MERCED IRRIGATION DISTRICT NOTICE OF INTENT TO RELY ON FERC FINAL ENVIRONMENTAL IMPACT STATEMENT, WITH MANDATORY CONDITIONS, IN COMBINATION WITH A SUPPLEMENTAL ANALYSIS, TO SATISFY CEQA FOR THE MERCED RIVER HYDROELECTRIC PROJECT AND MERCED FALLS HYDROELECTRIC PROJECT RELICENSINGS

Date: May 28, 2024

To: Governor's Office of Planning and Research/State Clearinghouse Unit, Responsible Agencies, Trustee Agencies, and Interested Parties

From: Merced Irrigation District

Lead Agency: Merced Irrigation District

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Project Title: Merced River Hydroelectric Project and Merced Falls Hydroelectric Project FERC Relicensing, State Clearinghouse Number 2024051222

Subject: May 29 to June 27, 2024 public review period for Notice of Intent (NOI) to prepare a Supplemental Analysis pursuant to California Environmental Quality Act (CEQA) Guidelines section 15221 (California Public Resources Code Section 21083.5 and 21083.7); NOI to rely on the Federal Energy Regulatory Commission (FERC) Final Environmental Impact Statement (FEIS), in combination with the Supplemental Analysis, to satisfy CEQA for the Merced River Hydroelectric Project and Merced Falls Hydroelectric Project FERC relicensing.

SECTION 1.0 - INTRODUCTION AND CEQA COMPLIANCE PLAN

The Merced Irrigation District (Merced ID) owns and operates the Merced River Hydroelectric Project (Merced River Project) and the Merced Falls Hydroelectric Project (Merced Falls Project), collectively referred to as the "projects." Merced ID operates and maintains the projects pursuant to licenses issued by the Federal Energy Regulatory Commission (FERC or Commission) (FERC Project No. 2179 and FERC Project No. 2467, respectively) under the Federal Power Act (FPA). These multi-purpose projects provide flood control in the lower Merced River; help to meet Merced ID 's irrigation water demands; improve recreation and enhance environmental resources in the lower Merced River; and provide clean, renewable energy to California.

To continue operation and maintenance of the projects, Merced ID must obtain new federal licenses from FERC. Merced ID has applied to FERC for licenses with 50-year terms for both projects, and FERC has issued, in compliance with the National Environmental Policy Act (NEPA), a final environmental impact statement (FEIS) that contains FERC staff's recommendation with mandatory conditions for terms to be included in the new licenses. Once FERC issues the new licenses, Merced ID may operate and maintain the projects consistent with the terms and conditions in the new licenses, contest the new license by seeking rehearing before FERC, or reject either one or both licenses.

Merced ID is a local government agency and subject to the requirements of the California Environmental Quality Act (CEQA). Merced ID is the CEQA lead agency for acceptance of the new licenses because it will carry out and implement the terms and conditions in the new licenses (CEQA Guidelines section 15051.) This notice of intent informs CEQA responsible and trustee agencies and other interested parties about Merced ID's CEQA compliance plan for relicensing of the projects and its intention to prepare a CEQA Supplemental Analysis to FERC's FEIS, which will follow the general CEQA Initial Study format (i.e., Appendix G of the CEQA Guidelines). Further, a separate Merced ID CEQA PEIR is under development for all of Merced ID's recreational facilities at Merced River and Merced Falls, which is anticipated to be final by the end of 2024, and would predate public review of this CEQA Relicensing Supplemental Analysis. Therefore, this Supplemental Analysis will incorporate by reference the in-process CEQA Recreation PEIR.

1.1 Relicensing Background and Related Consultation

On April 18, 1964, FERC issued to Merced ID an original 50-year license for the operation and maintenance of the Merced River Project, which is located on the Merced River on the border of Merced and Mariposa counties, California.

On July 28, 1969, FERC issued to Pacific Gas and Electric Company (PG&E) an original 45-year license for the operation and maintenance of the Merced Falls Project, which is located in the Sierra Nevada foothills on the Merced River in Mariposa County and immediately downstream of the Merced River Project.

On November 3, 2008, Merced ID filed a Pre-Application Document (PAD) and Notice of Intent to seek a new license for Merced River Project following FERC's Integrated Licensing Process (ILP).

On January 2, 2009, FERC issued a NEPA scoping document (SD1) soliciting comments, recommendations, and information on the Merced River Project and on January 28, 2009, FERC held NEPA scoping meetings in Merced, California, and conducted a site visit. Written scoping comments were filed with FERC from: 1) United States Department of the Interior (USDOI), Bureau of Land Management (BLM); 2) USDOI, National Park Service (NPS); United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS); 2) California State Water Resources Control Board (State Water Board); 3) Merced River Conservation Committee (MRCC); 4) Mariposa County; 5) Golden West Women Flyfisher; 6) Friends of the River; 7) California Sportfishing Protection Alliance; 8) Rick W. Jones; and 9) Merced ID. Based on written comments and the scoping meeting, FERC issued a second scoping document (SD2) on April 17, 2009.

On February 23, 2009, PG&E filed a PAD and Notice of Intent to seek a new license for the Merced Falls Project following FERC's ILP.

On April 24, 2009, FERC issued a NEPA SD1 soliciting comments, recommendations, and information on the Merced Falls Project. Written scoping comments were filed with FERC from: 1) NMFS; 2) State Water Board; 3) MRCC; and 4) PG&E. Based on written comments and the scoping meeting, FERC issued SD2 for the Merced Falls Project on August 6, 2009.

On February 8, 2012, PG&E filed with FERC its final license application (Merced Falls FLA) for the Merced Falls Project.

On February 26, 2012, Merced ID filed with FERC its final license application (Merced River FLA) for the Merced River Project. Beginning in early 2008 through filing of its application, Merced ID held over 70 meetings with potentially-affected federal and State of California agencies, Native American tribes, non-governmental organizations, and members of the public, collectively referred to as stakeholders, to familiarize them with the Project and its operations, discuss process, identify issues, collaboratively develop study proposals and discuss results, and develop potential protection, mitigation and enhancement (PM&E) measures to be included in the new Merced River Project license.

On February 28, 2014, the Merced River Project license expired. Merced ID continues to operate the project under an annual license.

On March 1, 2014, the Merced Falls Project license expired. PG&E continued to operate the Merced River Project under an annual license.

On March 24, 2014, FERC issued a notice for each project accepting the respective FLAs, stated each was ready for environmental analysis, and requested comments (REA Notice). Written comments were received from: 1) BLM; 2) NMFS; 3) USDOI, Fish and Wildlife Service (FWS); 4) State Water Board; 5) California DFW; 6) MRCC; and 7) City of Merced. In addition, 243 comment letters from members of the public were filed in response to the notice.

On April 23, 2014, Merced ID filed with FERC an amendment to its February 26, 2012, Merced River FLA.

On May 14, 2014, Merced ID applied to the State Water Board for water quality certification (WQC) under Section 401 of the Clean Water Act (CWA) in support of Merced ID's application for a new license for the Merced River Project.

On May 20, 2014, PG&E applied to the State Water Board for WQC in support of PG&E's application for a new license for the Merced Falls Project.

On June 6, 2014, the State Water Board issued acknowledgment letters for each project. Both State Water Board letters stated that the "… letter initiated a one-year time deadline from the date it was received for the State to act on the request" and "… serves as a formal request for certification of the Project." The Board did not suggest either WQC application was incomplete.

On March 30, 2015, FERC staff issued a joint draft NEPA environmental impact statement (DEIS) analyzing the effects of the Merced Falls Project as proposed by PG&E in its February 8, 2012, Merced Falls FLA and the Merced River Project as proposed by Merced ID in its February 26, 2012, Merced River FLA as amended by Merced ID on April 23, 2014. The DEIS addressed written comments on the scoping documents and those filed in response to FERC's REA Notice. The DEIS noted that with respect to the projects, the State Water Board had not yet acted on the WQC requests although the State Water Board filed with FERC preliminary conditions for both projects on July 22, 2014.

In a letter dated April 2, 2015, FERC requested NMFS's concurrence with FERC's finding that the Merced Falls Project with FERC staff recommendations and mandatory conditions is not likely to adversely affect the California Central Valley (CCV) steelhead (*Oncorhynchus mykiss*) Distinct Population Segment (DPS) and its designated critical habitat. In a letter dated May 1, 2015, NMFS stated it did not concur with FERC's findings.

In a separate letter dated April 2, 2015, FERC requested FWS concurrence with FERC's finding that the Merced Falls Project as proposed with FERC staff recommendations and mandatory conditions is not likely to adversely affect San Joaquin kit fox (*Vulpes macrotis mutica*), California red-legged frog (*Rana aurora draytonii*), and valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) and their critical habitats. By a letter dated May 4, 2015, FWS disagreed with FERC's findings and requested formal consultation.

