

Table 4-1. Responses to Comments

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1100	1	Links are provided to supplemental exhibits to comments submitted on behalf of the California Water Impact Network (CWIN) as to the December 2025 revised draft updates to the Bay Delta Plan and Chapter 13 of the draft Staff Report. DWR's water rights for the State Water Project include permitted deadlines for completion of construction and beneficial uses which expired, respectively, in 2000 and 2009. CWIN is a signatory to the January 26, 2025 joint public interest group comments submitted by Sierra Club, et al, which among other things, reference still-incomplete and unresolved attempts by DWR to seek a time extension. Id., p. 24. Supplemental Exhibit A provides documents from past and pending State Board proceedings in which CWIN and others have protested further extension of those deadlines on multiple grounds since 2010. Both the joint group comments CWIN signed and CWIN's separate comments address relationships between the water quality updates and environmental review and DWR's proposed Delta Conveyance Project (DCP). Attached as Supplemental Exhibit B is written expert testimony and a technical report submitted in the pending DCP change petition proceedings. These indicate that DWR has understated the costs and exaggerated the economic benefits of the DCP.	Please refer to Common Response 1.3, Revised Proposed Plan Amendments, regarding comments on other water supply projects. The Delta Conveyance Project is discussed in Section 13.7.21.1, Cumulative Impact Analysis, of the 2025 partially recirculated draft Staff Report and potentially significant cumulative impacts are identified in the cumulative impact analysis that follows. Please refer to Common Response 7.23, Cumulative Impact Analysis, for responses to comments related to the consideration, analysis, and mitigation of cumulative impacts associated with the Delta Conveyance Project.
1101	1	So long as there is sufficient water to meet the Exchange Contract, the United States stores and delivers the waters of the San Joaquin River to Friant Contractors. Thus, although Friant Contractors are not direct users of Sacramento River and Delta water, Delta operations can significantly affect Friant Division water supplies.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1101	2	The Bay-Delta Plan update seeks to establish revised flow and water quality objectives to protect fish and wildlife beneficial uses in the Sacramento River and San Joaquin River watersheds and the Sacramento-San Joaquin Delta. To implement these objectives, the Plan advances two distinct pathways: a regulatory pathway applicable to non-participating water users, and a voluntary pathway implemented through the Healthy River and	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments. The regulatory pathway was described in sufficient detail for the purposes of

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		Landscapes (HRL) Program. Under the regulatory pathway, flow objectives would be achieved through direct regulatory requirements, with key elements such as unimpaired flow methodologies, cold-water habitat requirements, and associated operational constraints, subject to further development through future processes. In contrast, the HRL Program relies on negotiated voluntary agreements that integrate flow contributions with habitat restoration, performance metrics, governance structures, and enforceable commitments. As such, the HRL Program represents a comprehensive and currently defined implementation framework, while the regulatory pathway defers critical details necessary to fully evaluate feasibility, impacts, and consistency with applicable legal standards. FWA is a signatory to the HRL Program and continues to support its adoption as a balanced, implementable alternative to the unimpaired flow regime, subject to the conditions in the 2022 Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan (2022 MOU), and 2024 Strategic Plan for the Proposed Agreements to Support Healthy Rivers and Landscapes (2024 Strategic Plan). We appreciate the State Water Board's inclusion and continuation of the HRL Program in the December 2025 draft. However, several areas still require clarification and correction in the Bay-Delta Plan to be consistent with the HRL Program as previously described and agreed upon for FWA to continue its support.	the analysis. See Common Response 1.3, Revised Proposed Plan Amendments, for more information.
1101	3	Below are our formal comments on the December 2025 revised draft Plan. These comments reflect FWA's continued engagement in the Bay-Delta Plan update and incorporate issues raised regarding prior drafts where they remain relevant to the current version. 1. Retaining the Healthy Rivers and Landscapes Program while deferring key details about the alternative regulatory pathway prevents reasoned decision-making. FWA appreciates that the revised draft Plan retains the HRL Program and includes detailed implementation protocols in	Please see Common Responses 1.2, Water Quality Control Planning Process, and 1.3, Revised Proposed Plan Amendments, regarding the implementation of the proposed Plan amendments.

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		Appendices B.1 through B.5. This approach supports a collaborative, habitat- and flow-based strategy for protecting fish and wildlife beneficial uses. The Plan's recognition of dual pathways for HRL and non-HRL parties appropriately differentiates regulatory burdens. The HRL Program is supported by negotiated agreements that specify flow contributions, habitat actions, governance structures, performance measures, and enforcement mechanisms, providing a concrete and presently evaluable implementation framework. By contrast, the non-HRL regulatory pathway depends on future development of core implementation elements that are not defined in the current Plan, including the methodology for applying unimpaired flow percentages, operational rules for reservoir releases and export reductions, and the scope and enforceability of cold-water habitat requirements. The December 2025 draft repeatedly defers these issues to later implementation processes, compliance proceedings, or future regulatory actions. The deferral of these foundational decisions limits the State Water Board's ability, at the time of Plan adoption, from making reasoned determinations as to whether the proposed objectives reasonably protect beneficial uses or whether the resulting water supply impacts are justified under Water Code section 13241. The non-HRL regulatory pathway's lack of comparable specificity also makes it difficult to assess feasibility, magnitude of impacts, or consistency with applicable legal standards prior to adoption. This approach is inconsistent with CEQA's requirements for transparency and disclosure, which do not permit agencies to defer formulation of essential operational or mitigation measures where those details are necessary to evaluate the magnitude, feasibility, and environmental consequences of a proposed regulatory approach (see, e.g., CEQA Guidelines §§ 15126.2, 15126.4, 15151).	
1101	4	2. Clarifying the Friant Voluntary Agreement description is necessary to avoid misinterpretation. FWA appreciates the December 2025 draft's improvements to the description of Friant's VA contributions, relative to prior versions, which more closely reflect the 2022 MOU and 2024	The flow description in Appendix B.1 already includes a statement that this commitment is "up to" 50,000 AF and "at most 50%" of the recapture. The "up-to" was added to Page 71.

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		Strategic Plan. FWA notes that the second sentence in the “Friant Contributions” discussion on page 71 should be clarified to explicitly state that “recapture of San Joaquin River Restoration Program (SJRRP) flows will be reduced by [up to] 50 percent as needed to contribute toward the flow commitment of 50 TAF of Delta outflow.” Clarifying that the referenced 50 percent reduction represents a maximum, up to amount, and not a fixed or presumptive requirement, would better align the text with the FWA proposal and avoid misinterpretation during implementation. FWA also acknowledges and supports the December 2025 draft’s correction to the definition of FWA reference conditions. The revised definition appropriately reflects operations as they would occur prior to implementation of the SJRRP, thereby excluding Restoration Flows from the baseline. This revision aligns with FWA’s proposal, the Settlement, and prior State Water Board determinations.	
1101	5	3. The use of Flexibility Brackets must be clarified to not supersede Settlement authority or Restoration Administrator discretion. The narrative on pages 66, and 73 through 77 of the December 2025 Plan references a set of “flexibility brackets” associated with the Friant HRL flow contributions. While these flexibility brackets appear consistent with illustrative ranges described in the 2024 Strategic Plan, they are not appropriately footnoted or contextualized in the draft Plan. As described in the Strategic Plan, the flexibility brackets for the Friant HRL simply represents the anticipated range of timing during which Restoration Flows may contribute to Delta outflows. These brackets were not intended to be commitments or mandates for Friant or the SJRRP. Importantly, the San Joaquin River Restoration Settlement outlines specific operational flexibilities that are available to the Restoration Administrator. These include, but are not limited to, shaping and shifting of Restoration Flows to support ecological outcomes. While the flexibility brackets in the Plan generally reflect this operational reality, they must not be interpreted as	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		legally binding schedules, nor imply that failure to meet them constitutes non-compliance. The Executive Director of the State Water Board does not have jurisdiction under the Settlement to approve or deny operational decisions made by the Restoration Administrator under the authority of the Settlement and implementing legislation. The Plan must clarify that these brackets are illustrative only and do not override the authority of the Restoration Administrator or alter the terms of the Settlement. We request the addition of a footnote to accurately reflect this intent; however, if such clarification cannot be accomplished through a footnote alone, FWA requests the following revisions to the flexibility brackets themselves to avoid misinterpretation during implementation [Tables 11-13]:	
1101	6	4. The Plan's failure to incorporate or describe Enforcement Agreements undermines the regulatory certainty central to participation in the HRL Program. FWA remains concerned that the Plan does not directly incorporate the draft Enforcement Agreements submitted over a year ago. These agreements contain critical provisions defining implementation responsibilities, dispute resolution mechanisms, and performance guarantees. The current references to enforceability in Section 4.4.9 are helpful, but insufficient. The Plan should explicitly adopt and incorporate the finalized Enforcement Agreements. It is particularly concerning that no details on the content of the Enforcement Agreements are included, as they are essential to understanding the legal safeguards surrounding participation in the HRL Program. Prior draft Enforcement Agreements explicitly affirmed that FWA's participation in the HRL Program would not amend or interfere with the Settlement or the Settlement Act. Furthermore, the HRL Program would in no way alter, amend, or otherwise affect the scope or application of Paragraph 20 of the San Joaquin River Restoration Settlement by any of the Settling Parties. These foundational assurances must be expressly incorporated	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		into the Plan. Absent clearly stated terms regarding enforceability, the regulatory certainty purportedly provided by the HRL Program for Friant participants cannot be evaluated and is effectively undermined. FWA will be unable to support the final Plan absent clarification on this point.	
1101	7	5. The Narrative Cold-Water Habitat Objective lacks defined biological performance standards and adequate CEQA analysis. The cold-water habitat narrative objective remains overly broad and inadequately defined. Although minor adjustments were made to carryover storage targets and temperature management planning, these changes do not address core concerns of enforceability, redirected and unquantified water supply impacts, and potential conflicts with Endangered Species Act (ESA) compliance. The requirement to develop long-term temperature management plans within one year is burdensome and has not been evaluated under CEQA. While FWA recognizes that elevated water temperatures associated with unimpaired flow requirements must be addressed, the appropriate response is not to compound those impacts by layering additional, prescriptive operational constraints into the Bay-Delta Plan's program of implementation. Instead, if specific flow or storage requirements are deemed necessary to protect temperature-sensitive fisheries, they should be evaluated and imposed, if appropriate, through properly noticed water rights proceedings tailored to the affected reservoirs and watersheds, rather than through broadly applicable plan amendments. FWA further notes that the cold-water habitat narrative objective is not supported by defined biological performance standards or measurable ecological outcomes. The Plan repeatedly defers development of essential temperature management criteria, carryover storage requirements, and flow-shaping metrics to future processes or Executive Director discretion. Without clear, objective criteria for evaluating success, such as species-specific temperature targets, duration thresholds, or defined spatial applicability, the State Water Board cannot meaningfully assess whether the proposed storage and operational requirements are	Environmental impacts were sufficiently identified within the analyzed range of effects included in the Staff Report analysis. Impacts from the cold-water habitat objective were evaluated in both a quantitative and qualitative manner as, during modeling, assumptions about carryover storage targets were included and, in the environmental analyses, discussions were included on other water management actions that may be taken to comply with the objective. The physical impacts to the environment resulting from the range of reasonably foreseeable actions that could be taken to comply with the cold water habitat objective have been evaluated in the Staff Report. To the extent this comment is raising an issue related to administrative burdens, a 1-year extension for good cause in submitting long-term temperature management plans has been included within the revised proposed Plan amendments. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding CEQA requirements and the project description. Chapter 13, Revised Proposed Plan Amendments, of the Staff Report includes a sufficiently detailed description of the cold water habitat objective and implementation to inform analyses and understanding of possible implementation measures. Section 13.3.3.3, Cold Water Habitat, of the Staff Report includes details on the specific implementation measures for the cold water habitat objective, including the specific requirements of the long-term temperature management strategies and annual operations plans. The carryover storage target ranges listed in the revised proposed Plan amendments allow for substantial flexibility in carryover storage and other cold water habitat requirements. Regulatory pathway cold water habitat provisions would provide flexibility for reservoir operators to manage temperature, flow, and carryover storage in a coordinated manner, which would be expected to reduce the magnitude of the impacts and result in implementation tailored to each reservoir and watershed.

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		necessary, effective, or reasonable relative to their water supply impacts. CEQA requires the State Water Board to define its project and disclose its impacts at the time of adoption using the best information reasonably available. Deferring core elements of the regulatory pathway to post-adoption implementation prevents meaningful environmental review.	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding regulatory pathway implementation of the cold water habitat objective and Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for more information on implementation of the cold water habitat objective. Requirements included in the long-term temperature management strategies, including assessment of effectiveness of cold water habitat protection measures, identification of temperature targets, and evaluation of other measures to improve temperature management (e.g., passage, temperature control devices, habitat improvements), are all intended to result in measurable ecological outcomes such as contribution towards the objectives and biological goals. As described in Section 13.3.9.3, Biological Goals, biological goals would be used to inform the continued update and implementation of the Plan and provide indicators of overall progress against which to measure the success of various implementation measures, such as those used to achieve the cold water habitat objective. See Common Response 1.1, General Comments, for information on the federal and state Endangered Species Acts.
1101	8	6. Reliance on SacWAM modeling the embeds interim litigation-based operations as baseline conditions produces skewed comparison and misleading impact conclusions. FWA acknowledges the State Water Board's release of updated modeling and analytical materials concurrent with the December 2025 Plan, including the Sacramento Water Allocation Model (SacWAM) updates. FWA is concerned with the SacWAM baseline assumption described on page 13-45 of the revised draft Plan regarding incorporation of San Joaquin River inflow-export (SJR I:E) constraints into CVP operations. The Plan states: "Because the CVP had effectively been operating to the 2020 ITP spring Delta outflow requirement applied to the SWP until 2025, the SacWAM baseline incorporates the San Joaquin I:E limit as formulated in the 2020 ITP but applied to both SWP and CVP exports since these conditions are closest to recent operations	There is only one project baseline, which is described in Staff Report Sections 6.2.1, Baseline Assumptions, and 13.4.2.2, Baseline Condition, and is further discussed in Common Response 6.2, Baseline and No Project Alternative. See also Section 13.4.2.3, Regulatory Pathway, of the 2025 partially recirculated draft Staff Report for a discussion on export constraints based on San Joaquin River flows requirement for the CVP.

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		and are largely consistent with conditions that existed at the time the Notice of Preparation was issued for this project. Removing the San Joaquin I:E limitations on CVP exports would substantially increase CVP exports in April and May, with a concurrent decrease in Delta outflow and increase in net negative (reverse) Old and Middle River (OMR) flows.” (p. 13-45.) FWA strongly disagrees with the premise that continued CVP operation under SJR I:E constraints represents an appropriate or reasonable baseline. CVP operations were subject to SJR I:E limitations only as a result of interim, litigation-driven operational agreements following issuance of the 2020 Biological Opinions. Those interim operations in 2021 and 2022 were expressly temporary, agreed to by the parties while a new ESA consultation was conducted, and did not reflect settled, durable, or programmatic regulatory requirements. That consultation resulted in a 2024 Record of Decision that does not apply SJR I:E constraints to CVP exports, a conclusion reaffirmed in the 2025 Record of Decision. Embedding interim litigation-based operations into the SacWAM baseline improperly treats temporary, non-final conditions as representative of long-term regulatory operations and materially biases the modeling by overstating baseline Delta outflow under lawful post-consultation operations. This bias is evident in the quantitative comparisons presented later in Chapter 13. For example, the discussion on page 13-51 and the associated summary tables, including Tables 13.4-80, 13.4-91, and 13.7.4-3, compare changes in Delta outflow, south-of-Delta pumping, and deliveries to agriculture across scenarios that are not evaluated against a consistent or legally representative baseline. By embedding San Joaquin I:E constraints in the baseline and then removing or relaxing those constraints in the 55% WSA, the resulting differences in modeled Delta outflow, exports, and agricultural deliveries are skewed upward and do not reflect true policy-driven changes. Instead, these tables largely illustrate the mechanical effects of removing an interim, litigation-based constraint from the baseline rather than meaningful differences attributable to the proposed Bay-	

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		Delta Plan pathways. As a result, these comparative tables risk overstating the magnitude of impacts or benefits associated with particular alternatives and may mislead readers regarding the relative performance of VA and non-VA scenarios. These baseline and modeling assumptions also affect downstream economic and environmental impact conclusions relied upon in the substitute environmental document, further underscoring the need to correct or normalize the analytical framework before making findings regarding relative impacts or benefits of the proposed alternatives. Without revising the baseline or clearly normalizing the comparisons to reflect current, legally operative CVP operations, the Plan's quantitative conclusions regarding Delta outflow, export reductions, and agricultural delivery impacts remain difficult to interpret and potentially misleading. FWA requests that the State Water Board reconsider and revise SacWAM baseline assumptions to reflect current, legally operative biological opinions and Records of Decision. At a minimum, the Plan should clearly disclose the temporary nature of the 2021–2022 operations relied upon, explain why those conditions are nonetheless treated as a baseline, and evaluate how alternative baseline assumptions would affect modeled results and conclusions.	
1101	9	7. Groundwater modeling assumptions do not reflect SGMA constraints and masks the severity of water supply and socioeconomic impacts. FWA reiterates and incorporates prior comments submitted on the 2024 Draft Staff Report regarding the need for realistic and transparent evaluation of groundwater impacts, particularly in basins subject to the Sustainable Groundwater Management Act (SGMA). In those comments, FWA emphasized that reductions in Sacramento/Delta water supplies and increased calls on Friant, when combined with SGMA implementation and limits on substitute groundwater pumping, would cause long-term land use and economic impacts and that the Draft Staff Report's	The impacts to surface water and groundwater resources from the Central Valley Project Friant Unit are complex but the Staff Report evaluated them at an appropriate level for the purposes of determining potentially significant environmental impacts from both the regulatory pathway and proposed Plan amendments and informing the public and State Water Board decision makers. For context on the Friant system, please refer to the response for comment 172-12. The commenter misinterprets the appendix modeling outputs by treating SacWAM's groundwater-pumping constraints as findings of the groundwater impact analysis. The commenter also conflates surface-water modeling assumptions and results

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		groundwater analysis was insufficiently quantified and likely underestimated. FWA also noted that the Staff Report's suggested mitigation measures, such as diversification through transfers, recharge, and banking, were unrealistic at the scale implied given reduced surface water availability and SGMA constraints. The December 2025 Plan continues to rely on groundwater modeling and narrative assumptions that do not fully reflect SGMA implementation realities. Chapter 13 acknowledges that changes in groundwater supply would be dependent on other regulatory requirements, such as SGMA, and that there is uncertainty in recharge rates, stream-groundwater interactions, and groundwater pumping responses. However, the Plan's modeling approach and interpretation raise concerns. First, the Staff Report explains that, in the unimpaired flow scenarios, replacement groundwater pumping is constrained to be no greater than baseline (with only a de minimis allowance for numerical stability). This assumption may mask the magnitude of water supply shortfalls and the real-world operational and socio-economic consequences that would result if surface water reductions occur in areas where groundwater pumping is already legally and physically constrained under SGMA. Second, while the Staff Report notes that HRL proposals may include groundwater substitution "where that is consistent with local management under SGMA," it also acknowledges that sufficient information was not available to include additional groundwater substitution beyond limited areas, and suggests that if such substitution occurs, impacts would be reduced. From FWA's perspective, this creates a risk that the Staff Report simultaneously (a) limits replacement pumping in regulatory pathway modeling and (b) implicitly relies on potential groundwater substitution to reduce perceived impacts, without providing a clear, basin-specific demonstration that such	presented in Chapter 6, Changes in Hydrology and Water Supply, and Chapter 13, Revised Proposed Plan Amendments, with the groundwater impact analysis, which is conducted separately in Sections 7.12.2 and 13.7.12.2 using different assumptions, methods, and analytical objectives. The conclusions presented in the comment do not reflect the purpose, scope, or findings of the groundwater impact analysis in the Staff Report, nor do they represent any predictions or estimations of actual groundwater storage or use in a groundwater basin. The impacts to groundwater levels and groundwater quality for both pathways remain to be potentially significant and were described in Sections 7.12.2 and 13.7.12.2 (Groundwater). The groundwater analysis was evaluated qualitatively and not quantitatively due to the level of complexity and the broad geographic scale of the study area. Solely using quantitative analyses would require an excessive number of speculative assumptions, which would undermine the reliability of the results. Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for clarification on the appropriate groundwater impact analysis, SacWAM's consideration of groundwater, and further discussion on SGMA considerations, including the roles and responsibilities of GSAs. Additional information on actions water users may take to adjust their water portfolios in response to reduced Sacramento/Delta surface water supplies can be found in Section 6.6.1.2, Water Transfers, and Common Response 6.3, Water Supply and Other Water Management Actions, which provides further discussion on water supply impacts and alternative water supplies. The proposed Plan amendments do not encourage or require increased groundwater pumping to offset reductions in surface water supplies. The Staff Report acknowledges, however, that depletion of groundwater (excluding prolonged groundwater depletion from historical pumping) may occur if the local response to reduction in surface water supplies is to increase groundwater pumping. The Staff Report also acknowledges that revisions to regional Groundwater Sustainability Plans (GSPs) may be needed if GSP water budgets are inconsistent with a change in surface water supplies that may occur from the

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		substitution is feasible under SGMA and existing groundwater sustainability plans.	implementation of an unimpaired flow alternative or voluntary pathway. Implementation of SGMA is listed as one of the several mitigation measures identified for minimizing or avoiding potentially significant impacts to groundwater. The draft Staff Report does not preclude possible voluntary actions or plans that may allow for flow requirements in the lower range only if complementary measures are implemented that provide for equivalent protection of fish and wildlife beneficial uses and in meeting groundwater mitigation measures. To meet sustainability goals, GSAs may employ a range of management tools, including demand-management strategies, which—when implemented effectively—can create opportunities to diversify local water portfolios and enhance long-term water resilience. Sustainably managing surface water and groundwater resources synergistically is the only way to ensure the protection of both resources. For further discussion of the impact analysis related to Economically Disadvantaged Communities, see Common Response 10.1, Economically Disadvantaged Communities.
1101	10	8. Chapter 13 improperly suggest that flow-based water quality objectives can be established without balancing water supply impacts. FWA is concerned with new policy language in Chapter 13 of the revised Bay-Delta Plan amendments that has broad implications for all water users, including Friant Division contractors. Specifically, Section 13.6.2 asserts that the State Water Board may establish water quality objectives for the protection of fish and wildlife without considering water supply impacts on other competing beneficial uses. The Plan states: “It is important to note that the term ‘beneficial uses’ as used in water quality control planning context differs from the term ‘beneficial uses’ in a water right context. Under the Porter-Cologne Act, water quality objectives are established for the ‘reasonable protection of beneficial uses.’ Fish and wildlife beneficial uses require volumes of water achieved through setting minimum instream flows, as the water itself is habitat for	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the reasonable protection of fish and wildlife beneficial uses, the State Water Board’s consideration of different beneficial uses, and the State Water Board’s consideration of the factors listed under Water Code section 13241 during the water quality control planning process.

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		aquatic species and that habitat is degraded through excessive diversion. Other uses, such as agricultural beneficial uses, do not require specific allocations of water. For example, Table 2 of the Bay-Delta Plan sets a salinity standard adequate to reasonably protect agricultural uses, ensuring water used for irrigation is not so salty that it will harm crops. Therefore, reasonable protection of water quality for fish and wildlife, while also ensuring protection of agricultural uses, does not involve analysis of competing water allocations.” (p. 13-220.) FWA is concerned that this framing effectively dismisses the long-recognized need to consider how water quality objectives, particularly flow-based objectives, affect the availability of water for other beneficial uses. While it is true that agricultural uses are often protected through narrative or numeric water quality standards such as salinity, the assertion that protection of fish and wildlife beneficial uses does not involve analysis of competing water allocations is inconsistent with California water law and past State Water Board practice. The State Water Board has repeatedly recognized that flow-based water quality objectives directly affect water availability and therefore implicate competing beneficial uses, water rights, and public trust considerations. Both the Porter-Cologne Act and Water Code section 13241 require the Board to consider, among other factors, economic considerations, the need for housing, and the need to develop and use recycled water, considerations that necessarily include the water supply impacts of proposed objectives. Similarly, the California Supreme Court has emphasized that balancing is inherent in water allocation decisions affecting instream flows and consumptive uses. By suggesting that the establishment of flow-based water quality objectives for fish and wildlife need not involve analysis of competing water allocations, Section 13.6.2 risks overstating the Board’s authority in the water quality planning context and understating the legal obligation to evaluate and balance water supply impacts on other beneficial uses.	
1101	11	9. Reliance on Future “Red-Light” Determinations Does Not Cure Deficient CEQA and Section 13241 Analysis.	The environmental impacts and economic effects of the revised proposed Plan amendments, including the regulatory pathway,

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		Section 4.4.9.10 describes a future “red-light” process under which the State Water Board would determine whether modifications to the regulatory provisions in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 are necessary, and if not, would issue a new determination, that is judicially reviewable under Code of Civil Procedure section 1085, that those provisions are legally and scientifically appropriate under Water Code section 13241. While FWA understands the Board’s intent to preserve flexibility during implementation, this framework cannot substitute for the Board’s obligation to evaluate impacts and balance beneficial uses at the time the Plan is adopted. As discussed in Comments 1, and 5 through 8, the current substitute environmental document and supporting staff analysis do not adequately evaluate key water supply, groundwater, economic, and cumulative impacts associated with the regulatory pathway, nor do they meaningfully weigh those impacts against the asserted benefits of the proposed flow objectives. CEQA requires that such impacts be disclosed and analyzed before adoption of a plan or policy, and Water Code section 13241 requires that the Board consider and balance specified factors, including economic considerations and the need for water supply reliability, when establishing water quality objectives. Deferring these analyses to a future red-light determination risks inappropriately segmenting environmental review and postponing the balancing required by section 13241 until after the objectives are adopted. A future, judicially reviewable determination cannot cure deficiencies in the environmental analysis or the administrative record at the time of Plan adoption. If the current record does not support a finding that the regulatory provisions are legally and scientifically appropriate under section 13241, the appropriate course is to complete that analysis now, not to rely on a later determination to fill gaps in the record. FWA therefore requests that the State Water Board ensure that the substitute environmental document and supporting staff analysis fully evaluate the impacts of the regulatory pathway and	were adequately evaluated in Staff Report Section 13.7, Environmental Analysis, and Section 13.8, Economic Analysis and Other Considerations. Water supply is considered throughout the analyses, groundwater impacts are analyzed in Section 13.7.12.2, Groundwater, and cumulative impacts are analyzed in Section 13.7.21, Cumulative Impacts, Growth-Inducing Impacts, and Significant Irreversible Environmental Changes. All analyses necessary to support the regulatory pathway and other components of the revised proposed Plan amendments are included in the Staff Report. The benefits of the revised proposed Plan amendments are analyzed in the Scientific Basis Reports (Appendix B and Appendix G2 to the Staff Report). No additional analyses, except those that would be required by the Bay-Delta Plan itself, would be necessary to move VA water rights to the regulatory pathway at the conclusion of year 8 or at any other time before or after year 8. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses. The State Water Board is not a signatory to the VA MOU and is not bound by its terms. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the continuation, modification, or termination of the VA pathway.

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		appropriately balance competing beneficial uses before relying on the red-light framework or adopting the proposed regulatory provisions. In addition, FWA is concerned that the Plan's early termination provisions for the VA pathway are framed too broadly and undermine the certainty and durability that the VA framework was intended to provide. As drafted, the Plan appears to allow termination of the VA pathway based on a determination that the pathway will not protect beneficial uses or native fish, without clearly tying such termination to a failure by VA parties to meet their agreed-upon commitments. This approach creates uncertainty for participating parties and is inconsistent with the expectations reflected in the 2022 MOU, which envisioned that voluntary agreements would provide regulatory certainty so long as participants are meeting defined flow, habitat, performance, and governance obligations. FWA requests that any early termination provision applicable to the VA pathway be limited to circumstances in which VA parties are not meeting their commitments or where agreed-upon performance measures are demonstrably not being achieved. Allowing termination based on generalized determinations regarding beneficial use protection, absent non-compliance by VA participants, would erode the predictability and reliability necessary for long-term planning and investment, and would be inconsistent with the fundamental premise of the VA framework. Finally, FWA requests that, if early termination of the VA pathway were to occur, VA participants must be afforded the same opportunity for judicial review of the regulatory pathway as contemplated under the red-light process. Specifically, if VA parties are transitioned to the regulatory pathway following early termination, they should have the ability to obtain judicial review under Code of Civil Procedure section 1085 of any Board determination that the regulatory provisions in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 are legally and scientifically appropriate under Water Code section 13241. Providing such review is necessary to ensure procedural fairness, maintain parity between VA and non-VA parties, and preserve the due process protections implicit in the red-light framework.	

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		FWA appreciates the State Water Board's continued engagement with stakeholders and its efforts to refine the Bay-Delta Plan through the December 2025 revised draft. As reflected in the comments above, while the revised draft includes several meaningful improvements, significant issues remain that require further clarification, correction, and analysis before the Plan is finalized. FWA urges the State Water Board to address these issues to ensure that the final Bay-Delta Plan is legally defensible, scientifically sound, and consistent with the collaborative framework and regulatory certainty envisioned under the Healthy Rivers and Landscapes Program. FWA remains committed to working constructively with the State Water Board members, Board staff, and other stakeholders to achieve durable solutions that protect fish and wildlife beneficial uses while also supporting reliable water supplies and the communities, agriculture, and economies that depend on them.	
1102	1	I request that you must take action to allow ESA & CESA fish living in or passing through the S.F. Bay- Delta to stabilize, and recover to self-sustaining levels. Here are my comments: 1. You should reject the proposed VAs because they will lead to increased water exports, driving ESA/CESA species to extinction, lead to increased toxic algae blooms, and destroy the commercial salmon fishing industry. 2. Proceed to expeditious adoption & implementation of the Bay-Delta Water Quality Control plan that includes science-based protections that require increased river flows of at least 55% in Central Valley rivers in most years. 3. Your decision must be based upon facts and science, not political wishful thinking. 4. There is no peer reviewed scientific analysis that shows the VAs will come even close to protecting fish & wildlife, or change the status quo in a positive direction. 5. The VAs have no viable enforcement process. There is no clear accountability if water users fail to meet flow, habitat or	Harmful algal blooms and other aquatic ecosystem stressors are discussed in Staff Report Chapter 4, Other Aquatic Ecosystem Stressors. The peer reviewed Scientific Basis Report Supplement documents the benefits of the VA pathway. See Common Response 1.1, General Comments, for information on the VA development process; Common Response 1.3, Revised Proposed Plan Amendments, for information on the enforceability of the VA pathway; Common Response 3.1, Fish Protection, for more information on the Scientific Basis Report Supplement; and Common Response 4.1, Harmful Algal Blooms.

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		temperature goals critical for salmon or steelhead survival. 6. Habitat is of course critically important, but if there are no fish to use that habitat it is meaningless. Western & central Idaho is an example of huge habitat availability for salmon & steelhead, but there are few fish to use it as a result of poor water and river conditions downstream of the habitat in the Columbia & Snake rivers. 7. Fish need water - and habitat. Each one alone is not enough, and the Bay-Delta has suffered for generations with inadequate water. The VAs do not promise adequate water to sustain the fishery, let alone for the fish to recover to healthy populations. 8. Inadequate freshwater flows is the cause of toxic algae blooms in the Bay-Delta. It is killing pets & wildlife, and makes people sick. More fresh water is needed for a healthy Bay-Delta. 55% of unimpeded river flows will fix that, as scientists have said. 9. Implementing the Bay-Delta Water Quality Control Plan would spur innovation and new ways of managing water because it would be the law. The VAs would simply enable the status quo, with millions \$ wasted on habitat that would not be used because there continues to be inadequate fish populations to use it. 10. Water is a "Public Trust Resource" - It belongs to every California Citizen. In the voluntary agreement meetings the NGO community, Tribal Communities, and Delta Communities and businesses were blocked from participation. They are part of "The Public". I have fished and played in the Bay-Delta since I was in college more than 50 years ago. I remember it when you could water ski, swim and enjoy the water recreationally. Not today. It is not safe to let the water touch your skin many months of the year. We can't eat the fish you might catch because they are toxic with chemicals. We need to get back to a healthy, friendly place to have fun, as well as divert water as long as it does not cause the Bay-Delta watershed to degenerate or become toxic. Change is	

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		needed, and that means leaving more fresh water in the Bay-Delta and less in the diversion canals.	
1103	1	California has had some success with water policy balancing the true needs of humans and the environment – Mono Lake. Although Mono Lake is not yet a true “success story,” Mono Lake is much healthier than it was 30 years ago. Why? Simply put, more water gets to the lake. Just as anyone could tell the level of Mono Lake had dropped a lot simply by looking, I do not need detailed scientific studies to know the Bay Delta has been severely damaged over the last 30 years simply by looking at the availability of fresh California salmon. Whereas salmon was bountiful and affordable every year in August, now it is a delicacy. Now there are so few salmon to catch the season hasn’t even opened. We haven’t suddenly become much worse at catching salmon. We can study the Bay Delta endlessly. The results of those studies will inform some actions that may marginally help the salmon population, but water is what’s needed. Simply put, fish need water. Modeling fancy mitigation measures is basically rationalization to keep taking too much water and see what happens. As with Mono Lake, regulations on minimum flows are necessary to get water to flow. Voluntary Agreements can be “voluntary” only if they guarantee enough water, which every study says is at least 55% of peak flows. To say the obvious, it’s important to require minimum flows and allow the affected parties to agree on how they are going to deliver water to the river.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1104	1	NCPA, a California Joint Action Agency, was established in 1968 by a consortium of locally owned electric utilities to make joint investments in energy resources that would ensure an affordable, reliable, and clean supply of electricity for customers in its member communities. NCPA members include municipalities, ~ rural electric cooperative, and other publicly owned entities for which the public agency provides such services as the purchase, aggregation, scheduling, and management of electrical energy. NCPA's members are also federal Preference Power Customers, entitled to more than 41% of the commercial power generated at the Bureau of	Multiple CVP hydropower generating facilities would not be affected by the Plan amendments, including New Melones, Lewiston, Trinity, and Judge Francis Carr powerplants. CVP powerplants that might be affected by the Plan amendments include Folsom, Nimbus, Shasta, Keswick, and Spring Creek Powerplants. While the Plan amendments could result in a shift in hydropower generation from summer to spring (the effects of which are considered in Section 7.8, Energy, and Appendix A5, Hydropower, Energy Grid, and Export Energy Analyses,), average annual generation would be less affected. The average annual

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		Reclamation's Central Valley Project hydroelectric power plants, and marketed and delivered by the Western Area Power Administration (WAPA). Over the last 6 years, this clean, renewable resource has served approximately 11% of NCPA members' electrical needs. This is a key resource to maintain affordable, reliable electricity for more than 700,000 retail customers in California, who are served by NCPA member utilities. Following review of the Draft Updates to the Sacramento/Delta Water Quality Control Plan, as well as Chapter 13, NCPA offers the following comments and concerns: • The 55% unimpaired flow (UF) recommendation included in the Draft plan has significant potential to impact the flexibility of hydropower operations at each of the 11 CVP power plants, and implementation of Voluntary Agreements (VA) that can impact state waterways, following negotiation by individual water agencies, have the same potential. Adopting prescriptive water operations practices, based on forecasted UF, will impact the value of the CVP in multiple ways, and may harm the environment: - o By limiting the flexibility of hydro operations, this renewable, emission-free energy may not be available during peak power periods. During these times, which typically correspond with high demand on the overall power grid (summer peak, and daily peak), if hydropower is not available then high emissions GHG producing generators are required to operate to meet regional customer loads and ensure system reliability. This will impact air quality as hydropower is replaced by fossil fuel generation, often during the hottest times of the year. - o Peaking times also correspond with the most expensive energy market conditions, so the reduction in hydropower flexibility, and unavailability for peaking, will impact customer affordability throughout the region. - o UF requirements may impact carryover storage in CVP reservoirs, leading to lower generation capacity, and reducing	reduction in CVP generation at the listed facilities may range from 1 percent for the 45 scenario to 2 percent for the 65 scenario, based on the evaluation performed for Appendix A5 (Figures A5-17 through A5-19). The effect would be even smaller if considered as a percent of all CVP generating facilities. South of the Delta, the CVP has facilities (O'Neill and Gianelli) for moving Delta exports in and out of O'Neill Forebay and San Luis Reservoir. The movement of Delta exports results in a net energy cost as described in Appendix A5, so reduction in Delta exports could result in energy savings at these CVP facilities. The effect of the regulatory pathway and VA pathway on hydropower generation and grid reliability during periods of peak demand are considered in Section 7.8, Section 9.7.8, Energy, and the grid reliability discussion in Common Response 7.8, Energy and Hydropower. The air quality and GHG effects of increased use of fossil fuels to replace reductions in hydropower generation are considered in Section 7.5, Air Quality, and Section 7.10, Greenhouse Gas Emissions. As described in Appendix A5, Hydropower, Energy Grid, and Export Energy Analyses, storage effects are included in the hydropower calculations for the two main CVP facilities likely to be affected by the regulatory pathway: Folsom and Shasta. Little change in storage is expected at Nimbus and Keswick Reservoirs because they are relatively small re-regulating reservoirs, and based on SacWAM results described in Chapter 13, Revised Proposed Plan Amendments, little change is expected in carryover storage in Whiskeytown Reservoir as presented in Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments, which provides water to Spring Creek Powerplant. The effect of reductions in summer hydropower generation on electric grid reliability, which is affected by peaking operations and availability of alternative energy sources, is considered in Section 7.8 and Appendix A5 with power flow modeling and consideration of rolling blackout events.

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		the amount of electricity that can be delivered to CVP customers, such as NCPA. o Water operations, dictated by UF requirements, will shift toward spring months when runoff is at its peak. During this time of year, with large amounts of solar generation connected to the California grid, there is often over-generation that leads to extremely low or negative pricing in the California Independent System Operator's energy market. This will drive hydropower operators to bypass water around generation to avoid having to pay for generating energy during negative pricing periods. This results in a loss of stored water as well as reduced value and/or lost generation from the CVP, again impacting customer affordability. o The Draft plan requires seasonal minimums operators must meet. Those floors reduce operational flexibility for generation scheduling, impacting the value of the resource for economic and reliability purposes. o The proposed UF requirements will also add operational complexity and compliance costs that will be borne by rate payers. New accounting, reporting (especially under VAs), and monitoring will increase staff time, modeling needs, and increase enforcement risk. o Analysis of these issues should be thoroughly studied and mitigated in the Water Quality Control Plan Update. o Adaptive Management techniques are also proposed in the updated plan. If implemented, any Adaptive Management oversight and leadership structure should include representation from the CVP operating entities, WAPA and the Bureau of Reclamation Central Valley Operations (CVO), as well as representation from CVP Preference Customers. o Studies to evaluate the impacts of each potential alternative, UF and VAs, are critical to identify and weigh benefits and impacts to the environment as well as economic and reliability impacts to the region.	It is unlikely that substantial power bypass would occur for the purpose of avoiding negative pricing. Because hydropower generation does not involve fossil fuels, the preferred mechanism to shed generation would be to reduce generation at natural gas facilities, not hydropower facilities. In addition, some hydropower facilities could retain water in reservoirs during periods of peak solar or wind generation and release water later when pricing is more favorable. The financial effect of shifting hydropower generation from summer to spring is considered in Common Response 8.1, Economic Analysis and Other Considerations. While implementation of the revised proposed Plan amendments will result in new types of water accounting, reporting, and modeling, this work is unlikely to substantially affect energy costs. Much of this type of work is already performed for meeting other types of regulatory requirements and flood control. Operational complexity and changes in hydropower generation would not have a direct effect on energy costs. Energy in the state is derived from multiple sources, including hydropower and other renewable clean energy sources. Energy pricing is complex and accounts for many factors affecting both supply and demand. Similarly, consumer rates are established by many different factors. There is no direct relationship between increased operational complexity at hydropower facilities, if it were to occur, or reduced hydropower generation, and energy consumer rates. Furthermore, it is speculative to assume that higher consumer rates and accompanying negative impact on the economy are a likely outcome of the revised proposed Plan amendments. Many hydropower facilities in the state would not be affected by the revised proposed Plan amendments. The analysis in Section 7.8 and Appendix A5 considers possible hydropower effects throughout the Sacramento/Delta region where effects might occur. Reductions in hydropower generation may occur in export areas outside of the Sacramento/Delta region, but as described

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		o Note that all these comments apply to hydropower facilities throughout the state, not just the CVP. Hydropower is a clean and economical renewable energy source which typically supplies between 7 and 22% of the electricity generated in California, depending on the water year. CVP's reservoirs store large quantities of water as well as storing the energy that is generated when water is delivered. Hydropower also contributes essential grid reliability and resiliency functions. As a fast-ramping and dispatchable generation source hydro helps to fill the huge energy gap during evening peaking periods in California, when solar energy production is falling off and consumers are arriving home and increasing loads on the already stressed power grid. Hydro is also one of the few resources that provides blackstart capability to restore the grid in the event of a blackout. As California transforms its energy supply even further toward green resources, such as solar and wind, the value of hydropower as a renewable, non-carbon-emitting, dispatchable fast-ramping energy resource is critical. The Bureau of Reclamation, as the owner and operator of the CVP, has been environmentally proactive in executing multiple, very thorough, environmental impact studies (EIS) over the past decades, including two recent Records of Decision (RODs) in November 2024, and December 2025. These studies have incorporated input from the public, native American tribes, and a broad variety of interest groups focused on environmental stewardship in the operation of these multi-purpose facilities, while relying on the latest science, and data collection techniques. Implementation of the various RODs has included adaptive management practices, which are structured to involve a broad set of interest groups, while informing operational decision making for a very diverse system of facilities and waterways. Although NCPA feels that hydropower interests are not represented equally in the adaptive management structure, piling on additional state requirements, governed by another philosophical approach based on unimpaired flow will undoubtedly complicate water and power operations. This will lead to inefficiencies and unexpected impacts to the value of the CVP water and hydropower system, and increase air pollution through increased fossil fuel generation.	in Appendix A5, the conveyance of Delta exports results in net energy consumption, so a decrease in Delta exports would result in less energy expenditure for conveyance. As operator of Shasta, Folsom, and Whiskeytown reservoirs, Reclamation would be involved in creating long-term temperature management strategies and annual operations plans that are expected to incorporate adaptive management (e.g., see the December 2025 draft Bay Delta Plan). Please see the discussion in Common Response 7.8, Energy and Hydropower, regarding grid reliability and the future of California's electrical grid. The black start capability of hydropower is not expected to be affected by the revised proposed Plan amendments.

