

# ANNOTATED LICENSE - CURRENT FERC LICENSE REQUIREMENTS<sup>1</sup>

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The Federal Power Commission’s, the Federal Energy Regulatory Commission’s (FERC) predecessor agency, issued an Order Issuing the License for the North Fork Stanislaus River Hydroelectric Project, FERC Project No. 2409, on February 8, 1982 to Calaveras County Water District (CCWD). The Order included 61 articles, of which 32 articles were FERC’s standard Form L-2, Terms and Conditions of License for Unconstructed Major Project Affecting Lands of the United States. Of the 61 articles in the existing license, Articles 14, 27, 28, 34, 35, 36, 38, 39, 40, 42 through 49, 51 through 55, and 57 through 60 are “completed” or “no longer pertinent” because the articles pertain to an activity that has been completed or is no longer relevant, respectively. As a result, the existing license contains 35 active articles. The general topic of each active article is provided in Table 1.

**Table 1. List of active articles in the existing FERC license for the North Fork Stanislaus Hydroelectric Project.**

Article	Description	Article	Description
1	General	20	Keep clear to adequate width lands along open conduits and dispose of temporary structures, unused timber, brush, refuse, etc. and remove dead or dying trees along periphery of reservoirs
2	FERC approval of changes	21	Removal of timber on U.S. lands
3	FERC approval of changes	22	Preparation and suppression of wildfires on Project lands
4	FERC inspection and supervision	23	Use of water for fire suppression, sanitary and domestic needs on U.S.-owned lands
5	Acquire title in fee or land use for Project	24	Construction liability
6	Make good any defect of title	25	Permit use of US-owned lands for transportation and communication
7	FERC determines cost of Project	26	Approval of land management agency of roads, quarries, borrow pits on U.S. lands
8	Install and monitor stream gages	29	Disposal of mineral and vegetation on U.S. lands
9	Install additional capacity or other changes as directed by FERC	30	Surrender of license
10	Coordination with other projects	31	Licensee rights terminate at end of license unless new license is issued
11	Headwater or other Project benefits	32	Terms and conditions of Federal Power Act
12	Navigable waters and public use releases	33	Control of vectors
13	Reasonable use of reservoir or lands	37	Minimum flows
15	Construct, maintain, and operate fish and wildlife facilities as ordered by FERC	41	Avoid or minimize disturbance to natural, scenic, historical, and recreational values of the Project area
16	Allow U.S. agencies at their own expense to construct, maintain, and operate fish and wildlife facilities on Project lands and waters	50	Water level fluctuations in streams
17	Construct, maintain, and operate recreation facilities as ordered by FERC	56	Payment of annual charges
18	Allow public free access to Project lands and waters	61	Lease of Project lands
19	Take reasonable measures to prevent, soil erosion, stream sedimentation, and any form of water or air pollution	<b>Total = 35 Active Articles</b>	

<sup>1</sup> This document is CCWD’s good faith effort to provide a description of the current license requirements (i.e., the requirements of the existing license as amended during the license term) and meets the requirements of 18 CFR §5.6(d)(2)(v)(A). CCWD may update this description periodically during relicensing.

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Articles in the existing FERC Project license are shown below. Unless otherwise noted, the article that was included in the Order Issuing the License and has not been amended by FERC. Articles that are completed or out-of-date are noted. The FERC ELibrary accession number of each FERC order (*i.e.*, an order that modified a license article) that amended an article is provided where available.

**Article 1.** The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

**Article 2.** No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, that if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

**Article 3.** The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variation in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

*[On July 26, 1991, PG&E filed an amendment for P-2019 to include the tunnel tap water delivery facilities located downstream of the existing 30-inch-diameter butterfly guard valve at the Mill Creek tap into the P-2019 license<sup>2</sup>. FERC approved the amendment for P-2019 and also modified the facilities for P-2409 in an Order Amending License<sup>3</sup> on September 25, 1991.]*

**Article 4.** The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Energy Regulatory Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any features or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

**Article 5.** The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

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<sup>2</sup> Available in FERC ELibrary at Accession Number 19910729-0108.

<sup>3</sup> Available in FERC ELibrary at Accession Number 19910927-0345.