In a third letter dated April 2, 2015, FERC requested FWS's concurrence with FERC's findings that the Merced River Project with FERC staff recommendations and mandatory conditions is not likely to adversely affect San Joaquin kit fox, California red-legged frog, valley elderberry longhorn beetle, California tiger salamander (*Ambystoma californiense*), vernal pool fairy shrimp (*Branchinecta lynchi*); Keck's checkerbloom (*Sidalcea keckii*), Layne's ragwort (*Packera layneae*), Chinese Camp brodiaea (*Brodiaea pallida*), Mariposa pussypaws (*Calyptridium pulchellum*), and California vervain (*Verbena californica*) and their critical habitats. By a letter dated May 4, 2015, FWS disagreed with FERC's findings and requested that FERC enter into formal consultation under Section 7 of the ESA.

On April 21, 2015, the State Water Board emailed Merced ID requesting that prior to May 13, 2015, Merced "withdraw and simultaneously resubmit" its WQC application for the Merced River Project.

On April 6, 2015, FERC provided to the California State Historic Preservation Officer (SHPO) for review and comment a draft Programmatic Agreement and associated March 2, 2015, amended Historic Properties Management Plan (HPMP) for the Merced River Project. FERC stated it intended to execute the PA with SHPO, but without the participation of the Advisory Council on Historic Preservation, in accordance with the Council's regulations at 36 C.F.R. Part 800.

On April 16, 2015, FERC provided to the SHPO for review and comment a draft Programmatic

Agreement and associated October 7, 2014, HPMP for the Merced Falls Project. FERC stated it intended to execute the PA with SHPO, but without the participation of the Advisory Council on Historic Preservation, in accordance with the Council's regulations at 36 C.F.R. Part 800.

On April 30, 2015, FERC conducted two public meetings in Merced, California, to receive oral comments on the DEIS. Written comments were received from: 1) USDOI on behalf of BLM, National Park Service and FWS; 2) NMFS; 3) United States Environmental Protection Agency (EPA); 4) State Water Board; 5) California DFW; 6) MRCC; 7) City of Merced; 8) Yosemite Farm Credit; 9) Merced County Association of Realtors; 10) Merced County Farm Bureau; 11) Lake Don Pedro Community Services District; 12) Grassland Resource Conservation District; 13) Grassland Water District; 14) Stenson Water District; 15) San Joaquin Tributaries Authority; and 16) Merced County Board of Supervisors. In addition, comment letters were filed by Representative Jim Costa (U.S House of Representatives), Senator Anthony Cannella (California State Assembly) and Assembly member Adam Grey (California Legislature).

On May 6, 2015, PG&E withdrew and resubmitted its WQC application for the Merced Falls Project. On May 14, 2015, Merced ID withdrew and resubmitted its WQC application for the Merced River Project. Merced ID's letter stated: "by copy of this letter, Merced ID formally submits a new application . . . . The Project has not changed, so the April 23, 2014, FERC application, which the Board has on file, contains all information required for a complete application for a water quality certificate."

On May 29, 2015, the State Water Board sent substantively identical acknowledgment letters to PG&E and Merced ID. The letters stated that PG&E's and Merced ID's withdrawal and resubmittal request letters initiated a one-year deadline from the date the State Water Board received the letters to act on the request for WQC, and the new deadlines for WQC action by the State Water Board were May 6 and May 14, 2016, respectively. The State Water Board's letters also stated that it might "request additional information to clarify, amplify, correct, or otherwise supplement the contents of the application" and noted that "[i]ssuance of a certification is a discretionary action that requires the State SWRCB to comply with CEQA" and that "[i]f the information necessary for compliance with CEQA is not provided to the Board, staff may recommend denial of certification without prejudice."

On December 4, 2015, FERC staff issued the joint FEIS for both projects recommending that FERC approve PG&E's and Merced ID's relicensing applications with FERC staff recommended measures and those of mandatory conditioning agencies. The FEIS addressed written comments on the scoping documents, those comments filed in response to FERC's REA Notice, and comments filed on the DEIS.

On December 29, 2015, in separate letters, FERC provided to SHPO final Programmatic Agreements, which had been signed by FERC, for the Merced River Project and Merced Falls Project relicensing and requested SHPO sign and return the fully executed Programmatic Agreements to FERC.

In a letter dated March 10, 2016, requested NMFS's concurrence with FERC's findings that both the Merced Falls Project and the Merced River Project are not likely to adversely affect Central Valley (CV) spring–run Chinook salmon (*O. tshawytscha*) Evolutional Significant Unit (ESU) and the Southern DPS of North American green sturgeon (*Acipenser medirostris*) and their critical habitats, and that the Merced Falls Project is not likely to adversely affect CCV steelhead DPS and its critical habitat. In the same letter, FERC stated it concluded the Merced River Project is likely to

adversely affect CCV steelhead and its critical habitat and requested NMFS's biological opinion regarding this species within 135 days. In a letter dated April 7, 2016, NMFS stating it had insufficient information to concur with all of the FERC's findings and requested additional information.

On March 10, 2016, FERC requested formal consultation with FWS and requested a biological opinion (BO). In a letter dated May 31, 2017, to FWS, FERC requesting the status of consultations for the projects.

On March 28, 2016, in separate letters, FERC provided to the Advisory Council on Historic Preservation final Programmatic Agreements for the Merced River Project and Merced Falls Project relicensing. The agreements were signed by both FERC and SHPO, which concluded Section 106 consultation under the NHPA for both projects.

On May 4, 2016, PG&E again withdrew and resubmitted to the State Water Board its WQC for the Merced Falls Project, as did Merced ID on May 9, 2016. Thereafter, Merced ID, now as licensee for both the Merced Falls and Merced River projects, withdrew and resubmitted to the State Water Board its WQC applications for the projects two additional times: on May 1, 2017 and April 24, 2018. Each letter was substantively identical to the 2015 withdrawal and resubmittal letters.

On February 16, 2017, PG&E formally transferred ownership of the Merced Falls Project and any associated PG&E-owned lands to Merced ID. On March 3, 2017, Merced ID submitted to FERC executed conveyance documents and a License Transfer Acceptance Form. FERC completed assignment of the Project license to Merced ID by order issued April 27, 2017. As the license holder for the Merced Falls Project, Merced ID assumed responsibility for completing the Merced Falls Project relicensing. Merced continued to operate the Merced Falls Project under an annual license.

In a letter dated May 31, 2017, to FWS, FERC requested the status of FWS's preparation of a BO.

In a letter dated June 30, 2017 (docketed by FERC July 20, 2017), FWS responded to FERC's letter requesting the status of FWS's preparation of a BO for the following species stating that FWS's Day Delta Fish and Wildlife Office is the lead for the Merced River Project and Merced Falls Project relicensing. In that letter, FWS stated its commitment to finalize ESA consultations. A new FWS Official Species List was run for CEQA on March 29, 2024 (website: https://ipac.ecosphere.fws.gov/; Project code: 2024-0070234).

The same 13 species that were previously identified during the FERC NEPA process are identified in the 2024 USFWS Official Species List. Of the 13 species listed in both 2017 and 2024 lists, nine have not changed listing status and were fully addressed in the NEPA relicensing process. These species were either eliminated from consideration (No Impact) or addressed during informal consultation and necessary protective measures were imposed by USFWS. All USFWS required protective measures are included in the CEQA proposed Project. Following are the 13 species and their current status:

- Those species that were eliminated from further consideration due to lack of habitat include: Fisher (*Pekania pennanti)*, Fleshy Owl's-clover Castilleja (*campestris ssp. Succulenta*), and Hartweg's Golden Sunburst (*Pseudobahia bahiifolia*). No change to listing status for these species.

- Those species that were addressed under NEPA for relicensing and assigned specific

USFWS protective measures include: San Joaquin kit fox (*Vulpes macrotis mutica*), California red-legged frog (*Rana draytonii*), California tiger salamander (*Ambystoma californiense*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Conservancy fair shrimp (*Branchinecta conservation*), and vernal pool fairy shrimp (*Branchinecta lynchi*). No change to listing status for these species.

- Western spadefoot toad (*Spea hammondii*): This species was special-status (no federal ESA listing) and is now federally listed as Threatened. During relicensing, Western spadefoot and its habitat was assessed and determined not to occur in the Project footprint, so no USFWS protective measures were proposed under NEPA.

- Northwestern pond turtle (*Actinemys marmorata*): This species was special-status (no federal ESA listing) and is now federally listed as Threatened. USFWS did not recommend any measures; however, during the FERC NEPA process, FERC recommended a Northwestern pond turtle plan be included in Project FER application. This plan will be included as part of the proposed Project for CEQA.

- Foothill yellow-legged frog (*Rana boylii*): This species was special-status (no federal ESA listing) and is now federally listed as Threatened. During informal consultation with USFWS, protective measures were developed and will be included as part of the proposed Project for CEQA.