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		A snapshot of the economic and air quality impacts that will result from the proposed unimpaired flow actions are represented in Appendix AS, figure AS-18. Significant shifts in hydropower energy production, decreasing in July, and increasing in April, will result in even more severe overgeneration in spring months, leading to more frequent negative pricing in the California energy market. Additionally, decreased generation in the hottest months of the year will increase regional market prices, impacting reliability, affordability, and decreasing the ability to manage cold water for protected fish species in the state's river system. Specifically, the figure clearly shows large generation shifts from July to April for Shasta dam, the largest and most important within the Central Valley Project system. NCPA, its members, and other federal preference power customers have paid 100% of the operations, maintenance, and capital investment costs for the CVP's reliable, carbon-free hydropower generation facilities, and WAPA's CVP transmission system, for nearly 6 decades. The CVP hydropower resource is an important component of our business model, helping to ensure electricity affordability for more than 700,000 Californians. NCPA and its members have a longstanding commitment to provide California residents with an electricity supply that is reliable, affordable, and socially and environmentally responsible. These CVP clean power resources are incredibly important to the environment, power system reliability, and continued economic success of the region.	
1104	2	Reclamation's multiple EIS, and RODs have resulted in thorough environmental protection practices, including time-tested processes for cold water management, while ensuring beneficial flows for protected species, and ensuring appropriate conditions for rearing and migration. Tools and operational practices for drought planning and management, water quality, and flood protection are also in place. These federal actions are more than equivalent to the state's Healthy Rivers and Landscapes alternative, and should meet the Board's intended water quality and environmental protection objectives. Hence, the federal CVP	As discussed in Section 1.1, Introduction, and Section 3.2, Flow and the Ecosystem, of the Staff Report, decades of reduced habitat, degraded water quality, and insufficient flows have led to the decline of native fish species, prompting the State Water Board to update the Bay-Delta Plan to provide for the reasonable protection of native fish and wildlife. Please see Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, Section 13.5, Beneficial Environmental Effects, and Common Response 3.1, Fish Protection, for a

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		facilities should be exempted from the proposed California state actions.	discussion of the State Water Board's analyses of anticipated benefits for fish and wildlife.
1105	1	Request For Correction In Section 13.4.4.4 (San Joaquin), page 13-172 of Chapter 13: "However, while the SacWAM results suggest that changes in Sacramento/Delta water supply to wildlife refuges under the 55 w/WSAs scenario could be negligible, the analysis of impacts resulting from changes in refuge water supplies is complicated by Reclamation's past practice of reducing water supplies to CVPIA wildlife refuges when it reduces allocations to [begin deleted text]Sacramento River Settlement Contractors[end deleted text] [begin added text]San Joaquin River Settlement and Exchange Contractors[end added text]; therefore, it is possible that reductions in Sacramento/Delta surface water supplies to wildlife refuges could at times be larger than indicated by the modeling." The reason for this requested change is to correct the language of Chapter 13 for accuracy. Reclamation's allocation practice is to tie south-of-Delta refuge allocations with the allocations of the San Joaquin Valley Settlement and Exchange Contractors, rather than the Sacramento River Settlement Contractors. This is an important distinction because south-of-Delta refuges are subject to distinct Central Valley Project operations, including but not limited to water storage in San Luis Reservoir. Support for the reason behind this requested change can be found in the attached letter from Reclamation's Mid-Pacific Regional Director in 2021, which clearly states Reclamation's allocation policy for south-of-Delta wildlife refuges.	The suggested correction has been made in Section 13.4.4.4, Sacramento/Delta Supply to the San Joaquin Valley, Section 13.7.6.1, Terrestrial Biological Resources, and Section 13.8.5.3, Wildlife Refuges, to reflect that south-of-Delta refuge allocations are linked to San Joaquin River Exchange Contractor allocations, not those of Sacramento River Settlement Contractors. This revision does not affect modeling results or the impact conclusions of the environmental analyses.
1105	2	Our organizations are grateful for the improved analysis of impacts to wildlife refuges in section 13.4.2.1 (general discussion on page 13-42), section 13.4.4.3 (Sacramento Valley discussion on page 13-155), and section 13.4.4.4 (San Joaquin discussion on page 13-172) of the Staff Report. We also appreciate the updated SacWAM hydrologic modelling shown in Figure 13.4-62 and Table 13.4-110 (Sacramento) and Figure 13.4-74 and Table 13.4-130 (San Joaquin).	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		As some of the only organizations that have consistently tracked and submitted comments regarding wildlife refuges during this regulatory process, we look forward to the Water Board's responses as it completes a final draft. Our previous comments included a joint comment letter on the Draft Plan Update submitted January 10, 2025, and Grassland's comment letter on the Draft Staff Report submitted January 19, 2024. Thank you for considering these comments, and for continuing to work on behalf of California's public-trust wetlands, consistent with the recent California Wetlands Policy Act (Cal. Water Code § 16200 et seq.) "to ensure no net loss and long-term gain in the quantity, quality, and permanence of wetlands acreage and values in California."	
1106	1	The Sacramento Area Sewer District (SacSewer) appreciates the opportunity to review and comment on the December 2025 Revised Draft Updates (Revised Draft Update) to the Water Quality Control Plan for the San Francisco Bay/ Sacramento - San Joaquin Delta Watershed (Bay-Delta Plan). SacSewer previously submitted comments (attached) to the State Water Resources Control Board (State Water Board) on the October 2024 Draft Water Quality Control Plan for the San Francisco Bay/ Sacramento - San Joaquin Delta Watershed (2024 Draft Bay-Delta Plan), and the September 2023 Draft Staff Report/ Substitute Environmental Document in support of possible updates to the Water Quality Control Plan for the San Francisco Bay/ Sacramento - San Joaquin Delta Estuary (2023 Draft Staff Report). We appreciate the addition of language in this Revised Draft Update that acknowledges the importance and value of recycled water; however, some concerns and unresolved prior comments remain. For convenience, we summarize SacSewer's prior comments related to the Harvest Water Project and explain our remaining concerns regarding the proposed Bay-Delta Plan. We appreciate that State Water Resources Control Board (State Water Board) staff called out future revisions based on the Harvest Water Program, and we look forward to reviewing further updates and response to comments upon the release of the Final Staff Report.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment references other comments, please see the substantive responses to those comments.

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1106	2	Unresolved Prior Comments As noted above, SacSewer previously submitted comments on the 2024 Draft Bay-Delta Plan and the 2023 Draft Staff Report (attached). We appreciate the changes in the Revised Draft Update that support diversification of water supply portfolios, the expanded use of recycled water, and the commitment to update Table 7.23-1 in the Final Staff Report. The State Water Board has not released the Final Staff Report or responses to comments on prior versions of the Bay-Delta Plan. Without this information, it is not possible to determine whether our earlier concerns have been addressed, particularly the following: • The Draft Staff Report (2023) contains outdated information on the EchoWater Facility, its operation, and its effluent quality as expanded on in our attached comment letter “01192024 SacSewer Comments on Bay-Delta Plan Updates”. References to effluent quality and ammonia concentrations are of particular concern after the facility upgrades. • SacSewer cannot determine the State’s methodology used to model discharge rates under the existing conditions, 55% unimpaired flow, or Healthy Rivers and Landscapes proposal. Modeled discharge rates have not been adjusted for Harvest Water operations, anticipated to begin in 2027. Like earlier versions of the Bay-Delta Plan, the Revised Draft Update uses the Net Delta Outflow Index (NDOI) which includes “Sacramento Regional Treatment Plant average daily discharge for the previous week”. How SacSewer’s discharge rates are modeled is imperative to understanding if the approved diversion of the discharge to Harvest Water, estimated to be fully operational in 2027, has been adequately considered in the flow accounting. SacSewer respectfully requests that the Final Staff Report and Responses to Comments fully address all prior comments regarding the EchoWater Facility operations, water quality data, modeling assumptions, and flow analyses. This includes accurately incorporating the EchoWater Facility’s current and	Please refer to comment letter 166 to review responses to the comments submitted by SacSewer on the 2023 draft Staff Report. See Common Response 1.1, General Comments, for information on public comment and outreach including the approach to responding to comments on the 2024 draft Bay-Delta Plan. In the final Staff Report, Section 7.23, Cumulative Impact Analysis, Growth-Inducing Impacts, and Significant Irreversible Environmental Changes, Table 7.23-1, Section 7.20.2.1, Wastewater Collection and Treatment, and Section 4.3.1.4, Ammonia/Ammonium, have been updated to acknowledge the completion, current operations, and effluent quality information related to the EchoWater Facility. These revisions do not change the impact conclusions in Section 7.23.1.3, Cumulative Impacts. DSM2 model inputs for SacSewer discharges are from SacWAM results. SacWAM does not include SacSewer Harvest Water Operations in any of the scenarios because the environmental analysis and SacWAM runs do not include future actions. SacSewer discharges are about 1% of Sacramento River flow at the discharge location. SacWAM may slightly overestimate existing discharge rates. This slight overestimate does not affect the conclusions of the environmental analysis.

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		projected effluent flows into the modeled Net Delta Outflow Index (NDOI) and correcting any identified inaccuracies in discharge or water quality inputs.	
1106	3	Modeled Flow Analysis SacSewer staff met with State Water Board staff on October 27, 2025, to discuss comments we submitted on the September 2023 Draft Staff Report and the October 2024 Draft Updates. We appreciate Bay-Delta Plan staff meeting with us to discuss our concerns on modeled flow and Harvest Water within the Bay-Delta Plan. We are grateful for the commitment to acknowledge Harvest Water in a qualitative manner, and the changes it will bring to the Sacramento River flows once water deliveries begin (anticipated in 2027). Harvest Water will deliver up to 50,000 acre-feet per year of tertiary-treated recycled water to agricultural customers in Southern Sacramento County as opposed to discharging to the Sacramento River. It is a landmark initiative that pairs innovative recycled water reuse with deep ecological benefits. It supports local agriculture and strengthens habitat for wildlife while building longterm water resilience for the Sacramento region. This volume reduction of discharge from SacSewer to the Sacramento River has not been included in the modeled flows or water accounting in the Bay-Delta Plan. Through analysis of the modeling files made available August 2025, it appears as though there is still an overestimation of flows from the EchoWater Resource Recovery Facility to the Sacramento River, and this is prior to the discharge change with Harvest Water. This wastewater discharge flow rate is a component of the Net Delta Outflow Index (NDOI). Minimum flow rates for the full 1921-2021 simulation period were 271 cfs (cubic feet per second), 239 cfs, and 248 cfs for the existing condition, 55% unimpaired flow, and revised proposal (HRL) respectively. The average dry weather discharge flow rates from the EchoWater Facility (formerly the Sacramento Regional Wastewater Treatment Plant) reported to the State Water Board from May to August (the months with the lowest flow) 2016 to 2025 range between 152 and 169 cfs. This discrepancy between what is used in the modeling analysis	The model results in the Staff Report present operations that are generalized but sufficient in detail to evaluate water supply and other effects of the project from a regional perspective. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope, scale, and application of SacWAM. Further, the revised proposed Plan amendments require the State Water Board, in consultation with DWR, Reclamation, and other appropriate entities, to evaluate methods for improving Delta outflow conditions, including the methodology for calculating the Net Delta Outflow Index within three years of Plan approval by the Office of Administrative Law. This evaluation will be followed by an opportunity for public review and comment. Please see the response to comment 1106-2 regarding the modeling of EchoWater.

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		and the actual wastewater flow rates will only increase as Harvest Water comes online (anticipated in 2027). Wastewater Petition WW0092 authorized SacSewer to reduce its discharge to the Sacramento River by 50,000 AFY at a rate of up to 108 cfs, calculated across a 7-day running average. This could have an unaccounted-for impact on the assumptions in the current version of the Bay-Delta Plan. Because SacSewer's discharge flow rate is a component of the NDOI, this is an important issue to address and ensure accurate accounting of Delta outflow. SacSewer requests that the Final Staff Report and responses to comments address the concerns raised herein and accurately model SacSewer's current and future discharge. The analysis should appropriately reflect the significance of Harvest Water as a landmark recycled water infrastructure program providing coequal water supply and environmental benefits.	
1106	4	Science and Public Engagement Meaningful public engagement is essential to the credibility and effectiveness of the Healthy Rivers and Landscapes (HRL) Science Plan. Through our review of the HRL Science Plan, we have been unable to identify any public comment pathway, engagement process, or mechanism for providing feedback once the Bay-Delta Plan is adopted. The Science Plan will govern flow, habitat, and performance decisions for an eight-year term, and it explicitly contemplates ongoing changes to monitoring, modeling, performance metrics, and adaptive management. Without a defined public process, these consequential decisions will occur entirely within internal governance bodies, creating a significant accountability gap. Decisions that directly affect water quality, Delta communities, and ecosystem protections should not be made outside of a transparent and participatory framework. At a minimum, the HRL program must provide structured, ongoing opportunities for public review and input. This should include regular public reporting, public comment periods on major scientific or programmatic changes, and full public access to the data, assumptions, and analytical methods used to evaluate HRL performance. Stakeholder oversight and public participation will be critical to the success and public acceptance	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		of both the Governance Committee and the Science Committee. The public should be able to attend and provide input at committee meetings and comment on annual draft reports. If open attendance is not feasible, program staff should hold additional quarterly public meetings to brief stakeholders and scientists on program activities and provide written and oral responses to public comments. The governance structure for HRL science must also be inclusive and transparent. We request a representative governance body for the Sacramento–San Joaquin Delta that provides for public agency participation, ensuring that the Science Plan benefits from the expertise, perspectives, and lived experience of the broader scientific and stakeholder community. Conclusion SacSewer remains committed to environmental stewardship within our service area and across the Delta, the use of best available science, and a transparent, accountable regulatory process that serves both water quality and public trust resources. We appreciate the opportunity to provide these comments and look forward to continued collaboration with State Water Board staff on the Bay-Delta Plan and related efforts.	
1107	1	Current Status of Central Valley Salmon Juvenile Chinook Salmon survival in the Central Valley is consistently low relative to other West Coast salmon systems (Welch et al. 2021). Poor survival during freshwater rearing and outmigration has been shown to be a primary, if not dominant, constraint on population growth (Michel et al. 2018; Friedman et al. 2019). Further, it is established science that outmigration, and migration timing, are most strongly associated with river flow, the master variable, likely through flow's effect on numerous mechanisms, including river temperatures (Perry et al. 2018, Henderson et al. 2019, Notch et al. 2020, Michel et al. 2021, Burford et al. 2025). Contemporary flow regimes in Central Valley rivers are therefore a leading cause of ongoing salmon declines, following the historic impacts from dam construction and mining. In fact, the recent collapse of fall-run Chinook stocks and associated fishery closures can be credibly attributed to	Please refer to Staff Report Section 3.4, Chinook Salmon (<i>Oncorhynchus tshawytscha</i>) and Central Valley Steelhead (<i>Oncorhynchus mykiss</i>), for a discussion of salmonid species decline and flow effects on salmonids. Please also refer to Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a discussion of the purpose and goals of the Sacramento/Delta Update to the Bay-Delta Plan. See Common Response 3.1, Fish Protection, on use of best available science and updates to literature in Chapters 3 and 4 and Common Response 1.2, Water Quality Control Planning Process, for a discussion on reasonable protection of fish and wildlife beneficial uses.

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		inadequate flows during freshwater incubation, rearing, and outmigration. Meaningful recovery of Central Valley salmon and steelhead populations will require nothing short of substantial changes in the magnitude, timing, and temperature of river flows.	
1107	2	Concerns 2 With the 55% w/WSAs Pathway A major concern with the 55% w/WSAs pathway is the allowance of only 35% unimpaired flow in dry years. These are precisely the years when salmon populations are most vulnerable, and when drought-driven population contractions routinely negate hard-fought gains made during wetter periods. At the very least, enforceable minimum flow standards should accompany the 35% unimpaired provision as a protective backstop. For example, during late April and early May 2020—a period representative of the drier third of water years and coinciding with peak outmigration of spring-run and fall-run juvenile Chinook salmon (Burford et al. 2025)—estimated unimpaired flows of the Sacramento River at Bend Bridge were approximately 6,000–7,000 cfs. Allowing flows to get as low as 35% unimpaired would yield only ~2,100–2,450 cfs, with minimal downstream accretions in a dry year. Published research indicates that flows of this magnitude would likely result in extremely high mortality of out-migrating juveniles (Michel et al. 2021), as well as elevated water temperatures detrimental to all native fish communities (Michel et al. 2023).	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1107	3	Evaluation of the 55% w/WSAs vs. Voluntary Agreements (VAs) Pathways Despite these concerns, the 55% w/WSAs pathway represents a substantial improvement over both the status quo and the proposed VAs pathway. My expertise is most directly relevant to flow and temperature requirements for successful juvenile and adult salmon migration, and I therefore focused my comments on the following sections: Section 13.4.3 – Changes in Hydrology	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. The benefits of the VA pathway are documented in the Scientific Basis Report Supplement (Staff Report Appendix G2). The benefits of the flow scenarios from 35 through 75 percent of unimpaired flow are documented in the 2017 Scientific Basis Report (Appendix B) and in Chapter 3, Scientific Knowledge to inform Fish and Wildlife Flow Recommendations, of the Staff Report. In addition, Section 13.5, Beneficial Environmental Effects, presents the benefits of the revised proposed Plan amendments.

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		The 55% w/WSAs pathway implements pronounced hydrologic shifts, with increased flows during January–June and reduced flows during July–December. This change directly addresses the longstanding inversion of the Central Valley hydrograph, wherein winter and spring flows are stored and summer flows—of limited biological relevance to Central Valley salmon—are increased (Michel et al. 2021; Munsch et al. 2022). Tables 13.4-17 and 13.4-18 indicate a meaningful reversal of this pattern, particularly during April and May, when valley-floor flows are often at a manmade annual minima despite peak juvenile outmigration (Burford et al. 2025) that historically coincided with much higher flows. Figure 13.4-6 shows substantial flow increases during this critical period, which could be transformative for fall-run and spring-run Chinook populations. In contrast, the VAs pathway shows muted seasonal and monthly changes, with only marginal increases during April and May (Tables 13.4-23, 13.4-24; Figure 13.4-8). Section 13.5.3.2 – Ecological Flow Thresholds Under the 55% w/WSAs pathway, Table 13.5-5 indicates increases in the frequency with which ecological flow thresholds are exceeded. These thresholds reflect decades of empirical, peer-reviewed research intended to guide biologically adequate flow management. In contrast, Table 13.5-8 shows that the VAs pathway yields little to no improvement relative to baseline conditions. The failure of the VAs pathway to meaningfully increase exceedance of established ecological thresholds is a significant concern and calls into question its capacity to improve the viability of fish populations. Section 13.7.6.2 – Water Temperatures Tables 13.7.6.2-1 and 13.7.6.2-2 indicate that the 55% w/WSAs pathway would provide modest to substantial improvements in the frequency of suitable thermal conditions across multiple Chinook salmon and steelhead life stages, including adult migration and holding, spawning, egg incubation, juvenile rearing, and emigration. Given that Central Valley salmonids occupy the southern extent of their range, thermal constraints are pervasive, and even modest increases in suitable	

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		temperature availability can yield meaningful biological benefits (Munsch et al. 2022; Friedman et al. 2019). Several life stages are projected to experience double-digit percentage increases in suitable conditions under the 55% w/WSAs pathway, whereas the Vas pathway produces little to no improvements (Tables 13.7.6.2-1 and 13.7.6.2-2).	
1107	4	Limitations of the Voluntary Agreements Pathway Beyond its limited flow and temperature benefits, the VAs pathway relies heavily on habitat restoration in lieu of adequate flow increases. This approach has been attempted previously, most notably under the CVPIA. While habitat restoration actions have been extensive, they have not produced widespread measurable improvements in salmon populations, largely because the intended accompanying flow actions (CVPIA §3406(b)(2)) were never fully implemented (Listen to the River report). This history illustrates the limitations of habitat-only approaches when flow and water quality remain inadequate. While habitat restoration is necessary, improved flow conditions remains the most critical unmet need. Moreover, the habitat actions proposed under the VAs pathway are not commensurate with the foregone flow benefits relative to the 55% w/WSAs pathway. For example, 20,000 acres of the proposed “habitat restoration” acres (42% of the overall proposed habitat restoration acres) are actually for food production (Table 13.3-2) and should not be considered fish habitat as the fish do not have access to the habitat. Moreover, I do not know of any publications that clearly demonstrate the beneficial impacts of such “food for fish” actions at a scale even closely matching what is being proposed here. The benefits of these actions are largely theoretical and have a lot of major limitations that have yet to be figured out. For example, ensuring that sufficient numbers of fish are in the river when and where the fields are drained will require careful implementation. Ultimately, having this action be one of the signature actions of the VAs pathway is ill-advised given it is not tested. An additional 20,000 acres of proposed restoration consists of floodplain habitat that would be accessible only during	The benefits of the VA pathway habitat commitments, including uncertainties, are described in the Scientific Basis Report Supplement (Staff Report Appendix G2).

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		sufficiently high flows, rendering it ephemeral at best in dry years— precisely when salmon populations experience their greatest stress. Collectively, these 40,000 acres (82% of proposed restoration) do not represent an adequate substitute for foregone flow increases and are unlikely to materially improve salmon viability.	
1107	5	Conclusion In my professional assessment, the VAs pathway largely perpetuates the status quo and is unlikely to produce substantive improvements in the condition of the Bay-Delta ecosystem or its salmon populations. I appreciate the opportunity to provide these comments and hope they are useful in your evaluation of the proposed alternatives.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1108	1	The Department of Water Resources (DWR) appreciates the opportunity to provide feedback on the December 2025 Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Draft Updates). DWR commends the State Water Board's continued dedication to updating and implementing this critical Water Quality Control Plan and is supportive of the plan's efforts to protect and enhance the Bay-Delta watershed's vital resources. DWR has carefully reviewed the Draft Updates in the interest of providing comments that further the revisions toward an adoptable, implementable Bay-Delta Water Quality Control Plan. We agree on the principles underpinning the Draft Update. DWR's comments relate to the best, most feasible, and sustainable approach for achieving the overall goals stated in the Draft Updates. Additionally, DWR shares the State Water Board's commitment to use of best available science to inform decision making. Many of our comments regard needed revisions to the Draft Update to allow for advancement and adoption of science to inform decision making. Similarly, our comments also reflect the State Water Board's desire to incorporate flexibility in the Draft Update, where appropriate, to enhance the likelihood of successful implementation. This letter contains high-level summary comments (immediately below) followed by an attachment that contains more detailed	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		comments. Our comments are meant to be additive to the comment letter we submitted on January 10, 2025, as part of the Program of Implementation Workshop (POI Workshop), unless otherwise noted.	
1108	2	Executive Director approvals DWR continues to support the State Water Board's Executive Director having authority to expedite decision making. DWR appreciates the State Water Board's efforts to identify timelines for proposals. There are instances where DWR recommends streamlining this approval process in the interest of clarity and timely implementation of critical flow and non-flow measures (see DWR's POI Workshop Comment Letter). DWR recommends including an ability to further delegate items requiring real-time decision making to alternative Water Board staff or peer review to reduce delays.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	3	Unimpaired flows (regulatory approach) • Additional details on the Program of Implementation for the regulatory pathway (UIF approach) are needed to fully understand the proposed approach. • The Draft Update indicates that the State Water Project (SWP) and Central Valley Project (CVP) would be required to bypass flows generated by non-Healthy Rivers and Landscapes Program (HRL) participants. DWR requests that an approach is developed to ensure that the bypassing of flows from non-HRL participants does not have a redirected impact on the SWP and CVP.	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. The regulatory pathway is described in sufficient detail for the purpose of the analysis. Please see Common Response 1.3, Revised Proposed Plan Amendments, for further information. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.
1108	4	Healthy Rivers and Landscapes flows • DWR would like to clarify that Feather River HRL flow commitments will be provided by DWR on behalf of the Feather River HRL parties (see Attachment A). • The HRL flows will occur in the January through June season in specific water year types, and reference conditions are necessary to demonstrate that HRL flows are additive to those reference conditions. DWR suggests limiting the reporting requirements	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		demonstrating HRL flow deployments and subsequent flow protection to the January through June period. • Many of the reporting requirements will be difficult to comply with, as further detailed in Attachment A to this letter. For example, the Draft Update requires documentation of any effect that HRL flows would have on reference conditions (B.1.11.6.iv) and demonstration that the water use has not expanded to reduce base flows (B.1.11.6.v). • DWR proposes: The water year type during January through June will be determined based on the 90% exceedance forecast in March and earlier months and the 75% exceedance forecast in April. The Systemwide Governance Committee shall make the final determination regarding deployment of HRL flow assets no later than April 15th informed by the 75% exceedance forecast for April. This decision will set the HRL flow assets to be deployed, even in the event of a changed water year type determination in later months.	
1108	5	Tribal considerations DWR hosted a Tribal Caucus and two Tribal governance meetings in early 2024 for Tribal governments regarding HRL concerns. As a result of these efforts, DWR's Office of Tribal Affairs (OTA) participates in an informal working group to address concerns raised at both State Water Board forums as well as Tribal governance meetings hosted by DWR and California Natural Resources Agency. We appreciate the incorporation of DWR's previous recommendations into Chapter 13 of the State Water Board Staff Report, specifically developing a Tribal Engagement Plan, identifying a Tribal Coordinator, and establishing dedicated listening sessions. Additionally, we appreciate including a pathway for meaningful Tribal participation in the HRL Science Committee, and the commitment to incorporate Tribal Ecological Knowledge (TEK) to inform the Plan. Finally, we are pleased that data sovereignty and the CARE Principles are also included. Attachment A includes recommendations to adequately define and better incorporate TEK into the Draft Updates (Section A.3.4.1, page A-28), particularly regarding achieving best available science.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a summary of comments received and responses on the tribal related provisions within the revised proposed Plan amendments. In response to this comment, Section 4.5.3, Tribal Engagement and Traditional Ecological Knowledge, of the revised proposed Plan amendments and Appendix A, Section A.3.4.1, Steps for Achieving the Best Science, have been updated to clarify that TEK "will be considered in a full and complementary way alongside non-Indigenous scientific approaches."

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1108	6	HRL habitat restoration • DWR appreciates the inclusion of an alternative nonflow measure accounting methodology that does not rely on flow-habitat curves as baseline conditions. The coarse nature of the baseline flow-habitat curves would inhibit our ability to conduct accurate accounting of habitat restoration projects. DWR still recommends using the procedures outlined in the HRL Strategic Plan, Appendix F, to ensure a scientifically substantiated streamlined process. Minor edits to this section are described in Attachment A to provide additional clarity that an alternative approach to accounting will be considered by the Board, with the conditions described in Appendix B2. • The HRL Program includes a substantial portfolio of projects that were designed, permitted, or constructed prior to the formal adoption of the Design Criteria defined in the Draft Updates. DWR recommends the Draft Updates include a formal designation of these Early Implementation Projects, along with a habitat accounting protocol similar to the one referenced in the previous bullet that does not include prescribed design criteria. DWR expects most of the Early Implementation Projects' acreage will organically fall within the design criteria, but it is important that these projects are valued consistent with the habitat commitments defined in the Draft Update. • The Draft Updates require all non-flow measures to be completed within the eight-year HRL term (Section 4.4.9.5, page 82; Section 4.4.9.6, page 83). This deadline does not account for the complexity of planning, permitting, and implementing large-scale projects, such as floodplain and tidal restoration, which may still be under construction at the end of the term. DWR recommends modifications described in Attachment A. • In keeping with feedback received from the State Water Board Members at the POI Workshop, DWR proposes specific language revisions to the Draft Updates to allow for adequate flexibility and to ensure the best available science, TEK, and other regulatory requirements are considered in nonflow measure project design and accounting (see Attachment A).	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1108	7	Science, monitoring, and reporting DWR appreciates the Board's attention to the comments provided in January 2025 on science, monitoring, and reporting for both the supplemental science and monitoring to be provided by the HRL Program as well as the Bay-Delta Monitoring and Evaluation Program (BDMEP). In particular, the acknowledgement of the value of developing a unified science plan for the Bay-Delta system to advance a hypothesis-based approach for guiding science and monitoring activities in the system (Section 4.4.9.8 of the Draft Updates) will help to advance a cohesive approach for the system. Other appreciated changes include, but are not limited to, the addition of a definition for best available science (Appendix A), revisions to reporting deadlines to honor feasibility concerns, and acknowledgement of the HRL Science Committee and HRL Science Plan. DWR welcomes the requirement for HRL participants to solicit input from California Tribes, non-governmental organizations, and other interested parties for development of biological targets and for participation in the HRL Science Committee.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1108	7.1	On the description of BDMEP and processes for review and revision of Monitoring and Special Studies, DWR previously recommended a collaborative, interagency process for the development of a multi-year plan for reviewing and revising monitoring programs, such as adopting the framework for monitoring program review and revision described in the 2022 Delta Independent Science Board (DISB) Monitoring Enterprise Review. The DISB framework identifies the importance of a collaborative, transparent interagency process that facilitates strategic and sustainable review planning and meaningful dialogue between managers and scientists. A process for monitoring review is described in the Draft Updates Appendix A (4.5.1.1 and 4.5.1.2). However, DWR reiterates the recommendation that a framework be adopted for monitoring program review which is collaborative and transparent, maintains data quality objectives, adheres to open science practices, and offers a venue for all necessary expertise to be incorporated. In particular, it would be helpful to include an expectation (e.g., within the first year of implementation) for a roadmap for conducting regular reviews of monitoring programs	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		that clearly articulates the review objectives, theme(s), and process for achieving effective collaboration and transparency.	
1108	7.2	DWR values the changes made in the Draft Updates regarding Harmful Algal Bloom monitoring, particularly the adoption of a tiered monitoring structure and limiting monitoring to the most relevant period of May -October. However, the expectation for additional monitoring and science are placed solely on the SWP and CVP. DWR recommends that the Draft Updates be revised to promote a more collaborative funding model that would require Delta water right holders to contribute, in a fashion that is analogous to the Delta Regional Monitoring Program. This will promote a more sustainable funding model and allow for flexibility in developing monitoring and science priorities that are linked with emerging science and concerns during implementation of the BDMEP. Additionally, DWR staff have highlighted technical questions with the tiered monitoring structure, detailed in Attachment A.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	7.3	For Supplemental Science and Monitoring for the HRL Program, the Draft Updates require eight years of monitoring for habitat utilization and biological effectiveness, specifically that these assessments be conducted “for a minimum of eight years following completion of construction or the length of the VA pathway, whichever is longer” (Section 4.4.9.7). DWR is concerned that this lengthy requirement for monitoring will unduly occupy HRL science and monitoring resources at the expense of system-scale and population-level monitoring as well as the development of decision-support models for adaptive management. Best available science (e.g. Roni et al 2005, Smokorowski et al. 2015) supports more limited durations of monitoring at the local scale. Additionally, the HRL Science Committee is prepared to evaluate the intensity of monitoring at the system (tributary, bypass, or Delta) scale for each habitat restoration project type, ensuring a synthetic approach for evaluation that will be reflected in the triennial synthesis reports. DWR recommends that defining the duration of monitoring be included in the expectation to provide monitoring, metrics, and hypotheses to the State Water Board within 60 days of adoption, and that the blanket expectation for eight years of monitoring on all restoration projects be removed from the Draft Updates.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1108	8	ITP Modeling On January 22, 2026, at the request of the State Water Board's staff, DWR submitted results from a set of CalSim 3 modeling runs that represent a variety of modeling scenarios related to the 2024 Long-Term Operations of the State Water Project Final Environmental Impact Report. The modeling helps illustrate the effect on Delta outflow of SWP Delta operations pursuant to a recent amendment of DWR's incidental take permit (ITP). Such flexibility, based on up-to-date monitoring data, balances beneficial uses, protecting water supplies and the environment. The recent ITP amendment allowed DWR to increase pumping for a few days in December and January, resulting in 15,000 acre-feet of total gain in water supply and a one percent reduction in Delta outflow during the mid-December through mid-January period of analysis. The amount of water exported under the 2024 ITP, even with the recent amendment, falls within the range of Delta outflow values that the Water Board analyzed in the 100 years and five water-year types represented in CalSim model runs that compared the 2024 long-term operations of the SWP and CVP to baseline conditions.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1108	9	DWR remains committed to supporting the State Water Board in achieving the shared goals of sustaining and enhancing the Bay-Delta watershed's ecosystem and water quality. We support the establishment of transparent and collaborative approaches to address and refine the complex issues identified in the Draft Updates. Thank you for the opportunity to provide these comments. We look forward to continuing our collaboration with the State Water Board and other interested parties to restore, protect, and preserve the Bay-Delta for current and future generations.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1108	10	Attachment A: Extended DWR Comments This attachment further explains DWR's comments provided in the cover letter, documents additional minor comments, and acknowledges and appreciates areas where revisions made based on DWR's prior comments submitted on January 10, 2025	The State Water Board is not a signatory to the VA proposal and is not bound by its terms. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		have strengthened the Draft Updates. General considerations • The Draft Updates indicate that the State Water Board may require “other actions in order to achieve the objectives in [the Bay-Delta Water Quality Control] plan or other plans and policies.” DWR is concerned that this differs from assurances sought by HRL parties in the draft Enforcement Agreements.	
1108	10.1	• DWR recommends that the timing of HRL implementation be related to Office of Administrative Law (OAL) approval, such that State entities are required to start Bay-Delta Water Quality Control Plan (WQCP) implementation upon adoption under Water Code §13247 but other HRL parties may not implement until OAL approval, a process which is likely to take approximately two months after Bay- Delta WQCP adoption. This would tie local entity implementation timing to the regulatory effectiveness of the Bay-Delta WQCP update.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	10.2	• The Draft Updates state that for future water rights actions, requirements may be imposed to “ensure that the use of water is consistent with and supports the salmon protection, fish viability, inflow, inflow-based Delta outflow, and interior Delta flow objectives” (page 65). DWR requests greater clarity on how this will be applied for projects that constitute new diversions from the system.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.
1108	11	Unimpaired flows Butte Creek is listed as subject to unimpaired flow (UIF) requirements. Paradise Irrigation District releases water into Butte Creek under water rights that are intended for coverage under the Feather River HRL commitment. DWR is flagging this to confirm that the State Water Board understands and documents the nature of Paradise Irrigation District’s coverage.	Paradise Irrigation District water rights were included in the list of water rights in the December 2025 revised draft Bay-Delta Plan.
1108	12	DWR’s Feather River HRL flows and operations Feather River HRL flow measures will be provided by DWR on behalf of the Feather River HRL parties. DWR recommends the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of

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		following revisions to Appendix B.1: B.1.1.1.1 Introduction This section describes the accounting procedures that [begin new text] DWR on behalf of the [end new text] Feather River HRL participants identified in Table B.1-12 will be required to follow in order to utilize the HRL pathway identified in the Bay-Delta Plan. B.1.1.1.2 Description of Feather River HRL Flow Commitments In each applicable year, [begin new text] DWR [end new text] [begin strikeout] the Feather River HRL participants [end strikeout] will annually provide a total of 60,000 AF of net additive inflows and contributions to Delta outflows from the Feather River, consistent with the default plan and flexibility brackets described in Bay- Delta B.1-48 Plan section 4.4.9, above reference flow (approved base flow) conditions described in this appendix. Flows are to be provided from March to May in dry, below normal, and above normal Sacramento Index water year types as determined by section B.1.3. [begin new text] The HRL flows will be through additional releases from Oroville under DWR's water rights. In coordination with DWR, various agencies within the Feather River covered party area will replenish vacated Oroville storage through actions taken by those agencies, including land idling, groundwater substitution, and reservoir reoperation [end new text]. [begin strikeout] The HRL flows will be made available through the following: i. Reductions in deliveries to Feather River Service Area contractors who will conduct a combination of fallowing of agricultural lands and groundwater substitution in the Feather River Service Area to provide 50,000 AF of water. ii. ii. No less than 38,000 AF will be provided through land fallowing. The remainder will be met through groundwater substitution.	comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		iii. iii. Reservoir reoperations upstream of Oroville Reservoir on the South Fork of the Feather River to provide up to 10,000 AF of water (for a total commitment of 60,000 AF) with limitations on reservoir refill to periods when Oroville is full or in flood-control operation, when the Delta is in excess, and when surface water is available under the water right conducting the refill at the time it is being diverted to storage. The refill limitations are intended to protect Project water supplies. The additive flow from reservoir reoperation as part of the Feather River HRL commitment is expected to result in a change in timing of flows, with increased flows at certain times and decreased flows at other times caused by reservoir reoperation that will vary based on storage and refill conditions and may contribute varying amounts to Delta outflow on a seasonal or interannual basis. If 10,000 AF of upstream reservoir reoperations are not available due to hydrological conditions, DWR will secure additional supplies made available through land fallowing or groundwater substitution to ensure the full 10,000 AF of additive flows above reference conditions are provided. [end strikeout] B.1.11.3 Definition of Reference Conditions [being strikeout] vii. Upstream Reservoirs – Reference conditions for the Feather River include operations of reservoirs located upstream of Oroville Reservoir that are reoperated to provide HRL flows as they would occur prior to implementation of the VA pathway. [end strikeout] B.1.11.4 Accounting of Reference Conditions and HRL Flow Commitment During the term of the VA pathway, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout] must coordinate implementation and monitoring decisions as outlined in section B.1.3. State Water Board staff must be invited to participate in this coordination. i. Reference and HRL Flow Accounting and Tracking – Annually, starting by February 1st and weekly thereafter up to and during the time period in which Feather River HRL flows may be provided, [begin new text] DWR [end new text] [begin strikeout]	

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		Feather River HRL participants [end strikeout] must [begin strikeout] coordinate with other HRL participants and [end strikeout] document through the public website tracking system as identified in section B.1.3 the information listed below for the following components: 1) forecasted and observed reference conditions, 2) planned HRL flow commitments for the coming month and season, and 3) completed HRL flow commitments to date. The information must be sufficient to demonstrate that the additional Feather River HRL inflow commitments are provided to contribute to additive Delta outflows above reference conditions consistent with sections B.1.11.2 and B.1.11.3 above and section 4.4.9 of the Bay-Delta Plan. The following specific information must be provided: a. Timeseries of daily inflow, outflow, and storage in Oroville Reservoir and Thermalito Afterbay and applicable upstream reservoirs... (d) Water supply deliveries that would have been made in reference conditions and those actually delivered to [begin new text] HRL implementing parties [end new text] [begin strikeout] in-basin water right holders and contractors and releases made for CVP exports [end strikeout]. [begin strikeout] (e) Flows bypassed or released from storage to contribute to meeting D-1641 requirements (see section B.1.4). [end strikeout] [begin strikeout] (j) Reference conditions for applicable upstream flow and reservoir conditions associated with 10,000 AF of HRL flows derived from upstream reservoirs. [end strikeout] ii. Additive Flow Accounting During Flood Control – Feather River HRL flows must be net additive from January through June. If any HRL flow releases occur prior to or during flood control operations, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout] must demonstrate a reduction in end of June Oroville storage equal to the HRL additive flow (i.e., 60,000 AF) minus the volume accrued through June from [being new text] separate supporting actions	