**Article 6.** In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a nonpower licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, that the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

**Article 7.** The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

**Article 8.** The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the state and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character and locations of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

**Article 9.** The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

**Article 10.** The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

**Article 11.** Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

**Article 12.** The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

**Article 13.** On the application of any person, association, corporation, Federal Agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

**Article 14.** In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

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*[On February 12, 1992, FERC issued an Order Approving Partial Transfer of License, Amending License, and Issuing License (Transmission Line)<sup>4</sup> which transferred the Collierville and Spicer Meadows transmission lines to the Northern California Power Agency (NCPA). Since the Project no longer includes any transmission lines, CCWD considers this license article “out-of-date”.]*

**Article 15.** The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

**Article 16.** Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

**Article 17.** The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

**Article 18.** So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

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<sup>4</sup> Available in FERC ELibrary at Accession Number 19920218-0624.

**Article 19.** In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

**Article 20.** The Licensee shall consult with the appropriate State and Federal agencies and, within three years of the date of issuance of this license, shall submit for Commission approval a plan for clearing the reservoir area. Further, the Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed.

Upon approval of the clearing plan all clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

*[CCWD filed a reservoir clearing plan<sup>5</sup> on June 17, 1985, which was approved by FERC<sup>6</sup> on August 2, 1985. CCWD subsequently filed a revised reservoir clearing plan<sup>7</sup> on November 16, 1987, which was approved by FERC<sup>8</sup> on January 14, 1988. CCWD considers this license article as it pertains to the Clearing Plan and clearing for initial construction “expired. The remainder of the article is “active”.]*

**Article 21.** Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands.

Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to others than the Licensee: Provided, that timber so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

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<sup>5</sup> Available in FERC ELibrary at Accession Number 19850619-0569.

<sup>6</sup> Available in FERC ELibrary at Accession Number 19850812-0185.

<sup>7</sup> Available in FERC ELibrary at Accession Number 19871130-0305.

<sup>8</sup> Available in FERC ELibrary at Accession Number 19880129-0009.

**Article 22.** The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

**Article 23.** The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

**Article 24.** The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the work appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

**Article 25.** The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

**Article 26.** In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

**Article 27.** The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

*[On February 12, 1992, FERC issued an Order Approving Partial Transfer of License, Amending License, and Issuing License (Transmission Line)<sup>9</sup> which transferred the Collierville and Spicer Meadows transmission lines to the Northern California Power Agency (NCPA). Since the Project no longer includes any transmission lines, CCWD considers this license article “out-of-date”.]*

**Article 28.** The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

*[On February 12, 1992, FERC issued an Order Approving Partial Transfer of License, Amending License, and Issuing License (Transmission Line)<sup>10</sup> which transferred the Collierville and Spicer Meadows transmission lines to the Northern California Power Agency (NCPA). Since the Project no longer includes any transmission lines, CCWD considers this license article “out-of-date”.]*

**Article 29.** The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, et seq.), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: Provided further, That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

**Article 30.** If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

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<sup>9</sup> Available in FERC ELibrary at Accession Number 19920218-0624.

<sup>10</sup> Available in FERC ELibrary at Accession Number 19920218-0624.

**Article 31.** The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

**Article 32.** The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

**Article 33.** The Licensee shall implement measures necessary for the control of vectors at the project, and shall obtain the recommendations of the State of California and the appropriate mosquito control district. In the event of the Licensee's failure to undertake effective control measures, the Commission reserves the right to order the Licensee to take appropriate measures for the control of vectors at the project.

**Article 34.** The Licensee, following consultation with the U.S. Forest Service and the California Department of Fish and Game, shall file with the Commission's Regional Engineer in San Francisco, California, and the Director, Office of Electric Power Regulation, prior to any ground disturbing activity, a detailed plan to control soil erosion and to minimize the quantity of inorganic sediments, or other potential pollutants resulting from construction of project facilities that would enter the North Fork Stanislaus River, Highland Creek, Beaver Creek, and the Stanislaus River. This plan shall include an implementation schedule, maintenance program, and evidence of agency consultation. The Director, Office of Electric Power Regulation may require changes in the plan to minimize erosion, sedimentation, or water pollution.