- Monarch butterfly (*Danaus Plexippus*): This species was special-status (no federal ESA listing) and is now an ESA candidate. No discussion occurred during informal consultation and there may be habitat (milkweed) within the FERC boundary. Therefore, an assessment is required in the CEQA document.

On April 6, 2018, Merced ID filed with FERC an Applicant-Prepared Draft Biological Assessment to assist FERC in its consultation with NMFS pursuant to Section 7 of the ESA for the Merced River Project and Merced Falls Project relicensing.

On May 9, 2018, FERC provided to NMFS a biological assessment (BA) that found that Merced Falls and Merced River projects are not likely to adversely affect CV steelhead DPS. FERC requested NMFS's concurrence with its finding. In addition, the BA found the projects would have no effect on CCV spring–run Chinook salmon ESU, Southern DPS of North American green sturgeon, and Sacramento River winter-run Chinook Salmon (*O. tshawytscha*) ESU and their critical habitats. In a letter dated June 8, 2018, NMFS stated it did not concur with FERC's determination and recommended FERC request formal consultation under the ESA and the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

On April 22, 2019, the State Water Board issued an order denying without prejudice Merced ID's requests for WQC, stated that the "Board cannot issue a certification(s) for the Projects until the CEQA process is complete," and that the CEQA process had not yet begun. The order also stated that when "the application suffers from some sort of procedural inadequacy (e.g. failure to meet CEQA requirements), the Board may deny the certification without prejudice."

On April 24, 2019, Merced ID filed with FERC an Applicant-Prepared Draft Essential Fish Habitat Assessment to assist FERC in its consultation with NMFS pursuant to the Magnuson-Stevens Fishery Conservation and Management Act for the Merced River Project and Merced Falls Project relicensing.

On February 19, 2021, FERC issued a letter stating it intended to prepare a supplemental EIS to revise staff's preferred licensing alternative and address new information in the projects' record, including: 1) the State Water Board's WQC conditions (vacated in 2024); 2) potential conflicts/overlap with any 10(j) recommendations and final 4(e) conditions; 3) FERC's BA to NMFS; 4) any updates to the list of species under ESA (aquatic and terrestrial) as well as newly listed special-status species potentially affected by the projects; and 5) any changes/updates to project facilities and operations including project costs and any measures implemented voluntarily. FERC requested Merced ID provide additional information.

On March 24, 2021, NMFS filed a letter with FERC requesting a study to assess the potential effects of climate change on project operation and anadromous fish habitat in water affected by the projects.

On November 3, 2021, FERC denied NMFS's request for additional studies.

On December 17, 2021, Merced ID filed with FERC an amendment to Merced ID's Merced River Project application. The amendment included conservation measures developed jointly by Merced ID and FWS to addresses potential Project effects on ESA-listed species and their designated critical habitat under the jurisdiction of FWS. Merced and BLM revised the measures with California DFW and State Water Board prior to filing.

On March 2, 2022, Merced ID filed with FERC an amendment to Merced ID's Merced River Project application. The amendment included five management plans that Merced ID developed in collaboration with BLM. The plans were developed to satisfy specific BLM 4(e) conditions which include: 1) BLM Condition 11 – Foothill Yellow-legged Frog Management Plan; 2) BLM Condition 12 – Limestone Salamander Sensitive Areas Management Plan and Studies; 3) BLM Condition14 - Riparian Vegetation Monitoring Plan; BLM Condition 22 - Transportation System Management Plan; and 5) BLM Condition 49 - Hazardous Substances Plan.

On April 15, 2024, Merced ID submitted applications for Water Quality Certifications for the Merced Fall and Merced River relicensings to the State Water Board.

1.2 CEQA Compliance Plan and Objective of Supplemental Analysis

The California Supreme Court ruled that a California government agency licensee generally must comply with CEQA in connection with FERC licensing or relicensing of a project in the state (County of Butte v. Department of Water Resources, 13 Cal.5th 612, decided Aug. 1, 2022). The court explained that the CEQA document serves as an informational source for the California agency's own decision-making regarding relicensing. It informs the decision about whether to accept the particular license and its terms and conditions, whether to request FERC to incorporate other terms into the license or seek reconsideration by FERC, and potential mitigation measures that may fall outside of FERC's jurisdiction. CEQA review also aids the assessment of options going forward.

However, since FERC is a federal agency implementing a federal law (FPA), the County of Butte court also concluded that CEQA is preempted by federal law to the extent that a CEQA requirement or action interferes or is inconsistent with the FERC license, FERC relicensing process under

federal law, or FERC's exclusive jurisdiction over the FERC-licensed project. For example, Merced ID may be barred from incorporating mitigation measures under CEQA that would conflict with a term of the FERC license.

For the Merced River Project, Merced ID will need to decide whether to accept the new FERC license. In accepting a new license, Merced ID would:

- Continue to operate, maintain, and manage the existing Merced River Project facilities.
- 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.
- Construct new recreation facilities at all of the existing Project recreation areas (i.e., Recreation areas – McClure Point, Barrett Cove, Horseshoe Bend, Bagby, and McSwain recreation areas). The majority of the new recreation facilities would be on private land or land owned by Merced ID.
- Make minor modifications to the existing FERC Project Boundary.
- Implement the other terms and conditions in the new license.

For the Merced Falls Project, Merced ID will need to decide whether to accept the new FERC license. In accepting a new license, Merced ID would:

- Continue to operate, maintain, and manage the existing Merced River Project facilities.
- Make minor modifications to the existing FERC Project Boundary.
- Implement the other terms and conditions in the new license.

Acceptance and implementation of the new FERC licenses and continued operation and maintenance of the Merced River Project and Merced Falls Project pursuant to the new licenses, as described above, are collectively referred to in this notice as the "Proposed Project."

The FEIS evaluated four alternatives: 1) Merced ID's (applicant's) proposal; 2) Merced ID's proposal with certain FERC staff modifications (the FERC Staff Alternative); 3) FERC Staff Alternative with all mandatory conditions; and 4) no action, meaning that Merced ID would continue to operate the projects with no changes. In the FEIS's conclusion, FERC staff (in 2019) selected the FERC Staff Alternative with all mandatory conditions as the preferred alternative ((3) above). Staff also recognized that the FERC license must include: 1) any mandatory conditions submitted by the BLM pursuant to FPA section 4(e) that meet the FPA requirements; and 2) any conditions included in a final, valid, and timely WQC issued by the SWRCB under CWA section 401. Since the State Water Board set aside the WQC on May 7, 2024, it would be pre-decisional to opine in the CEQA document regarding conditions that may be in the new WQC, and these unknown conditions are not assessed in this CEQA process.

Merced ID also intends to use and rely on the Preliminary Environmental Impact Report (PEIR) for the Merced ID Recreation Facility Plan to satisfy CEQA review requirements for all recreational facilities included in the FERC relicensing of the Merced River Project and Merced Falls Project. The PEIR is under development and expected to be available for public review in late 2024.

The Proposed Project is a discretionary action directly undertaken by Merced ID and has the

potential to have physical effects on the environment. As such, Merced ID's Proposed Project approval is subject to CEQA, Cal. Pub. Res. Code §§ 21000–21178. Merced ID, as the project's proponent, is the lead agency under CEQA and has the principal responsibility for approving and carrying out the Project.

CEQA requires that, when a project requires both CEQA compliance and an environmental impact statement prepared under NEPA, the lead agency shall, whenever possible, use the environmental impact statement as the project environmental impact report (EIR) (Public Resources Code section 21083.7). CEQA Guidelines section 15221 implements this requirement and provides that when a project will require compliance with both CEQA and NEPA, a California local agency should use the federal EIS rather than preparing an EIR under CEQA if: 1) the EIS is prepared before an EIR was completed; and 2) the EIS complies with the CEQA Guidelines. (See also Cal. Pub. Res. Code §§ 21083.5, 21083.7.)

Where the federal agency circulated the EIS in a way that satisfies California requirements for notice and public comment, the CEQA lead agency may use the EIS without recirculating for public review. Prior to using the EIS in this situation, the lead agency must give notice that it will use the EIS in the place of an EIR and that it believes that the federal document meets the requirements of CEQA. The notice shall be given in the same manner as a notice of the public availability of a draft EIR. (CEQA Guidelines § 15225.)

Because NEPA does not require a separate discussion of some issues required by CEQA, such as growth-inducing impacts, those points of analysis, if missing from the EIS, must be added or supplemented before the EIS can be used to satisfy CEQA (CEQA Guidelines section 15221(b)). Therefore, section 15221 authorizes a California local government agency to prepare a CEQA supplement to add and supplement points of analysis before the EIS will be used for CEQA compliance.

Merced ID staff and environmental consultants have reviewed the FERC FEIS to determine whether it meets the requirements of CEQA, for use as Merced ID's CEQA document for relicensing. Following that review, Merced ID determined that the FEIS complies with the CEQA requirements, except for the information to be included in the CEQA Supplemental Analysis, which will follow an Initial Study(IS) format for ease of review, and will be prepared pursuant to publication of this Notice of Intent (NOI).