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		by other Feather River parties engaging in [end new text] land fallowing, groundwater substitution, and upstream reoperation. B.1.11.5 Verification of Additive Flow To demonstrate that Feather River HRL flows are net additive flows being provided above reference conditions over the January through June time period as required by Bay-Delta Plan section 4.4.9, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout] must demonstrate the following: i. Water Right Verification –[begin strikeout] Feather River HRL participants [end strikeout] [being new text] DWR [end new text] must provide water right accounting to ensure that all water bypassed or released from storage to comply with Bay-Delta Plan section 4.4.9 was made available under valid water rights where surface water is available under that right at the time it is being provided consistent with section 4.4.9 of the Bay-Delta Plan (i.e., the water right is not subject to curtailment). [begin strikeout] To the extent that DWR Feather River HRL participants bypasses or releases water from storage in advance of fallowing taking place under another water right, both sets of rights must be identified at least 90 days in advance of the land fallowing, or the bypass or release, whichever occurs first. DWR will provide a list of prospective parcels 90 days in advance of providing water, and will submit final fallowing plans as soon as practicable following WYT determination. Water right accounting must be provided to document both DWR's bypasses of inflows, or releases of previously stored water, and reductions in use by other parties under valid un-curtailed surface water rights or groundwater rights using fallowing or groundwater substitution to repay DWR. [end strikeout] [being strikeout] ii. Land Fallowing and Groundwater Substitution – To account for additive flows made available by land fallowing and groundwater substitution respectively, Feather River HRL participants must meet the requirements of sections B.1.7 and B.1.8. [end strikeout] [begin strikeout] iii. Feather River Reservoir Reoperation and	

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		Refill Accounting –HRL participants on the Feather River plan to rely on reservoir reoperations upstream of Oroville to account for up to 10,000 AF of the Feather River HRL flows in excess of what would be released annually under reference operations. Feather River HRL participants must conduct, and report through the public website tracking system in section B.1.3, refill accounting at each reservoir being reoperated identifying periods and volumes of refill and a daily time series of reference and observed inflows, outflows, and storage that starts when HRL participants begin to provide the reservoir reoperation portion of the Feather River HRL flow commitment and ends when the storage deficit compared to reference conditions has been refilled. [end strikeout] B.1.11.6 Planning and Reporting Requirements Annually by March 1st, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout] must report the following to summarize reference conditions and HRL flows that occurred over the year: i. Statements of whether or not HRL flow commitments were met and on what schedule, if and how flexibility brackets were used, and, if HRL flow commitments were not met, how much of the HRL flow commitment was not provided each month... ii. Summary of how monthly operations changed compared to reference conditions from October through September to bypass net additive flows and refill reservoirs (if refilled), and if flood control operations or spill occurred. iii. Summary of the volumes of HRL water provided by water right [begin strikeout] using land fallowing, groundwater substitution, and reservoir reoperations [end strikeout]. iv. [begin strikeout] Documentation [end strikeout] [being new text] Statement [end new text] that HRL flow measures did not affect reference conditions, including on a seasonal basis and from year to year. v. [begin strikeout] Documentation [end strikeout] [being new	

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		text] Statement [end new text] that water use, [begin new text] absent actions taken to implement HRL flows, is consistent with the reference conditions [end new text] [begin strikeout] has not increased to reduce base flows in a manner inconsistent with the provision to protect the VA flow base (reference conditions) described in Bay-Delta Plan section 4.4.9 [end strikeout]. vi. [being new text] Statement that HRL flow measures did not affect reference conditions [end new text] [being strikeout] Verification that implementation of the VAs has not resulted in another VA party or water user reducing the amount of flow they bypass or release from storage, including to meet other regulatory obligations, due to the provisions of the VA flows [end strikeout]. Regarding B.1.11.6.iv, DWR believes tracking reference conditions beyond the January through June period will be difficult and unlikely to yield beneficial data, especially from year to year. DWR recommends limiting tracking reference conditions to the January through June HRL flow deployment period within a given year.	
1108	13	General HRL flows • B.1.3 item ii(a) (p. B.1-7) Replace Note to Reader with: The water year type during January through June will be determined based on the 90% exceedance forecast for January through March and the 75% exceedance forecast in April. The Systemwide Governance Committee shall make the final determination regarding deployment of HRL flow assets no later than April 15th informed by the 75% exceedance forecast for April. This decision will set the HRL flow assets to be deployed, even in the event of a changed water year type determination in later months.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	13.1	• Many of the reporting requirements may be infeasible or may not yield meaningful results that will influence flow accounting or water management decisions. For example, the Draft Updates require documentation of any effect that HRL flows would have on reference conditions, particularly from year to year (B.1.11.6.iv). Similarly, B.1.11.6.v requires demonstration that	The reporting requirements were designed to ensure that the Board can adequately track and measure the VA flow commitments that are provided. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan

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		water use has not expanded to reduce base flows. DWR recommends a collaborative process between DWR and State Water Board staff to refine reporting requirements to maximize utility.	Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	13.2	DWR is working with the State Water Board to update the appropriate exceedance hydrology to be used to determine forgone exports. At the State Water Board's request, DWR conducted an analysis on this issue and will share a summary document in a separate submittal.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.
1108	13.3	Regarding Table B.1-7, the rice crop Evapotranspiration of Applied Water (ETAW) and decomposition rate was negotiated between HRL parties as a SWP facilitated action, and any error in ETAW rate would be backstopped by the SWP and CVP. DWR proposes the following edit (p. B.1-29): B.1.7.2 use of Evapotranspiration of Applied Water ... This rice crop ETAW and decomposition rate may [begin new text] be updated upon Executive Director approval, after consultation with DWR and Reclamation, supported by technical documentation subject to public notice and opportunity for comment, as appropriate [end new text] [begin strikeout] only be considered for adjustment through a public process, consistent with section 4.4.9.10, after the initial eight-year term of the VA pathway [end strikeout].	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	13.4	The Draft Updates indicate that the State Water Board may implement the VAs through "Government Code section 11415.60 decisions by settlement or other decisions, orders, or regulations to enforce HRL commitments" (page 64). The VA Parties have only contemplated use of Government Code §11415.60 "Enforcement Agreements". DWR recommends that this section reflect only Government Code §11415.60 "Enforcement Agreements."	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	13.5	The Draft Updates indicate that water rights used for water purchases must be identified within six months of Bay-Delta WQCP adoption, with any changes to identified rights specified at least six months prior to planned use. This timing does not	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of

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		align with the operational realities of VA water purchases, which are typically adaptively identified in response to hydrologic conditions, feasibility, and program needs. DWR recommends amending this provision to reflect that water rights used for VA water purchases will be identified at least 90 days in advance of use. This approach would provide sufficient notice for planning and coordination while maintaining the flexibility necessary for adaptive, year-to-year implementation. In addition, clarification may be needed regarding the process for circumstances in which only a portion of the authorized volume under a water right is included in a purchase, to ensure transparency and consistency in reporting and compliance. • The Draft Updates require that permanent state water purchases be identified within six months of Bay-Delta WQCP adoption. This may not align with the timing of permanent state water purchases being pursued under the Instream Flow Water Purchase Program. HRL parties will strive to identify as many permanent State water purchases as possible within 6 months of adoption of the Bay-Delta WQCP. However, it is likely that additional purchases will occur over the course of the 8-year HRL term. Parties will commit to updating this list promptly as purchases are made.	comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	13.6	• DWR acknowledges the State Water Board's desire to receive complete fallowing plans 90 days in advance of water being provided to meet HRL flow commitments, including identification of lands proposed to be fallowed, landowner information, and verification of the reference cropland planting conditions. However, field-specific fallowing decisions will not be confirmed until after the water year type (WYT) determination has been made. DWR proposes providing a list of prospective parcels 90 days in advance, with a commitment to submit final fallowing plans as soon as practicable following WYT determination.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	13.7	• The Draft Updates state that the State Water Board “may also consider the responsibility of others [beyond DWR and Reclamation]” for implementing the interior southern Delta salinity objective, based on implementation or completion of studies, modeling, monitoring, or development of other information (page 29). The basis and process for identifying the	No substantive changes to the new objectives or their implementation adopted in the 2018 LSJR/SD Plan Update are proposed in this Sacramento/Delta Update to the Bay-Delta Plan. See Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a description of the purpose and goals of the Sacramento/Delta updates to the

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		responsibility of other parties is not clearly articulated. In particular, the Draft Updates do not specify the criteria or technical findings that would be used to determine whether other dischargers or land uses materially contribute to salinity conditions in the interior southern Delta. Clarification is needed regarding how the State Water Board would distinguish between de minimus contributions (e.g., from publicly owned treatment works or other sources with limited salinity loading) and contributions that warrant assignment of responsibility under this provision. It would be helpful for the Draft Updates to explicitly reference the technical studies, monitoring programs, or regulatory frameworks that would inform such determinations. • River segments proposed for southern Delta salinity compliance are not appropriate because of significant differences in hydrodynamics, mixing, and salinity transport. The area in the vicinity of Old River at Tracy Boulevard (P-12) has two distinct river segments that should not be combined, in part because one segment is a null zone that has little-to-no tidal circulation. DWR recommends that appropriate river segments be selected based on the technical work completed by the Monitoring Special Study (MSS). • DWR suggests amending the statement that “DWR and Reclamation are partially responsible for salinity problems in the southern Delta due to hydrologic changes caused by export pumping” (page 29) to reflect the MSS insight that exports do not worsen salinity unless the salinity downstream of all compliance locations (C- 6, C-8, C-110, and P-12) is already high. Other text in Draft Update section 4.3.2.1.iii should also reflect this finding.	Bay-Delta Plan and Section 7.1.5.1, Sacramento/Delta, Plan Area, and Study Area, for a description of the Plan area and study area. Also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project, and Common Response 1.2, Water Quality Control Planning Process, regarding the relationship with the 2018 LSJR/SD Plan Update.
1108	13.8	• In a previous comment letter submitted on January 10, 2025, DWR shared concerns on the structure of carryover targets. Our concerns on this point remain unaddressed and we respectfully refer you to our prior comments.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1108	13.9	DWR requests that a footnote be added to Table 9 in section 4.4.9.2 noting that combined exports shall not be required to fall below 1,500 cfs.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	14	Staff Report Chapter 13 Section 13.4.2.2, p. 13-43: Due to the CVP effectively operating to the 2020 ITP spring Delta outflow requirement applied to the SWP until 2025, the SacWAM baseline incorporates the San Joaquin I:E limit as formulated in the 2020 ITP but applied to both SWP and CVP exports since these conditions are closest to recent operations and are largely consistent with conditions that existed at the time the Notice of Preparation was issued for this project. Removing the San Joaquin I:E limitations on CVP exports would substantially increase CVP exports in April and May, with a concurrent decrease in Delta outflow and increase in net negative (i.e., reverse) Old and Middle River (OMR) flows. DWR requests additional discussion on how assuming San Joaquin I:E for both CVP and SWP would affect baseline conditions.	The project baseline does assume the San Joaquin I:E is assumed to apply to both the SWP and CVP as the commenter quotes from Section 13.4.2.2, Baseline Conditions. It is unclear what additional discussion the commenter is requesting.
1108	14.1	Section 13.3.4.3, p.13-25: DWR would like to clarify that although Putah Creek flow, Yolo County Flood Control and Water Conservation District's Putah flow, and Mokelumne River flow would not include refill limitations, there is still the potential for incidental increases in Delta outflows.	The changes in hydrology adequately model, to the best of the State Water Board's ability, the flow commitments under the VA pathway including any increases in Delta outflows. Results of this modeling are presented in Staff Report Section 13.4, Changes in Hydrology and Water Supply.
1108	14.2	Section 13.3.4.3, p. 13-26: In the SWP and CVP Export Provisions sub-section, it states that the SWP and CVP would be required to bypass flows provided by non-HRL participants to meet Bay-Delta Plan regulatory requirements. This has not yet been discussed with DWR or Reclamation, and additional conversations need to occur to address the potential for redirected impacts to avoid SWP and CVP backstopping non-HRL flow requirements.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	14.3	DWR has identified several potential inaccuracies with the models used to inform Chapter 13. It is unclear how this may affect model outcomes and the accompanying analyses. DWR recommends convening with State Water Board to make sure	State Water Board staff met with DWR staff to discuss the SacWAM results referenced in this comment. Comments about SWP exports in dry years, discrepancy in flow scenario outcomes and potential inaccuracy in baseline, 55 w/WSA and VA

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		model assumptions and inputs are updated. This comment applies to: - o H1a.2, p. H1a2-157: SWP exports in dry years seem too high in baseline - o H1a.4.3, p. H1a-14: Outdated end of September buffer pool level - o 13.4.2.1, p. 13-41: Outdated top-of-conservation figure for Oroville - o 13.4.2.1, p. 13-41: Potential discrepancy in flow scenario outcomes - o 13.4.2.2, p. 13-44: Potential inaccuracy in baseline, 55 w/WSAs, and VA scenario outcomes	scenarios were determined to be too vague to act upon, and the conclusion reached during this meeting was that these comments do not warrant any model updates. Further, the portion of this comment asserting that the end-of-September buffer pool level presented in Appendix H1a, Sacramento Water Allocation Model Methods, is outdated, misunderstands the role of reservoir buffers in the model, and does not warrant a model update. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for a discussion of the difference between carryover storage targets and SacWAM reservoir buffer pools. DWR's recent bathymetric study shows that the top of conservation curve for Oroville is slightly lower than what exists in SacWAM currently. A small reduction in capacity for Oroville would not change the conclusions of the analysis and therefore the model was not updated at this time.
1108	14.4	• Section 13.4.2.4, p. 13-47: DWR has the appropriate methodology to evaluate regulatory updates to the HRL reference condition. DWR recommends collaborating with the State Water Board to include additional adaptability in their analysis as permits and regulations change.	This commenter did not indicate what specific changes are recommended. State Water Board staff have collaborated frequently with DWR and are open to future discussions on this topic, if necessary.
1108	14.5	• Section 13.4.3.1 (all tables): DWR would like to see a deeper explanation of what the results of these tables indicate and what factors may explain unexpected outcomes.	It is not clear what explanation is missing in the presented tables and figures in Section 13.4.3.1, Flows. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1108	14.6	• Section 13.5.3.1, p. 13-198: DWR is concerned that the 55 w/WSAs scenario could result in reduced spawning habitat on the Feather River, Sacramento River, and Yuba River, particularly regarding spring-run Chinook salmon habitat.	In Staff Report Section 13.5.3.1, Tributaries, results for fall-run and spring-run were differentiated only for tributaries for which spring run were evaluated; results for all other tributaries represent only fall-run results. Accordingly, of the rivers mentioned by the commenter, spring-run results were only presented for the Sacramento River. The results for the other two tributaries (Feather and Yuba rivers) represent fall-run. The results for spawning habitat for spring-run on the Sacramento River show only a negative three percent change (only one acre less of habitat rounded to the nearest whole

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			number) from baseline. Additionally, the expected increases in flow will provide further benefits for spring run that are unquantified by the tributary habitat analyses. See Common Response 3.1, Fish Protection, for more information about the habitat benefit analyses.
1108	15	Tribal Considerations • Section A.3.4.1: Steps for Achieving Best Available Science (A-29) says that “In addition, when Traditional Ecological Knowledge is shared, it should be considered alongside Western science in informing decisions if permission for use is granted by the tribe.” Fully engaging with TEK requires collaboration with California Tribes on research questions, data collection, analysis, and interpretation to be able to design and conduct research that addresses Tribal needs and concerns for a healthy ecosystem. Rather than present TEK as potentially conflicting with Western science or merely accompanying Western science in a subsidiary position, TEK should be considered a full, equal, and complementary knowledge system alongside non-Indigenous scientific approaches. • DWR appreciates that Tribal engagement is required in many areas of the Draft Updates (HRL Governance, Science, non-flow measures and the BDMEP and CHABs monitoring) as well as the proposed development of a regularly updated Tribal Engagement Plan and a Bay-Delta Tribal Advisory Group.	Please see the response to comment 1108-5.
1108	16	HRL non-flow measure projects Tracking and milestones Concern arose in the January 2026 Bay-Delta WQCP public hearing about a perceived lack of clear milestones for progress on non-flow measure implementation and performance tracking. The HRL Science Plan contains metrics for non-flow measure progress and performance tracking, tied to a hypothesis evaluation framework. These metrics are now being proactively revised in response to external peer review of the HRL Science Plan. DWR agrees with the need to develop targets for some of these already-identified metrics and intends to work productively and collaboratively on this, including with	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		California Tribes, non-governmental organizations, and other interested parties. Also, the HRL Science Committee has a tiered structure for non-flow measure assessment that evaluates the implementation extent (e.g., how many acres were restored), habitat suitability (e.g., whether provided habitat contains conditions that allow for growth and survival of the target species), and biological effectiveness and utilization (e.g., whether the habitat projects are being used by target species and are providing their intended function). Some assessments can be conducted and published before the end of the 8-year HRL term as part of public-facing progress and performance tracking. This is especially true for tributary non-flow measure projects, where scientific literature (e.g., Roni et al. 2018, Smokorowski et al. 2015) suggests that three years of post-construction monitoring may be sufficient for evaluation. However, the extent to which interannual hydrologic variability is captured in post-construction monitoring should be considered when determining the timing of assessments of habitat suitability and biological effectiveness and utilization. Assessments of non-tributary habitat types, such as tidal wetlands, may require a postconstruction lag longer than three years in order for suitability, biological effectiveness, and utilization at the sites to mature. Interim conditions at such sites will be reported based on available monitoring in triennial synthesis reports to track site evolution and study the appropriate timing of evaluation. DWR agrees with the need to actively monitor and report on habitat performance tracking with respect to biological targets during the implementation period of HRL. This reporting will include publication of monitoring and modeling data and synthesis insights in a timely fashion and making scientific progress observable and accessible to a broad audience. The Draft Update sets the expectation for habitat assessments be conducted “for a minimum of eight years following completion of construction or the length of the VA pathway, whichever is longer” (Section 4.4.9.7). This expectation for eight years of monitoring for all habitat projects is longer than suggested is needed by best available science and could delay reporting	

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		processes and adaptive management. Instead, DWR recommends that defining the duration of monitoring be included in the expectation to provide monitoring, metrics, and hypotheses to the State Water Board within 60 days of Water Quality Control Plan adoption, and that the blanket expectation for eight years of monitoring on all restoration projects be removed from the Draft Updates. System- and project-specific plans for monitoring and science will include habitat assessments and are currently under development through the HRL Science Committee. The detailed plan for monitoring durations, with justification, can be included with the other information provided within 60 days of Plan adoption.	
1108	16.1	Additional Flexibility Science based decision-making is a fundamental tenet of the Healthy Rivers and Landscapes Program. DWR recommends that SWRCB, in coordination with CDFW, has the discretion to consider new non-flow measures not previously identified in the Plan, or in regions outside of the existing geographic regions identified in the Plan. DWR and CDFW would periodically review the best available science to ensure HRL is implementing the appropriate projects in the most strategic locations to maximize benefits to species. The SWRCB could use existing methodology or rationale to determine the appropriate amount these non-flow actions would contribute to existing non-flow measure commitments. In the December 2023 Bay-Delta WQCP hearing, multiple Board members encouraged the HRL parties to work with SWRCB staff to incorporate more flexibility into the Program to maximize the likelihood of a successful outcome. DWR believes this additional flexibility increases the likelihood that the State could meet the objectives of the Plan.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	16.2	Remaining concerns and recommended improvements for Appendix B2 DWR appreciates the inclusion of an alternative non-flow measure accounting methodology. DWR still recommends using	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project

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		the procedures outlined in the HRL Strategic Plan, Appendix F, to ensure a scientifically substantiated and streamlined process. DWR suggests minor formatting edits to Appendix B2 to provide additional clarity, as indicated in red text below. It is worth pointing out that the edits include providing the alternative analysis pathway on its own line (part ix, below) to emphasize that this analysis would be different than what is described in parts viii and x–xii, below. This structure will improve clarity for HRL parties choosing to adopt an alternative analysis. B.2.1.5 Final Habitat Accounting Assessment This step does not apply to projects intended to contribute to the valley floor habitat commitment. The procedures described above in steps (i) through (vii) will produce a flow-habitat relationship for the newly constructed habitat (i.e., the amount of additional suitable habitat at each design flow). To complete the final habitat accounting assessment, either complete [being new text] an [end new text] [begin strikeout] the [end strikeout] alternative analysis described in step (viii [begin new text] and ix [end new text]) below, or compare the constructed flow-habitat relationship to the flow-habitat relationships provided by HRL participants for assessment of the benefits of the VA pathway (i.e., those used in the final Scientific Basis Report Supplement; hereafter referred to as the assumed flow-habitat relationships) as described in steps (x) through (xii) below: viii. The implementing agency may provide an [begin strikeout] alternative [end strikeout] analysis demonstrating equivalent or better median habitat area across model years than that resulting from the assumed flow-habitat relationships for Executive Director approval. The analysis must reproduce the tributary habitat analysis from the benefit analyses supporting VA pathway adoption (i.e., from the final Scientific Basis Report Supplement) using the constructed flow-habitat curve, without applying the temperature filter, and evaluate whether the resulting median habitat area across model years is equivalent or greater than that from the same analysis using the assumed flow-habitat relationships. [begin new text] ix. [end new text] Alternative analyses	description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		demonstrating equivalent or greater expected availability of habitat meeting design criteria than those from the benefit analyses supporting VA pathway adoption (i.e., from the B.2-12 final Scientific Basis Report Supplement) may be considered at the discretion of the Executive Director with input from DFW. OR x. Within each design flow, add the constructed flow-habitat relationships across projects to create an overall constructed flow-habitat relationship for each tributary/reach and habitat type (matching the spatial scale of the assumed flow-habitat relationships). (a) This can be applied incrementally project-by-project to track progress toward the goal. [begin new text] xi. [end new text] Compare this constructed flow-habitat relationship to the assumed flow-habitat relationships to quantify a metric of overlap. The overlap metric is calculated by comparing the integral of the flow-habitat relationships separately within different flow ranges. The flow ranges are defined by either the 0-25th, 26-50th, 51-75th, and 76- 100th percentiles of flows predicted under the VA pathway or by four evenly spaced flow ranges encompassing the full range of flows predicted under the VA pathway (Figure B.2-5). [begin new text] xii. [end new text] To receive habitat credit, each integral from the constructed flow-habitat relationship should be at least 95 percent of the value of the integral from the assumed flow-habitat relationship. B.2-13 • The Draft Updates require all non-flow measures to be completed within the eight-year HRL term (Section 4.4.9.5, page 82; Section 4.4.9.6, page 83). This deadline does not account for the complexity of planning, permitting, and implementing large-scale projects, such as floodplain and tidal restoration, which may still be under construction at the end of the term.	
1108	17	Science, Monitoring, and Reporting	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and

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		Bay-Delta Monitoring and Evaluation Program DWR is steadfast in its commitment to robust and transparent science and fully supports a hypothesis-driven monitoring and evaluation program for the Bay-Delta generally and HRL specifically. As stated in the cover letter, DWR appreciates how the revised plan acknowledges the benefits of a unified, hypothesis-driven approach for a science plan in the future and will support efforts toward this goal. Below are recommendations for improvements for additional clarity. Harmful Algal Bloom Monitoring Requirements Need Additional Clarity The revised draft modifies HAB monitoring provisions by outlining a tiered monitoring approach, limiting required monitoring to the May through October timeframe, and including additional detail on methods and timing. These are welcome changes from the October 2024 Draft Update. However, DWR is concerned that the fixed seasonal window and monitoring approach may not adequately capture variability in HAB occurrence driven by hydrology, temperature, and local conditions, nor incorporate the flexibility needed to adapt monitoring based on emerging insights or bloom events. DWR recommends that the monitoring framework allows adaptive management of monitoring activities across seasons and locations as appropriate for conditions. Suggestions for improvement include: Require a collaborative funding approach for HABs science and monitoring To allow for this flexibility and to develop a program that is tailored for HAB monitoring needs, DWR recommends a collaborative funding model, analogous to the Delta Regional Monitoring Program, that receives contributions from a suite of Delta water users and is guided by a Steering Committee. This Steering Committee, with expert input, would articulate research priorities and support continued innovation on monitoring technologies, guided by the Delta Stewardship Council's Cyanobacteria Monitoring Strategy and the plan recently	incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		published by the US Geological Society. Provide further clarification on the tiered monitoring structure We appreciate the shift to a tiered monitoring approach and offer the following suggestions to improve Table A-3, rooted in DWR's leading expertise in HABs science and monitoring: • While triggers for increasing HABs monitoring are described in the revised plan, conditions that would allow heightened monitoring to be reduced are not discussed. DWR requests that conditions under which heightened HABs monitoring can be "ramped down" are also specified. For example, under what conditions would monitoring move from Tiers 3 or 2 to Tiers 2 or 1? • In footnote 2, the statement "Microcystis visual index values exceeding 2 are correlated with HAB toxicity in the Delta" should be revised. It is unclear what evidence supports this claim, and the current wording implies that any Microcystis observation is associated with toxicity, which is not the case. • The term "cyanotoxins" should be removed from Tier 2. Tier 2 appears intended to track mcyE gene abundance, which should then be used to inform whether toxin monitoring is warranted under a tiered framework. In addition, Tier 3 specifies "begin laboratory analysis for cyanotoxins." • Clarify that cyanotoxin monitoring refers to microcystins, as these are the toxins associated with monitoring for toxigenic Microcystis. • Footnote 4 does not appear to fit within Table A-3, as the table focuses on planktonic HABs. • Please note that ClCyano is currently only applicable to the Sentinel-3 satellite in the Delta and this is only applicable to larger waterbodies within the Delta. • Please add citations to the table and footnotes to support and justify the proposed thresholds.	

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1108	17.1	Insufficient collaboration and transparency in monitoring program review framework within BDMEP As noted in DWR's January 2025 comments, the revised draft does not adequately establish a collaborative interagency framework for the review and revision of monitoring programs. In the Draft Updates, Appendix A describes a monitoring review process that is limited to the involvement of the State Water Resources Control Board and the Delta Stewardship Council. While direction from, coordination with, and participation by these entities is important, this structure does not provide a venue for the full range of scientific, technical, and implementation expertise necessary for effective monitoring program review. Effective review will require robust participation by implementing agencies and monitoring practitioners. DWR reiterates its recommendation that the Draft Updates adopt a framework for strategic, transparent, and collaborative monitoring program review and revision. Importantly, the process should set the expectation that collaboratively developed "roadmap" for monitoring program reviews be developed within the first years after adoption. This "roadmap" would identify the general schedule and topical themes to promote early understanding of how the review process will work. A robust review process must also maintain data quality objectives, adhere to open science practices, and ensure that all relevant expertise is incorporated. Without such a framework, there remains a risk that monitoring programs will not be reviewed or adapted in a strategic or sustainable manner.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	18	Supplemental Science and Monitoring for the Healthy Rivers and Landscapes Program In addition to our comment in the cover letter for this attachment regarding concerns for the requirement for at least eight years of monitoring for non-flow habitat projects, DWR has recommended additional improvements to the Supplemental Science and Monitoring required for HRL. These are as follows and would be helpful to ensure clear, timely, and robust reporting on these HRL assets.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		HAB monitoring on tributaries specifically for the HRL Program lacks a hypothesis basis and may overly broaden the scope of HRL supplemental science and monitoring. The revised draft requires May – October monitoring and tiered monitoring approach on tributaries as part of the Supplemental Science to be conducted for HRL. DWR is concerned that this level of monitoring on tributaries will pull resources from thorough evaluation of HRL flow and non-flow assets on tributaries. As spring pulse flows and proposed habitat projects in tributaries (spawning gravel, in-channel rearing, floodplain) are unlikely to be related to HAB events in tributaries, these monitoring requirements should not be placed on the HRL Science Program. As DWR and HRL parties have described, it is important for robust reporting purposes for the HRL Science Program to adopt a targeted approach motivated by specific hypotheses. This aspect of the revised plan for Supplemental Science and Monitoring for the HRL Program broadens the scope at the risk of timely and robust evaluation of HRL flow and non-flow measures.	
1108	18.1	Pesticide monitoring requirements for the HRL program without a hypothesis basis. The revised draft updates pesticide monitoring requirements specifically for HRL habitat restoration projects (Section 4.4.9.7). While DWR recognizes the importance of addressing pesticide and contaminant risks in a water quality control plan, the revised provisions do not sufficiently consider the integration of requirements with existing monitoring programs, capacity for analysis, or data interpretation and adaptive management frameworks. DWR is concerned that prioritizing this monitoring may pull resources from the three tiers of habitat assessments of implementation, suitability, and biological utilization and effectiveness. Absent clearer articulation of objectives, priorities, and coordination with existing efforts, DWR is concerned that the revised language adds monitoring scope without a direct link to HRL habitat efforts. DWR recommends opening this requirement to targeted research rather than continued	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		monitoring to promote a hypothesis-testing approach and preserve resources for the three tiers of habitat assessments.	
1108	18.2	Vague requirements for “actual and, as feasible, forecasted future effects of HRL habitat and HRL flows” on species and ecosystem function An outstanding concern previously described in DWR’s January 2025 comment letter are the requirements for hypotheses, metrics, and targets for the HRL Program to address “actual, and as feasible, effects of HRL habitat and HRL flows” on forecasted future changes various species and the food web (parts v and vi) of Section 4.4.9.7. As stated in our January 2025 comment letter, the purpose and nature of forecasted future effects is unclear; for example, how long into the future should future effects be forecasted? If the purpose is to support adaptive management of non-flow habitat restoration and/or flow investments, then the Draft Updates should be revised to advise the use of best available species-specific life cycle models or other ecological modeling tools to identify modeled incremental improvements from restoration achievements and to advise on future investments to further progress toward ecological targets. In addition to the need for a clear connection to adaptive management, species-specific life cycle models are also important considering the complex mechanisms impacting species persistence that may occur outside of the HRL commitments of habitat and flow (such as ocean harvest and hatchery practices) but will impact the intended outcomes of the HRL commitments (population size and viability).	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1108	19	Acknowledgements of improvements in the revised Draft Updates for HRL Supplemental Science and Monitoring DWR appreciates amendments made to the Draft Updates based on DWR’s January 10, 2025 comment letter, including: 1. Integration of HRL supplemental science and monitoring in the BDMEP. Text was added to clarify that supplemental science and monitoring required of HRL participants will be incorporated in the BDMEP, improving alignment with existing monitoring infrastructure and governance.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		2. Adjusted deadlines for HRL biological target development and enhanced stakeholder engagement. The deadline for submission of HRL biological targets was extended to six months following Plan adoption, with the possibility of extension to nine months. In addition, a new and welcome requirement was added for HRL participants to solicit input from California Native American Tribes, non-governmental organizations, and other interested parties during biological targets development. 3. Coordination and methodological consistency across monitoring programs. New provisions were added to require that HRL monitoring coordinate with and maintain consistent methods to the extent feasible with other monitoring surveys, thereby supporting comparability of and efficient investment in monitoring. 4. Acknowledgment of the HRL Science Committee. Text was added to acknowledge the Science Committee proposed by HRL participants, which will include participation from HRL signatories and interested NGOs, California Native American Tribes, and other interested parties. 5. Clarification of regulatory applicability for habitat projects. The provision specifying that projects cannot be used to fulfill other regulatory requirement was revised to clarify that this refers to regulatory requirements that existed as of December 2018 or earlier. 6. Revision and expansion of Valley Floor habitat category. The habitat category previously identified as “Sutter Bypass, Butte Sink, and Colusa Basin” was renamed “Valley Floor” habitat and expanded to include floodplain rearing habitat in the Yolo Bypass, Tisdale Bypass, Sacramento River, and Delta. Clarifying detail was also added to the habitat accounting criteria associated with this expanded habitat type definition. 7. Clarification of accounting requirements for restored habitat. The accounting requirement that projects restore habitat that was previously unsuitable was revised for clarity, improving beneficial restoration and consistency in application.	

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		8. Defined timeline for review of habitat design modifications. A 30-day deadline was added for Executive Director and CDFW approval of requests from HRL participations for modifications to habitat design criteria. 9. Revisions to address discontinued fish monitoring surveys. Provisions related to the discontinued Striped Bass, Sturgeon, and Spring Kodiak Trawl surveys were revised to identify a Delta Science Program review of actions needed to address any remaining monitoring gaps. 10. Updates to monitoring station listings. Table A-1 was revised to add and remove monitoring stations in response to DWR's public comments, improving alignment with existing monitoring and future needs and feasibility. 11. Addition of a definition of best available science. A definition of best available science, based on Appendix 1A of the Delta Plan, was added, improving clarity and consistency in interpretation.	
1109	1	These comments are intended to supplement those provided to you in public comment on January 28 2026. As a botanist, I have worked with riverine systems for most of my professional career and appreciate the many functions provided by a healthy river. I am writing today to oppose the Phase 2 Bay Delta Water Quality Control Plan Update Draft which includes fundamentally flawed Voluntary Agreements (VAs) and inadequate water supply adjustments. The Sacramento River and Bay-Delta are in ecological crisis, due mainly to inadequate flow releases. Native fish and wildlife populations are crashing. We now have seven native species on the brink of extinction. Salmon populations are in severe decline, so much so that the commercial fishing season has been closed for three consecutive years. Toxic algal blooms in the Delta have continued to get worse. These dire conditions all indicate that the reasonable protection of beneficial uses is not being achieved here.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please see Common Response 1.2, Water Quality Control Planning Process, for information about the consideration of beneficial uses.
1109	2	According to Chapter 13 of the Draft Staff Report (13.3.2.1), the numeric portion of the inflow objective for fish & wildlife beneficial uses has been removed, modified and relocated to the	Please see Common Response 1.1, General Comments, for information on the Delta Flow Criteria Report and for responses to comments that make general comments, do not raise specific

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		revised proposed program of implementation. I am very concerned that removing the numeric limits from this water quality objective will weaken the Board's ability to implement and enforce minimum instream flow standards. The best available science shows that health of the aquatic ecosystem is strongly linked to the amount and time of freshwater flow. According to the State Water Board's 2010 Flow Criteria Report, 75% of unimpaired flow would need to flow to San Francisco Bay to fully protect ecosystems and water quality. Clearly, substantial increases of protected freshwater flows are needed. Yet the December 2025 draft plan would significantly reduce the instream flow requirements with "water supply adjustments" proposing 55% of unimpaired flow only in the wettest third of years, 45% in the middle third, and 35% in the driest third of years. This is not the direction we need to be taking here. We need more water in the system, not less!	environmental impacts of the project, or do not raise specific economic effects of the project. The water supply adjustments would provide a starting point for existing water rights designed to reduce water supply impacts and allow more water to be stored in reservoirs on initial implementation. These refinements include the possibility of moving up in the range of unimpaired flow and the potential for modification or removal of the water supply adjustments in the future. Additionally, please see Common Response 1.2, Water Quality Control Planning process, regarding numeric versus narrative water quality objectives.
1109	3	The VAs cannot achieve the goals of the Bay Delta Plan because it produces very little new protected water that is so desperately needed for the reasonable protections of beneficial uses, including fish and wildlife, recreation, commercial fishing, and tribal needs. The VAs also lack viable enforcement mechanisms and any clear demonstration that this approach will be at all effective in protecting the beneficial uses of concern. In addition, the VAs would leave most of the existing flows subject to further diversions for future projects. This is completely unacceptable! In the absence of numeric objectives, we are left with narrative statements that are so vague as to be almost meaningless. What do phrases in the narrative standards such as 'expected to provide benefits', 'contribute to achieving', and 'contribute toward achieving' actually mean? It appears that the Board is proposing a very low bar for future implementation and enforcement of the inflow objective.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
1109	4	I urge the Board staff to take a close look at the External Scientific Peer Review, dated February 21, 2024. The reviewers were given six statements or conclusions to review. Although there was general agreement that the first statement regarding the decline of native aquatic species in tributaries, off-stream habitats and the Bay Delta was scientifically sound, there was no such consensus regarding the remaining five statements. For	The Scientific Basis Report Supplement was revised in response to peer review comments. Please see Common Response 3.1, Fish Protection, for more information on the peer review of the Scientific Basis Report Supplement.

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		example: 1. One reviewer observed that management actions may have some benefit for native species but still fail to reach critical benchmarks or functional thresholds. The VAs lack specific benchmarks or functional thresholds. 2. Another reviewer noted that the draft plan is lacking in a water quality discussion and is unclear how changes in flow or habitat will affect harmful algal blooms. 3. A reviewer stated the need for a life cycle modeling approach for salmon that takes into consideration spawning, rearing, ocean run and adult returns. 4. A reviewer noted that the Final Draft Plan lacks specifics on how the monitoring of flow and habitat will be performed. Are changes large enough to be measured with whatever monitoring program is put in place? 5. One reviewer expressed low confidence in the conclusions of statements 2,3,5, and 6. In regards to statement 6, the reviewer was unable to evaluate it because viability is not defined. Without specificity as to what viability means for the VAs, one cannot evaluate if the quantitative and qualitative analyses used appropriate assumptions. 6. Several reviewers noted that creating habitat does not guarantee use or benefits that lead to increased production system wide. An acknowledgement of uncertainty regarding habitat use is needed. I urge the Board to reject the VAs and adopt a science-based update to the Bay Delta Plan that protects an adequate percentage of the Bay Delta's unimpaired flows. The Board's time and resources would be better spent developing a legally robust program of implementation and enforcement. Specifically, the water quality objectives need to include numeric instream flow standards upfront that require increased flows sufficient for the reasonable protection of beneficial uses.	

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1109	5	The Board has the legal authority, the scientific expertise, and the responsibility to protect all beneficial uses and Public Trust resources. All Californians deserve a just and science-based regulatory update to the Bay-Delta Plan. With seven native fish species on the brink of extinction and the future of the commercial salmon fishery at stake, the Board is running out of time to act.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	1	As noted in our previous comment letters on the draft Bay-Delta Plan update, CDFW reiterates that given the prolonged and severe decline in numerous native species in the San Francisco Bay/Sacramento-San Joaquin Delta watershed the Bay-Delta Plan urgently needs to be updated. This is echoed in the latest State of Our Estuary Report by the San Francisco Estuary Partnership (SFEP) and San Francisco Estuary Institute (SFEI), which concluded that freshwater flow conditions in the San Francisco Bay and Sacramento-San Joaquin Delta (Estuary) remain poor and declining and the fish community in Suisun Bay and the Delta is in poor condition. Reductions in freshwater flows have created chronic, artificial drought conditions in the Estuary. High-volume flood flows in winter and spring are less common and the once-dramatic differences in flow levels between the wet and dry seasons, and between wet years and drought years, have been reduced (SFEP and SFEI 2026). Some localized improvements in native fish abundance in nearshore and wetland channel habitats of the Delta suggest the potential for freshwater outflow and habitat restoration to improve conditions. However, the broader native fish community in the Delta remains degraded because human-caused alterations have reduced the system's capacity to support native aquatic life (SFEP and SFEI 2026).	Please refer to Staff Report Section 3.4, Chinook Salmon (<i>Oncorhynchus tshawytscha</i>) and Central Valley Steelhead (<i>Oncorhynchus mykiss</i>), for a discussion of salmonid species decline and flow effects on salmonids. Please also refer to Staff Report, Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a discussion of the purpose and goals of the Sacramento/Delta Update to the Bay-Delta Plan. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	2	CDFW emphasizes the importance of avoiding reduced flows in critically dry water years. Lower flows and associated higher water temperature delay adult migration, lower survival of adult salmon returning to their spawning grounds, reduce fecundity, and decrease egg survival (NMFS 2014, CDFW 2017, SWRCB 2017). Juvenile salmon are known to have low survival during low-outflow years (Michel et al. 2015), with reductions in survival as great as 95 percent during severe drought conditions (i.e. successive critically dry and dry water years) (Stewart et al. 2020). Low flow conditions from the last two droughts (2012-	Please refer to response to comment 1110-1.

