**Summary of PCWA License:**
On June 8, 2020, FERC issued a new license for Placer County Water Agency’s (PCWA) 224 MW Middle Fork American River Hydroelectric Project. This is the first license issued for a project in California following a series of orders by FERC finding that the California State Water Resources Control Board (State Board) waived its water quality certification authority under Section 401 of the Clean Water Act (CWA). PCWA filed its license application in 2011, but was delayed for many years awaiting a 401 certification from the State Board. The State Board issued a 401 certification on April 17, 2019. The next day, citing the D.C. Circuit’s recent decision in *Hoopa Valley Tribe v. FERC*, FERC granted PCWA’s request for a declaratory order finding that the State Board had waived 401 certification based on an informal agreement with the licensee to withdraw and refile the 401 application year after year in order to avoid the State Board having to act within the one-year period mandated by the CWA.

Having found waiver in its prior order, in its order issuing license FERC treated the State Board’s 401 certification conditions as advisory rather than mandatory. FERC declined to include a number of the conditions because they were consistent with mandatory conditions already submitted by the U.S. Forest Service under Section 4(e) of the Federal Power Act. FERC did not include the remainder of the conditions because FERC deemed them as “administrative” and tied to the State Board’s CWA authority. These administrative conditions include, among others, reopener provisions and authority to withhold approval or require modification of documents prior to approval. The PCWA license order demonstrates that FERC will use its discretion to reject some or all of the conditions in an invalid 401 certification as appropriate.

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