Merced ID, therefore, intends to use and primarily rely on the FEIS and the Merced ID Recreation Facility Plan PEIR to satisfy CEQA review requirements for the relicensing of the Merced River Project and Merced Falls Project. The FERC FEIS is available on FERC's ELibrary (https://elibrary.ferc.gov/eLibrary/search) under Merced River Project and Merced Falls Project (FERC Project No. 2179 and FERC Project No. 2467, respectively) at accession no. 20151204-4003, on the project website at https://mercedid.org/, and a physical copy is available for review at Merced ID's place of business at 744 W 20th Street, Merced, California, 95340. Merced ID's Notice of Intent to Rely on FERC's Final Environmental Impact Statement, in Combination with a Supplemental Analysis, to Satisfy CEQA for the Merced River Hydroelectric Project and Merced Falls Hydroelectric Project Relicensing, is available at those same electronic and physical locations.

Consequently, Merced ID intends to prepare a CEQA Supplemental Analysis pursuant to section 15221(b) to add and supplement, among other things, the following CEQA considerations that were not addressed or fully covered in the FEIS: 1) air quality effects; 2) noise effects; 3) climate change; 4) separate discussion on mitigation measures, including a program for monitoring or reporting on

mitigation measures; 5) Native American tribe consultation, including outreach requirements required by Public Resources Code section 21080.3.1 (adopted by Assembly Bill 52); 6) growth-inducing impacts of the proposed projects; and 7) assessing and incorporating into the proposed Project any revisions to FWS conservation measures that have occurred post-FEIS, as well as BLM plan development measures that were defined post-FEIS. During the course of preparing the Supplemental Analysis, Merced ID may identify other CEQA considerations that will be included.

Merced ID has prepared and is distributing this NOI to give notice to interested agencies and parties of its intent to rely on the FEIS for the Merced ID relicensing, in combination with a supplemental analysis (in the format of an IS, using Appendix G of the CEQA guidelines as a template) to be prepared by Merced ID, to meet the requirements of CEQA in accordance with Public Resources Code section 21083.7 and CEQA Guidelines sections 15221 and 15225. Merced ID is providing this NOI by: 1) uploading an Notice of Availability (NOA) and this NOI to the Governor's Office of Planning and Research, State Clearinghouse Unit, via CEQA Submit for publication to CEQAnet; 2) emailing or mailing the NOA and NOI to responsible agencies, trustee agencies, counties, and other interested parties; 3) posting the NOA at County Clerk offices for Merced and Mariposa Counties; and (4) posting the NOA and NOI on the Merced ID website (https://mercedid.org/) for public access.

At release of the CEQA Supplemental Study, Merced ID will be providing notice by: 1) uploading NOA, NOC and CEQA Supplemental Study (using IS format) to the Governor's Office of Planning and Research, State Clearinghouse Unit, via CEQA Submit for publication to CEQAnet; (2) posting a NOA at County Clerk offices for Merced and Mariposa Counties, (3) posting the Supplemental Analysis and NOA on the Merced ID website, and (4) publishing the NOA in county newspapers of general circulation in the area affected by the proposed project.

1.3 NEPA Scoping Process

1.3.1 Merced River Project

Section 1.1 describes the NEPA scoping and extensive public process undertaken by FERC to prepare the FEIS. In summary, to support development of the FEIS, FERC issued a NEPA scoping document for the Merced River Project that was distributed to interested agencies and others on January 2, 2009. Two scoping meetings, both advertised in the local newspaper, were held on January 28, 2009, in Merced, California, to request oral comments on the project. A court reporter recorded all comments and statements made at the scoping meetings, and these are part of the FERC's public record for the project.

1.3.2 Merced Falls Project

Similarly, Section 1.1 describes the NEPA scoping and extensive public process undertaken by FERC to prepare the FEIS. In summary, to support development of the FEIS, FERC issued a NEPA scoping document for the Merced River Project that was distributed to interested agencies and others on April 24, 2009. It was noticed in the Federal Register (FR) on April 24, 2009.

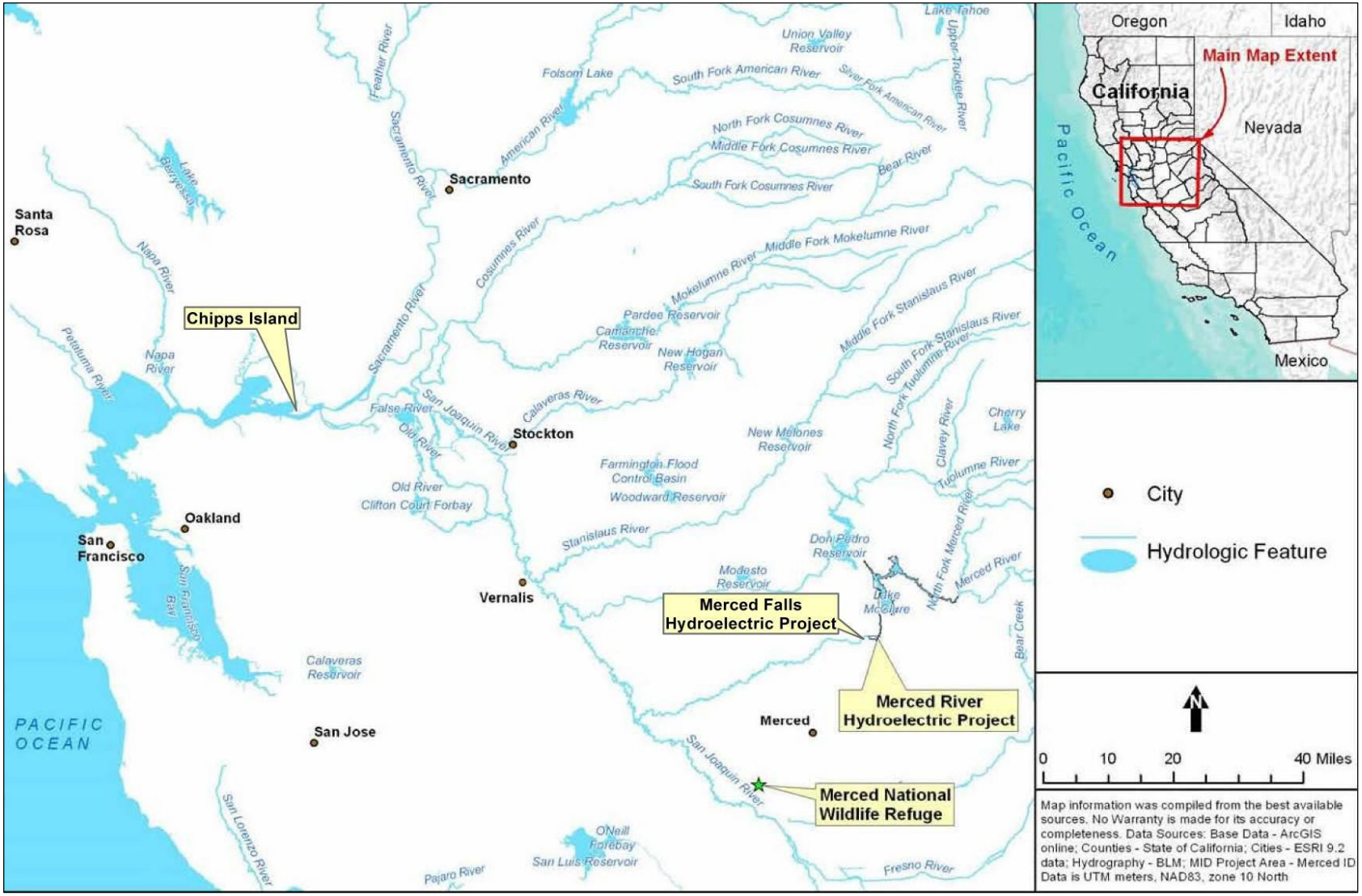
SECTION 2.0 - PROJECT LOCATION

The Merced River Project and Merced Falls Project are located in the Merced River watershed, in Merced and Mariposa counties, California. Both projects are owned and operated by Merced ID.

The Merced River Project is located on the main stem of the Merced River in Mariposa County, about 23 miles northeast of the city of Merced, California. The Merced River Project occupies 3,154.9 acres of federal land administered by the BLM. The Merced Falls Project is located on the Merced River on the border of Merced and Mariposa Counties. The Merced Falls Project occupies 1.0 acre of federal land administered by BLM.