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		2016 and 2020-2022) have negatively impacted salmon populations (Azat 2025, Hartman et al. 2025) contributing to commercial fishing closures for 2023-2025 and ocean recreational fishing closures in 2023 and 2024 (a very limited season was allowed in 2025) resulting in a state-wide personal income impact of approximately \$50 million per year (CDFW 2025, PFMC 2025).	
1110	3	CDFW commends the State Water Board staff's progress in updating the Bay-Delta Plan. CDFW has been actively engaged in the process of updating the Bay-Delta Plan and has previously provided both written and oral comments as well as significant technical input in meetings and workshops over the years, covering both unimpaired flow approaches, habitat restoration, biological goals, and HRL. CDFW understands the immense workload and challenging timelines for the State Water Board staff to incorporate and evaluate changes made throughout the process, including from the 2024 draft Bay-Delta Plan update to the 2025 revised draft Bay-Delta Plan update. Throughout this process, and more recently, the State Water Board staff have made changes in response to diverse feedback from a range of interested parties. CDFW supports the robust process that the State Water Board has undertaken and appreciates the State Water Board's commitment to utilizing the evidence developed throughout the update process, including its scientific basis and staff reports, to ensure durability of fish and wildlife beneficial uses under the updated plan.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	4	Echoing previous comments from CDFW on the 2023 draft Staff Report and subsequent comments made during the public hearings from members of the public as well as from State Water Board members, CDFW suggests including a more direct and consistent comparison of alternatives in updated documents. While there is abundant information provided for each alternative as well as an analysis of impacts, improvements could be made to the visual presentation of the various alternatives to portray how they compare to one another, including the 2025 draft Staff Report alternatives and the 2023 draft Staff Report unimpaired flow alternatives. Summary tables displaying key metrics such as changes over baseline for hydrology, storage,	The Staff Report analyzes the alternatives in the manner required by CEQA, as further discussed in Common Response 7.24, Alternatives Analysis. Regarding comparing alternatives to one another, impacts were narratively compared within the impact analyses in Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report. Also see the alternatives impacts discussion in Section 13.7.1, Approach, and the tabulated comparison of impacts in Appendix H4, Impact Summary Table for Alternatives, of the final Staff Report.

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		water supply, water temperature, habitat, and biological resources for each alternative would allow for more efficient review.	
1110	5	CDFW supports the following changes in the revised draft: 1) The designation of the Tribal Tradition and Culture beneficial use for the Bay-Delta watershed, as well as provisions for a Tribal Advisory Group and other provisions to facilitate tribal participation and feedback; 2) The new narrative flow objectives (Sacramento/Delta tributary inflow, cold water habitat, Delta outflow, inflow-based Delta outflow, and interior Delta) and narrative fish viability objective are incorporated into the Program of Implementation and would apply to both the regulatory pathway and the HRL; 3) Updated HRL supplemental pesticide monitoring requirements and additional requirements for monitoring methylmercury in the bypass floodplains, fish food production, and tidal wetlands; and 4) Acknowledgement of the HRL Science Committee which includes participation from environmental NGOs, California Native American Tribes, and any other interested parties.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	9	CDFW supports HRL, which is expected to achieve the objectives of the Bay-Delta Plan by expediting implementation of beneficial actions including creating a significant amount of habitat supporting fish and wildlife in a short amount of time. CDFW also supports a strong regulatory backstop to ensure fish and wildlife objectives are met as outlined in the proposed plan update. The 2018 Bay-Delta Plan, which incorporated Phase I amendments, explicitly requires HRL signatories to maintain at least the lower end of the unimpaired flow range established as part of new numeric water quality objectives, stating that if HRL includes "non-flow actions recommended in this Plan or by DFW, the non-flow measures may support a change in the required percent of unimpaired flow, within the range prescribed by the flow objectives, or other adaptive adjustments otherwise allowed in this program of implementation."	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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1110	10	CDFW supports HRL's contributions to habitat restoration. As the Bay-Delta Plan update is completed and parties move to implementation, CDFW provides the following recommendations on designing, planning and implementing habitat restoration actions: • Consider and prioritize projects that restore natural ecosystem processes and support the Bay-Delta ecosystem's ability to maintain and create habitat, acknowledging that habitat is not static in space and time. This could include projects that increase both longitudinal and lateral connectivity, or projects that allow natural processes of erosion, deposition and seasonal flooding that continually change and enrich riparian areas, creating and sustaining habitat or allowing river channel migration and meandering. • Consider and prioritize projects that reduce the need for long term operation, maintenance, and active management to the extent feasible. CDFW acknowledges that such active management cannot be entirely avoided (e.g., weir notches or fish passage structures to alleviate existing fish passage issues) but careful consideration should be given before implementing projects that add new infrastructure to an already heavily altered landscape. • Consider and prioritize projects that address the aquatic ecosystem stressors described in SWRCB (2017) and SWRCB et al. (2023). Habitat modeling in SWRCB et al. (2023) shows that spawning and/or rearing habitat in some tributaries already meet the acreage to support 25 percent of the salmon doubling goal. Stressors other than physical spawning and rearing habitat merit consideration and prioritization as limits to salmon population growth. A more systematic analysis and prioritization of aquatic ecosystem stressors for each tributary should be included in the HRL Science Program, including addressing any uncertainties. • Encourage the HRL Science Program to address comments from the HRL Science Independent Peer Review¹ and Scientific Basis Report Peer Review that question whether the flood bypasses are sources or sinks for native fish species (e.g. actions	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		should consider both benefits and impacts to all native fish species and all life stages rather than single species/single life stage focused) or the assumption that food is currently a limiting factor for salmon population growth.	
1110	11	CDFW appreciates the opportunity to comment on the draft Bay-Delta Plan to assist the State Water Board. CDFW is committed to engaging with the State Water Board, Department of Water Resources, and other HRL parties to discuss outstanding comments. CDFW encourages the State Water Board to move expeditiously towards adopting an updated Bay-Delta Plan.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	12	[Draft Bay-Delta Plan Page #:] 15 [Section:] 3.3 Table 2, Western Delta, Interior Delta [Comment:] Some time periods in the table have overlapping days. [Solution:] Suggest successive time periods start on a subsequent day.	These overlapping time periods appear in the 2018 Bay-Delta Plan and prior versions and are not altered in the revised proposed Plan amendments.
1110	13	[Draft Bay-Delta Plan Page #:] 19 [Section:] 3.4 Table 2. Interior Delta Flows, SWP and SVP Export Facilities, February [Comment:] How will the required percentage be determined and communicated when the value is between 35 and 45 percent? [Solution:] Suggest including the description of this process from D-1641, assuming the process is the same.	This process is described in the proposed program of implementation.
1110	14	[Draft Bay-Delta Plan Page #:] 23 [Section:] 3.4 Figure 2, Footnote 2 [Comment:] Footnote 2 discusses San Joaquin water year type and Lower San Joaquin Objectives, but the figure is for Sacramento Valley water year hydrologic classification. [Solution:] Suggest removing San Joaquin information, if this was unintended.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	15	[Draft Bay-Delta Plan Page #:] 39 [Section:] 4.4.1.1 Implementation of February through June LSJR Flow Objectives [Comment:] Document states that the San Joaquin flow objectives are to be implemented by 2022, but this is 2026 and they are not yet implemented. It is confusing to include past dates for implementation which were not met. [Solution:] Suggest including footnotes discussing implementation of the SJR objectives and noting that the 2022 deadline has passed without implementation.	This update of the Bay-Delta Plan focuses on the Sacramento/Delta watershed. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	16	[Draft Bay-Delta Plan Page #:] 40 [Section:] 4.4.1.2 Flow Requirements for February through June [Comment:] Tuolumne gauge location in Table 3 is not comparable to compliance	This update of the Bay-Delta Plan focuses on the Sacramento/Delta watershed. Please see Common Response 1.1, General Comments, for responses to comments that make

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		locations identified for other tributaries. [Solution:] Suggest Executive Director consider changing compliance point for the Tuolumne from Modesto gauge downstream to gauge TRT (Tuolumne River at Shiloh) to better align with gauge locations in the Merced and Stanislaus Rivers.	general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	17	[Draft Bay-Delta Plan Page #:] 42 [Section:] 4.4.1.2 Flow Requirements for February through June [Comment:] Subsection d does not include a location. [Solution:] Suggest subsection d be revised to clarify that it applies to Vernalis.	This update of the Bay-Delta Plan focuses on the Sacramento/Delta watershed. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	18	[Draft Bay-Delta Plan Page #:] 47 [Section:] 4.4.2.2 Narrative Inflow Objective for Sacramento/Delta Tributaries, Tributary-Specific WSAs [Comment:] River flows based on storage can easily be affected by storage withdrawals. [Solution:] Suggest reservoir operators develop an operating plan or develop rules to avoid this potential problem.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	19	[Draft Bay-Delta Plan Page #:] 47 [Section:] 4.4.2.2 Narrative Inflow Objective for Sacramento/Delta Tributaries, Table 5. Tributary-Specific WSAs [Comment:] There are no minimum flows required in reduced storage conditions. [Solution:] Suggest noting existing other regulatory requirements for minimum flow during dry conditions, or adding a minimum flow requirement that would apply at all times as modern drought conditions are the most stressful on native aquatic species populations.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	20	[Draft Bay-Delta Plan Page #:] 49 [Section:] 4.4.2.2 Narrative Inflow Objective for Sacramento/Delta Tributaries, Table 6 Tributaries That Are Initially Subject to the Sacramento/Delta Inflow Requirement [Comment:] The footnote discusses accurately measuring flows using flow gauges, including existing ones. What kind of existing flow gauges are there? Would there be a requirement for a certain type of gauge to be used to ensure consistency across reaches, forks, branches, tributaries, etc.? [Solution:] Recommend describing what standard flow gauge(s) would be used and how inflow would be calculated with assumptions and uncertainties.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	21	[Draft Bay-Delta Plan Page #:] 54 [Section:] 4.4.2.3 Sacramento/Delta Cold Water Habitat Objective, Table 8	Based on the assessment of historical storage and temperature conditions in Staff Report Appendix H1a1, Assessment of Effect

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		Carryover (End of September) Storage [Comment:] The range of carryover storage target at New Bullards Bar Reservoir is the same for both drought and non-drought years. [Solution:] Assuming this was an error, as no other reservoir is like this. If this was not an error, please explain why the values are both the same.	of Reservoir Storage on Reservoir Release Temperatures, a carryover storage level of 400 TAF or higher has been associated with suitable fall temperatures for anadromous fish in the Yuba River at Smartsville. Lower storage levels have been associated with unsuitable fall temperatures and have occurred so rarely that a lower threshold in drought years was unnecessary. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	22	[Draft Bay-Delta Plan Page #:] 59 [Section:] 4.4.2.7 Base and Table 4 Delta Outflow Objectives [Comment:] Only subsection iv has an exceedance level identified. [Solution:] Suggest including exceedance levels for subsections ii and iii as well.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	23	[Draft Bay-Delta Plan Page #:] 62 [Section:] 4.4.4.4 Export Limits Based on Delta Inflows [Comment:] No percentage exceedance level is identified. [Solution:] Suggest including exceedance level. For example, if exceedance levels from D-1641 are intended to be used, please add text to clarify.	These objectives are unchanged from State Water Board Water Right Decision 1641 (D-1641) so any requirements in D-1641 would still apply. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	24	[Draft Bay-Delta Plan Page #:] 62 [Section:] 4.4.4.4 Export Limits Based on Delta Inflows [Comment:] Aside from limitations on percentages of unimpaired flow diverted, how will water under the regulatory pathway and intended for Delta outflow be protected? [Solution:] Suggest additional details about how flows under the regulatory pathway will be protected from export, or cross reference relevant sections in the flow accounting appendix.	Flows under the regulatory pathway would be protected from export by the inflow-based Delta outflow objective and VA flow accounting. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1110	25	[Draft Bay-Delta Plan Page #:] 67-68 [Section:] 4.4.9.3 Additive Flows Above HRL Base, Table 9 VA Flow and Non-Flow Commitments [Comment:] The table does not identify the amount of new expected Delta Outflow. [Solution:] Suggest including a sum of new Delta Outflow.	An estimate of the flows, including Delta outflow, expected to result from the VA pathway is available in Staff Report Section 13.4, Changes in Hydrology and Water Supply.
1110	26	[Draft Bay-Delta Plan Page #:] 82 [Section:] 4.4.9.5 HRL Non-Flow Habitat Restoration Actions [Comment:] CDFW appreciates the revised language associated with subsection ii, Valley Floor restoration actions and would like to emphasize: 1) actions in the flood bypasses should address the aquatic ecosystem stressors described in the Scientific Basis Report and 2) beneficial actions with a higher level of certainty of beneficial outcomes should be pursued. These include 1) restoration of natural floodplain habitat, 2) improving the migratory corridor (e.g. eliminating barriers, improving flow, better coordinated water management, etc.), 3) creating better connectivity laterally and longitudinally within the basins and to the river(s) and 4) avoiding or minimizing active management that requires long-term O&M and are single species/single life stage focused. Consistent with CDFW comments for other planning efforts in both Yolo and Sutter Bypasses, open channel concepts without water control structures and other fish passage hinderances should be explored in all fisheries enhancement or improvement projects. These recommendations are based upon decades of research, management actions, and fish rescues conducted in Yolo and Sutter Bypasses as well as the Sacramento River (CDFW can provide references, if requested). [Solution:] N/A	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	27	[Draft Bay-Delta Plan Page #:] 83 [Section:] 4.4.9.6 Non-Flow Habitat Restoration Accounting [Comment:] The document does not discuss lifespan of committed resources, required maintenance, and/or credit for maintenance of restored habitat. [Solution:] Consider including some language on habitat decay, spawning gravel mobility, and maintenance of restoration projects.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	28	[Draft Bay-Delta Plan Page #:] 88, 92 [Section:] 4.4.9.7 and 4.4.9.8 Supplemental Science and Monitoring [Comment:] Section 4.4.9.7 begins with a statement about HRL parties being required to conduct “supplemental science and monitoring”, in addition to	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well

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		the BDMEP and requiring adherence to BDMEP standards as well as coordination. CDFW supports these requirements. However, page 92 discusses a "unified science plan" that appears to indicate greater input/control by the HRL science committee. [Solution:] Suggest clarifying that while HRL supplemental science would be complementary to existing work, and hypothesis testing will rely on that work, please also note that the BDMEP has been developed to serve other regulatory and scientific needs and the scope of changes made by the HRL science committee should be limited to the supplemental science and monitoring focused on HRL implementation to avoid unintended consequences.	as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	29	[Draft Bay-Delta Plan Page #:] 89-90 [Section:] 4.4.9.7 Supplemental Science and Monitoring [Comment:] Organizational structure for the HRL science committee is mentioned, but like the Science Charter, is somewhat vague. [Solution:] Suggest including a plan for more meaningful inclusion of NGOs and CA Native Tribes, which have expressed concerns about exclusion from the process thus far.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	30	[Draft Bay-Delta Plan Page #:] 90 [Section:] 4.4.9.7 Harmful Algal Blooms [Comment:] The HAB monitoring provisions do not include support for furthering the understanding of the effects of HABs, only the causes, occurrences, and mitigation measures. [Solution:] Suggest including language on "HAB effects" to what the HAB monitoring program and special studies would be collecting data to understand.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	31	[Draft Bay-Delta Plan Page #:] 90, 115, A-12 [Section:] 4.4.9.7 and 4.5.1.2 and A.2.2 Harmful Algal Blooms [Comment:] The current HAB bloom season is typically May to October but there may be blooms outside of this range now. Additionally, with climate change and shifting dominant species over time the bloom season is predicted to shift. Thus, the suggested monitoring timeframe may not cover all HAB events. [Solution:] Suggest that the timeframe of monitoring cover monitoring during additional bloom timeframes if a bloom outside of the currently defined "bloom season" is identified.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	32	[Draft Bay-Delta Plan Page #:] 90 [Section:] 4.4.9.7 Habitat Suitability Assessments [Comment:] There is no mention of how	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		often site specific assessments should be done to ensure that habitats remain suitable during the duration of the HRL/8 years following construction. [Solution:] Suggest adding a clear requirement for timing of the site specific assessments be done by tributary, perhaps by number of years post-construction or after major flooding event in a specific tributary, etc.	the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	33	[Draft Bay-Delta Plan Page #:] 90 [Section:] 4.4.9.7 Habitat Utilization and Biological Effectiveness Assessments [Comment:] With regards to "monitoring of habitat restoration projects will be required to follow comparable methods to other HRL projects in the same category and to ongoing and past monitoring of similar restoration projects", please note that monitoring of other HRL projects and the bulk of ongoing monitoring are not always the same, especially for tidal wetlands. [Solution:] Suggest requiring comparable methods to any ongoing monitoring at the most suitable reference sites (as determined by environmental similarity, e.g., salinity regime) for the HRL habitat restoration projects.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	34	[Draft Bay-Delta Plan Page #:] 95-96 [Section:] 4.4.9.10 Continuation, Modification, or Termination of the VA Pathway, Green Light [Comment:] Will any additional restoration be required if the HRL is continued under a green light scenario for more years? Also, will systems with limited flow commitments have new commitments? [Solution:] Suggest clarification about what would continue and what, if anything, would be added/changed if the HRL is continued under a green light scenario.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	35	[Draft Bay-Delta Plan Page #:] 109 [Section:] 4.5.1.1 Initial BDMEP, Special Studies for Fish and Wildlife [Comment:] There is no timeframe identified for completion or start of the special study relating to Lower San Joaquin River barriers, salmonid survival and life history diversity. [Solution:] Suggest providing timelines when this study shall be started and/or completed.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	36.1	[Draft Bay-Delta Plan Page #:] 115 [Section:] 4.5.1.2 Comprehensive BDMEP, SJRMEP, Comprehensive Reporting [Comment:] How will a decision be made as to the frequency of reporting? The document says it will occur every three to five	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well

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		years. [Solution:] Suggest providing clarification about how this decision of reporting frequency will be made.	as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	36.2	[Draft Bay-Delta Plan Page #:] A-1 [Section:] Appendix A, A.1 Introduction [Comment:] The description of the expansion process for the BDMEP to create a comprehensive BDMEP is unclear. The current monitoring activities within the Bay-Delta Region are not adequate to generate systemwide or population level data relevant to evaluate the effectiveness of the narrative objectives. The proposed habitat accounting, habitat utilization, and biological effectiveness monitoring requirements are intended to inform a system-wide and population level analysis of the effectiveness of HRL actions in meeting the stated objectives of the Bay-Delta Plan. This will not be possible without a robust investment in bolstering and expanding the existing monitoring programs and frameworks within the BDMEP. More specificity is needed here as to roles and responsibilities and funding associated with expansion of the BDMEP. [Solution:] Suggest including more specificity as to the roles and responsibilities and funding associated with expansion of the BDMEP.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	37	[Draft Bay-Delta Plan Page #:] A-2 [Section:] A.2.1 Required Monitoring Activities [Comment:] CDFW is not included in the review process with DWR, Reclamation, State Water Board, and Delta Stewardship Council to identify any monitoring gaps generated by discontinuation of the three surveys (Spring Kodiak Trawl, Adult Sturgeon Study, and Adult Striped Bass Study) needed to fulfill the monitoring purposes identified in D-1641, D-1485, and the Bay-Delta Plan [Solution:] Suggest including CDFW in the review process.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	38	[Draft Bay-Delta Plan Page #:] A-2 [Section:] A.2.1 Required Monitoring Activities [Comment:] In Section 4.5.1.1 VA Supplemental Monitoring and Science, it says "The initial BDMEP incorporates the VA supplemental monitoring and science activities defined above in section 4.4.9.7, which are the collective responsibility of VA parties." but this same obligation is not reflected in Appendix A. [Solution:] Recommend that this	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		language be incorporated into Appendix A as well to be consistent.	
1110	39	[Draft Bay-Delta Plan Page #:] A-2 [Section:] A.2.2 Monitoring Purposes [Comment:] Why are HRL monitoring commitments not mentioned in this section? [Solution:] Suggest adding HRL monitoring commitments or explaining why they are not included here.	HRL monitoring commitments have not yet been provided to the Board and would be required to be submitted within 60 days of Plan adoption. Approved HRL monitoring could be considered for inclusion at a future date when it is available.
1110	40	[Draft Bay-Delta Plan Page #:] A-4 [Section:] A.2.2 Table A-1 Specific Water Quality and Food Web Monitoring Requirements [Comment:] Some areas with high HAB risk are not monitored. For example, a paper in progress (Preece, et al) is anticipated to show that the south Delta region has historically been one of the areas with the worst HABs in the area. There are few monitoring sites in that area. [Solution:] Strongly recommend adding HAB monitoring and continuous multi-parameter locations near the Prisoners Point Station (PPT; where the agricultural barriers lead to stagnant conditions and consistently high chlorophyll levels); Old River above Doughty (ORX; where chlorophyll levels are also consistently high); and in general, adding more data monitoring in the south Delta area.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	41	[Draft Bay-Delta Plan Page #:] A-11 [Section:] Table A-1 Specific Water Quality and Food Web Monitoring Requirements, Footnote 3 [Comment:] At what depth would the continuous multi-parameter instrument be recording? [Solution:] Suggest including information specifying the monitoring depths requested. It would be helpful to have multiple depths. Suggest a near surface monitoring location and a near bottom of water column measure at least.	These suggestions could be evaluated and considered during reviews of the continuous monitoring requirements in the Bay-Delta Monitoring and Evaluation Program. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	42	[Draft Bay-Delta Plan Page #:] A-11, A-25 [Section:] Table A-1 and Table A-3 [Comment:] While at HAB monitoring locations, HAB effects to fish and wildlife are not being quantified. [Solution:] Recommend adding that observations of deceased or ill fish and/or wildlife in locations with an active HAB should be enumerated and information including their species, length, weight, and location cataloged.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	43	[Draft Bay-Delta Plan Page #:] A-24 [Section:] Table A-2 Required Monitoring Activities, Footnote 2 [Comment:] As applied to the	Proposed monitoring for the VA pathway would be submitted after Plan adoption. The State Water Board considered all

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		Fish Restoration Program, the work plan changes every year and review by the SWRCB Executive Director would be an entirely new process. It is also not clear if this program is now intended to extend indefinitely, as it was originally intended to sunset after wrap-up of the Fish Restoration Program project completion (i.e. the 8,000+ acres in the CVP/SWP BiOps and ITPs). [Solution:] Recommend clarifying text regarding the timeframe of HRL reliance on the FRP and available fund sources.	comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	44	[Draft Bay-Delta Plan Page #:] A-25 [Section:] Table A-3 Harmful Algal Blooms, May to October Tiered Monitoring Approach [Comment:] The threshold for HAB visual index level 2 is evidence of a HAB. It should be monitored as such including the low level chronic HAB toxins that are present within the system. The current approach is aimed at protecting human health but fish and wildlife exposure needs to be quantified as well. [Solution:] Recommend adding monthly SPATT monitoring to all sites to help quantify the lower level algal toxins present in the system even when ELISA grab samples do not capture them and moving HAB visual index 2 to tier 2: enhanced monitoring.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	45	[Draft Bay-Delta Plan Page #:] A-27 [Section:] A.3.2 Data Management and Quality [Comment:] There are inconsistent time frames for providing maintenance and calibration records (and other data quality records) between Section 4.5.1.1 (60 days) and appendix A (30 days). [Solution:] Recommend changing appendix to 60 days to match Section 4.5.1.1.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	46	[Draft Bay-Delta Plan Page #:] A-27 [Section:] A.3.3 Reporting [Comment:] Timelines for posting monitoring data to a public website are unrealistic for some types/sources of data. For example, continuously collected data are to be posted real time; this is only feasible for telemetered equipment. Discrete data are required to be posted within 6 months of collection. Particularly for invertebrate ID and enumeration (and some measurements) this is not feasible at current staffing levels. However, this should not be a reason to move to contracted sample processing due to known quality issues. [Solution:] Recommend replacing hard time frames with as soon as feasible.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1110	47	[Draft Bay-Delta Plan Page #:] B.1 [Section:] Appendix B.1 General Comment [Comment:] It is unclear if there are accounting provisions for cases when the CVP and SWP have different operations between the ROD and the ITP. [Solution:] Suggest that the flow accounting accommodate misalignment between SWP and CVP, if these conditions were to occur.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	48	[Draft Bay-Delta Plan Page #:] B.1-11 [Section:] B.1.4.2 Calculation of Daily HRL Delta Inflow and Outflow [Comment:] Travel time calculations are expected to vary with flow rate. A fixed-day lag may work for relatively constant flow adjustments, but any abrupt changes in flow have impacts spread out over several days. This simplified assumption, compounded with the simplified salinity calculations, may create unrealistic assumptions about the responsiveness of the system. [Solution:] Suggest convening further conversations among DWR, CDFW and State Water Board staff regarding the value of 1) validating travel times and comparing salinity results using hydraulically routed flow and 2) comparing attenuated vs simply lagged flows and the impact to salinity offset accounting.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	49	[Draft Bay-Delta Plan Page #:] B.1-17, B.1-23 [Section:] B.1.4.3 Verification of Increased Delta Outflow, Table B.1-3 and B.1.5.4 Verification of Additive Delta Outflow, Table B.1-5 [Comment:] The relationships developed in Table B.1-3 and Table B.1-5 are subject to change given sea level rise and/or changes in channel bathymetry. These changes may happen gradually, or suddenly such as in the event of an earthquake. [Solution:] Suggest including language that these values are a recent snapshot (note the calibration years) and require periodic validation and/or updating.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1110	50	[Draft Bay-Delta Plan Page #:] B.1-41 [Section:] B.1.9.4 Accounting of Reference Conditions and HRL Flow Commitment, Subsection iii Measurement of Flow Commitment [Comment:] The text says that Sacramento River HRL participants must use outflow data from Keswick Reservoir or USGS gage 11370500, however these gauges generally do not provide the same value, and they do not differ by a consistent or predictable amount or percentage. If both are used, there could be inaccuracies in baseline calculations based on which gauge is used, leading to	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		ineffective accounting downstream. [Solution:] Suggest choosing one gauge or the other.	
1110	51	[Draft Bay-Delta Plan Page #:] B.2-14 [Section:] B.2.2 Accounting for Bypass Floodplain Non-flow Habitat Restoration Actions [Comment:] How will fish passage improvement projects or multi-benefit projects that include fish passage improvement be 'credited' relative to acreage requirements? [Solution:] Even if there is not a solution at this time, suggest including some discussion about the lack of accounting process for fish passage improvements and a potential process that could address this issue in the future.	The revised proposed Plan amendments require annual reporting on habitat commitments without specific accounting provisions.
1110	52	[Staff Report Chapter 13 PDF Page #:] 65 [Section:] 13.4 Changes in Hydrology and Water Supply [Comment:] The labeling of the regulatory pathway as 55 w/WSAs (i.e. 55 percent of unimpaired flow with watershed-wide water supply adjustments) does not capture the conditions that would result from its implementation. The changes in hydrology and thus the expected benefits of the starting point for the regulatory pathway generally fall between those of the Low Flow Alternative (35 and 45 percent scenarios) and the 55 percent scenario that were evaluated in the 2023 draft Staff Report. Fifty-five percent of unimpaired flow would only occur in approximately 33 percent of water years. [Solution:] Suggest a more accurate label for the regulatory pathway such as 45 w/WSAs (i.e. with an adaptive range from 35-55 percent).	The commenter suggests minor text revisions that would not alter the Staff Report's analysis or conclusions. The suggested revisions to the 2023 draft Staff Report are not warranted. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1110	53	[Staff Report Chapter 13 PDF Page #:] 129-131 [Section:] 13.4.3.1 Changes in Flows, South of Delta Exports, Voluntary Agreement Pathway [Comment:] Exports would still be expected to increase somewhat relative to baseline under the HRL. This seems counterintuitive to the narrative objectives of the Plan, Fish and Wildlife beneficial uses, and the commitment to export reduction under the HRL. [Solution:] The assumption is that the HRL model does not include the I:E requirements that were in the baseline model, however an explanation in the text would be helpful.	Please see Section 13.4.2.5, Export Constraint Sensitivity Analysis, which presents a sensitivity analysis on the San Joaquin I:E export constraint with a discussion on how this affects the model results.
1110	54	[Staff Report Chapter 13 PDF Page #:] 231, 232 [Section:] Table 13.5-6 Spawning Habitat Results Compared to the HRL Habitat Commitments and the Habitat Required to Support 25 Percent of the Doubling Goal	The "Acres added by HRL" do not match the "Committed Acres" in some cases when the analysis did not estimate that the same amount of habitat would be suitable by the habitat suitability criteria, which included depth, velocity, cover and substrate

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		Table 13.5-7 Rearing Habitat (Combined In-Channel and Floodplain) Results Compared to the HRL Habitat Commitments and the Habitat Required to Support 25 Percent of the Doubling Goal [Comment:] A. The "Committed Acres" and "Acres added by HRL" do not match. B. Why aren't winter-run Chinook salmon and late fall-run Chinook salmon evaluated in the table for the Sacramento River spawning/rearing/floodplain habitat? Most early implementation spawning and rearing habitat projects have been designed to support winter-run and impact late fall-run [Solution:] A. Please provide an explanation about how this occurs and how it will be reconciled. B. Please provide an explanation.	assumptions, and temperature. As described in the Scientific Basis Report Supplement (Staff Report Appendix G2), it is expected that habitat created for fall-run Chinook salmon will also provide ancillary benefits to other runs and other native fish populations because of similar habitat suitability.
1110	55	[Staff Report Chapter 13 PDF Page #:] 317-331 [Section:] 13.7.6.2 Biological Resources, Water Temperature [Comment:] Sections for individual temperature impacts state "results show that the frequencies of favorable and unfavorable effects under the VA pathway are more similar to baseline than under the regulatory pathway". Although frequencies of effects under the HRL are similar to baseline, frequencies of unfavorable temperatures are predicted to increase under the HRL. [Solution:] Suggest including this additional text.	The suggested text was not added because the information is implied in the existing text and because more detailed information regarding frequency of unfavorable effects with the VA pathway is available in tables within Section 7.6.2, Aquatic Biological Resources.
1110	56	[Staff Report Chapter 13 PDF Page #:] 332 [Section:] 13.7.6.2 Biological Resources, Impact Conclusion [Comment:] The document notes that the regulatory pathway may result in more frequent calls on Millerton Reservoir by the Exchange Contractors which would potentially draw down the cold water pool for Millerton resulting in unsuitable temperature for salmonids within the SJRRP program area. [Solution:] Consider the following potential solutions: 1) including a requirement that impacts to the cold water pool at Millerton be mitigated or require the development of a cold water management plan, 2) the inclusion of language similar to the Trinity that does not allow redirected impacts, or 3) a mitigation measure that includes installation of a temperature control device or selective withdrawal at Friant Dam.	Please refer to Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements. Section 13.4.3.2, Reservoir Storage and Elevation, acknowledges that while Millerton Reservoir is in the San Joaquin Valley it does not directly receive Sacramento/Delta water supplies. Reservoir changes could occur if calls on Friant are made by the San Joaquin River exchange contractors in response to reduced Sacramento/Delta supply under the regulatory pathway. See Section 13.7.6.2, Aquatic Biological Resources, for a discussion and analysis of how reservoir changes could result in temperature effects if there are increased releases from Millerton Lake to the San Joaquin River for downstream use by the exchange contractors during the irrigation season. Section 13.7.6.2 notes that while this would initially keep the river cooler, it could potentially lead to depletion of cold water in Millerton Lake in the fall. The Staff Report states that resulting changes in cold water habitat below Friant Dam could impact

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			aquatic biological resources. The cold water habitat objective of the revised proposed Plan amendments does not apply outside the Sacramento/Delta watershed; however, mitigation measures identify existing and future regulatory requirements independent of the Bay-Delta Plan that could apply to ensure temperature impacts are avoided or reduced. The analysis acknowledges some uncertainty regarding the precise implementation of measures even for reservoirs subject to the cold water habitat objective. For this reason and others, the Staff Report acknowledges that potential temperature impacts on special-status fish species from changes in flows and reservoir levels under the revised proposed Plan amendments remain potentially significant.
1110	57	[Staff Report Chapter 13 PDF Page #:] 339 [Section:] 13.7.6.2 Biological Resources, Interior Delta Flows, Impacts [Comment:] The documents states "Mitigation Measure MM-AQUA-a,d: 10 includes implementing existing laws to protect and mitigate fisheries impacts from changes in interior Delta flows." Implementation of existing laws seems like it should be part of the baseline and not considered mitigation. [Solution:] Update the scope of mitigation measures to focus on measures that would not already be occurring due to existing law.	Measures 1 and 10 of MM-AQUA-a,d describe potential additional actions which can be completed under the purview of existing laws, not to mention that entities' current compliance with existing laws is not universal. As such, many of these actions are not already occurring or not occurring in all projects or in all locations. See Section 7.12.1.2, Environmental Setting, for more information on existing temperature concerns and requirements. Please see Section H3.1.5, Aquatic Biological Resources of Appendix H3, Mitigation Measures for the Revised Proposed Plan Amendments, for additional detail regarding mitigation measure MM-AQUA-a,d.
1110	58	[Staff Report Chapter 13 PDF Page #:] 461 [Section:] Table 13.7.22-1 Mitigation Measures [Comment:] The document states "Mitigation Measure MM-AQUA-a,d: 1 includes implementing existing laws that protect and mitigate impacts from dams and diversions." Implementation of existing laws seems like it should be part of baseline not a mitigation measure. [Solution:] Suggest updating the scope of mitigation measures to focus on measures that do not rely on implementation of existing laws.	Measure 1 of MM-AQUA-a,d includes potential additional actions which can be completed under the purview of existing laws but cannot be considered part of baseline because they are not currently occurring. Please see the response to comment 1010-57.
1111	1	The Alameda County Water District (ACWD) appreciates the opportunity to provide comments to the State Water Resources Control Board (State Water Board) on the Revised Draft Sacramento/Delta Bay-Delta Plan Updates & Chapter 13 of Draft Staff Report (Updated Plan). ACWD appreciates the extensive work by State Water Board staff to put forth this Updated Plan, including the Healthy Rivers and Landscapes (HRL) Program, and its efforts to rely on science and balance the many beneficial	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		uses in our State. ACWD's interest in the Updated Plan stems from our use of imported water supplies in addition to local supplies to provide water supply reliability for our customers. ACWD was formed in 1914 for the purpose of protecting the water in the Niles Cone Groundwater Basin and conserving the water of the Alameda Creek Watershed. Today, ACWD provides retail water service to the 348,000 residents and businesses of Fremont, Newark, and Union City and manages a robust and integrated portfolio of local and imported water supplies, including imported water from the California State Water Project (SWP) and the San Francisco Public Utilities Commission's (SFPUC's) Hetch Hetchy Regional Water System, as well as a robust and thriving water use efficiency program. Water from the SWP typically makes up 40% of ACWD's water portfolio, making it a critical supply that supports the needs of residents and the many businesses and industries in the region. Water from the SWP is also key to supporting sustainable management and of the Niles Cone and preventing saltwater intrusion into the local aquifer system from the San Francisco Bay. In closing, ACWD appreciates the opportunity to review and provide comments on the Updated Plan. We are hopeful that the State Water Board will take swift action to finalize the Updated Plan, including the HRL Program.	
1112	1	I am against the proposed Voluntary Agreements. They fail to provide immediate standards ensuring water quality and they ignore repeated warnings from state and federal fish and wildlife agencies regarding failing ecosystem standards. The current water quality plan is 30+ years old while Voluntary Agreements continue to be used as a stalling tactic. Your own scientific staff has determined that restoring this ecosystem requires at least a 55% unimpaired flow. Yet in some water years the Voluntary Agreements offer a fraction of that, often barely moving the needle above the disastrous status quo. In fact, Chapter 13 provides no proof that Voluntary Agreements would achieve any desired environmental outcomes. The Bay-Delta ecosystem is not just in a slow decline – it is in freefall:	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability, and see Staff Report Section 13.5, Beneficial Environmental Effects, regarding the analysis of the benefits of the VA pathway.

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		The Delta smelt is functionally extinct in the wild, and winter-run Chinook salmon and white sturgeon are teetering on the brink. The unnaturally warm water from highly depleted flows is causing toxic algal blooms that threaten people, pets, and wildlife. And...Saltwater intrusion harms farmers and delta residents and creates further negative effects to native species by altering spawning habitats and by generally benefiting invasive species. The core premise of Voluntary Agreements is that we can substitute physical habitat restoration for water volume. Yet for fish, flow is habitat. Without cold, fast-moving water to flush out toxins and carry salmon to the sea, a restored floodplain is nothing but a graveyard. Another major problem with Voluntary Agreements is their lack of accountability and enforceability. Because these agreements skirt regulatory mandates, they lack the teeth needed for long-term compliance or any triggers that would force changes if fish populations continue to decline. And I'm concerned that off-ramps would allow water agencies to walk away from their commitments during severe droughts – exactly when the environment needs the water most. Our Governor, for various reasons, is leading the charge for Voluntary Agreements – but in doing so, he's clearly putting politics above water quality. I ask this Board to fulfill your mandate to ensure water quality by embracing the science – by rejecting Voluntary Agreements – and by adopting a Phase 2 Bay-Delta Plan with strong, science-based, and enforceable flow standards that retain 55–65% of the natural flows.	
1113	1	We write to support the State Water Resources Control Board's (Board's) incorporation of the Healthy Rivers and Landscapes (HRL) Program, including flows, habitat restoration	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3,

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		commitments, a robust science program, a governance framework, and dedicated funding, as proposed by the HRL parties into the Bay-Delta Plan and Staff Report. The HRL Program is a transformational approach to California water management that provides a better future for California to adapt to our climate reality and better balances all the beneficial uses. While the draft Bay-Delta Plan and Staff Report incorporate certain elements of the HRL, participating HRL parties have identified specific concerns regarding proposed modifications to various components of the program, including flow accounting methodologies and habitat accounting protocols. We ask that you incorporate their respective comments. In addition, the Board should refrain from expanding the responsibility assigned to the Central Valley Project and State Water Project beyond Sacramento-San Joaquin Bay-Delta Estuary Decision 1641 compliance and the HRL commitments. The Board should actively pursue policies and regulations to protect the environmental flows. We respectfully request the Board include the HRL Program as proposed by the HRL parties.	Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.
1114	1	We thank the Board for designating Tribal Tradition and Culture as a beneficial use in the Revised Draft Updates. Our Tribe supports this designation, as the protection of the waters of the Bay and Delta and of our water-dwelling relatives is integral to fulfilling our ancestral responsibilities through ceremony and sustaining who we are as Tribal people. However, as our Tribe has expressed previously to the State Water Resources Control Board, we remain concerned that the Revised Draft Updates: 1) were developed without meaningful government-to-government consultation with Tribal governments; 2) fail to protect designated Tribal Beneficial Uses and do not include Tribal Subsistence Fishing as an element of Tribal Tradition and Culture; 3) rely on unenforceable and discretionary Voluntary Agreements that substitute physical habitat for flow, ignoring the best available science; and 4) rely on environmental documentation that does not assess impacts to Tribal Cultural Resources and therefore does not adequately assess environmental impacts. We urge the SWRCB to include Tribal Subsistence Fishing as a component of the Tribal Tradition and Culture beneficial use; to reject the exclusionary Voluntary Agreements and to instead implement numerical flow	The State Water Board has conducted extensive public and tribal related outreach and appreciates the significant input from tribes and environmental justice communities related to the Sacramento/Delta Update to the Bay-Delta Plan. Please see Staff Report Chapter 13, Revised Proposed Plan Amendments, for additional information on the State Water Board's efforts to engage more robustly with California Native American Tribes and integrate tribal and Traditional Ecological Knowledge into the State Water Board's Bay-Delta Plan update and implementation processes. The State Water Board actively sought, and continues to seek, consultation with interested California Native American Tribes consistent with Executive Order B-10-11 and its Tribal Consultation Policy. The Staff Report adequately evaluates environmental impacts of the project, including to cultural resources. Sections 7.7, 9.7.7, and 13.7.7, each titled Cultural Resources, describe the environmental setting, potential impacts, and mitigation measures that could avoid or reduce any identified potentially

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		requirements to protect Tribal Beneficial Uses; and to engage in meaningful government-to-government consultation with Tribes to assess the environmental impacts of the Revised Draft Updates on Tribal Cultural Resources.	significant impacts on cultural resources from changes in hydrology and water supply. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments on Tribal Beneficial Uses and tribal comments on the VAs.
1114	2	For our Tribe, the consumption of fish for subsistence purposes, particularly salmon, is an integral part of Tribal Tradition and Culture. It is part of our ceremonies, as well as part of our traditional rights and lifeways. Therefore, separating out Tribal Subsistence Fishing from Tribal Tradition and Culture and excluding it as a beneficial use in the Revised Draft Plan does not adequately protect Tribal Tradition and Culture as a beneficial use. As a result, the Tribe disagrees with the SWRCB's assessment that the objectives needed to protect the beneficial use of Tribal Tradition and Culture can be subsumed under the reasonable protection of fish and wildlife, and therefore it is our view that the protection of Tribal Tradition and Culture is not sufficiently addressed by the proposed updates to the objectives and program of implementation. Additionally, we are concerned by the statement, "In the future, additional flow-based water quality objectives or site-specific water right requirements may be considered if needed to protect other tribal uses and activities encompassed within the CUL use" (p. 11). Once designated, beneficial uses must be protected through enforceable water quality objectives and implementation objectives. Deferring these objectives to future SWRCB actions does not adequately protect Tribal Beneficial Uses.	Please see the response to comment 1114-1. The purpose of the Sacramento/Delta update is for the reasonable protection of fish and wildlife beneficial uses. Although the Tribal Tradition and Culture (CUL) beneficial use does not itself authorize implementation actions aimed at protecting fish populations, there is a practical overlap: implementation actions taken to protect aquatic life beneficial uses related to flow, water project operations, and physical habitat restoration, also support the healthy fish populations on which tribal cultural and spiritual uses depend. To the extent that other tribal uses and activities encompassed within the CUL use may be directly supported by flow actions, including for example, navigation, gathering and consumption of natural resources, and immersion ceremonies, the implementation actions protecting the fish and wildlife beneficial uses may also incidentally support those cultural activities and lifeways. The water quality objectives needed to protect fish and wildlife beneficial uses are largely addressed by the objectives and program of implementation in the Bay-Delta Plan. Protection for Tribal Beneficial Uses that are unique to specific water body segments not otherwise being protected will require additional tribal input, designations and development of water quality objectives or site-specific discharge or water right requirements. Periodic and annual reviews of the Bay-Delta Plan provide opportunities for input on adaptive implementation of existing Plan requirements as well as information on additional protections that may be needed to protect Tribal Beneficial Uses associated with flow and water project operations. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for response to comments on Tribal Beneficial Uses.