*[CCWD filed an Erosion Control Plan<sup>11</sup> on August 6, 1985, and documentation of consultation<sup>12</sup> on January 30, 1987. On February 21, 1986, FERC advised the materials filed by CCWD met the requirements of the Article.<sup>13</sup> CCWD considers this license article "out-of-date".]*

**Article 35.** The Licensee shall, in cooperation with the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the California Department of Parks and Recreation conduct a thermal prediction analysis to estimate downstream water temperatures during project operation, and to determine the type of outlet structure needed at Spicer Meadow Dam for the purpose of releasing water of suitable temperature for downstream fishery and recreational uses. The thermal prediction analysis shall include that section of the North Fork Stanislaus River from the confluence with Highland Creek to below the proposed McKays Point Diversion Dam. A report on the results of the analysis with recommendations and evidence of agency consultation shall be filed with the Commission within two years from the date of issuance of this license.

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<sup>11</sup> Available in FERC ELibrary at Accession Number 19850808-0260.

<sup>12</sup> Available in FERC ELibrary at Accession Number 19860210-0233.

<sup>13</sup> Available in FERC ELibrary at Accession Number 19860221-0732.

Further, the Licensee shall consult with the above resource agencies in the design of any outlet structure shown to be needed by the studies. Final design of any outlet structure shall be filed on the appropriate Exhibit L drawing for Commission approval pursuant to Article 52.

*[CCWD filed a report on the analysis of water temperature<sup>14</sup> on January 22, 1985. CCWD considers this license article “out-of-date”.]*

**Article 36.** The Licensee shall, in cooperation with the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the California Department of Parks and Recreation conduct a three-year post operation study to determine an operation schedule needed to release water of suitable temperature from Spicer Meadow Dam for downstream fishery and recreational uses. A report of the post-operation study with recommendations for any project modification shall be filed with the Commission within one year following its completion.

*[CCWD filed a Post-Construction Water Temperature Study Plan<sup>15</sup> on March 23, 1989. FERC approved the plan with modifications<sup>16</sup> on March 7, 1990. CCWD filed a final report<sup>17</sup> on November 8, 1994. CCWD considers this license article “out-of-date”.]*

**Article 37.** The Licensee shall release a continuous minimum flow of 16.5 cfs immediately below Spicer Meadow Dam and below McKays Diversion Dam and a flow of 16.5 cfs or the natural inflow, if less, below the North Fork Diversion Dam and below Beaver Creek Diversion Dam. After the project becomes operational, the Licensee shall, in cooperation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service, evaluate the minimum flow below McKays Diversion Dam to determine the adequacy and any modifications needed to protect and enhance the downstream aquatic habitat and fish resources of the North Fork Stanislaus River. Further, Licensee shall file, within 2 years after the project becomes operational, the results of the evaluation, evidence of agency consultation and, for Commission approval, recommendations for any proposed modification of the minimum flow.

**Article 38.** The Licensee, following consultation with the California Department of Fish and Game, U.S. Fish and Wildlife Service, and the U.S. Forest Service, shall file, within five years from the date of issuance of this license, a revised Exhibit S for approval, which shall include:

- (1) a detailed fish management plan for Spicer Meadow Reservoir and the North Fork Stanislaus River, including consideration of stocking, reservoir operating levels, rate of change in flow releases, and other measures to protect and enhance the fish resource;
- (2) a detailed comprehensive plan for the mitigation and enhancement of the wildlife resources affected by the construction, operation, and maintenance of the project including clearing and revegetation of the penstock right-of-way lands to include, among other things, development and maintenance procedures, materials, and a schedule for implementation of

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<sup>14</sup> Available in FERC ELibrary at Accession Number 19850128-0256.

<sup>15</sup> Available in FERC ELibrary at Accession Number 19890419-0109.

<sup>16</sup> Available in FERC ELibrary at Accession Number 19900308-0455.

<sup>17</sup> Available in FERC ELibrary at Accession Number 19941116-0309.

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the wildlife mitigation plan. The plan shall also specify the location and acreage of replacement lands for Gabbot Meadow, and

- (3) estimated costs, and the portion to be paid by the Licensee and any other entities for implementing the fish and wildlife management plans.