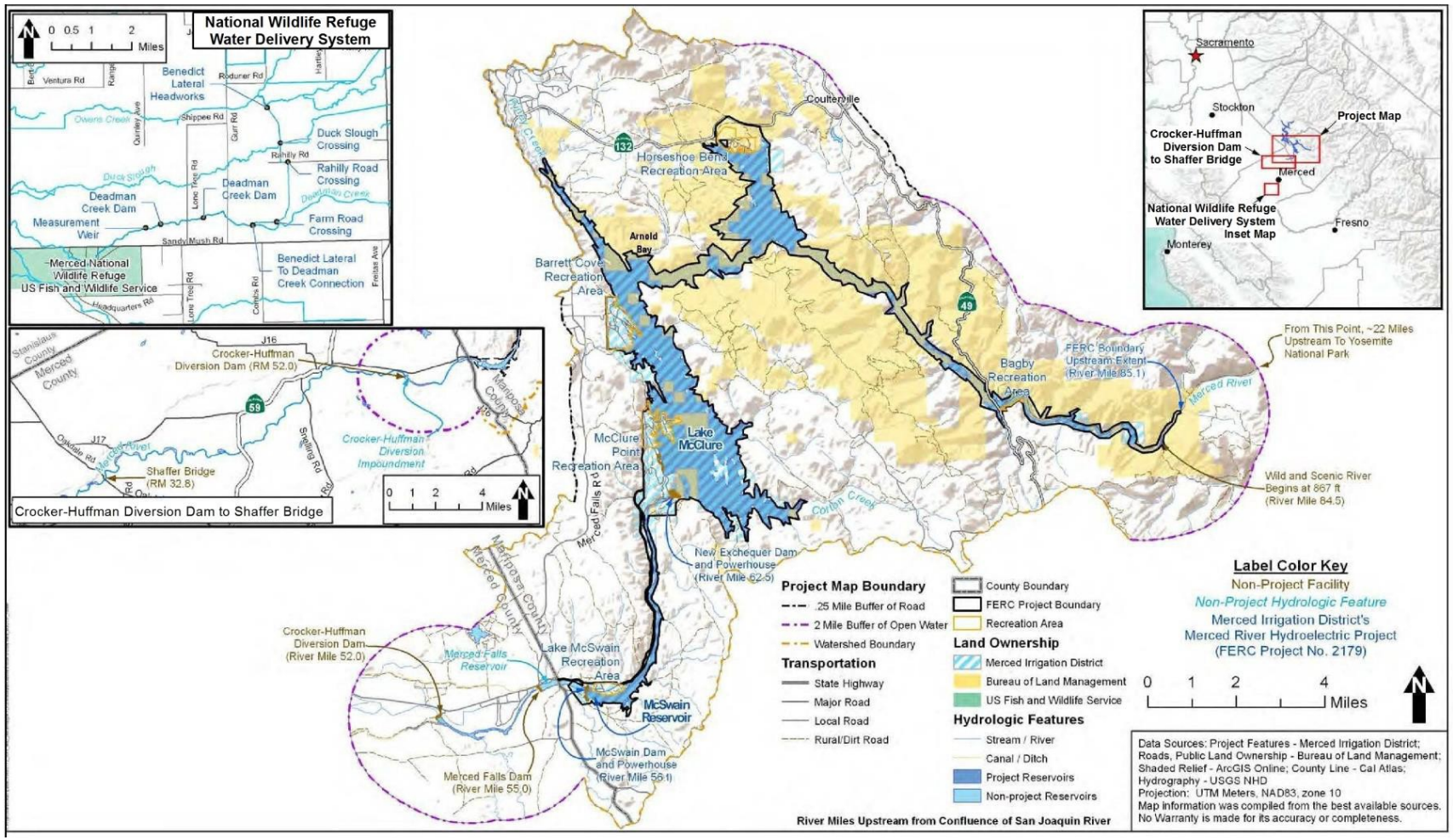
The Merced River Project's New Exchequer Dam, which is located 62.5 miles (RM 62.5) upstream of the Merced River's confluence with the San Joaquin River, forms Lake McClure. The dam discharges directly into the Merced River Project's McSwain Reservoir, which is inundated by McSwain Dam at RM 56.1. Similarly, McSwain Dam discharges directly into the Merced Falls Project's Merced Falls Reservoir formed by Merced Falls Dam at RM 55.0. Merced ID withdraws into its North Side Canal up to 100 cubic feet per second (cfs) of water from Merced Falls Reservoir. From Merced Falls Dam, water flows approximately 1 mile downstream to where it enters an impoundment formed by Crocker-Huffman Diversion Dam, which is not part of either project, nor does it support hydro generation, at RM 52.0. Merced ID diverts up to 2,000 cfs of water into its Main Canal, which is located on the left bank just upstream of Crocker-Huffman Diversion Dam. Water is also drawn from the Crocker-Huffman Diversion Dam impoundment by California DFW Merced River Fish Hatchery. From the Crocker-Huffman Diversion Dam, the Merced River meanders another 52 miles on the valley floor, winding its way through the agricultural area of the eastern San Joaquin Valley. This portion of the river has numerous water diversions using gravity-fed ditches, pumps, and diversion dams.

Figure 2-1 shows the existing Project in relation to the overall San Joaquin River, into which the Merced River drains, and the Delta, into which the San Joaquin River drains. Figure 2-2 shows the existing Merced River Project, Merced Falls Project, and project vicinity. Refer to the FEIS for additional information regarding the setting for the Merced River and Merced Falls projects.



Source: Merced ID 2012a

Figure 2-1. Located of the Merced River Project and Merced Falls Project



Source: Merced ID 2012a

Figure 2-2. Merced River Project, Merced Falls Project and Project Vicinity

SECTION 3.0 - PROJECT DESCRIPTION

3.1 Project Objectives

Merced ID's fundamental objective in proposing the Project is to obtain a new FERC license of maximum term for the Merced River Project and the Merced Falls Project at minimum cost, both initially and ongoing, that protects and enhances the Merced River Project's and Merced Falls Project's water supply and flood control benefits, while maximizing economic benefits from the production of electrical power and protecting and enhancing environmental, recreational, and other non-power interests and needs.

3.2 Proposed Project

The Proposed Project is the acceptance of the expected new FERC license, continuance of Merced River Project and Merced Falls Project operations and maintenance under the terms of the new license, and implementation of the license conditions, including modifications to some facilities, project boundaries, operations and maintenance. The principal existing Merced River Project facilities are described in Section 3.2.1.1, and planned modifications to these facilities, based on the FEIS and anticipated FERC license terms and conditions, are described in Section 3.2.2. The principal existing Merced Falls Project facilities are discussed in Section 3.2.1.2; Merced ID is not proposing any new or upgraded facilities or structural changes to the Merced Falls Project. Existing project boundaries are discussed in Section 3.2.4, while proposed modifications to the projects' boundaries are discussed in Section 3.2.5. Existing operations and maintenance terms are shown in Section 3.2.6; terms and conditions for operations and maintenance that are expected to be included in the new Merced River Project and Merced Falls Project licenses are described in the FEIS and discussed in Section 3.2.7.

When FERC issues the new license, Merced ID may do one of the following:

- Accept the new license, which would require Merced ID to continue to operate and maintain the Merced ID in accordance with the new license and comply with and implement all terms and conditions included in the new license (i.e., Merced ID may not accept only some of the terms and conditions);
- Reject the new license, in which case FERC would require Merced ID to surrender the licensed facilities, under conditions which are uncertain at this time; or
- Contest the new license by seeking rehearing before FERC and requesting FERC to incorporate different terms into the license. If Merced ID does not contest the new license within the 30-day statutory rehearing period under the FPA, FERC will deem Merced ID to have accepted the license.

The analysis within the CEQA Supplemental Study proposed Project assumes the first scenario above, where Merced ID accepts the new license issued by FERC. If Merced chooses to reject the new license issued by FERC (either upon its issuance or after Merced ID unsuccessfully challenges some of the license terms), Merced ID would likely retain the existing Merced River Dam and Merced Falls Dam and reservoirs, but would surrender the hydropower facilities. Resulting conditions under this scenario would be speculative at this time and, if pursued, would

be subject to further analysis in accordance with CEQA requirements.

3.2.1 Existing Project Facilities

3.2.1.1 Merced River Project

The Merced River Project was constructed from 1964 to 1966 and placed in service in 1966. Merced ID owns and operates the project, consisting of two developments located in Mariposa County, California, within the Merced River drainage. The project's reservoirs—Lake McClure and McSwain reservoir—are capable of impounding 1,029,497 acre-feet of usable storage. The two powerhouses have an authorized installed capacity of 101.25 MW of power. The project includes no transmission lines. The project includes five recreational areas. The New Exchequer Development and McSwain Development Reservoir and powerhouse characteristics are shown in Tables 4.1 and 4.2, below.