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1114	3	The proposed Voluntary Agreements fail to protect both Tribal Beneficial Uses and fish and wildlife. As the 2010 Delta Flow Criteria Report states, “The State Water Board further cautions that flow and physical habitat interact in many ways, but they are not interchangeable. The best available science suggests that current flows are insufficient to protect public trust resources” (pp. 1-2). However, the proposed VAs substitute habitat for numerical flow requirements, contradicting the best available science. Additionally, because Tribes have thus far been excluded as parties to the VAs, the current VA provisions cannot ensure that Tribal Beneficial Uses are protected. It is impossible to identify TBUs and the water quality objectives necessary to protect them in the absence of Tribal representation. The Tribe respectfully recommends that the proposed VAs be discarded, as they were negotiated without respect for Tribal sovereignty and fail to protect Tribal Beneficial Uses. However, if future VAs are to be implemented, the Tribe respectfully requests that Tribal governments be included as parties to any agreement as the first water users and water rights holders, who successfully and sustainably governed water use for millennia in California.	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on reasonable protection of fish and wildlife and consideration of other beneficial uses. Please also see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses for a discussion on tribal outreach and engagement and responses to comments on the VAs.
1114	4	Lastly, the partially recirculated Draft Staff Report/Substitute Environmental Document fails to adequately assess the impacts of the proposed updates on the environment because it fails to assess impacts on Tribal Cultural Resources. As the California Environmental Quality Act states, “a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment.” Tribal Cultural Resources are distinct from cultural resources and can only be identified through meaningful government-to-government consultation with California Native American Tribes. Tribal consultation and impacts to Tribal Cultural Resources are entirely absent from this Substitute Environmental Document. We respectfully recommend that the SWRCB engage in government-to-government consultation with California Native American Tribes to identify Tribal Cultural Resources that may be impacted by the Revised Draft Sacramento/Delta Bay-Delta Plan Updates. As a sovereign Tribal Nation whose ancestors have lived in the Bay and Delta since time immemorial, we thank you for your	The State Water Board actively sought, and continues to seek, consultation with interested California Native American Tribes consistent with Executive Order (EO) B-10-11 and its Tribal Consultation Policy. The environmental analysis for cultural resources is included in Section 7.7, Cultural Resources, Section 9.7.7, Cultural Resources, and Section 13.7.7, Cultural Resources, in the Staff Report. The Staff Report’s analysis of impacts to cultural resources, including tribal cultural resources, is adequate and sufficiently detailed for the scope of the project. Please see also Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for response to comments on tribal outreach and engagement. As explained in that common response, provisions of Assembly Bill 52 (AB 52) do not apply to a certified regulatory program or a project with a Notice of Preparation filed before July 1, 2015. (The Revised Notice of Preparation for the Sacramento/Delta Update to the Bay-Delta Plan was issued in 2012.) Although the Sacramento/Delta Update was initiated prior to the passage of AB 52, the State Water Board has engaged with interested

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		consideration of these comments. We hope that the SWRCB will choose to work with us in order to repair the damage that colonization has done to the Bay and Delta over the last two centuries, in order to sustain all of our relations who call this place home.	parties throughout the planning process consistent with EO B-10-11 and its Tribal Consultation Policy. The main focus of the environmental analyses is from changes in hydrology and changes in water supply under the revised proposed Plan amendments. Construction impacts are addressed in Section 7.21, Habitat Restoration and Other Ecosystem Projects, and Section 7.22, New and Modified Facilities. Large projects that could result in response to the project will likely require site-specific CEQA analysis and AB 52 consultation. In addition, the Staff Report reflects and acknowledges California Native American Tribes' intrinsic connection between salmon, the ecosystem, and tribal culture as evidenced by the State Water Board designating Tribal Tradition and Culture (CUL) beneficial use watershed wide as part of the Bay-Delta Plan update. Please see Staff Report Section 13.7.2, Environmental Analysis of CUL Tribal Beneficial Use Designation, for more discussion.
1115	1	As I said in my zoom testimony last week, when ancestors in my family arrived in California in the 1880s, there were about 900,000 people in the state. Our family has been part of the business community as the population has grown 40x+. We know and have helped finance the water infrastructure in Los Angeles. The devastation of the Owens Valley and Mono Lake are evidence of those business decisions. Let's not do this again! Now we have science to guide us in protecting our ecology. All our economic prosperity depends on healthy ecosystems. Please approve the Bay Delta Plan, reject the Voluntary Agreements! Your great grandchildren will thank you!	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1116	1	Section 2.1 of CCWD's comments on the 2023 Draft SED, incorporated herein by reference, provides an accurate, up-to-date description of CCWD's water supply and diversions facilities. The Draft Staff Report segregates the impacts analysis into distinct geographic regions. Using the regional definitions of the Draft Staff Report, CCWD supplies water to portions of the "Delta" region and portions of the "San Francisco Bay Area" region. We understand that it may be inevitable that some water suppliers would be split across more than one geographic	Please refer to Comment Letter 321 to review responses to the comments incorporated by reference. While some edits were included in the final Staff Report regarding CCWD facilities and definitions associated with its water use, the suggested minor revisions are not significant to the analyses or the overall conclusions regarding environmental impacts. As explained in Section 2.8, Existing Water Supply, of the Staff Report, the study area is divided into seven regions based on geography and water supply (Figure 2.8-1b). The study area regions generally correspond to the hydrologic regions defined

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		region; however, the summary of impacts analysis in the Draft Staff Report should identify when the water supply for communities that are physically located in one geographic region are summarized in a different geographic region. Although the water supply results for all CCWD's customers, regardless of where they reside, are summarized in the San Francisco Bay Area region of the Draft Staff Report, the following communities served by CCWD are located partially or completely within the Delta: Bay Point, Pittsburg, Antioch, Oakley, Cypress Corridor, Hotchkiss Tract, Summer Lakes, Bethel Island, Knightsen, and Brentwood. Since CCWD provides water as a wholesaler to municipalities and water agencies that subsequently provide water to residents and businesses in the communities above, members of the public may not recognize that the water supply for those Delta communities is analyzed as part of the Draft Staff Report San Francisco Bay Area region. In Attachment B, CCWD has identified instances in the Draft Staff Report where clarifications would better inform the public and decision-makers.	in DWR's California Water Plan or are aggregations of hydrologic regions, differing where appropriate for the current analysis. There is no regulatory significance to the study area regions designated in this Staff Report, and information presented in the document occasionally spans regional boundaries. In these cases, information generally is presented where it best aligns with geographic boundaries. For example, several counties span portions of multiple study area geographic regions, and county-level data generally are presented in context of the region with which the county best aligns geographically. The suggested minor revisions to Section 7.20.2, Environmental Setting, are not significant to the analyses or the overall conclusions regarding environmental impacts and are not included in the final Staff Report. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1116	1.1	Throughout these comments, we refer to the unimpaired flow (UIF or UF) modeling scenarios analyzed in the Draft Staff Report. The revised proposed Plan amendments retain the required unimpaired flow levels from prior drafts of the Plan of 55 percent of unimpaired flow year-round (55% UIF) within an adaptive range of 45 to 65 percent (45% to 65% UIF). Upon initial implementation, water supply adjustments (WSA) would lower the unimpaired flow levels during all but the wettest conditions (i.e., 55% UIF with WSA). When commenting on the Draft Staff Report modeling, we refer to specific scenarios (e.g., 65% UIF), recognizing that the proposed Plan amendments are made up of multiple modeling scenarios. To avoid duplication, these comments refer to and incorporate comments from other stakeholders and prior comments submitted by CCWD as appropriate. CCWD's prior comments include its January 19, 2024, Comments on the September 28, 2023, Draft Staff Report / Substitute Environmental Document (SED) in Support of Potential Updates to the Water Quality Control Plan for the San Francisco Bay / Sacramento-San Joaquin	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		Delta Estuary (Bay-Delta Plan) for the Sacramento River and its Tributaries, Delta Eastside Tributaries, and Delta (hereafter “CCWD’s comments on the 2023 Draft SED”) and its January 10, 2025, comments on the October 2024 Water Quality Control Plan for the San Francisco Bay / Sacramento-San Joaquin Delta Watershed (hereafter “CCWD’s comments on the 2024 Draft Plan”). CCWD’s comments are organized as follows: Section 2 describes CCWD’s water supply, service area, facilities, and operations and suggests revisions to the Draft Plan and Draft Staff Report to correct related inaccuracies and misinterpretations. Section 3 address the Draft Plan VA Pathway. Section 4 addresses the Draft Plan Regulatory Pathway. Section 5 addresses compliance of the Draft Staff Report with the California Environmental Quality Act. Section 6 discusses economic and housing impacts relevant to the factors required for approval under the Porter-Cologne Water Quality Planning Act. Section 7 provides a list of the exhibits referenced in these comments. Attachment A contains a list of suggested changes in the Draft Plan, and Attachment B contains a list of suggested changes in the Draft Staff Report.	
1116	1.2	2. Descriptions of CCWD’s Water Supply, Service Area, Facilities, and Operations CCWD acknowledges and appreciates the efforts the State Water Board have made to address CCWD’s prior comments by revising the modeling of CCWD’s operations. Unfortunately, however, the Draft Plan and Draft Staff Report continue to contain inaccurate, incomplete, and inconsistent descriptions of CCWD’s water supply, service area, facilities, and operations. To avoid confusion, the Final Plan and Staff Report should incorporate the corrections identified in the following sections. The following sections provide accurate, up-to-date information regarding CCWD’s water supply, service area, facilities, operations, and permits and should be the basis for all descriptions of CCWD.	While some edits were made to the draft Staff Report regarding CCWD facilities and definitions associated with its water use, the use of the term “exporter” in regard to CCWD water deliveries does not affect the modeling of the draft Staff Report nor its results. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		2.1. CCWD's Water Supply and Diversion Facilities Section 2.1 of CCWD's comments on the 2023 Draft SED, incorporated herein by reference, provides an accurate, up-to-date description of CCWD's water supply and diversions facilities. The Draft Staff Report segregates the impacts analysis into distinct geographic regions. Using the regional definitions of the Draft Staff Report, CCWD supplies water to portions of the "Delta" region and portions of the "San Francisco Bay Area" region. We understand that it may be inevitable that some water suppliers would be split across more than one geographic region; however, the summary of impacts analysis in the Draft Staff Report should identify when the water supply for communities that are physically located in one geographic region are summarized in a different geographic region. Although the water supply results for all CCWD's customers, regardless of where they reside, are summarized in the San Francisco Bay Area region of the Draft Staff Report, the following communities served by CCWD are located partially or completely within the Delta: Bay Point, Pittsburg, Antioch, Oakley, Cypress Corridor, Hotchkiss Tract, Summer Lakes, Bethel Island, Knightsen, and Brentwood. Since CCWD provides water as a wholesaler to municipalities and water agencies that subsequently provide water to residents and businesses in the communities above, members of the public may not recognize that the water supply for those Delta communities is analyzed as part of the Draft Staff Report San Francisco Bay Area region. In Attachment B, CCWD has identified instances in the Draft Staff Report where clarifications would better inform the public and decision-makers.	
1116	2	2.2. CCWD's Service Area is entirely within the watershed of the Bay-Delta Estuary; CCWD is not an exporter. The entire CCWD service area is located within the area protected by the Watershed of Origin portion (Water Code Sec.	Please refer to the response to comment 1116-1. There is no regulatory significance to the study area regions designated in this Staff Report, and information presented in this document occasionally spans regional boundaries. In these cases,

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		11460 et seq.) of the Central Valley Project Act and the Delta Protection Act (Water Code Sec. 12220 et seq.), either within the “statutory Delta” as defined in the Delta Protection Act or within the area immediately adjacent thereto and conveniently served therefrom (see Water Code Secs. 11128, 11460, 11463, and 12931). CCWD’s service area has been conveniently served with water from the Delta for more than 85 years (and portions thereof have been so served since 1930). CCWD is an in-basin water user, not an exporter. CCWD’s entire service area is within the watershed of San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Estuary) and the wastewater from CCWD’s service area that is not recycled [Footnote 1: CCWD has several agreements in place with wastewater agencies that provide recycled water supplies for industrial uses, wildlife enhancement, and landscape irrigation within CCWD’s service area. Currently, over 10,000 acre-feet per year (AFY) of recycled water is put to direct beneficial use, with up to 17,000 AFY projected to be used by 2045 (CCWD 2021).] is discharged back into the Bay-Delta Estuary. Figure 2-1 depicts the service areas of the four wastewater agencies that collect wastewater from CCWD’s service area, treat and discharge the treated water either within the Delta or immediately downstream of the Delta into Suisun Bay or Carquinez Strait.	information generally is presented where it best aligns with geographic boundaries.
1116	3	The discharge of return flows to the same region is a characteristic of an in-basin diverter (i.e., waters are not being exported out of the region). Approximately 30% of the water that CCWD diverts from the Delta is returned to the surface waters of the Bay-Delta Estuary through the collection and wastewater treatment processes. A portion of the outdoor water use in CCWD’s service area also returns to the system through percolation into the shallow groundwater, which interacts with the surface water. Return flows from CCWD’s service area are mixed by tidal hydrodynamics in the Bay-Delta Estuary, contributing to net Delta outflow and freshening the western Delta through two physical mechanisms: (1) the additional flow repels salinity intrusion from the Bay; and (2) the wastewater discharge in the	Please see the response to comment 1116-2. The revised Plan does not distinguish in-basin diversions and exports. Implementation of flow requirements under the regulatory pathway will generally follow water right priorities. The State Water Board will develop an implementation methodology to determine when water is not available at water right holders’ priorities of right. The methodology will be developed through a public process within 1 year of approval of the Plan amendments by OAL. Within 2 years of approval of the current Plan amendments by OAL, the State Water Board will adopt curtailment regulations consistent with the above that will identify specific curtailment procedures and requirements.

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		western Delta is often fresher than the receiving water, thus freshening the western Delta through dilution. The Bay-Delta Plan indicates that increased Delta outflow and lower salinity in the western Delta protects fish and wildlife beneficial uses. Accordingly, return flows from CCWD's service area serve this beneficial use. CCWD's service area does not receive any water from the export facilities in the south Delta. Neither the Central Valley Project (CVP) export facility (i.e., C.W. "Bill" Jones Pumping Plant, also known as Tracy Pumping Plant) or the State Water Project (SWP) export facilities (i.e., Harvey O. Banks Pumping Plant and Clifton Court Forebay) provides water to the CCWD service area. CCWD diverts all of its Delta water through intakes equipped with state-of-the-art fish screens, which have been demonstrated to minimize impacts to fish. Additionally, operations at CCWD's intakes and Los Vaqueros Reservoir are governed by biological opinions from the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) and an incidental take permit from California Department of Fish and Wildlife (CDFW) (NMFS 1993; NMFS 2007; NMFS 2010; NMFS 2017; USFWS 1993a; USFWS 1993b; USFWS 2000; USFWS 2007; USFWS 2010; USFWS 2017; CDFW 2024; collectively, the "CCWD-specific biological opinions and permits"), which are separate and distinct from the NMFS and USFWS biological opinions for the coordinated long-term operation (LTO) of the CVP and SWP (CVP/SWP LTO BiOps) and the CDFW incidental take permit for the long-term operation of the SWP (SWP LTO ITP).	
1116	4	For many decades, the Bay-Delta Plan has recognized that CCWD's diversions are distinct from the export facilities by excluding CCWD's diversions from "Export Limits" that limit the export of water from the CVP and SWP export facilities in the south Delta for the benefit of fish and wildlife purposes (see Table 3, Water Quality Objectives for Fish and Wildlife Beneficial Uses in the 1995, 2006, and 2018 Bay-Delta Water Quality Control Plans). Similarly, the export restriction that was imposed by NMFS in the 2009 CVP/SWP LTO biological opinion to limit CVP and SWP exports as a function of San Joaquin River inflow (i.e., the San Joaquin River inflow to export (I:E) restriction) does not restrict CCWD diversions, nor has any such limit been added	The revised proposed Plan amendments contain provisions for evaluating and updating the Net Delta Outflow Index (NDOI) in a subsequent process. That process is the appropriate venue for considering updates to NDOI related to Contra Costa Water District's diversions and return flows. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well

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		to CCWD's incidental take permit from CDFW. However, the Draft Plan includes a reference to CCWD diversions as Delta exports, which may have led to confusion and mischaracterization in the analysis for the Draft Staff Report. Figure 4 in the Draft Plan provides calculations for the Net Delta Outflow Index (NDOI) and the Percent of Inflow Diverted. While the figure includes a footnote that to clarify that the term "Delta Exports" is used only to calculate NDOI and is "not intended to distinguish among the listed diversions with respect to eligibility for protection under the area of origin provisions of the California Water Code", the inclusion of Contra Costa Canal pumping in the "Delta Exports" definition in this figure (Draft Plan p. 25) is inconsistent with the common definition of export (i.e., conveying from one basin to another without return flow) and thus leads to inaccurate calculation of NDOI due to its exclusion of return flows from CCWD's service area. In Draft Plan Figure 4 (p. 25), CCWD's diversions and return flows should appropriately be incorporated into the Net Delta Consumptive Use term. While we recognize that the State Water Board staff have recommended a process to improve Delta outflow calculations (Draft Plan p. 60), the NDOI calculation can and should be modified before State Water Board approval of the Draft Plan to correct errors regarding CCWD's diversions [Footnote 2: It should be noted that Figure 4 only includes CCWD's daily diversions at the Contra Costa Canal Pumping Plant at Rock Slough. To accurately calculate NDOI, the equation should also include CCWD's daily diversions at CCWD's Old River Intake and Middle River Intake (on Victoria Canal).] and return flows. In addition to the lack of inclusion of CCWD's return flows, the NDOI calculation also double counts a portion of CCWD's water diversions. As discussed in Section 2.1 of CCWD's comments on the 2023 Draft SED, CCWD's service area overlaps with the service area of East Contra Costa Irrigation District (ECCID), and in response to land use changes within the Delta (shifting from agriculture to urban), CCWD diverts Delta water under ECCID's water right to serve municipalities in the area where ECCID and CCWD's service areas overlap. CCWD also diverts Delta water under ECCID's water right and wheels that water to the City of Brentwood for use outside of CCWD's service	as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		area (but inside the City of Brentwood and ECCID service areas). The water that CCWD diverts under ECCID's water right is double counted in the NDOI equation on Figure 4 of the Draft Plan (p. 25), because the water is included in both the Delta Gross Channel Depletion term (GDEP) and in the Contra Costa Canal term (CCC). CCWD would be happy to work with State Water Board staff to determine modifications to correct these errors. Further, to avoid confusion throughout the Draft Plan, CCWD recommends that the Draft Plan consistently use the definition of SWP and CVP Export Facilities as it appears on page 19 ("Clifton Court Forebay inflow rate [minus Byron-Bethany Irrigation District diversions from Clifton Court Forebay] and the export rate of the Jones pumping plant"). Examples of suggested revisions to the Draft Plan to clarify the meaning of SWP and CVP export facilities are provided in Attachment A.	
1116	5	2.3. The effects of CCWD's Delta diversions are fully mitigated. As discussed in Section 2.2 above, the CCWD-specific biological opinions and permits are separate and distinct from biological opinions for the coordinated long-term operation of the CVP and SWP (CVP/SWP LTO BiOps) and the incidental take permit for the long-term operation of the SWP (SWP LTO ITP). The CVP/SWP LTO BiOps and the SWP ITP require that the CVP and SWP export facilities (i.e., CVP Jones Pumping Plant, SWP Banks Pumping Plant, and SWP Clifton Court Forebay) be operated to meet specific targets for net flow in Old and Middle Rivers (OMR) through the use of a calculated OMR Index; these requirements were imposed to minimize the impacts of CVP and SWP export facilities on aquatic species. The CVP/SWP LTO BiOps and SWP ITP requirements regarding OMR do not apply to CCWD's diversions. As discussed in Section 2.3 of CCWD's comments on the 2023 Draft SED, CCWD's diversions (even when operated at max capacity) have a negligible effect on OMR, have a negligible effect on the velocity in the San Joaquin River at Jersey Point, and are not likely to affect the movement of fish. Since CCWD's diversions cannot measurably affect OMR, CCWD's incidental take permit	The revised proposed Plan amendments already state that the interior Delta flows objectives are implemented by the SWP and CVP, through compliance with the numeric objectives and 2009 Biological Opinions and incidental take permit requirements. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		(ITP) does not require CCWD to manipulate OMR; instead, CCWD's ITP places separate terms and conditions on CCWD to fully mitigate the impacts of CCWD's diversions pursuant with the California Endangered Species Act (CDFW 2024). Specifically, all CCWD water diversion facilities are equipped with positive barrier fish screens to minimize harm to native fish and eliminate entrainment of fish larger than 20 millimeters (i.e., less than one inch). CCWD's ITP prevents CCWD from diverting water from a particular intake at any time that the protective fish screens are not operational [Footnote 3: This term is unique to CCWD's ITP. If the SWP ITP had a similar term, SWP would never be able to export water from the south Delta because there are not protective fish screens preventing entrainment of fish into the Clifton Court Forebay or the Banks Pumping Plant.]. CCWD's ITP also includes reductions in CCWD's permitted diversion rates to minimize impacts to larval delta smelt and larval longfin smelt. Finally, CCWD's incidental take permit requires CCWD to acquire and preserve tidal wetland habitat to fully mitigate for the potential incidental take of larval Longfin smelt and larval Delta smelt; this tidal wetland habitat also provides benefits to other native fish and aquatic species in the area. Implementation of the Narrative Objective for Interior Delta Flows should consider the relative effects of diversions facilities in the Delta, including how adverse effects may be mitigated by facility design and existing operational permits. The Draft Plan should be revised to clarify that the implementation of the Interior Delta Flows narrative objective and numeric interior Delta flow requirements are not necessary to protect native fish populations from CCWD's diversions (which are already fully mitigated and have no measurable effect on interior Delta flow) and therefore are not applicable to CCWD's diversions. Further, the Draft Plan should clearly state that Reclamation and DWR are responsible for meeting the requirements in the CVP/SWP LTO BiOps and SWP ITP. Other Delta diverters are not held to those requirements. Suggested revisions of the Draft Plan to clarify these issues are provided in Attachment A.	
1116	6	3. Bay-Delta Plan Provisions Regarding the VA Pathway	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		As set forth in the comments submitted by the Northern California Water Association (NCWA) and others, the Healthy Rivers and Landscapes (HRL) program, which the Draft Plan indicated would be implemented through the Voluntary Agreement (VA) Pathway, includes not only flow commitments but also non-flow habitat restoration, a governance structure, a science plan, and dedicated funding. The HRL program includes a Global Agreement, Implementation Agreements for the Delta and each tributary, and Enforcement Agreements for the Delta and each tributary. These draft agreements (or similar) will be necessary to ensure the VA Pathway is implementable and enforceable. CCWD requests that these agreements be finalized and released for public review before they are incorporated into the Draft Plan. CCWD also supports comments and proposed redline revisions submitted by NCWA on February 2, 2026, regarding the Continuation, Modification, and Termination of the VA Pathway.	the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1116	7	4. Bay-Delta Plan Provisions Regarding the Regulatory Pathway As set forth in CCWD's January 2025 Comments on the 2024 Draft Plan, incorporated herein by reference, CCWD has no objection to the general concept of an unimpaired flow pathway (also called the Regulatory Pathway) but CCWD has asked the State Water Board to clarify a number of concepts in the Draft Plan regarding the determination of unimpaired flow requirements, adaptive management and flow shaping, inflow base outflow objectives, and the water unavailability methodology. The technical details of implementing the proposed unimpaired flow pathway have yet to be determined. To inform this development, as noted by CCWD in the State Water Board's November 20, 2024, workshop, CCWD encourages the State Water Board to conduct a table-top exercise for the unimpaired flow pathway using historical hydrology. This would be a valuable exercise to inform the development of the implementation procedure and curtailment methodology. The exercise would help clarify what additional information is needed as well as possible adaptive management strategies and would allow CCWD and other water right holders to estimate the	As described within the revised proposed Plan amendments, the implementation methodology will be developed in a subsequent public process. The project is described in sufficient detail for the purposes of the analysis and the environmental analysis in the Staff Report is broad and would cover implementation of this update to the Bay-Delta Plan. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		likely frequency of water right curtailments under the unimpaired flow pathway. The Draft Plan and Draft Staff Report's programmatic analysis is lacking this information, which will need to be developed in subsequent tiers of environmental review before this aspect of the program is implemented.	
1116	8	5. California Environmental Quality Act (CEQA) 5.1. The Project Description of the Program Is Broad, so Further Environmental Review May Be Required in the Future as Specific Program Actions Are Implemented As noted in Section 3 of CCWD's Comments on the 2023 Draft SED, CCWD has concerns that the program-level analysis of the Plan amendments in the Draft Staff Report will be insufficient to support future implementation actions without further environmental review specific to the proposed actions. The project description in the Draft Staff Report includes broad Inflow and Cold Water Habitat Objectives with a significant range of variability, along with discretion reserved for future decisions. At this time, it is unclear precisely how the Plan amendments would be implemented. This could present significant problems for municipal water suppliers who will not know how much replacement water they will need to obtain until February of any given year. As the program is refined and specific actions are proposed to implement these Objectives, criteria or standards to define the bounds of implementation will be needed; this level of detail is critical to municipal water suppliers, particularly when they are in the midst of a multi-year drought. Further, as discussed in Section 5.3.2 below, the water supply impacts to CCWD and other CVP municipal contractors are greater than just the amount needed to meet the increased flows because the Draft Staff Report's modeling assumes that CVP municipal suppliers will receive only 25% of their historic deliveries under the 65% UIF scenario, rather than 50% assumed under the 55% UIF WSA scenario. Thus, it is not only unclear how much flow will be required each year, but it is also uncertain whether that decision will trigger greater municipal	The Plan amendments are broad but not unbounded. Provisions for adaptive implementation of the numeric inflow requirements are provided to optimize flows to benefit native fish and wildlife while also minimizing water supply impacts, and for the numeric inflow requirements to be implemented in a coordinated fashion with the cold water habitat and inflow-based Delta outflow requirements. The environmental analyses evaluate a complete range of impacts in the event that water users do not utilize adaptive implementation, as well as the potential impacts from implementation of adaptive implementation. A full range of flow scenarios with cold water storage targets are analyzed in Section 7.3, Aesthetics, through Section 7.20, Utilities and Service Systems, as well as physical habitat restoration and other ecosystem projects that may be pursued in Section 7.21, Habitat Restoration and Other Ecosystem Projects. See also Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for a discussion on implementation of the cold water habitat objective. For the purposes of the proposed Plan amendments, the Staff Report fully satisfies the basic purposes of CEQA, which are to: (1) inform governmental decision makers and the public about the potential significant environmental effects of proposed activities; (2) identify ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and (4) disclose to the public why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved. (Cal. Code Regs., tit. 14, § 15002, subd. (a).) To fulfill these functions, an evaluation of the environmental effects need not be exhaustive, but the sufficiency of an environmental analysis is to be reviewed in light of what is reasonably feasible and CEQA

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		supply reductions than are embedded in the higher end of the Inflow Objective's range.	documents need not be perfect. CEQA documents should be adequate, complete, and represent a good faith effort at full disclosure. (Id., § 15151.) As described in Section 7.1.5, Environmental Analysis, the Staff Report covers a broad range of compliance methods across a large area of the state. As a result, the impact analyses are necessarily broad and cover a wide range of foreseeable compliance measures and responses that could also be considered alternative means of compliance. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the approach to the environmental analysis, and adequacy of the project description for the purpose of environmental analysis. Also see Common Response 1.3, Revised Proposed Plan Amendments, regarding the program of implementation. The Staff Report acknowledges that providing instream flows for the environment necessarily results in less water available for other uses. Providing balanced protection of all beneficial uses of water is incredibly important and requires careful consideration. For this reason, water supply, including supplies from the Sacramento/Delta watershed is evaluated extensively throughout the Staff Report. Water supply is inherently uncertain given the variability of the natural hydrograph. The revised proposed Plan amendments reflect particular sensitivity for municipal supply needs, and further precision is not required to move forward with the Plan update, nor would it be possible. Modeling in the Staff Report was intended to be used in a comparative analysis to assess the incremental differences between model scenarios and is not suited for use in a predictive manner to infer future allocations to municipal CVP contractors. Please see the responses to comments 1116-12 and 1116-13 for responses to modeling comments.
1116	9	5.2. Future Tiers of Environmental Review Should Evaluate the Regulatory Pathway with Water Supply Adjustments against the Same CEQA Baseline as Used for the Voluntary Agreements Pathway As noted in NCWA's January 2024 comments, the use of different	The analyses in the draft Staff Report for all alternatives all rely on the same baseline which is described in Section 6.2.1, Baseline Assumptions, of Chapter 6, Changes in Hydrology and Water Supply. In addition, please refer to Common Response 6.2, Baseline and No Project Alternative, for a response to comments about the project baseline.

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		baselines for the Voluntary Agreement Pathway and the Regulatory Pathway resulted in analysis that understates the benefits of the Voluntary Agreement Pathway. When compared against the same baseline, the significant environmental impacts associated with the Regulatory Pathway are reduced by the Voluntary Agreement Pathway. The December 2025 addition to the Draft Staff Report included refinements to mitigate the impacts of the Regulatory Pathway, such as the addition of Water Supply Adjustments. In the next tiers of CEQA review, the refinements to the Regulatory Pathway should be evaluated against the same baseline as the Voluntary Agreement Pathway.	
1116	10	5.3. The Analysis of Impacts to CCWD Will Require Further Refinement in Future Tiers of Environmental Review. 5.3.1. Chapter 13 Has Improved the Draft Staff Report's analysis of water supply impacts to CCWD's service area, and These Improvements Should Be Carried through the Draft Staff Report. CCWD appreciates that State Water Board staff worked with CCWD staff to understand CCWD's comments on the 2023 Draft SED and modify the State Water Board's modeling tools to facilitate an accurate analysis of the need for transfer water supply in response to the proposed Plan amendments. Several of the issues raised in Section 4.1 of CCWD's comments on the Draft SED were addressed through these collaborative efforts. CCWD anticipates that Chapters 1 through 12 of the 2023 Draft SED will be revised and combined with Chapter 13 of the Draft Staff Report to complete a final Draft Staff Report before the State Water Board considers adoption of Plan amendments. To that end, CCWD notes that Chapter 13's analysis should be deemed to supersede the inaccurate analysis in the 2023 Draft SED that CCWD's water supply (i.e. "supply through the Contra Costa Canal") would not be reduced by the proposed Plan amendments. CCWD also requests that Chapters 1 – 12 of the SED should be revised as discussed in CCWD's Comments on the 2023 Draft SED. In the Draft Staff Report, CCWD understands that the water supply impacts to CCWD's service area appear to be aggregated with impacts to the San Francisco Bay Area, even though some	Please refer to the response to comment 1116-8 regarding sufficiency of environmental review. Chapter 13, Revised Proposed Plan Amendments, is part of the final Staff Report and the requested incorporation into other chapters would not change the overall impact conclusions. Chapter 13 evaluates the changes included in the December 2025 revised draft Plan and builds upon the analyses included in the 2023 draft Staff Report. The analyses generally find that the impacts of the starting point for the regulatory pathway would be less than those evaluated in the 2023 draft Staff Report, but because the water supply adjustments could be modified after initial implementation and flows could be higher in the range of unimpaired flow in the future on some or all tributaries, impacts could be as high as those identified in the 2023 draft Staff Report. Please refer also to the response to comment 1116-1.

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		communities that CCWD's serves are physically located in the Delta. Attachment B to these comments includes suggested revisions to the description of communities in the San Francisco Bay Area and the Delta regions, based on CCWD's understanding of the State Water Board's aggregation of modeling results.	
1116	11	Finally, it is worth noting that while CCWD is a CVP North of Delta municipal and industrial (M&I) water service contractor, the impacts to CCWD's CVP water deliveries do not appear to be aggregated with the other CVP North of Delta M&I water service contractors in the Draft Staff Report appendices (pp. H1a2-347, H1a3-347, H1a4-347, and H1a5-347). This is apparent because CCWD's CVP M&I deliveries often exceed 130 thousand acre-feet (TAF), yet the combined deliveries for all CVP North of Delta M&I water service in the appendices never exceed 97 TAF.	Contra Costa deliveries are included in the Bay Area municipal and industrial deliveries in the draft Staff Report Appendices Sections H1a2.6.45, San Francisco Bay Area (Urban); H1a3.6.46, San Francisco Bay Area (Urban); H1a4.6.46, San Francisco Bay Area (Urban); and H1a5.6.46, San Francisco Bay Area (Urban). How these deliveries are parsed in appendices to the Staff Report does not change how impacts to water supply are discussed in Chapter 6, Changes in Hydrology and Water Supply, and Chapter 13, Revised Proposed Plan Amendments, of the Staff Report.
1116	12	5.3.2. Improved modeling supports the Draft Staff Report, though impacts on CCWD's water supply remain understated. To review the impacts to CCWD's service area, CCWD extracted data from the revised SacWAM model results (SWRCB 2025) for the range of unimpaired flow requirements that are proposed in the Plan amendments, including the revised 45% UIF, 55% UIF, 55% UIF with WSA, and 65% UIF scenarios. The revised SacWAM results indicate shortages to CCWD's water supply, particularly in the 65% UIF. Additional analysis described below indicates that the SacWAM results underestimate impacts to CCWD's water supply, particularly in the 45% UIF, 55% UIF, and 55% UIF with WSA scenarios. 5.3.2.1. Overestimation of CVP allocations SacWAM modeling results indicate that CCWD's ability to divert under its own water right when the Delta is in excess conditions is reduced in the unimpaired flow scenarios [Footnote 4: For example, CCWD's diversion of Delta excess flow is reduced compared to the Baseline scenario by 15% in the 55% UIF with WSA scenario, by 29% in the 55% UIF scenario, and by 54% in the 65% UIF scenario.], though the modeling assumes that impacts to CCWD's total water supply in the 45% UIF, 55% UIF with WSA, and 55% UIF scenarios could be mitigated if CCWD	SacWAM results indicate that Contra Costa Water District (CCWD) rarely receives the annual CVP contract supply allocated in the baseline and the 55 w/WSA scenario. As the commenter points out, SacWAM shows that in the 55 w/WSA scenario that CCWD's ability to divert under its own water right when the Delta is in excess conditions is reduced. To make up for the reduced supply under CCWD's water right, the model attempts to meet demand to the extent possible by diverting more under the CVP contract amount. The commenter does not explain why this is not a feasible operation given water quality improvement in the 55 w/WSA scenario. Historical 25 percent allocations to CCWD are rare over the long term, and over the simulated hydrologic record, SacWAM provides a reasonable representation of available supplies to CCWD under the current level of development. Further, SacWAM should only be used for comparative purposes, not absolute predictions of operations of specific water project. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope, scale and application of SacWAM.

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		were able to divert additional (relative to the Baseline) CVP water supply under its CVP contract. According to CCWD staff with extensive expertise in hydrology and water operations, the assumption that CCWD can increase its use of CVP water supply in the 45% UIF, 55% UIF with WSA, and 55% UIF scenarios compared to the Baseline scenario is not feasible. Figure 5-1 shows CCWD's CVP allocation for 2008 through 2021, comparing actual historical CVP allocation with the SacWAM-simulated CVP allocation for the unimpaired flow scenarios. Over the 14-year period from 2008 through 2021, CCWD's actual CVP allocation (illustrated in the far-left bar on Figure 5-1) was: • 25% of historical use in 2 years (red), • 50% to 69% of historical use in 2 years (orange), • 70% to 79% of historical use in 3 years (green), and • above 80% of historical use in 7 years (blue). However, the SacWAM-simulated unimpaired flow scenarios of 45% UIF, 55% UIF with WSA, and 55% UIF during the same historical hydrology of 2008 through 2021 estimate that CCWD's CVP allocation would be no lower than 70%. For 10 years in the 45% UIF, 9 years for the 55% with WSA scenario, and 8 years for the 55% UIF scenario, CCWD's CVP allocation is simulated to be a minimum of 80%.	
1116	13	In the 65% UIF scenario, the SacWAM-simulated CVP allocation for CCWD is much lower than other SacWAM scenarios because the SacWAM assumptions for the 65% UIF scenario differ from the SacWAM assumptions. In the 65% UIF scenario, CVP allocations for municipal and industrial (M&I) water service contractors are assumed to drop as low as 25%, but in the other scenarios, CVP M&I allocations are assumed to drop no lower than 50%. The simulated SacWAM allocation of 25% for 2 years and 50%-69% in 3 years of the 2008 through 2021 hydrology for	The differences in simulated CVP allocations in the 65 scenario are due to less surface water being available for diversion as instream flow requirements increase. However, there are no differences in baseline assumptions between the unimpaired flow scenarios. Please see the response to comment 1116-12 regarding SacWAM allocations to municipal users.

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		the 65% UIF scenario is more representative of recent actual CVP allocations for CCWD. However, CCWD would expect that the CVP M&I allocation would be cut under the 65% UIF scenario to these severe shortages (i.e., less than 70% of historical use) even more often than indicated by the SacWAM modeling. Based on this data, it appears that the SacWAM-simulated CVP allocations in all UIF scenarios are unrealistically high, which means that CVP deliveries to CCWD's service area are likely overestimated, and water supply impacts to CCWD's service area underestimated, for the unimpaired flow scenarios.	
1116	14	5.3.2.2. Need for further analysis of water right curtailments SacWAM may cut CVP deliveries below the simulated CVP allocation when water supply is not available at the SacWAM priority for the diversion. However, as discussed in Section 4.3 of CCWD's comments on the 2023 Draft SED, the SacWAM priorities do not align with water right priorities. Thus, SacWAM model results for any specific water demand node (i.e., water agency service area) may not be representative of the possible water rights curtailments to implement the unimpaired flow scenarios, and the water supply impacts due to water right curtailments are not analyzed or disclosed in this programmatic analysis. Additional CEQA review of these site-specific impacts will likely be required as future tiers of the program are implemented.	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope, scale, and application of SacWAM.
1116	15	5.3.2.3. Need for further refinement of modeling's estimates of water supply impacts The 2025 Draft Staff Report continues analytical techniques utilized in the 2023 Draft SED that tend to underestimate water supply impacts. As discussed in CCWD's Comments on the 2023 Draft SED, such analytical techniques underestimate water supply impacts and should be refined as specific actions to implement the program are proposed and analyzed. Section 4.2 of CCWD's Comments on the 2023 Draft SED demonstrates that the water supply impact during multi-year droughts is significantly greater than the long-term average for critical water year types. Additionally, Section 4.5 of CCWD's Comments on the 2023 Draft SED demonstrates that the State Water Board's reliance on hydrology that occurred up to 105 years ago fails to account for observed changes in climate and hydrology. It will be	Please refer to Common Response 4.2, Drought and Climate Change, for information regarding climate change and multi-year droughts.