*[FERC's August 8, 1984, Order<sup>18</sup> amended Article 38 to give CCWD an additional two years to submit the revised Exhibit S. CCWD submitted a Revised Exhibit S<sup>19</sup> on February 3, 1988. On June 16, 1989, FERC approved the Revised Exhibit S.<sup>20</sup> Two outside or licensing agreements are particularly relevant to Exhibit S. the first is a February 1991 agreement that was fully executed on August 13, 1991, between CCWD, CDFW, and the United States Department of the Interior, Fish and Wildlife Service (USFWS).<sup>21</sup> The agreement pertained to mitigation and replacement of lands for wildlife losses, especially for those lost by inundation of Gabbot Meadow by the New Spicer Meadows Reservoir. The parties agreed the agreement provided full mitigation regarding these potential and real Project impacts for wildlife losses due to the construction and operation of the reservoir. The more relevant items of the agreement were: 1) CCWD would purchase Segales Meadow (i.e., Replacement Meadow); 2) CCWD would donate the purchased land to the U.S. for administration as part of the Stanislaus National Forest; 3) CCWD would enter into a \$65,000 Wildlife Collection Agreement with the Forest Service for certain initial enhancements to the Replacement Meadow to be made by the Forest Service; 4) CCWD and the agencies would visit the Replacement Meadow each year to agree on annual maintenance measures; 5) CCWD would fund the Forest Service up to \$25,000 annually to perform the annual maintenance; and 6) CCWD would monitor effectiveness every year for the first 5 years and then every fifth year for the term of the license. The agreement included measures at Corral Meadow, Big Flat, Sandy Meadow, Lower Pacific Valley, and Upper Gardner / Bear Tree Meadow / Half Moon Lake. CCWD purchased the Replacement Meadow, deeded it to the United States, provided the initial funding, participated in the inspections, and funded and is continuing to fund the annual maintenance. The Replacement Meadow and other meadows were not made part of P-2409 (i.e., not Project facilities or within the FERC Project Boundary).*

*The second relevant outside of licensing agreement is a November 30, 1988, agreement between CCWD, NCPA, and CDFW<sup>22</sup> that required mitigation for project impacts to fish and wildlife due to construction in Clark's Flat, the North Fork Stanislaus River, and Hobart Creek (tributary to New Spicer Meadows Reservoir). The parties agreed the 1988 Agreement provided full mitigation regarding these potential and real Project construction and operations impacts in these areas. The more relevant items of the agreement were: 1) NCPA would pay to CDFW \$500,000 for the purchase of Hope Valley in Alpine County, CA; 2) NCPA would arrange for the title of the purchased lands to be vested in the State of California; 3) the State would manage the lands for fish and wildlife mitigation and recreational use of those resources; and 4) NCPA would reimburse CDFW for operation and maintenance expenses of the purchased lands up to \$200,000 with payment requests to be on an annual basis with 10 yearly payments of \$20,000. NCPA provided*

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<sup>18</sup> Available in FERC ELibrary at Accession Number 19840820-0012.

<sup>19</sup> Available in FERC ELibrary at Accession Number 19880218-0096.

<sup>20</sup> Available in FERC ELibrary at Accession Number 19890619-0472.

<sup>21</sup> Not available in FERC ELibrary; available from CCWD upon request.

<sup>22</sup> Not available in FERC ELibrary; available from CCWD upon request.

*the funding to CDFW, CDFW purchased the portion of Hope Valley, vested it with the State, and as of 2025, NCPA's remaining liability is approximately \$170,000 because CDFW has not been consistent in submitting invoices to NCPA and requesting reimbursement. The purchased lands were not made part of P-2409 (i.e., not Project facilities or within the FERC Project Boundary). CCWD considers this license article complete.]*

**Article 39.** The Licensee, in cooperation with the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the U.S. Forest Service, shall monitor wildlife mitigative measures, file with the Commission during project construction annual progress reports; and within 3 years following commencement of commercial operations, file a final report showing the findings of this program together with recommendations on the need for modifications of physical structures and additional measures to further protect and enhance wildlife.

*[CCWD filed materials related to Article 39<sup>23</sup> on February 18, 1994. FERC confirmed the materials adequately fulfilled the final requirements for Article 39<sup>24</sup> on April 26, 1994. CCWD considers this license article complete.]*

**Article 40.** The Licensee shall arrange for a preconstruction survey of all areas proposed to be disturbed by project construction or operation to determine the impacts, if any, on endangered or threatened species of flora and fauna. This survey shall be conducted by a professional(s) in the fields of botany and wildlife, and shall include the transmission line right-of-way, spoil sites, construction campsites, roads, laydown areas, and other project facility sites. The Licensee shall provide for a review of this survey by the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the U.S. Forest Service. Should it be determined from the survey that specimens of any threatened or endangered species of flora or fauna would be adversely affected by the construction or operation of the project, the Licensee shall cooperate with the aforementioned agencies in developing and implementing a mitigation plan for the affected species. A copy of the plan shall be filed with the Commission.