Table 4.1 Water Storage Characteristics of Merced River Project Reservoirs

Characteristics	Lake McClure	McSwain Reservoir
Drainage area (square miles)	1,035	1,055
Normal maximum/minimum water surface elevation (feet)	867.0/630.0	399.0/391.5
Gross storage at NMWSE (acre-feet)	1,024,600	9,730
Usable storage at NMWSE(acre-feet)	1,021,600	7,897
Surface area at NMWSE (acres)	7,110	310
Length (miles)	19.0	6.3
Maximum width (miles)	1.8	0.2
Maximum depth (feet)	427	66
Shoreline length (miles)	82.0	12.5

Source: Merced ID, 2012a
Note: NMWSE – normal maximum water surface elevation

Table 4.2 Powerhouse and Discharge Characteristics of Merced River Project Reservoirs

Reservoir Name	Powerhouse Capacity (MW)	Number of Units	Type of Units	Minimum/ Maximum Discharge (cfs)
Lake McClure	94.5	1	Vertical Francis	200/3,200
McSwain reservoir	9.0	1	Vertical Kaplan	600/2,700

Source: Merced ID, 2012a
Note: cfs – cubic feet per second, MW – megawatt

New Exchequer Development

The existing New Exchequer development is the upstream facility that impounds Lake McClure and consists of: (1) New Exchequer dam—a rock structure with a reinforced concrete upstream face, 490 feet high and 1,220 feet long that impounds Lake McClure; (2) an ogee-type, concrete spillway with a 1,080-foot-long, ungated section and a 240-foot-long, gated section with six radial gates that are 40 feet wide and 30 feet high; (3) an earth-and-rock dike that is 62 feet high and 1,500 feet long; (4) an intake structure located upstream of the dam in Lake McClure; (5) a concrete-lined power tunnel that is 383 feet long and 18 feet in diameter; (6) a concrete-encased, steel penstock that is 982 feet long and 16 feet in diameter; (7) an above-ground concrete powerhouse that is 75 feet by 91 feet and discharges directly to the Merced River; (8) a low-level outlet, consisting of a 945.5-foot long, 108-inch-diameter powerhouse bypass (a steel pipe) that runs from the New Exchequer power tunnel to McSwain reservoir north of the New Exchequer powerhouse with a 108-inch-diameter Howell-Bunger valve; and (9) an interconnection to the grid at the step-up transformer in the powerhouse switchyard. The development is located on Merced ID (7,577.5 acres), BLM (3,134.7 acres), and private (13.2 acres) land (Merced ID, 2012b).

Merced ID maintains five recreation areas at Lake McClure: (1) McClure Point, which includes a campground, day use area, swim beach, marina, and boat ramp; (2) Barrett Cove, which includes a campground, swim beach, marina with two boat ramps, and overflow parking; (3) Horseshoe Bend, which includes a campground, swim beach, and boat ramp; and (4) Bagby, which includes a campground, boat ramp, and Shepherd's Point primitive area (considered part of the Bagby Recreation Area). Proposed improvements and upgrades to these four recreation facilities and construction of a new recreation area at Mack Island (on Lake McClure), all which are proposed as part of the FERC relicensing application, are covered under a separate Programmatic EIR that will be available for public review late 2024. The findings, BMPS, and any mitigation identified in the Recreation PEIR will be incorporated by reference into this Initial Study; as such, no additional resource assessments for potential effects of implementing recreation upgrades and improvements are included in this Initial Study. The scope of the Recreation PEIR includes the four existing facilities listed above, the new proposed recreation facility at Mack Island, and other non-FERC-related recreation facilities' upgrades and additions.

McSwain Development

The existing McSwain development is the downstream facility, consisting of: (1) McSwain dam—an embankment structure with a central impervious core of rolled fill between shoulders of cobbles or crushed rock—that is 80 feet high and 1,620 feet long and impounds McSwain reservoir; (2) an ungated concrete overflow spillway that is 802 feet long; (3) an intake structure that is integral with the dam; (4) a concrete-lined power tunnel that is 160 feet long and 15 feet in diameter that leads to; (5) a steel penstock that is 160 feet long and 15 feet in diameter; (6) an above-ground, concrete powerhouse that is 72 feet by 72 feet and discharges directly into the Merced River; and (7) a low-level outlet, consisting of a 360-foot-long, 9-foot diameter powerhouse bypass pipe that runs from the McSwain power tunnel to Merced Falls reservoir with a fixed wheel gate at the upstream end of the bypass and an 8-foot-diameter Howell-Bunger valve on its downstream end. There is no transmission line associated with the project. The project connects to PG&E's interconnected system at the step-up transformer in the powerhouse switchyard. The development is located on Merced ID (907.5 acres) and BLM (20.2 acres) land (Merced ID, 2012b).

Merced ID maintains the McSwain Recreation Area at this development, which includes a campground, picnic area, group picnic area, informal day use area, swim beach, marina, and boat ramp. As noted above, resource assessments of the potential for effects from recreational improvements at McSwain Recreation Area will be incorporated by reference into this Initial Study from the Merced ID Recreation PEIR that will be available for public review in 2024.

Crocker-Huffman Diversion Dam (non-FERC facility)

Crocker-Huffman diversion dam is located 4.3 miles downstream of Merced ID's McSwain dam and 3.0 miles downstream of the Merced Falls dam. Merced ID owns Crocker-Huffman diversion dam and operates it as part of Merced ID's water delivery system, but the dam is not included as part of the Merced River Project as it is only used for water diversion and no hydropower facilities are included. The concrete gravity dam is approximately 725 feet long and 22 feet high (Vogel, 2007), and diverts approximately 2,000 cubic feet per second (cfs) of water into Merced ID's Main Canal (irrigation canal).

USFWS Merced National Wildlife Refuge Water Delivery Facilities

Article 45 of the existing license requires that Merced ID provide up to 15,000 acre-feet of project water and return flow to the USFWS' Merced National Wildlife Refuge (NWR). The refuge, located about 30 miles southeast of McSwain dam, is part of the San Luis NWR Complex. It encompasses 10,262 acres of wetlands, native grasslands, vernal pools, and riparian areas and was established in 1951 under the federal Lea Act (16 U.S.C. §695–695c; 62 Stat. 238) to attract wintering waterfowl from adjacent farmland where their foraging was causing crop damage. To provide this water, in the early 1990s, Merced ID made eight modifications, each of which was incorporated into the project license (but not included in the project boundary), to Merced ID's existing Benedict lateral canal, which is part of Merced ID's water supply delivery system and composed of non-FERC project facilities. The eight water delivery modifications, from upstream to downstream, included the following:

1) Benedict lateral headworks,

2) Benedict lateral duck slough crossing,
3) Benedict lateral Rahilly Road crossing,
4) Benedict lateral Farm Road crossing,
5) Benedict lateral to Deadman Creek connection,
6) Deadman Creek dam and flashboard risers (Station 77+73),
7) Deadman Creek dam and flashboard risers (Station 142+00), and
8) a measurement weir.

Since the 1990 development of the Benedict lateral canal water delivery system made up of the eight modifications noted above, Merced ID has added various other combinations of channels in its irrigation system to deliver water to Merced NWR, as well as to other Merced ID water customers.

3.2.1.2 Merced Falls Project

The existing Merced Falls Project consists of: (1) a concrete gravity dam with a structural height of 34 feet and a crest length of 575 feet; (2) three radial gates, each 20 feet long and 13.5 feet high; (3) a 1-mile-long project impoundment with approximately 900 acre-feet of storage capacity, a useable storage capacity of approximately 579 acre-feet, a total surface area of approximately 65 acres, and a normal impoundment elevation of 344 feet above mean sea level (msl); (4) powerhouse facilities consisting of a steel building housing a 3.4- MW turbine/generator unit and a vertical Kaplan-type four-blade turbine; (5) a 1,000-foot-long earthen levee with a crest width of 8 feet; (6) an adjacent intake structure with a debris rack; and (7) a non-operable fish ladder. The project has a dependable capacity of 1.7 MW and an annual average generation of approximately 14.4 GWh.

3.2.2 Proposed Project Facilities

The expected FERC license would require or authorize the modification of certain Merced River Project facilities, which are summarized in this section. Merced ID is not proposing any new or upgraded facilities or structural changes to the Merced Falls Project.

3.2.3 Merced River Project

3.2.3.1 Generating Facilities

Merced ID does not propose to add any new generating facilities or to modify existing generating facilities.

3.2.3.2 Water Delivery Facilities

As described in the FEIS, the new license would not include the eight Benedict lateral water delivery facilities listed in the *USFWS Merced National Wildlife Refuge Water Delivery Facilities*; the facilities would remain in operation outside of the FERC license. Merced ID proposes to continue to provide water to Merced NWR under the new license but believes the minor facilities that were constructed in the early 1990s are not needed as part of the license

because Merced ID now has a number of alternative water delivery options to the refuge and the facilities now also provide water to Merced ID's other water customers. Merced ID states that providing water to the refuge is no longer the sole purpose of the facilities and that the original facilities added for this purpose are no longer the primary method of delivering water to the Merced NWR.