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		important to address these aspects of the modeling as future tiers of environmental review are developed.	
1116	16	5.4. Additional Mitigation Measures Will Be Needed to Fully Mitigate the Impacts of the Plan Amendments on Municipal Water Suppliers. As noted in CCWD's prior comments, the Draft Staff Report does not include any mitigation measures to alleviate the substantial water supply impact (or any of the other impacts) of the Plan amendments. Parties impacted by a regulatory action are not required to bear the costs and responsibility for mitigating the impacts of the regulatory agency's action. (City of Marina v. Bd. Of Trustees of Cal. State Univ. (2006) 39 Cal.4th 341, 359 [board abused its discretion under CEQA by certifying an EIR that improperly failed to identify voluntary compensation to affected party as a feasible method of mitigating the environmental effects of its project].) As the specific features of the program are developed and analyzed, the State Water Board will need to adopt appropriate measures to mitigate the impacts of its proposed actions.	Please see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the Staff Report's approach to mitigation and the applicability of the City of Marina case.
1116	17	6. Porter-Cologne Water Quality Control Act Before the State Water Board considers adoption of Plan amendments, Chapters 1 through 12 of the 2023 Draft SED will be revised and combined with Chapter 13 of the Draft Staff Report to complete a final Draft Staff Report. When the State Water Board considers adoption of the final Draft Staff Report, it will need to account for and balance the statutory factors, as noted in CCWD's Comments on the 2023 Draft SED.	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's consideration of factors listed in Water Code section 13241. In addition, please see Staff Report Section 13.6.2, Water Code Section 13241 Analysis, for a discussion of the factors required to be considered under Water Code section 13241, and how the State Water Board considered those factors throughout the Staff Report. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1116	18	[Page:] 18, Table 3. Water Quality Objectives for Fish and Wildlife Beneficial Uses [Excerpt from Draft Plan:] Row for Base Delta Outflows, Net Delta Outflow Index (NDOI), Minimum 3-day running average NDOI for all water years for Feb–Jun "7,100 cfs or equivalent salinity-based protection plus additional flow requirements specified in Table 4 below and other onramp and drought offramp provisions." [Comment:] The large footnote related to this objective in the 2018 Bay-Delta Plan has not been	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		incorporated into this table. If the State Water Board maintains this structure, CCWD recommends that a reference to the section of the Program of Implementation for this objective be added to the table. [Suggested Replacement Text:] Modify as follows: “7,100 cfs or equivalent salinity-based protection plus additional flow requirements specified in Table 4 below and other onramp and drought offramp provisions. See Section 4.4.2.7.”	
1116	19	[Page:] 19, Table 3. Water Quality Objectives for Fish and Wildlife Beneficial Uses [Excerpt from Draft Plan:] Row for Delta Cross Channel Gates Closure “Oct–Nov: Gates closed when needed for the protection of salmonids based on fisheries monitoring information and other information regarding fisheries conditions. Dec–Jan: Gates closed, except when opening needed to meet water quality objectives. Feb–May 20: Gates closed. May 21–Jun 15: Gates closed for a total of 14 days for the protection of salmonids.” [Comment:] As discussed in CCWD’s comments on the 2024 Draft Plan, the current Draft Plan’s proposed change to the time period that the 2018 Bay-Delta Plan set for Delta Cross Channel gate closure is not supported by the record. Rather than changing the water quality objectives without justification and without balancing of beneficial uses, CCWD requests that the State Water Board modify the proposed changes to refer to the requirements of other permits as appropriate. [Suggested Replacement Text:] Replace the quoted text with the following: “Nov-Jan: Gates closed for up to 45 days. Feb 1–May 20: Gates closed. May 21–Jun 15: Gates closed for a total of 14 days for the	See Section 5.4.6.1, Delta Cross Channel Gates, of the Staff Report for the description and basis of the changes referenced by the commenter. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		protection of salmonids. Additional closures may be allowed through other regulatory and permitting requirements. Such closures are not prevented by this Plan, provided any additional closures are demonstrated not to degrade water quality.”	
1116	20	[Page:] 23, Figure 2. Sacramento Valley Water Year [Excerpt from Draft Plan:] “Preliminary determinations of year classification shall be made in February, March, and April with final determination in May. These preliminary determinations shall be based on hydrologic conditions to date plus forecasts of future runoff assuming normal precipitation for the remainder of the water year.” [Comment:] CCWD recommends that the Draft Plan explicitly state which exceedance forecast should be used for the preliminary water year determination. The wording “normal precipitation” implies the 50% exceedance forecast, and the 50% exceedance forecast has been used for implementation of prior Bay-Delta Plans. [Suggested Replacement Text:] Modify as follows: “Preliminary determinations of year classification shall be made in February, March, and April with final determination in May. These preliminary determinations shall be based on hydrologic conditions to date plus forecasts of future runoff assuming normal precipitation for the remainder of the water year [begin new text] (i.e., the 50% exceedance forecast) [end new text].”	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1116	21	[Page:] 24, Figure 3. San Joaquin Valley Water Year [Excerpt from Draft Plan:] “These preliminary determinations shall be based on hydrologic conditions to date plus forecasts of future runoff assuming normal precipitation for the remainder of the water year.” [Comment:] CCWD recommends that the Draft Plan explicitly state which exceedance forecast should be used for the preliminary water year determination. The wording “normal precipitation” implies the 50% exceedance forecast; however, a footnote in the 1995 Bay-Delta Plan, carried forward to the 2018 Bay-Delta Plan, indicates that the 75% exceedance forecast should be used for the water year determination for Vernalis flow requirements. Please note that the San Joaquin Valley Water Year Hydrologic Classification does not appear to be used anywhere within the	No substantive changes to the San Joaquin River portions of the Bay-Delta Plan are proposed in this Sacramento/Delta Update to the Bay-Delta Plan. See Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a description of the purpose and goals of the Sacramento/Delta updates to the Bay-Delta Plan and Section 7.1.5.1, Sacramento/Delta, Plan Area, and Study Area, for a description of the plan area and study area. Also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project, and Common Response 1.2, Water Quality Control Planning Process, regarding the relationship with the 2018 LSJR/SD Plan Update.

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		Draft Plan. It is defined in this figure but never utilized. [Suggested Replacement Text:] Modify as follows: “These preliminary determinations shall be based on hydrologic conditions to date plus forecasts of future runoff [begin strikeout] assuming normal precipitation [end strikeout] for the remainder of the water year [begin new text], using the 75% exceedance forecast [end new text].”	
1116	22	[Page:] 25, Figure 4. NDOI [Excerpt from Draft Plan:] $NDOI = \text{DELTA INFLOW} - \text{NET DELTA CONSUMPTIVE USE} - \text{DELTA EXPORTS}$ where $\text{DELTA EXPORTS} = \text{CCF} + \text{JPP} + \text{CCC} + \text{NBA}$ [Comment:] As discussed in Section 2.2 of these comments, the inclusion of CCWD diversions in the “Delta Exports” term for the NDOI equation is inconsistent with other export definitions and creates inaccuracies. [Suggested Replacement Text:] CCWD requests to work with State Water Board staff to revise the NDOI figure to remove inconsistencies and remove inaccuracies in the calculation.	Please see the response to comment 1116-4.
1116	23	[Page:] 31 [Excerpt from Draft Plan:] “The 2018 amendments to the Bay-Delta Plan continued D-1641’s obligations on the CVP and SWP to meet the salinity water quality objectives.” [Comment:] D-1641 placed obligations on Reclamation and DWR as the water right holders for the CVP and SWP. [Suggested Replacement Text:] Modify as follows: “The 2018 amendments to the Bay-Delta Plan continued D-1641’s obligations on [begin new text] Reclamation and DWR [end new text] [begin strikeout] the CVP and SWP [end strikeout] to meet the salinity water quality objectives.”	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1116	24	[Page:] 61 [Excerpt from Draft Plan:] 4.4.4 Interior Delta Flow Objectives “The interior Delta flow objectives for the reasonable protection of fish and wildlife beneficial uses include a narrative interior Delta flow objective and numeric interior Delta flow objectives for operation of the Delta Cross Channel Gates and SWP and CVP export limits. As necessary, as part of the process to implement the Sacramento/Delta updates to the Bay-Delta Plan, the State Water Board will update the water right or other regulatory requirements of the SWP and CVP, as appropriate, to implement these objectives consistent with the Bay-Delta Plan.” [Comment:]	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Referencing the definition of SWP and CVP export limits in Table 3 will reduce confusion that arises from including other Delta diversions as part of a “Delta Exports” term on page 25. DWR and Reclamation hold the water rights. [Suggested Replacement Text:] Modify as follows: “The interior Delta flow objectives for the reasonable protection of fish and wildlife beneficial uses include a narrative interior Delta flow objective and numeric interior Delta flow objectives for operation of the Delta Cross Channel Gates and SWP and CVP export limits [begin new text] as defined in Table 3 [end new text]. As necessary, as part of the process to implement the Sacramento/Delta updates to the Bay-Delta Plan, the State Water Board will update the water right or other regulatory requirements of [begin new text] DWR and Reclamation [end new text] [begin strikeout] the SWP and CVP [end strikeout], as appropriate, to implement these objectives consistent with the Bay-Delta Plan.”	
1116	25	[Page:] 61 [Excerpt from Draft Plan:] 4.4.4.1 Narrative Objective for Interior Delta Flows “The narrative objective for interior Delta flows is implemented through compliance by the SWP and CVP with the numeric interior Delta flow objectives and implementation measures described below and the USFWS and NMFS BiOps and DFW ITP requirements for the operations of the CVP and SWP export facilities. As appropriate, during the annual or periodic review of the Bay-Delta Plan and its implementation, the State Water Board will evaluate the effectiveness of the interior Delta flow objectives and implementation actions and any needed changes to the Bay-Delta Plan or its implementation to ensure the reasonable protection of fish and wildlife beneficial uses, including to provide for consistent operations of the CVP and SWP export facilities for the reasonable protection of fish and wildlife.” [Comment:] The parties responsible for compliance are DWR and Reclamation. It is cleaner to name the responsible parties rather than naming projects without any responsible party. CCWD suggests using the full name for the CVP/SWP LTO BiOps and SWP ITP to clarify which requirements are being referenced.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		As discussed in Section 2.3 of these comments, any changes to the Interior Delta Flows Narratives Objectives should consider the relative effects of diversion facilities in the Delta, including how adverse effects may be mitigated by facility design and operational permits. [Suggested Replacement Text:] Modify as follows: “The narrative objective for interior Delta flows is implemented through compliance by [begin new text] DWR and Reclamation [end new text] [begin strikeout] the SWP and CVP [end strikeout] with the numeric interior Delta flow objectives and implementation measures described below and the [begin new text] requirements in the [end new text] USFWS and NMFS BiOps [begin strikeout] and DFW ITP requirements [end strikeout] for the [begin new text] long-term coordinated [end new text] operations of the CVP and SWP [begin strikeout] export facilities [end strikeout] [begin new text] and the DFW ITP for the long-term operation of the SWP.[end new text] As appropriate, during the annual or periodic review of the Bay-Delta Plan and its implementation, the State Water Board will evaluate the effectiveness of the interior Delta flow objectives and implementation actions and any needed changes to the Bay-Delta Plan or its implementation to ensure the reasonable protection of fish and wildlife beneficial uses [begin strikeout], including to provide for consistent operations of the CVP and SWP export facilities for the reasonable protection of fish and wildlife [end strikeout]. [begin new text] When considering the reasonable protection of fish and wildlife beneficial uses, the State Water Board will take into consideration the relative effects of diversion facilities in the Delta, including how adverse effects may be mitigated by facility design and operational permits.” [end new text]	
1116	26	[Page:] 62 [Excerpt from Draft Plan:] 4.4.4.2 Delta Cross Channel Gates Closure “The Delta Cross Channel Gate closure objective is implemented through water right requirements of the CVP and the NMFS BiOp for CVP operations. Specific implementation provisions are as follows:	See Section 5.4.6.1, Delta Cross Channel Gates, of the Staff Report for the description and basis of the changes referenced by the commenter. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well

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		i. During the period from October 1 through November 30, the Delta Cross Channel Gates may be required to be closed for the protection of salmonids based on fisheries monitoring data and other information regarding fisheries conditions, including provisions of the NMFS BiOp for the CVP. ii. During the period of May 21 through June 15, the timing and duration of the gate closures will be determined based on evaluation of monitoring and related information regarding needed measures for the protection of salmonids in consultation with NMFS, DFW, and State Water Board staff. Any disagreement on gate closures pursuant to the Bay-Delta Plan shall be resolved by the Executive Director of the State Water Board.” [Comment:] As discussed in CCWD’s comments on the October 2024 Draft Plan, the Draft Plan’s proposed change to the time period that the 2018 Bay-Delta Plan set for Delta Cross Channel gate closure is not supported by the record. Rather than changing the water quality objectives without justification and without balancing of beneficial uses, CCWD requests that the State Water Board modify the proposed changes to refer to the requirements of other permits as appropriate. [Suggested Replacement Text:] The Delta Cross Channel Gate closure objective is implemented through water right requirements of [begin new text] Reclamation. Additionally, the NMFS BiOp for long-term coordinated operation of the CVP and SWP allows for additional closures to protect salmonids, with the consideration of Delta water quality. [end new text] [begin strikeout] the CVP and the NMFS BiOp for CVP operations. Specific implementation provisions are as follows: i. During the period from October 1 through November 30, the Delta Cross Channel Gates may be required to be closed for the protection of salmonids based on fisheries monitoring data and other information regarding fisheries conditions, including provisions of the NMFS BiOp for the CVP. ii. During the period of May 21 through June 15, the timing and duration of the gate closures will be determined based on evaluation of monitoring and related information regarding needed measures for the protection of salmonids in consultation	as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		with NMFS, DFW, and State Water Board staff. Any disagreement on gate closures pursuant to the Bay-Delta Plan shall be resolved by the Executive Director of the State Water Board. [end strikeout]	
1116	27	[Page:] 13-14 [Excerpt from Draft Staff Report:] “The proposed revisions to the Bay-Delta Plan would expand the possible time period when the gates could be required to be closed under the objective to include the month of October consistent with current NMFS BiOp requirements. The time periods when the gates could be required to be closed under this objective in the revised proposed Plan amendments is as follows: October through November: Gates closed when needed for protection of salmonids based on fisheries monitoring information and other information regarding fisheries conditions. December through January: Gates closed, except when opening needed to meet water quality objectives. February through May 20: Gates closed. May 21 through June 15: Gates closed for a total of 14 days for the protection of salmonids.” [Comment:] As discussed in CCWD’s comments on the October 2024 Draft Plan, the Draft Plan’s proposed change to the time period that the 2018 Bay-Delta Plan set for Delta Cross Channel gate closure is not consistent with the NMFS CVP/SWP LTO BiOp and is not supported by the record. Rather than changing the water quality objectives without justification and without balancing of beneficial uses, CCWD requests that the State Water Board modify the proposed changes to refer to the requirements of other permits as appropriate. [Suggested Replacement Text:] Replace the quote with the following: “The proposed revisions to the Bay-Delta Plan acknowledge that other regulatory processes and permits may specify additional closures for the Delta Cross Channel Gates. Such closures are not	See Section 5.4.6.1, Delta Cross Channel Gates, of the Staff Report for the description and basis of the changes referenced by the commenter. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		prevented by the Bay-Delta Plan, provided the closure does not degrade water quality.”	
1116	28	[Page:] 13-33 [Excerpt from Draft Staff Report:] “Operation of the SWP and CVP pumping facilities and other water diversion projects in the Delta affects salmonids, pelagic fishes, and other species through alteration of circulation patterns, which can lead to adverse transport flows, changes in water quality, changes to Delta habitat, and entrainment of fish and other aquatic organisms.” [Comment:] The quoted excerpt implies that all Delta diversions and exports have the same effects on fish and other aquatic organisms. To the contrary, as discussed in Section 2.3 of these comments, some Delta diversion facilities (including CCWD facilities) were designed with state-of-the-art fish screens, pursuant to guidelines from the U.S. Fish and Wildlife Service, to minimize entrainment. Such fish screens are highly effective at excluding organisms over 20 mm long. Additionally, a small percentage of Delta diversion facilities (including CCWD facilities) have been permitted by CDFW pursuant to CESA not to merely minimize but to fully mitigate any impacts of water diversions. [Suggested Replacement Text:] Revise as follows: “Operation of the SWP and CVP pumping facilities and other water diversion projects in the Delta affects salmonids, pelagic fishes, and other species through alteration of [begin strikeout] circulation patterns [end strikeout] [begin new text] channel flow [end new text], which can lead to adverse changes in water quality, changes to Delta habitat, and entrainment of fish and other aquatic organisms [begin new text], depending on the specific diversion facility design and operational criteria [end new text].”	Minor edits to Staff Report Section 13.3.6, Interior Delta Flows, were made in response to this comment.
1116	29	[Page:] 13-34 [Excerpt from Draft Staff Report:] “The implementation provisions described below apply to the SWP and CVP regardless of whether the SWP and CVP are subject to the VA or regulatory pathway.” [Comment:] Suggest revisions to clarify [Suggested Replacement Text:] Revise as follows: “The implementation provisions described below apply to the [begin strikeout] SWP and CVP [end strikeout] [begin new text] DWR and Reclamation [end new text] regardless of whether [begin new text] their water rights for operation of [end new	Minor edits to Staff Report Section 13.3.6, Interior Delta Flows, were made in response to this comment.

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		text] the SWP and CVP are subject to the VA or regulatory pathway.”	
1116	30	[Page:] 13-34 [Excerpt from Draft Staff Report:] “As appropriate, during the annual or periodic review of the Bay-Delta Plan and its implementation, the State Water Board would evaluate the effectiveness of the interior Delta flow objectives and implementation actions and any needed changes to the Bay-Delta Plan or its implementation to ensure the reasonable protection of fish and wildlife beneficial uses, including to provide for consistent operations of the CVP and SWP export facilities for the reasonable protection of fish and wildlife.” [Comment:] As discussed in Section 2.3 of these comments, any changes to the Interior Delta Flows Narratives Objectives should consider the relative effects of diversion facilities in the Delta, including how adverse effects may be mitigated by facility design and operational permits. [Suggested Replacement Text:] Revise as follows: “As appropriate, during the annual or periodic review of the Bay-Delta Plan and its implementation, the State Water Board would evaluate the effectiveness of the interior Delta flow objectives and implementation actions and any needed changes to the Bay-Delta Plan or its implementation to ensure the reasonable protection of fish and wildlife beneficial uses [begin strikeout], including to provide for consistent operations of the CVP and SWP export facilities for the reasonable protection of fish and wildlife [end strikeout]. [begin new text] When considering the reasonable protection of fish and wildlife beneficial uses, the State Water Board will take into consideration the relative effects of diversion facilities in the Delta, including how adverse effects may be mitigated by facility design and operational permits [end new text]	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1116	31	[Page:] 13-34 [Excerpt from Draft Staff Report:] “The Delta Cross Channel Gate closure objective is implemented through water right requirements of the CVP and the NMFS BiOp for CVP operations. The objective and implementation provisions would be revised as follows: 1. During the period from October 1 through November 30, the Delta Cross Channel Gates may be required to be closed for the	See Section 5.4.6.1, Delta Cross Channel Gates, of the Staff Report for the description and basis of the changes referenced by the commenter. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well

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		protection of salmonids based on fisheries monitoring data and other information regarding fisheries conditions, including provisions of the NMFS BiOp for the CVP. 2. During the period of May 21 through June 15, the timing and duration of the gate closures will be determined based on evaluation of monitoring and related information regarding needed measures for the protection of salmonids in consultation with NMFS, CDFW, and State Water Board staff. Any disagreement on gate closures pursuant to the Bay-Delta Plan shall be resolved by the Executive Director of the State Water Board.” [Comment:] As discussed in CCWD’s comments on the October 2024 Draft Plan, the Draft Plan’s proposed change to the time period that the 2018 Bay-Delta Plan set for Delta Cross Channel gate closure is not supported by the record. Rather than changing the water quality objectives without justification and without balancing of beneficial uses, CCWD requests that the State Water Board modify the proposed changes to refer to the requirements of other permits as appropriate. [Suggested Replacement Text:] Revise as follows: “The Delta Cross Channel Gate closure objective is implemented through water right requirements of [begin new text] Reclamation. Additionally, the NMFS BiOp for long-term coordinated operation of [end new text] the CVP [begin new text] and SWP allows for additional closures to protect salmonids, with the consideration of Delta water quality. [end new text] [begin strikeout] and the NMFS BiOp for CVP operations. The objective and implementation provisions would be revised as follows: 1. During the period from October 1 through November 30, the Delta Cross Channel Gates may be required to be closed for the protection of salmonids based on fisheries monitoring data and other information regarding fisheries conditions, including provisions of the NMFS BiOp for the CVP. 2. During the period of May 21 through June 15, the timing and	as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		duration of the gate closures will be determined based on evaluation of monitoring and related information regarding needed measures for the protection of salmonids in consultation with NMFS, CDFW, and State Water Board staff. Any disagreement on gate closures pursuant to the Bay-Delta Plan shall be resolved by the Executive Director of the State Water Board.” [end strikeout]	
1116	32	[Page:] 13-177 [Excerpt from Draft Staff Report:] “The Bay Area region includes communities that receive Sacramento/Delta supply via the Putah South Canal, North Bay Aqueduct, Contra Costa Canal, Mokelumne Aqueduct, and South Bay Aqueduct, and diversions from the western Delta to Antioch and Contra Costa Water District. These communities include the North Bay (Fairfield, Suisun City, Travis Air Force Base, Napa, Benicia, Vallejo), East Bay (CCWD and EBMUD), and South Bay (portions of Santa Clara Valley Water District [Valley Water], Zone 7 Water District [Zone 7], and Alameda County Water District).” [Comment:] As discussed in Section 2.1 of these comments, CCWD serves communities within the Delta. Since the effects to CCWD’s water supply are summarized in this Bay Area region, the text should clearly note that the communities in the Delta that are served by CCWD should look to this section for analysis. Further, it is CCWD’s understanding that diversions by the City of Antioch are included in the Delta region while diversions by CCWD that are delivered to the City of Antioch are included in the San Francisco Bay Area. [Suggested Replacement Text:] Revise as follows: “The Bay Area region includes communities that receive Sacramento/Delta supply via the Putah South Canal, North Bay Aqueduct, Contra Costa Canal, Mokelumne Aqueduct, and South Bay Aqueduct, and diversions from the western Delta [begin strikeout] to [end strikeout] [begin new text] by [end new text] [begin strikeout] Antioch and [end strikeout] Contra Costa Water District [begin new text] (CCWD) [end new text]. These communities include the North Bay (Fairfield, Suisun City, Travis Air Force Base, Napa, Benicia, Vallejo), East Bay (CCWD and EBMUD), [begin strikeout] and [end strikeout] South Bay (portions of Santa Clara Valley Water District [Valley Water],	The suggested changes are applied to Section 13.4.4.5, Sacramento/Delta Supply to the San Francisco Bay Area, Central Coast, and Southern California (page 13-177) as requested by CCWD.

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		Zone 7 Water District [Zone 7], and Alameda County Water District) [begin new text], and communities within the Delta that are served by CCWD, including Bay Point, Pittsburg, Antioch, Oakley, Cypress Corridor, Hotchkiss Tract, Summer Lakes, Bethel Island, Knightsen, and Brentwood.” [end new text]	
1117	1	The Bay Delta Plan, which the CA Water Board approved in 2018 is a good plan. It took almost 10 years to develop and it addresses the concerns of native peoples, scientists, fisher people, farmers, environmentalist, and city dwellers. It is not perfect, but it does require viable minimum water flows to support the salmon populations, healthy rivers and Bay Delta environment. Federal laws mandate that the Board set water quality objectives that provide reasonable protection of beneficial uses of water for all constituents. Because the plan has not been implemented the Tuolumne, San Joaquin River and Bay-Delta systems are in worse shape than in 2018. The populations of fish and wildlife have plummeted. There are toxic algae blooms in the Bay Delta and invasive species clogging water ways. The fisheries are in collapse. These biological disasters would not be occurring if there was adequate stream flow into the Delta. The Voluntary Agreements (VA) were put together hastily for political reasons. The science shows that the VA flow minimums do not provide enough cold, fast flowing water to support a viable native fish populations and river and Bay Delta environment. No fishing, conservation, tribal or environmental justice groups support the VA. The Board should include strong science-based protections that require increased flows of at least 55% in our Sierra rivers in most years and a minimum of 45% in all years. I am a landscape architect. One of the key skills of a LA is to design efficient irrigation systems. California agriculture uses about 80% of the clean water in our state. There is plenty of room for farmers to improve their irrigation systems and grow healthy crops and trees using far less water than they currently use. We’ve all seen overhead spray irrigation running in the Valley in the middle of hot summer days. Stopping these wasteful practices will make it even easier for California to meet the water	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.2, Water Quality Control Planning Process, regarding the consideration of beneficial uses, and the evaluation of the benefits of the VA pathway in the Scientific Basis Report Supplement (Staff Report Appendix G2) and Staff Report Section 13.5, Beneficial Environmental Effects.

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		needs of all users in the state. The Board has the opportunity to do what is right for the long-term health of the Tuolumne, San Joaquin River and Bay-Delta system, and all of the citizens of the Bay Area who depend on a healthy environment. The lives and livelihoods of fisher people have already been harmed by the disasters caused by lack of adequate flows allowed into our rivers and the Delta. The VA will not meet the Water Board's revised water quality objectives and will not provide reasonable protections for fish and wildlife. Please do not support the VA. Please support the document that your own board developed.	
1118	1	Napa County Flood Control and Water Conservation District (Napa County FC&WCD) is much obliged for this opportunity to share ubiquitous Municipal and Industrial (M&I) water supply concerns and state our unyielding opposition on the Unimpaired Flow (UIF) regulatory approach to achieve ecological objectives set forth in the updated Bay-Delta Water Quality Control Plan (BDWQCP). North Delta water supply losses linked to UIF implementation in the December 2025 plan revisions are extraordinary and calamitous for City water suppliers. Napa County FC&WCD supports the Healthy Rivers and Landscapes Program formerly known as Voluntary Agreements which alternatively prescribes additional flow, non-flow, science program and adaptive management commitments to be reviewed annually on performance metrics by broad-based professional representation. Napa County residents, tourists, industrial / commercial businesses and institutions rely on the delivery of North Bay Aqueduct surface water for utility customer use and public fire protection. Water is an essential natural resource for over 78,000 jobs and a \$14B economy in Napa County. Cities of Napa, American Canyon and Calistoga are subscribers to the State Water Project under a Contractor Agreement between the Napa County FC&WCD and Department of Water Resources (DWR). Napa's maximum DWR Table A allocation is 29,025 acre-feet (AF).	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. See Staff Report Section 13.7.20, Utilities and Service Systems, for the analysis of impacts to utilities and service systems.

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1118	2	Napa County FC&WCD and City Agencies have monitored iterative drafts of State Water Resources Control Board's updates to the BDWQP. Comments presented herein are intended to bring awareness of water supply shortages under the unimpaired flow regulatory pathway, criticality of Article 21 water deliveries during dry year cycles as experienced five (5) out of the last twelve (12) years and potential repercussions in Article 56 Contractor carryover storage in San Luis Reservoir. District staff also compiled North Bay Aqueduct export statistics for Napa County FC&WCD over the period of record to evaluate baseline versus unimpaired flow water supply adjustments by year type. Table 1 that follows illustrates the longstanding history of Napa County FC&WCD dependance on NBA water deliveries under Article 21 of its contract with DWR when Delta hydrology is In Excess, with or without in-basin restrictions. Napa County FC&WCD is concerned about future availability of Article 21 delivery entitlements within the framework of BDWQCP updates. Dry Year Purchase Programs in 2021 and 2022 faced scaled back allocations and curtailments imparting stressed pool depletions of local Napa County resources that in turn negatively affected water quality. Napa Cities could only secure a few hundred acre-feet of Yuba Accord Surface Water Component and Dry Year Transfer Program Groundwater Substitution allocations in the recent multi-dry year episode.	The project is revised as described in Common Response 1.3, Revised Proposed Plan Amendments. In addition to the proposed Plan amendments, which remain part of the project as the regulatory pathway, the revised proposed Plan amendments include water supply adjustments for existing water right holders at the outset of plan implementation to reduce water supply impacts and allow more water to be stored in reservoirs on initial implementation. SacWAM results indicate that there will not be a reduction in Article 21 deliveries in the 55 with WSA scenario as shown in Section H1a2.6.62, Total SWP Article 21, of Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments. However, note that these refinements include the possibility of moving up in the range of unimpaired flow in the future. The State Water Board recognizes that providing instream flows for the environment necessarily results in less water available for other uses. Providing balanced protection of all beneficial uses of water is incredibly important and requires careful consideration, and the State Water Board is sensitive to supply impacts. The revised proposed Plan amendments were developed to improve flow and water quality conditions over a large geographic area, and particularly for fish and wildlife beneficial uses in the Sacramento/Delta.
1118	3	According to the Sacramento Watershed Allocation Model simulations presented in Appendix H of the BDWQCP, North of Delta Table A diversions would likely be subject to 15 percent and 34 percent M&I water supply adjustment (WSA) for Critical (C) and Dry (D) Year Sacramento Valley Index Water Year Types. Even with demand management through exemplary conservation programs City Agencies nearly encroached their limit of DWR dry year assurance "water supply loan" of Advanced Table A water permissible by a 2013 Area of Origin Settlement Agreement in 2021 and 2022. Hence, any reduction of SWP allocation in Critical and Dry Years has serious health and safety ramifications coupled with industrial and commercial customers potentially shuttered due to water outage. Napa County FC&WCD lastly wants State Board to understand	It is unclear how the commenter derived the 15 and 34 percent values from Appendix H. However, Section H1a2.6.60, SWP Table A North of Delta, shows SWP north of Delta Table A deliveries for each scenario. Table H1a2-445 shows that there is 19% reduction in north of Delta Table A deliveries in critical years under the 55 with WSA scenario. The impacts of such reductions on water supply are presented in Section 13.7.20, Utilities and Service Systems. SacWAM results for SWP San Luis Reservoir presented in Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments, indicate that San Luis Reservoir is full about 10% more frequently under the 55 with WSA which may affect the availability of Article 56 carryover water. To the extent that there is a reduction in availability of

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		most State Water Project Contractors store Article 56 carryover from above normal and wet years in San Luis Reservoir to thwart inevitable dry years. The off-stream conservation facility can hold up to 1.062 MAF of DWR storage apportionment pursuant to a Coordinated Operations Agreement (COA) with the Bureau of Reclamation Central Valley Project. San Luis Reservoir storage of DWR Project and Non-Project water has exceeded the maximum COA storage three (3) of the past twelve (12) years resulting in near or total loss of Article 56 carryover for Contractors. Hydrodynamic modeling conducted for the Delta Conveyance Project forecasts San Luis Reservoir probability of spill occurrence will nearly double from 32% to 62%. More frequent loss of stored carryover before consecutive dry years would be devastating to urban water supply and agriculture across the State of California. Water storage investment in off-stream surface water and groundwater conservation facilities is mandatory to climate adaptive water supply particularly when ecological preservation is factored into resource management by the BDWQCP.	article 56 water; it is captured in the impact analysis presented in Section 13.7.20. Additionally, Section 13.5 Beneficial Environmental Effects and Section 13.6 Public Trust and Water Code Section 13241 Analyses discuss Health and Safety issues. The regulatory pathway also contains provisions for development of curtailment exceptions for human health and safety needs and other appropriate purposes (Section 13.6.1 Public Trust Analysis).
1119	1	I care intimately about many rivers in California. I grew up on the Feather River, I've vacationed all my life on the Yuba River, and I've spent significant time on the Tuolumne River. Fifteen years ago, when this update to the Bay Delta Water Quality Plan was just getting underway, I was part of a boating trip called Paddle to the Sea. The trip went along the Tuolumne River from Yosemite to the San Francisco Bay. On this trip, some 200+ people wrote handwritten letters to the State Water Board, asking for more water in the river for recreation and fish. Most of those folks were from the Modesto area and had joined in the big Paddle to the Sea for a day of canoeing. I had the privilege of making 4 copies of each of those handwritten letters and assembling them into 5 binders which we delivered to each Member of the State Water Board - all of whom were the members before you held the office, which is why I wanted to mention it to you all at this much later point in the process. I have to tell you there was one day on that trip the canoes all got stuck on the bottom of the riverbed and we had to pull them up and walk because the river was so low. There were nearby	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		orchards using flood irrigation, and the water was deeper there than it was in the riverbed that day.	
1119	2	I was also around and paying attention when the Voluntary Agreement process started - and I remember lots of us had high hopes for that process at the start. But in the decade plus since, the Trump Administration has shown us all, quite painfully, that rules that are without enforcement mechanisms are basically no good at all. Even if they start with good intentions, unenforceable rules are not up to the task. We heard from Panel 4 that the current “regulatory backstop” is an illusion, and it’s not fooling anyone. And frankly, the look of these “voluntary agreements” well, it sort of smacks of Zuckerberg and Bezos sitting front row at the inauguration. Respectfully, I would like to ask the members of the State Water Board to please - read the room. Read the moment. Cozy side negotiations between wealthy business interests and the administration that produce “Agreements” without any teeth or enforcement - that is not what Californians are clamoring for in this day and age, in this political environment. I wish Governor Newsom - who so often has so much courage - would see that this sort of industry coziness not going to play in 2028. People are sick of it. We want government that works for the people. That protects the public trust. This is it. The time to be on the right side of history. You can be the people who saved the salmon! But the current path the board is taking is breaking that trust and presiding over extinction. You have a historic opportunity and responsibility to protect California’s remaining heritage, please take it. This past October, I had the privilege of accompanying a group of 6th and 7th graders on a 4 day rafting trip on the Sacramento River. These kids had been learning about salmon on the trip and in class beforehand, and the highlight of the trip was finding a handful of salmon skeletons on the riverbank. I wish you could	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.

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		have seen these kids picking up these skeletons and ooohing and aahhing over them. Running around with them, saying they looked like dragons. It was so fun, watching these kids come alive in this weird encounter with our glorious, Californian megafauna. But there were only a handful of skeletons, and there should have been thousands. And I desperately want our future generations to get to experience them. Please, take this historic opportunity to put the water that is needed back into the river through the strongest, enforceable, regulatory measures.	
1120	1	Yolo County Flood Control & Water Conservation District (District) appreciates the opportunity to comment on the State Water Resources Control Board's (State Water Board) December 2025 Revised Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (December 2025 Draft BDP Updates) and new Chapter 13 of the Draft Staff Report (DSR). For the last several years, we have coordinated with other stakeholders such as the Yocha Dehe Wintun Nation to sustainably manage the Lower Cache Creek watershed and we appreciate their comments [Footnote1: The Yocha Dehe Wintun Nation's January 27, 2026 letter is attached to these comments and incorporated herein.] supporting adoption of the District's Healthy Rivers & Landscapes (HRL) proposal as part of the HRL Program/Voluntary Agreements pathway (HRL/VA Pathway). The District would like to thank State Water Board staff for working with us to refine the District's HRL proposal, which will contribute additional flows to Putah Creek to support the recovering salmon population in that waterway. We are happy to see inclusion of the District's HRL/VA Pathway proposal in the December 2025 Draft BDP Updates. We believe the HRL/VA Pathway is an implementable program for updated water quality objectives that could prove to be sustainable far beyond the initial eight-year time frame. We, therefore, suggest only few minor clarifying revisions to the description of the District's HRL proposal in Appendix B.1.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1120	2	The District is concerned that the proposed Regulatory Pathway as described in the December 2025 Draft BDP Updates, and analyzed in the new Chapter 13, is problematic for a number of reasons and requires additional analysis sufficient to explain its	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply regarding scope, scale and application for a discussion on the scale of the analysis. Results modeled in the staff report often do not

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		impacts at the level of the District's diversions and service area prior to implementation. This includes the newly proposed 55% unimpaired flow with water supply adjustments (55% w/WSAs) approach within the "Regulatory Pathway" intended to contribute to achieving the BDP's proposed narrative objective. In particular, as to that new proposal, it clearly would reduce surface water supplies, and appears that it would cause groundwater levels to significantly decline in the District's service area; however the total impact is unclear because of how Chapter 13 incorporates the District's service area with Solano Subbasin and neighboring areas.	perfectly align with groundwater basin boundaries. Impacts are fully addressed in the 2025 partially recirculated draft Staff Report in Section 13.4.5 Changes in Groundwater Supply. Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, regarding groundwater impacts.
1120	3	In addition, Chapter 13 does not provide any analysis of the impacts of the 55% w/WSAs proposal on hydropower generation, but by reducing storage in the District's Indian Valley Reservoir, it will adversely impact hydropower generation at the District's hydroelectric plant associated with that reservoir. Such results could be similar to the impacts indicated in Chapter 7 of the September 2023 Draft Staff Report (DSR). For the reasons stated above, the State Water Board will need to prepare additional CEQA analysis to properly evaluate impacts if it considers implementing the 55% w/WSAs proposal, or other aspects of the Regulatory Pathway, to apply to the actual operations of the District or other water users.	The Indian Valley hydropower facility is a small facility that did not meet the 10 MW capacity threshold used for choosing facilities for individual analysis. However, effects at small facilities were considered in aggregate for Impact EN-d in Section 7.8, Energy. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding scope of analysis. While the 55 w/WSAs scenario is the starting point for the regulatory pathway, the regulatory pathway could still result in flow requirements that fall within the range of flows evaluated in Chapter 7, Environmental Analysis, and the impact conclusions from Section 7.8, Energy, would not change. For this reason, Chapter 13, Revised Proposed Plan Amendments, does not include a new analysis of hydropower generation.
1120	4	The District requests minor clarifications to the description of its HRL proposal in Appendix B.1. The District requests the language in Sections B.1.14.2 and B.1.14.5.iv of Appendix B.1 be harmonized with the existing language in Section 4.4.9.3 of the December 2025 Draft BDP Updates (p. 70) and Section 13.3.4.3 of Chapter 13 (p. 13-25) to make clear that the District may potentially utilize Cache Creek flows for its HRL flow commitments in Putah Creek so long as use of Cache Creek flows will have "no significant adverse" impacts to water quality. The District requests additional revisions to Sections B.1.14.2 and B.1.14.5.iv to clarify that the requisite water quality analyses supporting releases of Cache Creek flows into Putah Creek will specifically focus on evaluating potential effects related to boron,	As acknowledged by the commenter, these details are already included in the revised proposed Plan amendments.