*[FERC issued a letter on May 29, 1985 informing CCWD that all requirements of Article 40 were met.<sup>25</sup> CCWD considers this license article complete.]*

**Article 41.** The Licensee shall avoid or minimize any disturbance caused by construction and maintenance of the project works to the natural, scenic, historical, and recreational values of the project area, blending project works with natural views and revegetating, stabilizing, and landscaping all construction laydown areas, access road cuts, borrow and fill areas, and spoil areas as soon as practicable after construction.

**Article 42.** The Licensee shall cooperate with the California Department of Parks and Recreation in its baseline study of pre-project riparian vegetation along the North Fork Stanislaus River in Calaveras Big Trees State Park. Licensee shall continue to cooperate in monitoring the status of the riparian vegetation within the park boundaries for two years following commencement of commercial operations to determine the effects, if any, of project operations. If the study indicates

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<sup>23</sup> Available in FERC ELibrary at Accession Number 19940302-0162.

<sup>24</sup> Available in FERC ELibrary at Accession Number 19940512-0202.

<sup>25</sup> Available in FERC ELibrary at Accession Number 19850604-0069.

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that project operations have adversely affected riparian vegetation in the park, Licensee shall, in consultation with the California Department of Parks and Recreation, file with the Commission a plan to compensate the Department of Parks and Recreation for the removal of riparian vegetation that has been adversely affected by project operations.

*[CCWD submitted a report on riparian vegetation<sup>26</sup> on June 25, 1992. CCWD considers this license article complete.]*

**Article 43.** Licensee shall, in cooperation with the California Department of Parks and Recreation, during the second summer season (June through August), following commencement of commercial operation of project facilities, monitor safety conditions at the swimming area adjacent to the bridge over the North Fork Stanislaus River within Calaveras Big Trees State Park and file with the Commission, within six months following completion of the monitoring program, a report outlining any measures necessary to reduce safety hazards and to mitigate the possible loss of recreational opportunities.

*[CCWD filed an application to amend Article 43<sup>27</sup> on July 19, 1991, to include a third summer of monitoring. FERC approved the request<sup>28</sup> on November 12, 1991. CCWD filed a mitigation plan<sup>29</sup> on January 31, 1995, and supplemental information<sup>30</sup> on September 5, 1995. FERC approved the mitigation plan<sup>31</sup> on May 6, 1996. CCWD considers this license article complete.]*

**Article 44.** Licensee shall, within one year from the date of issuance of this license, file for Commission approval an amendment to the Exhibit R describing Licensee's program for the development, operation, and maintenance of recreational facilities at Utica and Union Reservoirs.

*[Utica and Union reservoirs are no longer part of P-2409. The reservoirs were originally part of Pacific Gas and Electric Company's (PG&E) Utica Project, FERC Project No. 2019 (P-2019). On May 5, 1994, PG&E filed with FERC an application for a new license for P-2019, and NCPA filed a competing application. On November 29, 1995, FERC approved a transfer of the P-2019 license from PG&E to CCWD, and in the same order approved a transfer of the reservoirs and Lake Alpine from CCWD to NCPA as P-11563 and the transfer of PG&E's Angels Project, FERC Project No. 2699 (P-2699) from PG&E to CCWD. The remaining portions of P-2019 retained the project number P-2019.<sup>32</sup> Subsequently, CCWD transferred the P-2019 license to the Utica Power Authority (UPA), which later changed its name to the Utica Water and Power Authority (UWPA). On July 22, 1997, NCPA filed an application for new license for P-11563 in competition with an application from the UPA. On September 3, 2003, in conformance with a July 28, 1997, settlement*

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<sup>26</sup> Available in FERC ELibrary at Accession Number 19920629-0167.

<sup>27</sup> Available in FERC ELibrary at Accession Number 19910722-0169.

<sup>28</sup> Available in FERC ELibrary at Accession Number 19911115-0230.

<sup>29</sup> Available in FERC ELibrary at Accession Number 19950202-0046.

<sup>30</sup> Available in FERC ELibrary at Accession Number 19950911-0042.

<sup>31</sup> Available in FERC ELibrary at Accession Number 19960513-0123.

<sup>32</sup> Federal Energy Regulatory Commission. 1995. Order Approving Transfer of Licenses and Designating New Docket Number. Issued November 29, 1995.