3.2.3.3 Recreation Facilities

As described in the FEIS, Merced ID would continue operating and maintaining the existing recreation facilities. The FEIS also proposed that Merced ID would make modifications to the existing recreational facilities, construct one new recreation area, and construct one new access point to the lower Merced River. Recreation modifications proposed in the FEIS include:

- Reconstruct existing recreation development components,
- Provide recreation enhancements at McClure Point, Horseshoe Bend, Barrett Cove, Bagby, and McSwain recreation areas,
- Provide recreation enhancements, including construction of a whitewater boating takeout at Shepherd's Point primitive area,
- Construct the new Mack Island non-motorized recreation area,

  Maintain existing Merced River Trail from the project boundary to the Bagby trailhead,

Merced ID originally filed a Recreation Facilities Plan with the license application (Merced ID, 2012a) to address this project effect, with the primary goal to provide visitors with a quality recreation experience. In its June 13, 2012, letter, the Commission identified several inadequacies in Merced ID's Recreation Facilities Plan and requested Merced ID revise and refile the plan. Merced ID provided some of the additional details the Commission requested, and further revised its Recreation Facilities Plan on August 12, 2015. Merced ID's Recreation Facilities Plan is consistent with BLM final 4(e) conditions 16, 17, 19, and 20, filed July 29, 2015, to designate a licensee contact person, annually coordinate with BLM, implement a Recreation Facilities Plan, and improve existing trails and provide additional trail access at the project. FERC analyzed the measures contained in the revised Recreation Facilities Plan in the FEIS.

As noted in 3.2.1 *Existing Project Facilities*, proposed improvements and upgrades to the five existing recreation facilities and construction of a new recreation area at Mack Island are covered under a separate CEQA Programmatic EIR that will be available for public review late 2024. The findings, BMPS, and any mitigation included in the Recreation Programmatic EIR will be incorporated by reference into this Relicensing Initial Study; therefore, no additional resource assessments for recreation upgrades and improvements are included in this Initial Study. More detail on the specific upgrades and improvements at each of the recreation facilities is provided in the Merced ID Recreation PEIR.

3.2.4 Existing Project Boundaries

3.2.4.1 Merced River Project

The project boundary for the Merced River Project encompasses the two project reservoirs and project roads, infrastructure, and recreation areas. Along the reservoir shorelines, most of the project boundary consists of a metes and bounds survey line that generally follows an elevation contour above the maximum water surface elevation. The project boundary location around the reservoirs provides a buffer of at least 50 horizontal feet from the maximum water surface elevation at all but about 0.75 mile of the 114-mile project boundary (letter from B. Kelly, Deputy General Manager, Water Resources, Merced ID, to the 2-5 Commission, filed September 13, 2013). The project boundary encompasses a 100-foot corridor of land along portions of project roads that extend beyond the larger contiguous project footprint (e.g., Lake McClure Road near its intersection with County Road J16). The recreational facilities located within the project boundary include the McClure Point, Barrett Cove, Horseshoe Bend, and Bagby recreation areas on Lake McClure and the McSwain recreation area on McSwain reservoir. The New Exchequer development includes 7,577.5 acres of Merced ID land, 3,134.8 acres of public land managed by BLM, and 13.2 acres of private land. The McSwain development includes 927.5 acres of Merced ID land. Overall, the project includes 8,505.3 acres of Merced ID land, 3,134.8 acres of public land managed by BLM, and 13.2 acres of private land (Merced ID, 2012b, Merced ID, 2014a).

3.2.4.2 Merced Falls Project

The project boundary for the Merced Falls Project includes about 75.6 acres. The project boundary generally follows the shoreline of the impoundment at the 344-foot msl elevation contour line and encloses lands on which the powerhouse and switchyard are located. On the northeast edge of the Merced Falls impoundment, the project boundary rises above the 344-foot msl elevation contour to include a small strip (approximately 4.8 acres) of reservoir shoreline that encompasses a fishing access site owned and operated by Merced ID. Approximately 1 acre of federal lands administered by BLM is within the project boundary.

3.2.5 Proposed Project Boundaries

The expected FERC license would require or authorize the modification of the project boundaries for the Merced River and the Merced Falls projects, as summarized below.

3.2.5.1 Merced River Project

Merced ID proposes the following changes to lands within the project boundary for the Merced River Project; all of these lands are owned by Merced ID:

- Add 215.59 acres of land that would encompass the proposed Mack Island non-motorized recreation area at Lake McClure (New Exchequer development).
- Add 1.06 acres of land that would encompass the main access road for the McSwain powerhouse (McSwain development).
- Remove 22.60 acres of McSwain development land that overlaps with the Merced Falls Project boundary because this land is not necessary for the continued operation and maintenance of the Merced River Project and is already under FERC jurisdiction of the Merced Falls Project.

- Remove 8.04 acres of McSwain development land that is not necessary for encompassing the extent of the McSwain reservoir spillway channel because this land is not necessary for the continued operation and maintenance of the McSwain reservoir spillway and spillway channel.

After these modifications to the project area, the New Exchequer development would include 7,793.09 acres of Merced ID land (a net increase of 215.59 acres). The McSwain development would include 877.92 acres of Merced ID land (a net reduction of 29.58 acres). The proposed project would include a total of 8,671.01 acres of Merced ID land, 3,154.9 acres of land managed by BLM (no change), and 13.2 acres of private land (no change).

3.2.5.2 Merced Falls Project

Merced ID proposes to modify the project boundary for the Merced Falls Project by removing approximately 4.8 acres of Merced-owned lands, which the utility indicates are not needed for project purposes. The proposed 4.8-acre reduction in land encompassed by the project boundary is the result of redrawing the boundary along the north side of the project impoundment, east of the county highway bridge, to match the impoundment's high water mark; this results in the removal from the project of a strip of Merced ID-owned land adjacent to the impoundment and facilities owned, operated, and maintained by Merced ID (parking lot, restrooms) within the Merced Falls Fishing Access area.

After this modification, Merced ID lands within the Merced Falls Project would be reduced to 15.7 acres. No boundary changes are proposed at BLM-managed lands.

3.2.6 Existing Operations and Maintenance

3.2.6.1 Merced River Project

Historically, Merced ID has operated Lake McClure to retain snowmelt from springtime runoff for flood control, water supply, recreation, hydropower, and environmental purposes. During winter storms, the project attenuates high flows that would otherwise pass downstream of the project and stores this water in Lake McClure. During the drier months of July through November, the project augments flows in the lower Merced River compared to those that would occur without the project. In spring and summer, water levels are maintained relatively high for recreation at Lake McClure. From March through October, Merced ID releases water primarily for downstream water supply. These releases are also used for hydropower generation at New Exchequer and McSwain powerhouses. The normal maximum and minimum reservoir elevations for Lake McClure are 867 feet and 630 feet, but, typically, the reservoir is operated within a range of 842 feet to 780 feet.

In September and October, Merced ID releases water from storage when necessary to achieve a level of storage that allows for the required flood space, and storage is maintained at or below this level through mid-March. In the spring, depending on the snowpack and runoff forecasts, Merced ID begins to refill Lake McClure with the snowmelt runoff. During drier years and drier periods, water levels may consistently stay below the required flood-space level because water supply and recreation needs drive reservoir storage more than flood control requirements. McSwain reservoir is typically operated as a re-regulating afterbay for flows released from Lake McClure. This operation allows the New Exchequer powerhouse to be used to meet peak power

demands or perform load-following functions while still maintaining a steady flow release to the lower Merced River. The normal maximum and minimum reservoir elevations for McSwain reservoir are 399.0 feet and 391.5 feet. Water surface elevation excursions below the normal minimum reservoir elevation do occur, but they are generally due to atypical operating conditions, such as unplanned outages, inspections, or work on the dam.

Historically, Merced ID has operated New Exchequer and McSwain powerhouses as base-load plants with seasonal peaking capabilities; these peaking capabilities were primarily exercised at New Exchequer powerhouse. McSwain powerhouse is operated to re-regulate flows released by New Exchequer powerhouse by providing flows that are more indicative of inflows to Lake McClure with releases dependent on the requirements for downstream water supply at, and downstream of, Crocker-Huffman diversion dam. Both project powerhouses are operated on-site by Merced ID from a centralized control center at New Exchequer dam and powerhouse and have Automatic Generation Control capability.

The New Exchequer development diverts all flows from Lake McClure through the intake, power tunnel, penstock, and powerhouse and then directly releases the flows to McSwain reservoir. The McSwain development diverts all flows from McSwain reservoir through the intake, power tunnel, penstock, and powerhouse and then directly to the Merced River and to Merced Falls reservoir.