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		nitrites, and harmful algal blooms as provided for in the District’s October 2025 HRL/VA Pathway term sheet, which was fully executed by the relevant parties. The District’s suggested redline revisions are as follows: a. “The YCFCWCD HRL flows will be provided either through: 1.) purchases or exchanges to supply additional Putah Creek water to Putah Creek or; 2.) upon approval of a water right permit for diversions from the Cache Creek watershed, Cache Creek surface water or recharged groundwater provided that there are no [start new text] significant adverse [end new text] impacts to water quality (specifically related to boron, nitrate, or harmful algal blooms) in accordance with section 4.4.9.” (Section B.1.14.2, pp. B.1-64 – 65.) b. “YCFCWCD HRL participants may divert surface water or banked groundwater from Cache Creek into Putah Creek to meet HRL flow commitments if a permit for Cache Creek diversions has been approved and there would be no [start new text] significant adverse [end new text] impact to water quality (specifically related to boron, nitrate, or harmful algal blooms) from providing Cache Creek flows to Putah Creek.” (Section B.1.14.5.iv, p. B.1-69.)	
1120	5	The District’s previous comments noted that the proposed Bay-Delta Plan amendments described in the DSR do not adequately identify or analyze the impacts of the Regulatory Pathway on the Cache Creek watershed or the District and the District provided its own analysis highlighting potential adverse impacts. The District’s January 19, 2024 comments on the DSR explained that the DSR failed to adequately analyze or disclose the proposed Bay-Delta Plan amendments’ potential impacts on the District’s water supplies and their beneficial uses—including generation of electricity at the Geysers geothermal facility—and utilized the wrong metric for analyzing impacts on storage in Clear Lake. [Footnote 2: The District’s January 19, 2024 letter is attached hereto and the comments are incorporated herein.] The	The draft Staff Report does not analyze impacts at the individual water district scale; rather, impacts are analyzed at a regional scale. Please see Section 13.7.20, Utilities and Service Systems, for the impact analysis on utilities and Section 13.7.8, Energy, for the impact analysis on energy. Additionally, please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the SacWAM scope, scale and application as well as Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion on the level and scope of the analysis. While the changes in diversion to the communities that divert from Clear Lake are much smaller than the level of analysis, water supply for The Geysers geothermal facility, which is

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		District's January 19, 2024 comments also described the adverse impacts that the 55% of unimpaired flow approach would have on reservoir storage, surface water supplies, groundwater storage and recharge, hydroelectric power generation at Indian Valley Reservoir, geothermal power generation at the Geysers facilities, the District's customers, disadvantaged communities in Lake County and Yolo County, regional sustainability, and local and state economies.	partially supplied by wastewater originating from Clear Lake, is not expected to change. SacWAM results show that in the 55 w/ WSA scenario, changes to raw water diversions are very small. In 85% of the years, reductions in water supply to the Clear Lake communities are less than 1 TAF per year and the largest reduction is about 2 TAF per year and only occurs in 4 % of the years. The changes in wastewater effluent resulting from these small reductions in raw water supply to the communities would be much smaller because it is unlikely that the small changes in raw water supply would result in a reduction in indoor water use. Lastly, the State Water Board also plans to develop appropriate provisions to address human health and safety needs and other possible reasons for short-term and long-term exceptions to curtailments to allow continued diversions for minimum human health and safety water supplies where alternate supplies are not available.
1120	6	Chapter 13 and its appendices still do not adequately identify and analyze relevant impacts sufficiently for the State Water Board to implement the Regulatory Pathway at a diverter-specific level without further analysis but do disclose that the newly proposed 55% w/WSAs approach would have adverse impacts on reservoir storage, surface water supply, groundwater storage, and hydroelectric generation at Indian Valley Reservoir. One of the critical difficulties that the new analysis in Chapter 13 and its appendices present for the District in considering the new 55% w/WSAs proposal and other proposals is that Chapter 13 and its appendices combine the District's service area with other areas that are served by significantly different surface-water supplies, specifically the supplies available in Solano County and parts of Yolo County from Lake Berryessa. In addition, Chapter 13 appears to repeat the DSR's inaccurate characterization of Clear Lake's operable storage, given how the lake is a natural waterbody with a limited increment of operable manmade storage. On these subjects, the District's specific comments are as follows: a. Impacts on the District's operable storage at Clear Lake: According to Appendix H1a3, end-of-April Clear Lake storage is 30-50,000 acre-feet (AF) lower with the 55% w/WSAs scenario	Please see the response to comment 1120-5 regarding the level of analysis in the draft Staff Report. As required by CEQA, the Staff Report discloses environmental impacts associated with the project in Chapter 7, Environmental Analysis, Chapter 9, Proposed Voluntary Agreements, and Chapter 13, Revised Proposed Plan Amendments. While the 55 w/ WSA scenario is the starting point for the regulatory pathway, the regulatory pathway could still result in flow requirements that fall within the range of flows evaluated in Chapter 7, Environmental Analysis, and the impact conclusions from Section 7.8, Energy, would not change. Changes in reservoir storage are discussed in Chapter 6, Changes in Hydrology and Water Supply, and Chapter 13. Specific plots of changes in April and changes in September storage for Clear Lake are presented in Appendix H1a2, Section H1a2.5.9, Clear Lake (Cache Creek Watershed). The operable storage levels as simulated in SacWAM and described in the SacWAM documentation range from 842 TAF to 1155 TAF. The impacts associated with changes in reservoir storage are considered in the various resource sections such as Section 13.7.4, Agriculture and Forest Resources, Section 13.7.8, Energy, and Section 13.7.20, Utilities and Service Systems. Additionally, please see Section 13.8.2.6, Agricultural Economic Effects on Economically Disadvantaged Communities, which

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		than in the baseline through about the middle one-third of the exceedance curve, notwithstanding that scenario being targeted to reducing water supply and storage impacts. (See Figure H1a3-83 and Table H1a3-171 in Section H1a3.5.9, pp. H1a3-219 to H1a3-220). Though it is hard to interpret, that level of difference could be important for the District's allocations under the Solano Decree and the long-term sustainability of the community that the District serves. The level of storage at which the modeling measures these changes, though, is between 1,100,000 and 700,000 AF, which is not the operable storage in Clear Lake. As the District noted in its January 19, 2024 comments, operable storage (not the entire lake) is the relevant metric to model and analyze impacts. Nonetheless, the modeled reduction in storage presumably would come out of the increment of storage that the District can control. The numerical results for storage in Table H1a3-171 confirm that the 55% w/WSAs scenario would have significant impacts on the District's operable storage in the middle years. b. Impacts on the District's storage at Indian Valley Reservoir: According to Appendix H1a3, the 55% w/WSAs scenario when compared to the baseline would reduce Indian Valley Reservoir storage by about 25,000 AF in the middle of the exceedance curve. (Figure H1a3-99 in Section H1a3.5.18, p. H1a3-235). That presumably could have adverse water-supply impacts on the District, but it is difficult at best to determine those impacts because the appendices in Chapter 13 incorporate neighboring areas served by other surface-water sources with the District's service area.	presents agricultural economic effects on economically disadvantaged communities.
1120	7	c. Impacts on Yolo-Solano agricultural water supplies: Appendix H1a3 analyzes water demand for "Water Budget Areas 20 and 25," which includes the District, Solano Irrigation District and other service areas served from Lake Berryessa. (Figure H1a3-186 and Table H1a3-376 in Section H1a3.6.26, p. H1a3-323). The District's water source is different than Solano Irrigation District's source. In any case, both the figure and the table show a reduction in water supplies with the 55% w/WSAs scenario within demand unit 20_25 of between about 24,000	Although the commenter is in the best position to identify a specific impact if there is one, the commenter has not done so. The impacts on agriculture from changes in water supply under the 55 w/WSAs are characterized in Section 13.7.4, Agriculture and Forest Resources, which references specific modeling results that are found in Section 7.4, Agriculture and Forest Resources. Yolo County FCWCD is located in production region 6 of the SWAP model. The SWAP modeling results for Region 6 can be found in Section A3.3, SWAP Modeling Results.

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		AFY (from a baseline of 802,000 AFY) at the 20% exceedance and 47,000 AFY (from a baseline of 688,00 AFY) at the 90% exceedance. Although the District cannot identify for certain, it seems like the reduction in water supplies will disproportionately impact the District given the Clear Lake and Indian Valley storage results and the fact that Lake Berryessa, Solano Irrigation District's source, holds much more storage than the District's facilities.	The SacWAM results presented Section 13.4, Changes in Hydrology and Water Supply, and the relevant appendices describe the changes in water supply that could occur as a result of revised proposed Plan amendments. The analysis is consistent with the scope and level of detail required for the purpose of the Bay-Delta Plan Update. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for additional discussion of the SacWAM scope, scale, and application. At the outset of the implementation of the Plan, WSAs will significantly reduce the water supply impact from the regulatory pathway. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding implementation of the Plan with water supply adjustments.
1120	8	d. Impacts on groundwater storage in the Yolo Subbasin: The analysis of groundwater storage by basin in Appendix H1a3 ignores Bulletin 118 designations and instead combines the Yolo and Solano Subbasins. (See, e.g. Table H1a3-476 in Section H1a3.7.13, p. H1a3-379). This information shows about 11,000 AF per year of additional average drawdown between the baseline and the 55% w/WSAs scenario, which is more than a 25% average annual increase. As noted in MBK's technical analysis of Chapter 13 accompanying the Northern California Water Association (NCWA) and Sacramento Valley Water Users Comment Letter regarding the December 2025 Draft BDP Updates, [Footnote 3: This letter incorporates by reference MBK's technical analysis of Chapter 13 and the Northern California Water Association and Sacramento Valley Water Users Comment Letter regarding December 2025 Draft BDP Updates (February 2026 NCWA Letter).] it is impossible to understand the modeling and analysis of impacts to groundwater in Chapter 13 and its appendices. It is similarly impossible to understand what proportion of the additional drawdown reflected in Table H1a3-476 will occur within the Yolo Subbasin.	The commenter misinterprets the appendix modeling outputs by treating SacWAM's groundwater-pumping constraints and/or long-term cumulative groundwater-storage differences as findings of the groundwater impact analysis. The conclusions presented in the comment do not reflect the purpose, scope, or findings of the groundwater analysis in the Staff Report, nor do they represent any predictions or estimations of actual groundwater storage or use in a groundwater basin. The groundwater impact analysis is described in Sections 7.12.2 and 13.7.12.2 (Groundwater). For clarification on the appropriate groundwater impact analysis, SacWAM's consideration of groundwater, and further discussion on SGMA considerations, please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act. An overview of the Department of Water Resources' Bulletin 118 groundwater basins and subbasins is provided in Section 7.12.2, Groundwater, with basin prioritizations shown in Figures 7.12.2-1a and 7.12.2-1b. Within Section 7.12.2.2, Environmental Setting, region-specific tables identify the Bulletin 118 groundwater basins or subbasins in the study area along with their prioritization status. In addition, adjudicated basins within the study area, based on Bulletin 118 recognized groundwater basins and subbasins, are listed in Table 7.12.2-1, Adjudicated Groundwater Basins and Subbasins in the Study Area.

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			The qualitative and quantitative groundwater impact analyses in Sections 7.12.2 and 13.7.12.2, each titled Groundwater, rely on Statewide Agricultural Production (SWAP) model results informed by inputs from the Sacramento Water Allocation Model (SacWAM). These models represent the best available, peer-reviewed tools for evaluating groundwater-related impacts within the study area. Because SWAP and SacWAM are designed around water budget areas specific to their modeling frameworks, they do not use Bulletin 118 basin or subbasin delineations. Please see Common Response 7.1, CEQA and Approach to the Analysis, for more information on the level and Scope of the Analysis.
1120	9	e. Impacts to hydroelectric generation at Indian Valley Reservoir and grid reliability: It is impossible to fully understand from Chapter 13 whether the December 2025 Draft BDP Updates would have the same impacts on the District's hydropower generation at Indian Valley Reservoir as shown in the other chapters of the DSR. Chapter 13 appears to contain no specific analysis of the hydropower generation impacts of the 55% w/WSAs option, so it appears to be impossible to tell exactly what that option's impacts would be on Indian Valley Reservoir's hydroelectric generation. Chapter 13 states that "[t]he regulatory pathway would have similar effects as evaluated in Section 7.8." (Section 13.7.8.1 of Chapter 13, pp. 13-326, 13-330 to 13-331.) That suggests that the revised Regulatory Pathway also would have disproportionate impacts on Indian Valley Reservoir's hydroelectric generation. Because it is impossible to tell from the DSR's analysis what the impacts would be, the Regulatory Pathway is deficient under CEQA. Chapter 13 appears to significantly understate the 55% w/WSAs approach's impacts on California's electrical grid reliability. It states, "During rate instances of rolling blackouts, reduction in hydropower generation could increase the affected area."	Please see the response to comment 1120-3. No disproportionate effects are expected at Indian Valley Reservoir. Please also see Common Response 7.8, Energy and Hydropower, regarding reliability of the electrical grid.

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		(Chapter 13, p. 13-333.) This appears to significantly understate the impacts of the 55% w/WSAs option. Unlike the other chapters of the DSR, Chapter 13 contains no hydropower modeling to assess the scope of this impact.	
1120	10	The District requests removal of Cache Creek as subject to the narrative inflow objective given that this waterway does not support salmonids and is only intermittently connected to the Sacramento River or Yolo Bypass and given the inclusion of the District's Putah Creek flow proposal in the HRL/VA Pathway. Section 4.4.2.2 of the December 2025 Draft BDP Updates identifies Cache Creek as a tributary that would be subject to the numeric inflow requirements, including the new 55% w/WSAs approach, because it is one of the "tributaries that support or contribute to the protection of anadromous fish species" (See pp. 45-49 generally; see also Table 6, pp. 48-49.) As noted in the District's January 2024 comments on the DSR, the State Water Board recognizes that there is minimal hydraulic connection between Cache Creek and the Delta and that Cache Creek does not support salmonids. Based on the DSR, the State Water Board refocused its analysis from Cache Creek's hydraulic continuity with the Delta to Cache Creek's occasional contribution to water supply for habitat in the Yolo Bypass. Chapter 13 indicates the 55% w/WSAs scenario would increase flows in Cache Creek between January and June, except for February, but there is no analysis of what the benefits to the Yolo Bypass or adverse impacts to the District and other diverters within the Cache Creek watershed would be. (Section 13.4-50 of Chapter 13, pp. 13-85 to 13-86.) As noted in the Yocha Dehe Wintun Nation's comments, the District's HRL proposal to contribute flows to Putah Creek, where salmon exist and are currently recovering, provides a much greater ecological benefit. Furthermore, as the District previously explained in its January 2024 comments on the DSR, imposition of the numeric flow requirements would further strain the Cache Creek watershed, which is already distressed, and would hinder the District's groundwater recharge program.	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the rationale for the regulatory pathway requirements. Any water rights included in the list of HRL water rights in Appendix B.1 and covered by the VA pathway would be exempted from meeting the regulatory pathway inflow, cold water habitat, and inflow-based Delta outflow requirements. Please see Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations; Section 13.5, Beneficial Environmental Effects; and Common Response 3.1, Fish Protection, for information on the benefits of increased flow. The environmental impacts of the regulatory pathway, including the inflow requirements, are presented in Staff Report Section 13.7, Environmental Analysis. See Common Response 7.1, General CEQA and Approach to the Analysis, for information on the project description and the level and scope of the analysis
1120	11	The District requests removal of Indian Valley Reservoir as being subject to the cold-water habitat objective, including carryover	The revised proposed Plan amendments state that Stony Creek and Cache Creek are initially not subject to carryover storage

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		storage requirements and a long-term temperature management plan. Section 4.4.2.3 proposes that the cold-water habitat objective applies to all Sacramento/Delta tributaries subject to the inflow objective and lists the District and Indian Valley Reservoir in Tables 7 and 8 as having to meet carryover storage requirements and eventually develop a temperature management strategy (p. 51-55). There is no technical support in Chapter 13 for subjecting the District's operation of Indian Valley Reservoir to the Regulatory Pathway's cold water management terms, of which the environmental and other effects have not been properly not analyzed by the State Water Board. It is well understood that Indian Valley Reservoir receives inflow from the North Fork of Cache Creek and, similar to Clear Lake and its tributaries, it is a rainfall-dominated watershed and not a snowmelt reservoir. Therefore, Indian Valley Reservoir and the releases into Cache Creek have naturally higher water temperatures. As noted in Yocha Dehe Wintun Nation's comments, it is puzzling why the State Water Board is proposing temperature management requirements from Indian Valley Reservoir. And, as noted in the District's January 19, 2024 comments on the DSR, any long-term temperature management requirements could impact hydroelectric operations at Indian Valley Reservoir, and, yet, do nothing for cold-water habitat, which is the purpose of temperature management requirements.	requirements but will be required to submit a long-term temperature management strategy. Indian Valley Reservoir is not included in Table 8 of the revised proposed Plan amendments. The environmental impacts of possible implementation actions for the cold water habitat objective are appropriately analyzed in the Staff Report. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1120	12	The District requests that Cache Creek be designated as a rainfall dominated tributary and receive the Tributary-specific WSAs. As part of the newly proposed 55% w/WSAs, Section 4.4.2.2 of the December 2025 Draft BDP Updates proposes "tributary-specific WSAs for specified rainfall dominated and municipal supply dominated tributaries based on local storage conditions as defined in Table 5," which reduces the unimpaired flow requirements to 35% along with other adjustments and which includes Putah Creek. (Section 4.4.2.2, pp. 45-46.) Although the District is concerned about the lack of adequate analysis to support this proposal within the Regulatory Pathway, we believe Cache Creek is a natural fit for the tributary-specific WSAs and	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		would like to see Cache Creek added to Table 5 if the State Water Board adopts this element of the proposed December 2025 Draft BDP Updates.	
1120	13	The State Water Board Must Acknowledge That It Will Conduct Further CEQA Review Before Adopting Any Curtailment Regulations Or Any Orders Or Decisions Requiring HRL Parties To Comply With The Regulatory Pathway The December 2025 Draft BDP Updates provides that the State Water Board would adopt water-right curtailment regulations to implement those amendments within two years of the Office of Administrative Law's approval of those amendments. (Section 4.4.3, p. 61.) The December 2025 Draft BDP Updates also state that the State Water Board may consider attempting to shift HRL parties to the "Regulatory Pathway" at the end of the HRL program's contemplated eight-year term or at various other times. (Section 4.4.9.10, pp. 93-97.) The Regulatory Pathway, however, reflects extremely broad parameters for potential streamflow requirements and proposes to reserve to the State Water Board's staff significant discretion in implementing that pathway. (December 2025 Draft BDP Updates, pp. 45-57 (implementation plan for Sacramento/Delta Inflow Tributary Inflow and Cold Water Habitat objectives, with minimum streamflow range of 45% to 65% of unimpaired runoff and including at least 19 separate reservations of discretion to the State Water Board's Executive Director).) Before adopting or implementing any specific regulations for the Regulatory Pathway, such as water-right curtailment regulations, or decisions or orders applying the regulatory pathway to any HRL party, the State Water Board would need to conduct project-level CEQA analysis. State agencies generally must conduct CEQA review before adopting long-term regulations. (See <i>Californians for Alternatives to Toxics v. Dept. of Food & Ag.</i> (2005) 136 Cal.App.4th 1, 7, 12-20 (agency prepares EIR when adopting long-term regulations based on CEQA-exempt emergency regulations and cannot rely on separate certified regulatory program).) That obligation applies to any water-right curtailment regulations that the State Water Board would seek to adopt under the December 2025 Draft BDP Updates. In contrast	The State Water Board would implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities. To inform the curtailments scenarios outlined in Section 13.3.5, Implementation Methodology, the State Water Board would develop an implementation methodology to determine when water is not available at water right holders' priorities of right. This implementation methodology will be further developed and refined through a public process with opportunity for public comment. The State Water Board would reserve broad discretion in the continuation, modification, or termination of the VA pathway. There are scenarios outlined in Section 13.3.4.10, Continuation, Modification, or Termination of the VA Pathway, where the State Water Board may consider modifying or terminating the VA pathway, such as if the VA participants fail to or are unable to implement HRL commitments. This could include failure to implement the VA flow, habitat, funding, monitoring, science, or other provisions consistent with the program of implementation. This could also include the withdrawal of a party or parties from the VA pathway that materially affects the ability of any remaining HRL participants to fulfill their HRL commitments included in the program of implementation. The State Water Board would conduct a public workshop and solicit public comments and could allow additional time for the HRL participants to come into compliance before considering modification or termination of the VA pathway. As part of the public process for considering curtailment or shifting participants to the regulatory pathway, the State Water Board would determine what, if any, new review is required under CEQA for the particular action before the State Water

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		to the emergency curtailment regulations that the State Water Board has adopted in specific drought emergency situations, the regulations contemplated here would apply every year and in every hydrologic condition.	Board. Please see Common Responses 1.2, Water Quality Control Planning Process and 1.3, Revised Proposed Plan Amendments, regarding the implementation of the revised proposed Plan.
1120	14	The State Water Board also could not rely solely on the DSR, Chapter 13, or any other CEQA document prepared to support the draft Bay-Delta Plan amendments as CEQA support for any water-right curtailment regulations. Under CEQA, an agency must conduct an environmental review adequate to identify the impacts of site-specific rules at the times those impacts can be identified. (See City of Arcadia v. State Water Resources Control Bd. (2006) 135 Cal.App.4th 1392, 1423-1426 (regional water quality control board violated CEQA by not analyzing impacts of compliance measures when they could be identified).) The water-right curtailment regulations contemplated by the draft Bay-Delta Plan amendments necessarily would involve a large number of site-specific rules because their entire purpose would be to limit diversions at literally thousands of points of diversion spread throughout the Bay-Delta watershed. Moreover, such curtailment regulations would be a standard CEQA project that is not within the State Water Board's certified regulatory program for the preparation and amendment of water quality control plans.	Please see the response to comment 1120-13.
1120	15	As the DSR and Chapter 13 acknowledge, they do not contain environmental analysis at the required "project" level of detail needed to support implementing regulations or other site-specific CEQA decisions. The DSR explicitly states that it is a program-level environmental review. Furthermore, the Regulatory Pathway in the December 2025 Draft BDP Updates would involve the exercise of so much discretion by the State Water Board's staff that it is impossible to determine what the environmental effects of implementing that approach on HRL parties might be. While such an analysis theoretically might be sufficient for the State Water Board to comply with CEQA at a program level in its review of a certified regulatory program of water quality control planning, it is not adequate to provide meaningful information concerning the environmental and economic impacts of implementing any given unimpaired flow-based scenario—including the new "55% unimpaired flow plus	Please see the response to comment 1120-13. Please also see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the level and scope of analysis.

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		water supply adjustments” scenario. Therefore, under CEQA, the State Water Board must prepare a supplemental environmental document to analyze the project-level effects of the regulatory approach before it adopts any water-right curtailment regulations or applies any site-specific implementation measures to HRL parties.	
1120	16	Because of the rollercoaster of hydrology that would drive the newly proposed 55% w/WSAs approach, which is only described at the programmatic level, it can’t actually be implemented without further analysis because it’s impossible to understand the specific impacts. As described above and as detailed in the February 2026 NCWA Letter, the Regulatory Pathway in the December 2025 Draft BDP Updates, including 55% UIF (with or without WSAs) is an inadequate project description for purposes of CEQA, Porter-Cologne and Article 2, Section 10 of CA. Constitution. (See Section 4.4.2.3, p. 53.) The 55% w/WSAs option’s reliance on a rolling monthly calculation could result in abrupt shifts in flow requirements that would not be feasible to implement due to conflicts with other requirements such as flow fluctuation criteria. The 55% w/WSAs option proposed in the December 2025 Draft BDP Updates appears to rely on a rolling monthly calculation of whether the preceding 12-month period’s four river index is above certain thresholds. (Section 4.4.2.2, pp. 46-47.) This would mean that the required minimum percentage of unimpaired flow could change abruptly from month to month. Requiring that minimum percentage to be based on a rolling 12-month period would mean that the minimum percentage could vary dramatically depending on what months drop out of, and come into, the index. This could set up a rollercoaster in which the minimum percentage of unimpaired flows could swing rapidly between 35%, 45%, and 55%. It is impossible to understand the potential impacts of the option as presented. Therefore, this deficiency presents an inadequate project description for the Regulatory Pathway under Article X, section 2 of the California Constitution, the Porter-Cologne Water Quality Control Act, and CEQA.	The commenter has not described which specific impacts they expect could be affected by the alleged issue nor how they expect those impacts to change. The project was described in sufficient detail for the purposes of the analyses and the project was adequately analyzed. The water supply adjustments (WSAs) were incorporated within SacWAM 55 w/WSAs scenario which would have captured the effects of changes in the required percent of unimpaired flow described by the commenter. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for information on CEQA requirements and the project description as well as Common Response 1.2, Water Quality Control Planning Process, for more information on Article X, Section 2 of the California Constitution and the Porter-Cologne Water Quality Control Act. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1120	17	The December 2025 Draft BDP Updates delegates broad discretion to the Executive Director to modify terms of the HRL/VA Pathway, which could impact the District's HRL proposal and its long-term recharge efforts. As explained in Section III.B of the February 2026 NCWA Letter, the December 2025 Draft BDP Updates' proposed delegations of authority to the Executive Director over aspects of the HRL Program continue to be inconsistent with Porter-Cologne and the State Water Board's delegation of authority in Resolution 2023-0036 as it would effectively allow the Executive Director to unilaterally change the HRL/VA Pathway as part of the Bay-Delta Plan's program of implementation. As explained in the District's January 2024 comments on the DSR and in its January 2025 comments on Alternatives 5a and 6a, the District intends to file an application for a long-term water right permit for groundwater recharge to both implement the District's HRL proposal and to advance SGMA compliance in the Yolo Subbasin. The District is concerned that delegating broad authority to the Executive Director to modify implementation of the HRL/VA Pathway could delay or preclude the District from effectively pursuing and implementing its innovative groundwater recharge program, which would provide benefits to Putah Creek's reestablished salmon population.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1120	18	The District's exercise of its pre-1914 right in Clear Lake is governed by multiple court decrees, so the State Water Board cannot legally exercise the broad discretion over that right's use that the Regulatory Pathway in the December 2025 Draft BDP Updates proposes. As previously noted in the District's January 19, 2024 comments on the DSR, the District exercises its pre-1914 water right in Clear Lake pursuant to multiple court decrees. With the newly proposed 55% w/WSAs approach, the analysis in the December 2025 Draft BDP Updates appears to assume the State Water Board has discretion to effectively modify binding court decrees.	The 2023 draft Staff Report describes Clear Lake and Cache Creek operations, including that irrigation releases and flood releases from Clear Lake are regulated under the Solano and Bemmerly decrees. The SacWAM methods also recognize constraints on Clear Lake operations, including that carryover storage targets were not modified from the existing scenario for Clear Lake because storage regulation is strictly limited by various court orders. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report evaluates the 55 w/WSAs scenario at a planning level. Adoption of the revised proposed Plan amendments would establish water quality objectives and a program of implementation; it would not itself amend court decrees, adjudicated rights, or the District's pre-1914 water right. Any enforceable obligations needed to implement adopted objectives

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			would be addressed, as appropriate, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the planning-level modeling analysis.
1120	19	Once again, on behalf of the District, we thank the State Water Board and its staff for working with us and ultimately including the District's HRL/VA Pathway proposal in the December 2025 Draft BDP Updates. We urge the State Water Board to adopt and advance the HRL/VA Pathway as the program of implementation for the updated Bay-Delta Plan.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1121	1	Last October, my class went on a 4-day rafting trip on the Sacramento River. We learned a lot about river ecosystems and the salmon living in California's rivers. We learned that over 130 species eat salmon. Some of these include iconic species like bears, eagles, wolves, orcas, and even humans. But salmon are in danger of dying out on California's rivers because of dams and water diversions. On the rafting trip, we saw several examples of floodplains and learned that baby salmon do better when they grow up in floodplain habitat. The slow moving water gives them time to eat and get bigger before going out to sea. We understood the importance of protecting and restoring this habitat. But we also know that floodplain will never be habitat for baby salmon if it's not covered in water. It doesn't matter how nice a job people do planting willows; dry land is not habitat for fish. We learned this in 7th grade, but I've known that since I was in preschool. Fish need water I'm only 13, but I can understand that a deal like the voluntary agreements that promises "habitat" instead of water are a joke. Fish need water. The voluntary agreements have lots of promises for restoring habitat but without rules that restore the necessary water to the	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		river, salmon are on a path to extinction. People are smart enough to figure out how to farm with less water, but the fish can't live without it.	
1122	1	These comments are submitted on behalf of the Northern California Water Association, its members, and the Sacramento Valley Water Users (collectively, "NCWA"), [Footnote 1: NCWA is a non-profit corporation that represents the water districts, water companies, cities, small towns, local governments, rural communities and landowners that beneficially use and depend upon surface and groundwater resources in the Sacramento River Basin, from the crests of the Sierra Nevada Mountains to the Coastal Range. NCWA's Board of Directors and staff are committed to safeguard water supplies in the Sacramento Valley for all beneficial uses and constructive leadership in the pursuit of solutions to resolve California's most perplexing water problems. The Sacramento River Basin is an amazing riverscape—a mosaic of rivers, creeks, and sloughs, supporting our communities and interwoven into a vast and productive landscape that supports our rivers, farms and ranches, wildlife refuges, fish and wildlife management areas, forests, duck clubs and other private wetlands, many other forms of recreation and hydropower. The individual parties joining in this comment letter are listed on Appendix 1 hereto.] in response to the State Water Resources Control Board's ("State Water Board" or "Board") December 12, 2025, Notice of Limited Recirculation and Notice of Availability and Opportunity for Public Comment and Hearing on Revised Draft Sacramento/Delta Updates ("December 2025 Draft Update") to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed ("Bay-Delta Plan") and Supporting Draft Staff Report. These comments supplement the in-person comments that NCWA and its partners made during the hearing on the December 2025 Draft Update and Revised Draft Staff Report ("DSR") and the prior NCWA comment letters regarding previous Bay-Delta Plan Update documents, including the 2017 Scientific Basis Report and its 2023 Supplement, the 2018 Framework, the 2023 DSR, and the October 2024 Draft Update all of which are hereby incorporated by reference [Footnote 2: NCWA Comments	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment references other comments, please see the substantive responses to those comments.

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		on Alternative 5a and Alternative 6a, dated January 30, 2025 and appendices 1-2 thereto; NCWA Comments on Draft Sacramento/Delta Bay-Delta Plan Updates, dated January 10, 2025 (hereafter “NCWA January 2025 Comment Letter”) and appendices 1-5 thereto; NCWA Comments on Sacramento/Delta Draft Staff Report, dated January 19, 2024 (hereafter “NCWA January 2024 Comment Letter”) and appendices 1-11 thereto.].	
1122	2	More generally, NCWA remains encouraged by the continued progress to advance the “VA Pathway” that considers the voluntary agreements of the Healthy Rivers and Landscapes (“Healthy Rivers” or “HRL”) Proposal [Footnote 3: When referring to the Healthy Rivers Proposal, we refer to the Healthy Rivers and Landscapes program as proposed by the HRL parties. To be clear, the “VA Pathway” described in the December 2025 Draft Update is neither coextensive, nor completely consistent with the provisions of the Healthy Rivers Proposal.] as the best alternative for the State Water Board to update the Bay-Delta Plan. HRL Participants have already met and exceeded their commitments to early implementation projects: 35 habitat projects are complete, [Footnote 4: These projects are also adaptively managed based on performance data to increase their beneficial impacts. For example, the Sacramento River Settlement Contractors’ collaboration with nonprofits and universities to collect data on gravel restoration projects identified new opportunities for increasing the project’s benefits. This collaboration identified locations between Keswick Dam and Clear Creek to augment gravel and connect the “conveyer belt” of added gravel to move, create, and maintain spawning habitat in this critical stretch for winter-run Chinook, thereby increasing salmonid spawning in the upper Sacramento River] seven more are in progress, and another 16 projects are ready to begin construction. This progress demonstrates how the Healthy Rivers Proposal is implementable with a broad governance structure starting in 2027, provides a concerted balancing of various beneficial uses, and is thus the best alternative for the State Water Board to achieve the objectives under Porter-Cologne. Moreover, the Healthy Rivers Proposal best addresses the critical importance of balancing ecosystem protection with water supply reliability for California’s communities, agriculture, and environment. The State Water Board’s support for the goals	The State Water Board is not a signatory to the HRL proposal nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. See also Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		and implementation of the Healthy Rivers Proposal is also consistent with the state's 2020 Water Resilience Portfolio, its August 2022 Water Supply Strategy, Adapting to a Hotter, Drier Future, and other policy initiatives aimed at enhancing California's long-term water resilience.	
1122	2.1	While NCWA strongly believes that the Healthy Rivers program will be successful and expects to vigorously support its extension in eight years, NCWA understands the State Water Board's need to consider and potentially adopt the Regulatory Pathway to address diverters who are not participating in the Healthy Rivers program. NCWA also understands the State Water Board's desire to simplify—and shorten—the process for revising the implementation of appropriate measures under the Bay-Delta Plan in the future. As discussed in more detail below, however, NCWA's review of the December 2025 Draft Update, associated Chapter 13, and supporting modeling indicate that supplemental analysis will be required at the time that the State Water Board may attempt to implement diverter-specific measures under the Regulatory Pathway. Of most concern is the fact that Chapter 13's analyses appear to group together Sacramento Valley water users who rely on different surface-water supplies and groundwater basins. If, as the December 2025 Draft Update proposes, the State Water Board attempts to implement the Regulatory Pathway through curtailments that follow water-right priorities, the Board will need to conduct a supplemental analysis that actually tracks those priorities so that the affected diverters can understand the resulting impacts at that future time.	Please see the response to comment 1120-13.
1122	3	I. Introduction The 2023 DSR for the Bay-Delta Plan provided technical information concerning the potential environmental and economic impacts of the proposed objectives for Delta inflow and outflow, cold water habitat, and modified objectives for Suisun Marsh and interior Delta flows. NCWA's prior comments raised multiple concerns regarding the DSR's inadequate analysis, including that the numeric inflow objective will create substantial uncertainty for millions of acre-feet of water each year, intractably conflict with other objectives, and are inconsistent with laws like Article X, Section 2 of the California	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding implementation of the revised proposed Plan amendments. To the extent that this comment summarizes other comments, please see the substantive responses to those comments. The State Water Board would implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities. To inform the curtailment scenarios outlined in Section 13.3.5, Implementation Methodology, the State Water

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		Constitution, the California Environmental Quality Act ("CEQA") and the Porter-Cologne Water Quality Control Act ("Porter-Cologne."), and the federal Endangered Species Act ("ESA"). (See, generally, NCWA January 19, 2024 Comment Letter on 2023 Draft Staff Report.) The December 2025 Draft Update and the partially recirculated DSR, with its new Chapter 13 ("Ch. 13"), effectively provide a new project alternative—the 55% unimpaired flow, plus water supply adjustments ("55% w/WSAs") scenario—and new information and analysis relative to the Draft Staff Report. For example, for the first time, Chapter 13 provides water temperature analysis for the Yuba River. While Chapter 13 may provide a sufficient level of analysis for the State Water Board to consider the proposed Bay-Delta Plan amendments for a programmatic approval, at least for the Regulatory Pathway, that analysis is not sufficient to support diverter-specific measures that the State Water Board may seek to take in the future. To implement any diverter-specific measures in the future, the Board would need to prepare a technical analysis that adequately discloses impacts at that level of specificity. For example, while the December 2025 Draft Update's program of implementation for the Regulatory Pathway proposes using basin-wide curtailment regulations, the State Water Board has not disclosed the methodology it would use in implementing those curtailments and will need to prepare a supplemental analysis when it considers any curtailment regulations.	Board would develop an implementation methodology to determine when water is not available at water right holders' priorities of right. This methodology would be based on the Water Unavailability Methodology for the Delta Watershed which would be further developed and refined through a public process before use in implementation of the Bay-Delta Plan.
1122	4	Similarly, the Regulatory Pathway continues to lack sufficient information to demonstrate how the percentage of unimpaired flow approach to meet the narrative Sacramento/Delta tributary inflow water quality objective ("inflow objective") would work or could be implemented across differently situated tributaries, a number of which do not have the forecasting or daily measurement tools needed to establish the volume of water comprising 55 percent of unimpaired flow. The State Water Board therefore will need to prepare a supplemental analysis if and when it seeks to implement diverter-specific measures to implement the Bay-Delta Plan's new proposed objectives, consistent with the Porter-Cologne Water Quality Control Act ("Porter-Cologne"). (See Wat. Code, § 13242(a).) Simply put, the	Please see the response to comment 1122-3.

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		Regulatory Pathway as currently described in the December 2025 Draft Update and analyzed in Chapter 13 may be suitable for programmatic adoption, but further analysis will be required before diverter-specific implementation of that pathway. That is particularly true as to any Healthy Rivers & Landscapes (“HRL”) participants, who would be governed for at least an initial term by the Healthy Rivers Proposal.	
1122	5	Over the last decade, NCWA has committed significant time and resources to collaborate with a wide array of stakeholders throughout the State to develop and propose voluntary agreements and implement habitat projects under the Healthy Rivers Proposal that can demonstrably protect salmonids in the Sacramento River and its tributaries and achieve the narrative objectives and biological goals of the Bay-Delta Plan. By increasing spawning and rearing habitat, protecting cold water pools and storage in reservoirs, contributing functional instream flows, and enabling other important water supply activities such as groundwater recharge and conjunctive use projects, the Healthy Rivers Proposal is the approach that best, and most reasonably, protects all beneficial uses in the Sacramento/Delta watershed. Accordingly, the State Water Board should adopt and implement the Healthy Rivers Proposal as proposed by the HRL participants and ensure the alternative Regulatory Pathway is analyzed and developed with the necessary level of detail and scientific support in order to understand its range of environmental and economic impacts before its diverter-specific implementation [Footnote 5: NCWA reiterates the proposed parallel process to evaluate the feasibility and efficacy of the regulatory pathway. (NCWA January 10, 2025 Comment Letter, § II, Appendix 2 [“The proposed parallel process is appropriate and justified given the State Water Board’s staff’s repeated acknowledgment in the Draft Update that implementation of the Sacramento/Delta inflow objective may not even begin for several years and may not be fully implemented for as much as five years after any initial implementation.”].)]. To accomplish this, the State Water Board’s final version of the Bay-Delta Plan Update must address the issues and concerns detailed below.	The revised proposed Plan amendments, including the regulatory and VA pathways, were analyzed in accordance with all applicable requirements. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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1122	6	II. The Regulatory Pathway's Diverter-Specific Implementation, as Described in the December 2025 Draft Plan Update and Analyzed in Chapter 13, Will Need To Be Consistent With The California Constitution's Requirement That All Water Uses Be Reasonable. A. Article X, Section 2 Requires the State Water Board Consider Competing Uses in Establishing and Implementing Water Quality Objectives. Chapter 13 suggests that water quality objectives under Porter-Cologne are not subject to the constitutional rule of reasonable and beneficial use of water. (Ch. 13 at 13-220 ["[T]he term 'beneficial uses' as used in water quality control planning differs from the term 'beneficial uses' in a water right context Therefore, reasonable protection of water quality for fish and wildlife ... does not involve analysis of competing water allocations"].) Article X, section 2 of the California Constitution, however, applies to all uses of water, whether for consumptive uses, [Footnote 6: <i>Joslin v. Marin Municipal Water Dist.</i> (1967) 67 Cal.2d 132, 140]. public trust uses, [Footnote 7: <i>National Audubon Society v. Superior Court</i> (1983) 33 Cal.3d 419]. or the reasonable protection of water quality objectives under Porter-Cologne [Footnote 8: <i>8 United States v. State Water Resources Control Bd.</i> (1986) 182 Cal.App.3d 82, 143–44, (Racanelli)]. Reasonableness under Article X, section 2 requires considering competing water uses and "cannot be resolved in vacuo, isolated from state-wide considerations of transcendent importance." (Joslin, supra, 67 Cal.2d at pp. 139–40 [holding that using flow to deliver gravel for commercial use unreasonable when weighed against proposed competing use of conserving Nicasio Creek flow for consumptive uses in Marin County].) A use of water to meet a beneficial use under Porter-Cologne therefore is a beneficial use under Article X, section 2, just as beneficial uses listed on a water-right permit or license are. Article X, section 2 therefore requires the State Water Board to consider competing water allocations in establishing water quality objectives and their implementation under Porter-Cologne. (Joslin, supra, 67 Cal.2d at pp. 139–40.) Indeed, the State Water Board would violate Article X, section 2 by adopting	Please see the response to comment 1122-3. Please also see Common Response 1.2, Water Quality Control Planning Process, regarding the Porter-Cologne Water Quality Control Act, Article X, Section 2 of the California Constitution, and the Board's consideration of beneficial uses. Nowhere has the State Water Board claimed that Article X, Section 2's prohibition on waste and unreasonable use does not apply to actions taken under the Porter-Cologne Act. Further, nothing in Staff Report Section 13.6.2, Water Code Section 13241 Analysis, is intended to imply that the State Water Board is not obligated to consider demand and supply needs for other uses of water when formulating water quality objectives and a program of implementation to achieve those objectives. Language has been added to Section 13.6.2 to make this clear.