*agreement between NCPA and UPA, FERC issued to NCPA a new license for P-11563 with a term of 30 years expiring on August 31, 2033.<sup>33</sup> The new licenses for P-2019 and P-2699 expire on August 31, 2033. Since Utica and Union reservoirs are not part of P-2409, CCWD considers this article out-of-date.]*

**Article 45.** Licensee shall, prior to the start of project construction, consult and cooperate with Calaveras County officials concerning housing accommodations for project-related workers.

*[The Project was constructed in accordance with Article 45 and CCWD considers this license article complete.]*

**Article 46.** Licensee shall, prior to the start of project construction, provide to the Vallecito Unified School District, Mark Twain Union Elementary School District, and Bret Harte Union High School District, funds equal to the difference between the incremental operating expenditures required to accommodate students who are dependents of project-related workers and the incremental revenues received from the State for the enrollment of these students.

*[The Project was constructed in accordance with Article 46 and CCWD considers this license article complete.]*

**Article 47.** Licensee shall, prior to the start of project construction, provide to the Calaveras County Office of Sheriff, a sufficient amount of money to offset the additional costs of public safety necessitated by construction activities and the influx of project-related workers and their dependents into Calaveras County.

*[The Project was constructed in accordance with Article 47 and CCWD considers this license article complete.]*

**Article 48.** Licensee shall reimburse Calaveras County for the costs of maintaining and repairing all portions of county roads that are impacted during construction by project-related truck traffic.

*[The Project was constructed in accordance with Article 48 and CCWD considers this license article complete.]*

**Article 49.** The Licensee shall, prior to commencement of any construction or land disturbance and the project, file for Commission review a comprehensive cultural resource management plan. This plan should be consistent with studies already agreed to by the Licensee, the California State Historic Preservation Officer (SHPO), and the U.S. Forest Service, and it should be prepared in consultation with these agencies. The plan should be prepared by a professional archeologist and, among other things, should include: (1) the results of any necessary resurvey or additional survey work; (2) an analysis of surface collections of artifacts and of test excavations at previously identified archeological sites; (3) information derived from an historic and ethnographic study of the project area; (4) refined evaluations of the significance of cultural resource sites discovered at the project; (5) specific proposals for the avoidance of, or mitigation of damage to, cultural

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<sup>33</sup> Federal Energy Regulatory Commission. 2003. Order Issuing New License. Issued September 3, 2003.

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resource properties that might be affected by project activities; and (6) a timetable for any data recovery that might be necessary. Any data recovery proposed as part of the management plan shall be reviewed by the SHPO and the Forest Service, and shall be carried out by the Licensee prior to disturbance of a particular site or sites. The Management plan shall be filed with the Commission prior to disturbance of a particular site or sites. The Licensee shall make available funds in a reasonable amount for any survey or data recovery work as required. If any previously unrecorded archeological sites are discovered during the course of construction or development of any project works or other facilities at the project, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historical resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historical work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

*[CCWD filed a summary of cultural resources information<sup>34</sup> in compliance with Article 49 on July 1, 1992. CCWD considers this license article complete.]*

**Article 50.** Licensee shall operate the project in such a manner as not to cause fluctuations in the stream greater than one foot per hour, downstream of each project discharge facility, excluding Collierville Powerhouse. Licensee shall, in consultation with, and to the satisfaction of, the San Francisco Regional Engineer, establish the location of, and provide equipment for, measurement of the stream fluctuation, downstream of each project discharge facility, excluding Collierville Powerhouse.

*[FERC's March 6, 1987, Order Amending License<sup>35</sup> modified Article 50 to remove the requirement to not cause fluctuations in the stream greater than one foot per hour downstream of Collierville Powerhouse.]*

**Article 51.** Licensee shall locate and design Collierville afterbay dam so that it does not eliminate the present whitewater rafting access point at Camp Nine Bridge.

*[On February 3, 1987, CCWD filed an application for amendment<sup>36</sup> to remove the proposed Collierville afterbay dam after the level of New Melones Reservoir was raised which eliminated the free-flowing section of river downstream of Collierville Powerhouse under most conditions. FERC's March 6, 1987 Order Amending License<sup>37</sup> approved the request. CCWD considers this license article complete.]*

**Article 52.** The Licensee shall submit for approval 60 days prior to the start of construction of project structures revised Exhibit L drawings showing the final design of the project structures and shall not commence construction of such project structures until the Exhibit L drawings have been approved by the Director, Office of Electric Power Regulation. The Spicer Meadow rockfill dam

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<sup>34</sup> Available in FERC ELibrary at Accession Number 19920709-0126.