3.2.6.2 Merced Falls Project

The Merced Falls Project is operated in a run-of-river mode dependent on water outflow from Merced ID's upstream Merced River Project. Inflow to the project passes through the impoundment, which is kept at a constant water elevation and then flows either through the powerhouse or the dam's radial gates. Flows of up to approximately 1,750 cfs are diverted through the powerhouse, and then discharged to the Merced River via the tailrace. When water inflows exceed 2,200 cfs, the project spills water through the radial gates. The main section of the dam, approximately 535.5 feet long, is topped with needle beams. During flood events with flows greater than 12,250 cfs, the needle beams can be dropped, allowing the 575-foot-long concrete section of the dam to act as a spillway.

3.2.7 Proposed Operations and Maintenance

3.2.7.1 Merced River Project

Merced ID would operate and maintain the Merced River Project at flows defined in the FEIS.

3.2.7.2 Merced Falls Project

The Merced Falls Project would continue to operate in run-of-river mode dependent on water outflow from Merced ID's upstream Merced River Project.

3.2.8 Proposed Conditions in New FERC Licenses

In the FEIS, FERC staff recommended a license based on the Merced River Project and the Merced Falls Project and modifications and additions recommended by FERC staff, as described in the FEIS. The FEIS describes those modifications and additions in its sections 5.1.1.2 and

5.1.2.1. In addition to FERC staff's modifications and additions, the final FERC license also will be subject to mandatory conditions submitted by BLM under FPA section 4(e). The FEIS discusses these 4(e) conditions in its section 5.3.2. For purposes of the Proposed Project and the Supplemental CEQA Analysis, Merced ID assumes that the proposed Project will include the modifications and additions to the existing license recommended by FERC staff, as well as BLM's FPA section 4(e) conditions.

Attachment A

Notice of Intent Distribution List

Name	**Affiliation**
County Clerk	County of Merced
County Clerk	County of Mariposa
John Fowler	Advisory Council on Historic Preservation, Federal Agency Director
Robert J. Fenton	Federal Emergency Mgmt Agency, Region 9; Regional Administrator
Quinn Emmering	Federal Energy Regulatory Commission, Secretary
Thomas Holley	NOAA Fisheries Service, West Coast Region Hydrologist
Abimel Leon	California Department of Fish and Wildlife, FERC Coordinator
Alan Bittner	US Bureau of Land Management, Northern California District Manager
Elizabeth Meyer-Shields	US Bureau of Land Management, Resources Deputy State Director
Brian Novosak	US Bureau of Land Management, Biologist
Pam Taber	US Bureau of Reclamation, Resource Management, Branch Chief
Steve Edmondson	US Department of Commerce, National Marine Fisheries Service, West Coast Regional Office, Branch Chief
Planning Division (CESPK-PD-R)	US Department of Defense, Army Corps of Engineers, Sacramento District
Randy Olsen	US Department of Defense, Army Corps of Engineers, Sacramento District HQ Office
Janet Whitlock	US Department of the Interior, Regional Environmental Officer
Kerry O'Hara	US Department of the Interior, Assistant Regional Solicitor

Amy Dutschke	US Department of the Interior, Bureau of Indian Affairs, Area Director
Denis O'Halloran	US Department of the Interior, FERC Coordinator
Field Supervisor	US Department of the Interior, Fish and Wildlife Service
Paul Cadrett	US Department of the Interior, Fish and Wildlife Service, Anadromous Fish Restoration Program
Rick Kuyper	US Department of the Interior, Fish and Wildlife Service, Division Manager
Lauren Estenson	US Department of the Interior, Fish and Wildlife Service, Watershed Planning Division
Stephanie Milsap	US Department of the Interior, Fish and Wildlife Service, Watershed Planning Division
Susan Rosebough	US Department of the Interior, National Park Service, Project Manager
John Busterud	US Environmental Protection Agency, Regional Director
Wes Danskin	US Geological Survey, CA Water Science Center, Research Hydrologist
Tom Kimball	US Geological Survey, Research Manager
John "JJ" Baum	Regional Water Quality Control Board, Central Valley Region; Assistant Executive Officer
Sarah Christie	CA Coastal Commission, Deputy Director of Legislation and Government Affairs
Lynn Sadler	CA Department of Boating and Waterways, Deputy Director
Linda Connolly	CA Department of Fish and Wildlife, Region 4, Water Rights Supervisor
Beth Lawson	CA Department of Fish and Wildlife, Region 4, Sr Hydraulic Engineer
Julie Vance	CA Department of Fish and Wildlife, Region 4, Regional Manager
Mike van Loben	CA Department of Forestry and Fire Protection, Southern Region, Unit Chief
Erik Ekdahl	CA Department of Water Resources, Deputy Director
	CA Department of Water Resources, Division of Flood Mgmt
Sharon Tapia	CA Department of Water Resources Division of Safety of Dams, Division Manager

Traci Bone	CA Public Utilities Commission, Attorney
Oscar Biondi	CA State Water Resources Control Board, Water Quality Certification Program, Senior Specialist
David Rose	CA State Water Resources Control Board, Attorney
Erin Ragazzi	CA State Water Resources Control Board, Assistant Deputy Director, Water Rights
Ross Chittenden	CA Department of Transportion (Caltrans), District 10, Director
Steve Lamb	Central Valley Flood Protection Board, Senior Engineer
Stephanie Tadlock	Central Valley Regional Water Quality Control Board, Senior Environmental Scientist and 401 WQC and Dredging Unit, Supervisor
Staci Heaton	Regional Council of Rural Communities, Senior Policy Advocate
Matt Hespenheide	Mariposa County, County Engineer
Steven Dahlem	Mariposa County, County Counsel
Nathan Bray	Merced County, Public Works Director
Joshua Horowitz	Amador Water Agency; Yuba County Water Agency, Attorney
Bryan Kelly	Merced Irrigation District, Deputy General Manager of Water Resources
Jennifer Hanson	Nevada Irrigation District, General Manager
Cary Keaten	Solano Irrigation District, General Manager
PG&E Law Dept FERC Cases	PG&E
Kelly Henderson	Southern CA Edison Company, Senior Attorney
Dr. Ann Willis	American Rivers, CA Regional Director
Kevin Richard Colburn	American Whitewater, National Stewardship Director
Dave Steindorf	American Whitewater, CA Stewardship Director

Richard Roos-Collins	Water and Power Law Group
Christopher Shutes	California Sportfishing Protection Alliance, FERC Projects Director
Curtis Knight	California Trout, Executive Director
Rebecca Fris	California Wildlife Conservation Board, Assistant Executive Director
Frank Rinella	Northern CA Federation of Fly Fishers; Gold Country Fly Fishers
Alicia Hamann	Friends of the Eel River, Executive Director
Stephan Volker	Law Offices of Stephan C. Volker
Jennifer Carville	Friends of the River, P. Advocate
Keiko Mertz	Friends of the River, Policy Director
Ron Stork	Friends of the River, Senior Policy Advocate
Allan Gere	Gold Country Fly Fishers
Cindy Charles	Golden West Women Flyfishers, Conservation Chairperson
Theresa Lorejo-Simsiman	American Whitewater
Dr. Michael Martin	Merced River Conservation Committee
Clay Hash	Northern CA Council Federation of Flyfishers, President
Stephan Volker	Pacific Coast Federation of Fishermen's Associations
Allan Gere	Sierra Club, Conservation Committee Chair
Eric Parfrey	Sierra Club, Mother Lode Chapter; Cahpter Executive Committee Chair
Jenny Hatch	Sierra Nevada Alliance, Executive Director
Michael Pickard	Sierra Nevada Conservancy, Area Representative
Chandra Ferrari	Trout Unlimited, Water Policy Advisor and Staff Attorney

Brian Johnson	Trout Unlimited, Director

Attachment B

Notice of Intent Tribal Distribution List

Tribe Name	Contact Person
Chicken Ranch Rancheria of Me-Wuk Indians	Lloyd Mathiesen, Chairperson
Nashville Enterprise Miwok-Maidu-Nishinam Tribe	Cosme Valdez, Chairperson
Nashville Enterprise Miwok-Maidu-Nishinam Tribe	Leland Valdez, Cultural Resources
North Fork Rancheria of Mono Indians	Mary Stalter, Environmental/Heritage Manager
North Fork Rancheria of Mono Indians	Fred Beihn, Chairperson
North Valley Yokuts Tribe	Katherine Perez, Chairperson
North Valley Yokuts Tribe	Timothy Perez,
Picayune Rancheria of the Chukchansi Indians	Michael Wynn, Tribal Administrator
Picayune Rancheria of the Chukchansi Indians	Janet Bill, Chairperson
Picayune Rancheria of the Chukchansi Indians	Heather Airey, Tribal Historic Preservation Officer
Southern Sierra Miwuk Nation	Sandra Chapman, Chairperson
Tule River Indian Tribe	Neil Peyron, Chairperson
Tuolumne Band of Me-Wuk Indians	Andrea Reich, Chairperson
Wuksachi Indian Tribe/Eshom Valley Band	Kenneth Woodrow, Chairperson