	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
3/31/2019 0:14	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
3/31/2019 0:16	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
4/3/2019 21:48	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
4/4/2019 0:58	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
4/4/2019 13:54	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
4/4/2019 16:15	VR2W-113007	A69-9001-19543		MR US	37.42096	-120.70675		
4/5/2019 20:47	113020	A69-9001-19543		MR DS	37.348	-120.971		

All Acoustic Detections in the Merced River for the Fish with Tag Code A69-9001-19549

Date and Time (UTC)	Receiver	Transmitter	Transmitter Name	Station Name	Latitude	Longitude	Transmitter Type	Sensor Precision
3/10/2024 7:54	VR2W-113020	A69-9001-19549		MR DS	37.34953	-120.96311		