<sup>35</sup> Available in FERC ELibrary at Accession Number 19870313-0279.

<sup>36</sup> Available in FERC ELibrary at Accession Number 19870210-0358.

<sup>37</sup> Available in FERC ELibrary at Accession Number 19870313-0279.

shall be adequately compacted as demonstrated by test fills and in accordance with U.S. Army Corps of Engineers Manual EM 110-2-2300. All dams as shown on the revised Exhibit L drawings shall be designed to be stable under Probable Maximum Flood and earthquake loading conditions consistent with basin characteristics and the history of the seismic activity in the area. The Licensee shall prior to, or simultaneously with the filing of the revised Exhibit L drawings, submit for review the detailed basis for determining the Probable Maximum Flood and the design earthquake. The Licensee shall also provide in its final design drawings facilities for diversion of water to the Utica ditch of Project No. 2019.

*[CCWD filed revised Exhibit L drawings throughout the license term. FERC considers Exhibit L drawings as Controlled Unclassified Information - Critical Energy Infrastructure Information (CUI-CEII), not available for public release. The current list of FERC-approved Exhibit L drawings will be provided in CCWD's Pre-Application Document.]*

**Article 53.** The Licensee shall file with the Commission's Regional Engineer and the Director, Office of Electric Power Regulation, one copy each of the contract drawings and specifications 60 days prior to the start of construction. The Director, Office of Electric Power Regulation, may require changes in the plans and specifications so as to assure a safe and adequate project.

*[FERC waived the time requirement in Article 53<sup>38</sup> on May 11, 1988. CCWD submitted plans on July 18, 1988 and FERC responded in a letter<sup>39</sup> on August 16, 1988 that they found no significant deficiencies or errors. Additional revisions to drawings and exhibits are discussed elsewhere. CCWD considers this article complete.]*

**Article 54.** The Licensee shall retain a Board of three or more qualified, independent, engineering consultants to review the design, specifications, and construction of the project for safety and adequacy. The names and qualifications of the Board members shall be submitted to the Director, Office of Electric Power Regulation, for approval. Among other things, the Board shall assess the geology of the project site; the design, specifications and construction of the dikes, dams, spillways, powerhouses, electrical and mechanical equipment involved in water control and emergency power supply; the filling schedule for the reservoirs; the construction inspection program; and construction procedures and progress. The Licensee shall submit to the Commission copies of the Board's report on each meeting. Reports reviewing each portion of the project shall be submitted prior to or simultaneously with the submission of the corresponding Exhibit L final design drawings. The Licensee shall also submit a final report of the Board upon completion of the project. The final report shall contain a statement indicating the Board's satisfaction with the construction, safety, and adequacy of the project structures.

*[The Project was constructed in accordance with Article 54 and CCWD considers this license article complete.]*

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<sup>38</sup> Available in FERC ELibrary at Accession Number 19880609-0237.

<sup>39</sup> Not available in FERC ELibrary; available from CCWD upon request.

**Article 55.** Licensee shall locate and design Collierville Powerhouse so that it is protected from flooding damage when the New Melones Lake is at maximum water surface elevation.

*[The Project was constructed in accordance with Article 55 and CCWD considers this license article complete.]*

**Article 56.** The Licensee shall pay the United States the following annual charges, effective the first day of the month in which this license is issued:

- (a) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. From January 1, 1994, the authorized installed capacity for that purpose is 258,726 kW. Under the regulations currently in effect, projects with an authorized installed capacity of less than or equal to 1.5 MW will not be assessed an annual charge.
- (b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time. The acreage of United States lands for that purpose will be determined after submission of “as-built” exhibits for approval.

*[There have been several amendments to the Project's total installed capacity. CCWD submitted an amendment application to increase the FERC authorized installed capacity of the Project to 256.8 MW<sup>40</sup> on June 2, 1989, which FERC approved in an Order Amending License<sup>41</sup> on November 8, 1989. CCWD submitted a revised Exhibit M on June 21, 1991, increasing the Project's total FERC authorized installed capacity to 266.0 MW<sup>42</sup> which FERC approved<sup>43</sup> on June 28, 1991. CCWD filed an amendment to install a microturbine/generator unit at McKays Point Diversion Dam, which increased the Project's total installed capacity to 266.3MW<sup>44</sup> on April 22, 1991. FERC approved via an order Amending License<sup>45</sup> on March 12, 1992. FERC issued an Order Amending License<sup>46</sup> including increasing the Project's total installed capacity to 266.364 MW on May 14, 1993. FERC issued an Order Amending License including decreasing the Project's total installed capacity to 259.064 MW on September 30, 1994. FERC issued an Order Amending License<sup>47</sup> including decreasing the Project's total installed capacity to 258.726 MW on October 7, 1997.]*

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<sup>40</sup> Available in FERC ELibrary at Accession Number 19890605-0587.

<sup>41</sup> Available in FERC ELibrary at Accession Number 19891113-0174.

<sup>42</sup> Available in FERC ELibrary at Accession Number 19910624-0199.

<sup>43</sup> Available in FERC ELibrary at Accession Number 19910703-0263.

<sup>44</sup> Available in FERC ELibrary at Accession Number 19910425-0116.

<sup>45</sup> Available in FERC ELibrary at Accession Number 19920316-0401.

<sup>46</sup> Not available in FERC ELibrary; available from CCWD upon request.

<sup>47</sup> Available in FERC ELibrary at Accession Number 19971007-3100.

**Article 57.** Within one year from the date of commencement of operation of the project, the Licensee shall file for approval “as-built” Exhibits J, K and L drawings and Exhibit M, conforming with the Commission’s regulations at that time, to show the project as finally constructed and located and the amount of U.S. lands occupied by it.

*[CCWD submitted “as-built” Exhibits J, K, and L drawings and Exhibit M<sup>48</sup> on June 20, 1991. FERC approved the exhibits in an Order Amending License<sup>49</sup> on June 28, 1991. Additional revisions to drawings and exhibits are discussed elsewhere. CCWD considers this license article complete.]*

**Article 58.** The Licensee shall commence construction of the project within 4 years from the effective date of this license and, in good faith and with due diligence, shall prosecute and complete construction of the project works within 8 years from the effective date of this license.

*[FERC’s January 13, 1984 Order<sup>50</sup> granted CCWD an additional two years to start and complete construction. The Project was constructed in accordance with Article 58 and CCWD considers this license article complete.]*

**Article 59.** The Licensee for Project No. 2409 shall attempt to negotiate a settlement with Pacific Gas and Electric Company (PG&E) on the adequate compensation for the effects of Project No. 2409 on PG&E’s licensed projects. The settlement shall provide compensation to PG&E for appropriate damages attributable to the proposed North Fork Stanislaus River Project No. 2409. If the Licensee and PG&E cannot reach settlement within six months from the date of issuance of this license, the Commission reserves the right to determine the appropriate compensation, after notice and opportunity for hearing.

*[FERC approved an agreement between CCWD and PG&E<sup>51</sup> on October 2, 1989. CCWD considers this license article complete.]*

**Article 60.** The Licensee shall review and approve the design and construction procedures for contractor-designed cofferdams and deep excavations prior to the start of construction. The Licensee shall file with the Commission’s Regional Engineer and Director, Office of the Electric Power Regulation, one copy of the approved construction drawings and specifications, and a copy of the letter of approval.

*[The Project was constructed in accordance with Article 60 and CCWD considers this license article complete.]*

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<sup>48</sup> Available in FERC ELibrary at Accession Number 19910624-0199.

<sup>49</sup> Available in FERC ELibrary at Accession Number 19910703-0263.

<sup>50</sup> Available in FERC ELibrary at Accession Number 19840117-0247.

<sup>51</sup> Available in FERC ELibrary at Accession Number 19891013-0234.

**Article 61.**

- (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permissions for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.
- (b) The types of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable State and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modifications of those standards, guidelines, or procedures.
- (c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access

- roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.
- (d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Electric Power Regulation, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or State agency official consulted, and any Federal or State approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.
- (e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:
- (1) Before conveying the interest, the Licensee shall consult with Federal and State fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.
  - (2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

- (3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.
- (4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.
- (f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.
- (g) This order is final unless an application for rehearing is filed within 30 days from the date of its issuance, as provided in Section 313(a) of the Act. The filing of an application for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. Failure of the Licensee to file an application for rehearing shall constitute acceptance of this license. In acknowledgment of acceptance of this license, the license shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.