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		a water quality objective that, when considering competing uses, requires an unreasonable amount of flow to achieve. (Racanelli, supra, 182 Cal.App.3d at pp. 143–44.) The State Water Board is bound to implement Article X, section 2 (Envtl. Def. Fund, Inc. v. East Bay Mun. Utility Dist. (1980) 26 Cal.3d 183), and Porter-Cologne actually incorporates this requirement by statute (Wat. Code § 13000). Thus, before implementing the Regulatory Pathway at the diverter-specific level, and particularly as to any Healthy Rivers participants, the State Water Board must show how that Pathway’s detailed implementation measures would be reasonable under Article X, section 2. (Racanelli, supra, 182 Cal.App.3d at p. 113.) The December 2025 Draft Update and Chapter 13 provide a more general level of analysis that the State Water Board will need to augment in the future if and when it seeks to limit specific diversions to achieve the Bay-Delta Plan’s water quality objectives.	
1122	7	B. The New Project Alternative Involving Water Supply Adjustments Requires More Detailed Analysis Under Article X, Section 2 Before It Could Be Implemented As To Specific Diversions. As NCWA and the Sacramento Valley parties discussed in our January 2024 comments, a Regulatory Pathway that could be implemented at anywhere from 45% to 55% of unimpaired flows would involve an annual uncertainty of millions of acre-feet of water. It therefore would require significantly more detailed analysis before it could be implemented as to specific diverters under Article X, section 2. (See, e.g., Racanelli, supra, 182 Cal.App.3d at 143-44 [25:1 ratio of flows for reasonable protection of industrial beneficial use wasteful]; see also Joslin, supra, 67 Cal.2d at 140.) The new draft Bay-Delta Plan amendments include the new 55% w/WSAs alternative under the Regulatory Pathway, but that does not resolve the need for more detailed analysis before the Regulatory Pathway can be implemented. As explained further below (infra section III.D), and as detailed in the technical memorandum prepared by MBK Engineers, [Footnote 9: A copy	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board’s authorities and obligations under Article X, Section 2 of the California Constitution, and a discussion of reasonable protection of fish and wildlife beneficial uses. See also Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of CEQA analysis performed by the State Water Board throughout the water quality control planning process. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		of MBK's technical report, entitled "Technical Review of the Partially Recirculated Draft Staff Report/Substitute Environmental Document in Support of Potential Updates to the Water Quality Control Plan and Revised Water Quality Control Plan (January 2026)" (hereinafter "MBK Technical Review"), is included in Appendix 2 hereto, and is incorporated herein by reference]. implementing the 55% w/WSAs proposal would involve frequent step-function adjustments can result in changes of upwards of 100,000 acre-feet of water in a single month (MBK Technical Review at p. 3). These dramatic swings in unimpaired flow requirements based on experienced conditions rather than forecasted conditions show that the State Water Board will need to prepare additional analysis before the Regulatory Pathway can be implemented as to individual diverters to ensure that it will not cause waste and unreasonable use of water inconsistent with Article X, section 2. Chapter 13's analyses show how necessary that more specific analysis will be. According to Chapter 13, the 55% w/WSAs scenario would result in a loss of 772 thousand acrefeet ("TAF") of water supply to the Sacramento River Watershed in critical years. (Ch. 13, at Table 13.4.107, p. 13-153.) Comparing this to the 91 TAF reduction under the VA Pathway in those same years (id. at Table 13.4.111, p. 13-157), which also reasonably protects the same beneficial uses as the Regulatory Pathway (see generally Ch. 13 at § 13.5), clearly demonstrates the need for more specific analysis of the 55% w/WSA scenario's impacts before it can be applied to individual diverters as part of the Regulatory Pathway's program of implementation consistent with Article X, section 2.	
1122	8	III. Specific Comments on December 2025 Draft Bay-Delta Plan Updates A. The Bay-Delta Plan Provisions Regarding the Continuation, Modification and Termination of the VA Pathway Must Be Consistent with the VA MOU. NCWA appreciates the proposed revisions included in the December 2025 Draft Update regarding the potential continuation, modification and termination of the VA Pathway.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan and for a description of the voluntary agreement pathway. Please also see Common Response 1.2, Water Quality Control

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		(December 2025 Draft Update, § 4.4.9.10.) [Footnote 10: Subsequent citations to the December 2025 Draft Update's main text are to section and page numbers, and citations to the December 2025 Draft Update's appendices are to appendix number and page number]. Unfortunately, the proposed revisions remain inconsistent with the corresponding provisions in the VA MOU and Term Sheet [Footnote 11: See 2023 DSR, App'x G, Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and Other Related Actions (Mar. 29, 2022), at App'x A, Term Sheet for Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan (Mar. 29, 2022) (pdf p. 127 et seq.), hereinafter referred to as the 2022 VA MOU and Term Sheet. For example, the 2022 VA MOU and Term Sheet confirm that there must be an additional regulatory process in accordance with the Porter-Cologne prior to the imposition of an alternative regulatory pathway on the HRL Proposal parties. (VA MOU Term Sheet, §§ 7.4, 7.4.B(iii), 7.4.F, 7.5.)). To ensure consistency, the State Water Board should incorporate NCWA's limited proposed redline revisions to Section 4.4.9.10 as set forth in Appendix 3, hereto. NCWA's proposed revisions are also necessary to ensure compliance with the Clean Water Act and Porter-Cologne, which require that the State Water Board review the basin plan and its components (i.e., water quality objectives and the program of implementation) to determine whether they are reasonably protecting beneficial uses. (Clean Water Act § 303(c)(1); Wat. Code §§ 13000, 13240, 13241, 13242.) The State Water Board cannot determine that a particular objective applies without also meeting these requirements to determine whether such objective would reasonably protect all beneficial uses. (Id. at § 13241.) This determination necessarily depends on also assessing the performance of the Regulatory Pathway provisions. Article X, section 2 of the California Constitution further requires the State Water Board to reassess the non-VA Pathway regulatory provisions before modifying or terminating the VA Pathway. The State Water Board's continuing obligation under Article X Section 2 means that it must assess the comparative	Planning Process, regarding the Porter-Cologne Water Quality Control Act, the Clean Water Act, Article X, Section 2, of the California Constitution, and the State Water Board's duty to protect beneficial uses of water. As discussed in final Staff Report Section 13.3.4.10, Continuation, Modification, or Termination of the VA Pathway, prior to a decision to extend, modify, or terminate the VA pathway, the State Water Board will release a draft recommendation for public comment and Delta Independent Science Board Review and input. If the State Water Board determines it is necessary to terminate the VA pathway, the State Water Board will release an addendum to the Scientific Basis Report Supplement synthesizing relevant scientific information about flows for the protection of fish and wildlife. This addendum will be circulated for public comment. See also the response to comment 1122-3 for a discussion of the additional analysis necessary before implementing flow objectives.

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		reasonableness of the Regulatory Pathway provisions “as the current situation changes.” (Racanelli, supra, 182 Cal.App.3d at 194.) As discussed above, the State Water Board will need to prepare a supplemental analysis of whatever terms of the Regulatory Pathway it might seek to apply to HRL participants before attempting to impose those terms on specific parties, and complete any further environmental review required under CEQA, including consideration of any changed circumstances at the time of such determination. (Cal. Code Regs., tit. 14, § 15088.5.) In particular, it appears that the 55% w/WSAs scenario may be the most likely terms of the Regulatory Program that the State Water Board might seek to apply to HRL participants, but the Board disclosed that new project alternative in December 2025 and the only analysis to support it is in Chapter 13. As discussed above, that analysis is too general and programmatic to support the actual implementation of the 55% w/WSA scenario as to specific diverters. Chapter 13 also contains no quantitative analysis of that scenario’s hydropower impacts. The State Water Board therefore will need to prepare supplemental CEQA and technical analysis to show that scenario’s impacts before it seeks to implement that scenario, especially as to HRL participants.	
1122	9	B. The December 2025 Draft Update Continues to Propose Excessive Delegations of Authority to the Executive Director over the HRL Program. The December 2025 Draft Update’s numerous proposed delegations of authority to the Executive Director over aspects of the VA Pathway continue to be inconsistent with Porter- Cologne and the State Water Board’s delegation of authority in Resolution 2023-0036. Water Code section 13223 expressly prohibits regional boards from delegating authority to its executive director regarding the “issuance, modification, or revocation of any water quality control plan, water quality objectives, or waste discharge requirement.” (Wat. Code § 13223, subd. (a)(2).) This provision should also apply to the State Water Board’s delegation of authority to its Executive Director when the Board is adopting a water quality control plan under Water Code section 13170. Moreover, the State Water Board’s resolution 2023-0036, which	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan. Executive Director authority to approve changes like compliance locations, variances to default flow schedules, HRL hypotheses and monitoring metrics, and accounting provisions are not comparable to the authority to increase waste discharge thresholds at issue in Malaga County Water Dist. V. Central Valley Regional Water Quality Control Bd. As the court confirmed in Malaga, delegated executive officer authority to determine how to enforce established objectives or monitor and establish methods of compliance does not constitute an improper

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		delineates the scope of the Executive Director’s delegated authority, explicitly prohibits the Executive Director from: “Adopting, approving, amending, or repealing regulations subject to chapter 3.5 of [APA], state policy for water quality control, or water quality control plans.” (Emphasis added.) Delegated authority is unlawful under Porter-Cologne when it goes beyond determining enforcement and instead allows substantial modification to the terms of the permitted action. (Malaga County Water Dist. v. Central Valley Regional Water Quality Control Bd. (2020) 58 Cal.App.5th 396, 415.) The Court of Appeals for the Fifth Appellate District held that delegating authority to modify the terms of a permitted action violates Porter-Cologne. (Ibid.) The specific delegation there allowed the executive officer to approve variances to the discharge authorized by a waste discharge permit upon the receipt of requests supported by additional documents. (Id. at p. 412.) The court rejected the Regional Board’s argument that the delegated authority was constrained to determining compliance, and found the delegation unlawful because “the ability to increase the discharge limit constitutes a delegation of the authority to modify the permit.” (Id. at p. 415.) Similarly, the December 2025 Draft Update contains numerous unlawful delegations of authority that would allow the Executive Director to modify fundamental aspects of the Bay-Delta Plan. These unlawful delegations include, but are not limited to [Footnote 12: For example, the December 2025 Draft Plan Update (like the October 2024 Draft Update) continues to authorize the Executive Director to: move compliance points (§4.4.2.2 at p. 48); grant time extensions of an additional year to implement and authorize incremental implementation (ibid.); authorize one-year adjustments to the unimpaired flow requirements (id. at pp. 49-50); force upstream/downstream diverters to support temperature management targets (id. at p. 53); adjust carryover storage requirements (§ 4.4.2.3 at p. 55); approve flow schedule adjustments (§ 4.4.9.2 at p. 66); approve “assumptions” regarding fallowing/crop idling (§ 4.4.9.4 at p. 81); refine flow accounting procedures (id. at p. 82); refine non-flow accounting procedures (§ 4.4.9.6 at p. 87); approve supplemental science (§ 4.4.9.7 id. at p. 88); and identify other relevant topics (id. at p. 89)].:	delegation of authority to modify requirements. (Malaga County Water Dist. v. Central Valley Regional Water Quality Control Bd. (2020) 58 Cal.App.5th 396, 414-415.) The Porter-Cologne Water Quality Control Act does not prohibit measures with some degree of flexibility within defined parameters when needed to best address dynamic challenges such as those presented in the Plan area. More significant decisions that fall outside parameters articulated in the Plan are not delegated to the Executive Director. Further, annual review provisions provide for State Water Board oversight over Executive Director decisions, and the State Water Board retains authority over petitions for reconsideration submitted in response to ED actions, as appropriate.

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		• Variances to the default flow schedule. (§ 4.4.9.2 at p. 66) • HRL hypothesis, metrics, monitoring and targets. (§ 4.4.9.7 at pp. 88-89) • Variances to habitat accounting. (§ 4.4.9.6 at p. 86.) • Changes to reference conditions if Reclamation “substantively modifies” CVP Operations from the 2024 ROD. (App’x B.1, passim.) These proposed delegations are inconsistent with Porter-Cologne because they would allow the Executive Director to unilaterally change the VA Pathway as part of the Bay-Delta Plan’s program of implementation, which Water Code section 13242 requires to be contained in the plan itself. (See Malaga County Water Dist., supra, 58 Cal.App.5th at p. 415.) Moreover, the December 2025 Draft Update contains no clear legal mechanism to seek review or reconsideration of the Executive Directors’ exercise of authority. Accordingly, the Bay-Delta Plan Update must be revised to remove these extensive delegations of authority over the VA Pathway.	
1122	10	C. The Final Plan Update’s Description of the VA Pathway Must Incorporate the Healthy Rivers Proposal. NCWA appreciates that the State Water Board considered NCWA’s January 2025 comment letters and has worked with NCWA to make several revisions to the VA Pathway, such as incorporating components like the evapotranspiration of applied water value for idled rice acreage in the Sacramento River Mainstem and Feather River. However, the December 2025 Draft Update’s description of key aspects of the VA Pathway depart from carefully considered aspects of the Healthy Rivers Proposal and must be revised to match the same. 1. Flow Contributions on the Irrigation Schedule Are Practically and Legally Superior To the Default Schedule in the December 2025 Draft Update.	Please see the response to comment 1122-9. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		The December 2025 Draft Update includes flow schedules for the Sacramento Mainstem HRL flow contributions that depart from the HRL Participants' proposed flow schedules. These deviations create operational issues that are not necessary to achieve the water quality objectives. As noted above, the Draft Update also contemplates varying from the default schedules in a manner that relies on the unlawful delegation of authority to the Executive Director modify compliance. Porter-Cologne requires actions in the program of implementation to be necessary to achieve the reasonable protection of beneficial uses. (Wat. Code, § 13242.) Porter-Cologne further prohibits delegating authority to change that program of implementation. (Wat. Code, § 13223.) The December 2025 Draft Update establishes flow contribution schedules for each tributary per water year type in Tables 11 through 14. In addition to "default schedules" for flow contributions, each table also establishes "flexibility brackets" as an alternative flow contribution schedule for HRL Participants. (§ 4.4.9.3, tables 11, 12, 13, & 14.) On the Sacramento Mainstem, the default schedule calls for 50 percent (50 TAF) in each of April and May, respectively, with flexibility brackets for up to 25 percent (25 TAF) in every month of the year. The flexibility brackets are mostly consistent with the flexibility brackets the HRL Participants proposed to the State Water Board in the 2024 Proposed Global and Implementation Agreements. However, variances from the flow schedule, regardless of flexibility brackets, that would result in less flow during January to June than the default schedule, must first be approved by the Executive Director. (§ 4.4.9.2 at p. 66.) HRL Participants must submit variance requests 90 days in advance of these proposed operations. (Id.) Not only does this delegated authority impose unnecessary practical and operational hurdles, but it also violates Porter-Cologne by improperly delegating the State Water Board's authority to modify compliance with the Bay-Delta Plan. Requiring that HRL Participants submit variance requests 90 days prior to proposed operations is unnecessary to achieve the water quality objectives because it requires the requests to be based on variable hydrology that may change within that time. Further, operating to the default schedule during dry years	

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		conflicts with Upper Sacramento River temperature management because releasing a volume of 100 TAF in April and May can impair the U.S. Bureau of Reclamation's ("Reclamation") ability to meet the 2024 National Marine Fisheries Services' Biological Opinion's (2024 NMFS BiOp) temperature requirements [Footnote 13: National Marine Fisheries Service, Endangered Species Act Section 7(a)(2) Programmatic Biological Opinion for the Reinitiation of Consultation on the Long-Term Operation of the Central Valley Project and State Water Project (Dec. 6, 2024) (hereafter "NMFS BiOp")]. In this way, below-average December precipitation can require the HRL Participants to submit variance requests in mid-January to delay flow contributions for later in the season. It is far too speculative in mid-January to determine the composition of the Shasta cold water pool, [Footnote 14: Declaration of Michael Deas In Support of Sacramento River Intervenor's Objection to Federal Defendants' and State Plaintiffs' Request for 2024 Interim Operations Plan Extension, Pacific Coast Federation of Fisherman's Associations v. Lutnick, Case No 1:20-cv-00431-JLT-EPG, ECF No. 491. at ¶¶ 5–6, attached hereto as Appendix 4]. let alone April's hydrology or the water year type [Footnote 15: Id.; see also Declaration of Lee Bergfeld in Support of Sacramento River Intervenor's Opposition to Federal Defendants' and State Plaintiffs' Request for 2024 Interim Operations Plan Extension, Pacific Coast Federation of Fisherman's Associations v. Lutnick, Case No 1:20-cv-00431-JLT-EPG, ECF No. 490, attached hereto as Appendix 5]. And these are only some of the variables that would inform the analysis required by the December 2025 Update to support a variance request. Simply put, such long lead time on variance requests does little to achieve the water quality objectives given the lack of certainty as to whether the proposed operations are needed. In contrast, the Healthy Rivers Proposal's flow schedules in the proposed 2024 Global and Implementation Agreements were designed to be maximally beneficial to the species and allow for needed flexibility to address real-time hydrology. Adopting the Healthy Rivers Proposal's default and flexibility schedules would return the VA Pathway to its intended form and remove unnecessary hurdles so that Healthy Rivers can achieve the water quality objectives without undue water supply impacts.	

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		NCWA requests that the Board incorporate the flow schedules as proposed by the HRL Participants and reflected below. Modifying the default schedule to match what the HRL Participants proposed would also avoid the December 2025 Draft Update's unlawful delegation of authority to the Executive Director to modify compliance with the Bay-Delta Plan. The December 2025 Draft Update allows the Executive Director to make changes to the default flow schedule upon a showing that the changes are biologically justified. (§ 4.4.9.2 at p. 66.) This is analogous to the unlawful delegation in Malaga County Water Dist., where "the ability to increase the discharge limit [subject to a showing the increase is consistent with Porter-Cologne] constitutes a delegation of the authority to modify the permit." (Malaga County Water Dist., supra, 58 Cal.App.5th at p. 415.) Adopting the Healthy Rivers Proposal's default schedule would remedy the unlawful delegation by establishing outer bounds on compliance in the final Bay-Delta Plan Update. (Ibid.) This way, the Executive Director's discretion is properly constrained to determining compliance, not modifying the HRL Participants obligations under the VA Pathway. Other aspects of the VA Pathway will more than adequately address any concerns that changes to the flexibility brackets might undercut the HRL program's ability to achieve the Bay-Delta Plan's water quality objectives. The HRL Participants are required to provide flow schedules to the Executive Director at the beginning of every year that describe how each of the Bay-Delta Plan's targets will be met. (§ 4.4.9.8 at p. 91.) These schedules can be refined over time based on the VA Pathway's performance and through updates in the annual and periodic reviews. (Id. at pp. 91-92.) In sum, replacing the default schedule with the schedule proposed by the HRL Participants will better ensure that the VA Pathway successfully achieves the water quality objectives while avoiding unnecessary legal pitfalls.	
1122	11	2. Onboarding New Water Rights to the VA Pathway Must Include HRL Participants' Input. NCWA supports onboarding as many water right holders in the Sacramento Valley as possible to the HRL Proposal. To that end,	Please see the response to comment 1122-9. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of

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		NCWA appreciates that the December 2025 Draft Update includes provisions for adding water rights to the VA Pathway. The process described in the December 2025 Draft Update, however, is cumbersome and unnecessarily delegates authority to the Executive Director, without sufficient involvement and coordination from Healthy Rivers governance. The December 2025 Draft Update arbitrarily delineates two separate processes for water rights larger and smaller than 100 acre-feet. There is no reason to segregate water rights in such a manner as that particular distinction has no bearing on whether a water right is appropriate for the VA Pathway. Instead, the Final Plan Update should include a process that first allows the HRL Governance to consider and accept proposals from water right holders for inclusion in the VA Pathway and recommend approval to the State Water Board [Footnote 16: Attached as Appendix 6 is a copy of the proposed onboarding process]. The water right holders requesting onboarding must show that their proposals would meaningfully contribute to the VA Pathway and are proportionate in scope and amount to other HRL Participants on the given tributary or in comparison to other HRL tributaries. In this context, “meaningfully contribute” means that the new party’s proposal is (1) grounded in the best available science, (2) appropriate for the size of the tributary and party in question, and (3) should generally include (a) both flow and non-flow measures, (b) funding, (c) a commitment to the HRL science program, and (d) tributary contributions proportional to the contributions by other Healthy Rivers Participants. This process would ensure that the new water right holders will meaningfully add to the reasonable protection of beneficial uses and merit inclusion in the VA Pathway. Additionally, a viable and transparent process for addition of new parties to the Healthy Rivers Proposal expands the program’s collective benefits and leverages the State Water Board’s own conclusions that the Healthy Rivers Proposal provides greater protection to fishery beneficial uses with fewer impacts. (MBK Technical Review, § IV.)	comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	12	3. NCWA Requests Specific Revisions to Key Healthy Rivers Pathway Provisions	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3,

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		(a) Below Normal and Dry Water Year Flow Schedules Should Match the Healthy Rivers Proposal. The final Bay-Delta Plan Update should include the following flow schedule for Below Normal and Dry water years for the Sacramento River Mainstem. The top row is the default schedule and the bottom row is the flexibility bracket. Below Normal and Dry Water Years [table form letter pdf represented in text below] default schedule: Oct. 5%, Nov. 0%, Dec. 0%, Jan. 0%, Feb. 0%, Mar. 0%, Apr. 10%, May 15%, June 20%, July 20%, Aug. 20%, Sept. 20%. flexibility bracket: Oct. 0-25%, Nov. 0-25%, Dec. 0-25%, Jan. 0-25%, Feb. 0-25%, Mar. 0-50%, Apr. 0-25%, May 0-25%, June 0-25%, July 0-25%, Aug. 0-25%, Sept. 0-25%	Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	13	(b) Sacramento Mainstem Reference Conditions Should be Revised. A key component of the Healthy Rivers Proposal is ensuring that flows are additive to the baseline. The 2022 VA MOU established that the baseline incorporates Revised Water Right Decision D-1641 and the 2019 Biological Opinions, “although the 2019 Biological Opinions may be modified, including to resolve litigation concerning those opinions.” (2022 VA MOU Term Sheet, § 4.1.) The 2019 Biological Opinions were amended and superseded by the 2024 NMFS and U.S. Fish & Wildlife Services’ Biological Opinions. (Record of Decision for Long- Term Operation of the Central Valley Project and State Water Project (U.S. Bureau of Reclamation, Dec. 2024).) Thus, the Healthy Rivers Proposal’s baseline conditions are the Revised Water Right Decision D-1641 and the 2024 BiOps. While the December 2025 Draft Update’s flow accounting appendix includes the 2024 BiOps as a reference condition for establishing the baseline, it provides the Executive Director with latitude to modify reference conditions if Reclamation “substantially modifies” the 2024 Record of Decision on the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Long-Term Operations of the Central Valley Project and State Water Project. (App'x B.1 at B-32.) Such a delegation of authority is unlawful because it permits the Executive Director to modify compliance by changing the baseline standard against which flows are measured. (Wat. Code § 13223; Malaga County Water Dist., supra, 58 Cal.App.5th at p. 415.) These reference conditions must be revised to remove the Executive Director's discretion to modify the baseline based on changes to a separate federal process over which neither the State Water Board nor the majority of the HRL Participants have control. Recognizing that this is a sensitive issue, NCWA proposes that the reference conditions language be modified as follows: In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document would require update as approved by the [begin strike text] Executive Director [end strike text] [begin new text] State Water Board [end new text] through a public process with opportunity for public comment. [begin new text] Any update to these reference conditions due to changes to the 2024 LTO shall not have redirected impacts on the ability of the HRL participants to make flow contributions nor require the HRL participants to make flow contributions greater than those described. [end new text] (App'x B.1 at p. B.1.37.)	
1122	14	(c) Protect HRL Flow Assets in the Same Manner as Unimpaired Flow. As it would for the Regulatory Pathway unimpaired flows, the final version of the Bay-Delta Plan Update should adequately protect HRL flow contributions from legal challenges. The legal mechanism for purchased water flow contributions is unclear given the December 2025 Draft Update provides that instream flow dedications under Water Code section 1707 are not required. (§ 4.4.9.2 at p. 65.) Purchased water contributions are subject to rigid processes to ensure that water is "wet" and additive to Delta outflow. It makes little sense then to expose these flows to unnecessary risk of being considered abandoned	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		or otherwise available for downstream diverters. The final version of the Bay-Delta Plan Update should clarify that the State Water Board will utilize its regulatory authority to protect flows from illegal diversions and protect the Healthy Rivers flow assets from adverse claims or legal challenges. NCWA requests that the final Bay-Delta Plan Update include the following language, adapted from language protecting unimpaired flows (§ 4.4.2.2 at p. 48), in describing HRL flows at pages 65 and 66: Water rights will only be protected to the extent consistent with water right priorities and if HRL participants demonstrate they are meeting the criteria described above. [begin new text] Water that would otherwise be available under the water right's priority of right that is bypassed or released from storage to meet VA flows is not abandoned and is not available for diversion downstream by other water right holders and claimants. [end new text] Water Code section 1707 petitions are not required to protect this water from subsequent diversions. Each year, the specific water rights under which HRL flow commitments are to be provided for instream flow and Delta outflow purposes must be identified at least 90 days in advance of the planned use.	
1122	15	(d) HRL Participants Must Not Be Subject to Curtailments. The State Water Board must not use the curtailment tool of the Regulatory Pathway to improperly curtail HRL Participants' water rights during implementation of the VA Pathway. In discussing avoiding redirected impacts, the December 2025 Draft Update contemplates curtailing HRL water rights when water is not available at those priorities of right "[i]n order to protect HRL flows from diversion by other water right holders." (§ 4.4.9.2 at p. 66.) There is no logical connection between the action and the justification. The HRL water rights should be exempt from curtailments because the curtailment tool implements the Regulatory Pathway, not the VA Pathway. The final Bay-Delta Plan Update must make clear that curtailments to implement the Regulatory Pathway do not apply to HRL water rights.	The implementation methodology includes curtailments for both the VA and regulatory pathway water right holders when water is not available at water right priorities regardless of instream flow requirements. All water rights, including VA water rights, are subject to the rule of priority and may be curtailed when water is not available at a given water right's priority. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	16	(e) Habitat Accounting Must Align with the Healthy Rivers Proposal for Accurate Accounting of Habitat Goals.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3,

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		The final Bay-Delta Plan Update should include the following revisions to align the language of the VA Pathway with the language of the 2022 VA MOU regarding the relationship of existing regulatory requirements to HRL habitat project eligibility. There is no clear reason to exclude valuable projects from inclusion; and the proposed revisions will ensure consistency and eliminate any ambiguity on this point. All VA non-flow habitat restoration commitments are additive to existing physical habitat conditions and regulatory requirements existing as of December 2018 and must be completed within the eight-year term of the VAs. VA non-flow habitat restoration actions include the following project types: tributary spawning, tributary instream rearing, tributary floodplain rearing, bypass floodplain, and tidal wetland habitat projects. Accounting for VA non-flow habitat restoration is required to account for the following three steps: First, projects completed by VA parties must fulfill all of the following conditions in order to count toward the VA commitments: i. The project must create new suitable habitat or restore existing habitat with limited suitability in a manner that provides significant additional benefits for the target species and life stages; ii. The project must [begin strike out] not [end strike out] be [begin new text] additive to physical conditions and regulatory requirements existing as of December 2018 [end new text] [begin strike out] used to fulfill any other regulatory requirements, required mitigation, or other requirements that existed as of December 2018 or earlier [end strike out]; and iii. Project construction must be started after December 2018 and completed by the end of year eight of the VAs. (§ 4.4.9.6 at p. 83.) Additionally, NCWA proposes the following addition to ensure that HRL non-flow contributions are properly accounted for. The December 2025 Draft Update's proposed habitat accounting	Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		protocol does not produce a result measured in acres that allows for a comparison of whether the 2022 VA MOU's commitments are being met. Indeed, this edit enables HRL Participants to submit additional information so that the State Water Board can confirm that the HRL Participants are meeting their acreage-based habitat commitments. Second, the number of acres of qualifying projects that meet all applicable design criteria must be determined. Tributary spawning, instream rearing, and tributary floodplain rearing habitat restoration projects are subject to the design criteria in Table 15, Table 16, and Table 17 as applicable. Tributary floodplain restoration projects intended to be counted toward the valley floor floodplain habitat commitment are also subject to the design criteria in Table 15, Table 16, and Table 17. Design criteria must be met during seasonal time periods that would support the species and life stage that the project is intended to benefit. Bypass floodplain and tidal wetland habitat projects do not have pre-defined criteria and instead VA parties are required to submit proposed design criteria for approval by the Executive Director and DFW. [begin new text] VA parties may submit additional documentation demonstrating individual projects' contributions to the habitat restoration amounts in section 4.4.9.5. [end new text] (§ 4.4.9.6 at p. 83.) Tributary Non-Flow Habitat Accounting Protocols must also be revised to match the revisions to early implementation projects. Again, there is no clear reason to hold preimplementation projects to standards that did not exist when they were designed and implemented. The following Voluntary Agreement (VA) habitat accounting protocols pertain to tributary spawning, in-channel rearing, and tributary floodplain rearing habitat restoration projects. Tributary floodplain projects intended to contribute toward the valley floor habitat commitment will be accounted for following this protocol, but with the exceptions noted below. [begin new text] Early implementation habitat projects (add appropriate citation or description of early implementation) are anticipated to utilize the accounting protocol described in B.2.1.5(viii) (Final Habitat Accounting Assessment) as the following protocols and	

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		associated criteria were developed after early implementation projects were implemented or designs otherwise finalized. [end new text] (App'x B.2 at p. B.2-1.) Finally, the Final Habitat Accounting Assessment must be revised to provide a consistent basis for comparing the flow-habitat curves included in the Scientific Basis Report Supplement and the constructed flow habitat-curves for completed individual projects. The curves included in the Scientific Basis Report Supplement only use hydraulic suitability criteria (i.e., depth and velocity). Therefore, it is appropriate that the constructed flow habitat-curve in this accounting step use the same criteria to enable a meaningful evaluation because the actual curves in the Scientific Basis Report Supplement do not include cover or other qualifying criteria included in the December 2025 Draft Update. This step does not apply to projects intended to contribute to the valley floor habitat commitment. The procedures described above in steps (i) through (vii) will produce a flow-habitat relationship for the newly constructed habitat (i.e., the amount of additional suitable habitat at each design flow). To complete the final habitat accounting assessment, either complete the alternative analysis described in step (viii) below, or compare the constructed flow-habitat relationship to the flow-habitat relationships provided by VA parties for assessment of the benefits of the VAs (i.e., those used in the final Scientific Basis Report Supplement; hereafter referred to as the assumed flow-habitat relationships) as described in steps (ix) through (xi) below: viii. The implementing agency may provide an alternative analysis demonstrating equivalent or better median habitat area across model years than that resulting from the assumed flow-habitat relationships for Executive Director approval. The analysis must reproduce the tributary habitat analysis from the benefit analyses supporting VA adoption (i.e., from the final Scientific Basis Report Supplement) using the constructed flow-habitat curve, without applying the temperature filter [begin new text] or other additional qualifying criteria not included in	

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		the final Scientific Basis Report Supplement [end new text], and evaluate whether the resulting median habitat area across model years is equivalent or greater than that from the same analysis using the assumed flow- habitat relationships. Alternative analyses demonstrating equivalent or greater expected availability of habitat meeting design criteria than those from the benefit analyses supporting VA adoption (i.e., from the final Scientific Basis Report) may be considered at the discretion of the Executive Director with input from DFW. (App'x B.2 at p. B.2-11.)	
1122	17	D. The Proposed Water Supply Adjustment Scenarios Are Analyzed at a Level That is At Best Sufficient for Programmatic Approval of Bay-Delta Plan Amendments and the State Water Board Must Prepare Supplemental Analysis Before Actually Seeking to Implement Those Scenarios as to Specific Diverters. Many of the same problems NCWA previously raised in prior comments regarding the Regulatory Pathway remain in the December 2025 Draft Update and revised DSR, and thus NCWA reincorporates those comments here by reference. The December 2025 Draft Update attempts to address the concerns about water supplies NCWA and others previously have made by including, for the first time, the Water Supply Adjustment concept in the Regulatory Pathway's program of implementation. As explained below, however, the State Water Board would need to conduct supplemental analysis in order to actually implement that concept as to specific diverters. The December 2025 Draft Update debuts the two Water Supply Adjustments ("WSAs"). The first, "Watershed-wide WSA," reduces the unimpaired flow requirement on a step function based on the cumulative sum of the previous 12 months of the Sacramento Valley Four River Index. Watershed-Wide WSAs reduce the unimpaired flow requirement in October-May from 55 percent in the wettest third of conditions to 45 percent in the middle third of conditions to 35 percent in the driest third of conditions. (§ 4.4.2.2 at p. 46.) This is the 55% w/WSAs proposal. Layered on top of Watershed-Wide WSAs are the "Tributary-specific WSAs," which apply to three rainfall and	Please see the response to comment 1122-8. While the State Water Board may consider implementation procedures other than, or in addition to curtailment regulations, it is likely that the State Water Board will develop and adopt regulations through a public process as necessary to implement portions of the plan updates, including regulations to administer the water right priority system with applicable Bay-Delta Plan requirements and commitments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology to be developed after approval of the revised proposed Plan amendments. Please also see Common Response 1.2, Water Quality Control Planning Process, regarding the Board's authorities related to water rights and the Porter-Cologne Water Quality Control Act. Please also see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of CEQA analysis performed by the State Water Board throughout the water quality control planning process. Finally, this commenter is mistaken in its assertion that non-emergency regulations cannot be used to impose curtailments. All water rights are subject to certain restrictions under Article X, Section 2, the public trust doctrine, and the rule of priority. Under its water rights authority and Water Code section 1058, the Board is empowered to adopt such regulations as it deems advisable in carrying out its powers and duties. Further, while this commenter cites to the 2022 California Water Curtailment

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		municipal supply dominated tributaries with storage reservoirs: Mokelumne River, the Putah Creek, and Calaveras River. (Id. at p. 47.) The Tributary-specific WSAs reduce or remove the flow requirements for the tributary during low storage conditions as defined in Table 5 of the Revised Draft Plan. While the 55% w/WSAs proposal may be sufficient for the State Water Board to consider adopting it as a program, the Revised Draft Update provides too little detail about how it would be implemented, and Chapter 13's analysis is too general, for the State Water Board to implement that proposal as to specific diverters without further analysis. For example, that further analysis would be required to comply with Article X, § 2, which prohibits the unreasonable use, method of use, or method of diversion of water, and applies with equal force to water rights and water quality actions. (Racanelli, supra, 182 Cal.App.3d 82, 144, citing In re Waters of Long Valley Creek Stream System (1979) 25 Cal.3d 339, 354.) The 55% w/WSAs proposal would involve varying, on a rolling basis, unimpaired flow requirements by 10 to 20 percentage points based on categorizing past—not forecasted—hydrology into imprecise thirds. It is at best very difficult to understand what this would mean for any specific diverter. It also is at best very difficult to understand what the rolling variance of streamflow requirements based on hydrologic conditions from a previous water year would mean during a current water year. For example, changing unimpaired flows on a step-function based on experienced hydrology would seem to not allow for water users to store flow to mitigate for forecasted dry conditions, as is commonly done now. Instead, it would require water users to bypass inflow only because experienced hydrology fits within a broad category of water years. It is not possible to determine whether specific diverters' operations would be consistent with Article X, § 2 at this level of generality. The December 2025 Draft Update states that, within two years of the revised Bay-Delta Plan's approval by the Office of Administrative Law, the State Water Board will adopt waterright curtailment regulations that would apply throughout the Bay-Delta watershed. (§ 4.4.3 at pp. 60–61.) As NCWA previously commented, the State Water Board's regulatory authority is not unlimited: the Board must consider the context of each diversion	Cases to support its position, the legal landscape has since changed. Riparian and pre-1914 appropriative rights are now covered under Division 2 of the Water Code.

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		and use, and provide due process before curtailing a water right. (NCWA January 2025 Comment Letter at § V.A.) Nothing in the Water Code authorizes the State Board to adopt every-year, all-condition curtailment regulations based on any water quality objectives in the Bay-Delta Plan. (See California Water Curtailment Cases (2022) 83 Cal.App.5th 164, 190-91 [State Water Board did not have generalized authority under Water Code section 1052 to issue curtailments against pre- 1914 appropriators due to a lack of available water.].) Because the cases in which the courts have upheld State Water Board regulations requiring reduced diversions have all involved highly time-specific conflicts between specific beneficial uses, [Footnote 17: See e.g., People ex rel. State Water Resources Control Bd. v. Forni (1976) 54 Cal.App.3d 743, (resolving conflict among diverters from the Napa River who all wanted to divert during the same limited times when it was necessary to apply water to grapes in order to protect them in freezing conditions in the March 15-May 15 period); Light v. State Water Resources Control Bd. (2014) 226 Cal.App.4th 1463 (upholding regulations to protect endangered species under specific conditions); Stanford Vina Ranch Irrigation Co. v. State of California (2020) 50 Cal. App.5th 976 (upholding regulations to protect flows for listed species during severe drought conditions)]. none of those decisions provides any support for the idea that Article X, section 2 authorizes the board to adopt curtailment regulations that would apply in every year, in every condition, and among the multitude of beneficial uses that exist in the entire Bay-Delta watershed.	
1122	18	IV. Specific Comments on Chapter 13 of the Draft Staff Report A. MBK Engineers' Technical Review of Chapter 13 Confirms the Superiority of the Healthy Rivers Proposal to Reasonably Protect Beneficial Uses with Fewer Adverse Impacts. In support of NCWA's comments, MBK Engineers ("MBK") performed a thorough and detailed technical review of the new Chapter 13 of the DSR and its related modeling information, and prepared a technical report setting forth MBK's resulting analysis and findings regarding how implementation of the	Please see the response to comment 1122-30. The benefit of the proposed 20,000 acres of valley floodplain habitat is briefly described in Section 13.5.3.1, Tributaries, and described in more detail in the Scientific Basis Report Supplement (Staff Report Appendix G2). Without specific information on the habitat restoration projects that would be completed to fulfill this requirement, it would be speculative to discuss the benefits of the 20,000-acre commitment in additional detail.

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		Healthy Rivers Proposal would provide comparable benefits with fewer adverse impacts than the Regulatory Pathway. MBK's Technical Review shows that Chapter 13's Benefits Analysis underreports the benefits of the VA Pathway by using a faulty baseline. (MBK Technical Review at pp. 5–8, 18.) The analysis of the VA Pathway does not include all components of the 2024 LTO baseline, specifically that the Drought Protection Program ("DPP") will result in greater storage in Shasta Lake and cooler water temperatures during dry years. (MBK Technical Review, p. 7.) This is a notable omission from Chapter 13's modeling given that the DPP is explicitly referenced in the Sacramento Mainstem reference conditions for flow accounting in Appendix B.1 of the December 2025 Draft Update. (See App'x B.1 at pp. B.1-37–B.1.38.) Indeed, the DPP is part of the 2024 LTO and NMFS relied on the DPP in its 2024 BiOp. (2024 NMFS BiOp at p. 800 [describing reduction in SRSC diversions below 75% of contract totals consistent with DPP].) There is no justification for omitting the DPP from the baseline condition. The DPP—and Shasta Framework as a whole— improves conditions for winter-run Chinook salmon egg incubation and spawning by improving Reclamation's ability to build and maintain a cold water pool during the hardest years for winter-run chinook survival [Footnote 18: And Winter Run-Action Plan, attached hereto as Appendix 7]. A proper analysis of the VA Pathway, using the correct baseline, would show greater benefits than what is presented in Chapter 13. (MBK Technical Review at p. 18.) Nor does the analysis account for the addition of 20,000 acres of floodplain habitat on the Sacramento Valley floor. (Id. at pp. 7-8.) Salmon historically reared on Sacramento Valley's floodplains prior to the channelization and reclamation of the valley floor. Reconnecting salmon with this historic habitat has already increased salmon survival rates [Footnote 19: See, e.g., Rossi et al., Foodscapes for Salmon and Other Mobile Consumers in River Networks (Sept. 2024) 74 BioScience 586, attached hereto as Appendix 8; Bell-Tilcock et al., Biogeochemical Processes Create Distinct Isotopic Fingerprints to Track Floodplain Rearing of Juvenile Salmon (2021) PLOS One 1 attached hereto as Appendix 9; Jeffres et al., Detrital Food Web Contributes to Aquatic Ecosystem Productivity and Rapid Salmon Growth in a Managed Floodplain (2020) PLOS One 1, attached hereto as Appendix 10;	

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		Katz et al., Floodplain Farm Fields Provide Novel Rearing Habitat for Chinook Salmon (2017) PLOS One 1, attached hereto as Appendix 11]. Indeed, as Board member Firestone acknowledged during the hearing [Footnote 20: Comments of Boardmember Laurel Firestone, State Water Resources Control Board Bay-Delta Hearing – January 30, 2026, at 2:49:02–29, available at: https://www.youtube.com/watch?v=LT028nCYjIQ]. the peer reviewers of the Scientific Basis Report Supplement all agreed that the combination of non-flow habitat restoration with flow assets provided by the VA Pathway will contribute to increased salmon survival [Footnote 21: Final response to Request for Review of the Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements For the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan (Feb. 21, 2024) available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/2024/2024.02.21-peer-review-package.pdf]. Accordingly, increasing that habitat is a key part of the HRL Proposal designed to help achieve the salmon doubling goal. Because Chapter 13 omits these important details and benefits, its benefits analyses and comparison of alternatives cannot be taken at face value.	
1122	19	B. Chapter 13 Fails to Cure the Draft Staff Report’s Inadequacies Related to the Regulatory Pathway Analysis under CEQA. In January 2024 comments on the 2023 Draft Staff Report (DSR), NCWA explained how the DSR’s analysis was not adequate under CEQA to disclose the impacts that new streamflow requirements in the range of 45% to 65% of unimpaired flows would have. NCWA and the parties to this letter incorporate those comments by reference. Chapter 13 and Appendices of the DSR raise similar concerns, as explained below. 1. Chapter 13’s Project Description Is At Best Sufficient for Programmatic Consideration and the State Water Board Will Need to Prepare Supplemental Analysis Before It Implements, at a Diverter- Specific Level, Elements of that Project Description.	As discussed in Common Response 7.1, General CEQA and Approach to the Analysis, the Staff Report considers the revised proposed Plan amendments at a broad level of analysis and does not model or otherwise project environmental impacts on individual water users. The Staff Report includes analysis of a wide range of flow scenarios, including the 45, 55, and 65 scenarios that could be implemented if water supply adjustments (WSAs) are discontinued. Any changes to WSAs pursuant to the adaptive implementation provisions would fall within the range of impacts and effects encompassed by the 45, 55, 55 w/WSAs, and 65 scenarios. See Staff Report Section 13.7.8, Energy, for analysis of impacts to energy, including hydropower. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		In its January 2024 comments, NCWA previously provided extensive comments on the inadequacy of the DSR's project description. (See NCWA January 2024 Comment Letter, Appendix 2, pp. 12–14.) The December 2025 Revised Draft effectively revised the project description by adding, among other things, the 55% w/WSAs scenario. That scenario's description provides enough detail to generally understand how that scenario would be implemented as part of the Regulatory Pathway's program of implementation. As discussed above, however, that description is not adequate to understand how it would affect the many specific diverters who would be subject to implementation measures consistent with that scenario. For example, the State Water Board's SacWAM modeling reflected in Chapter 13 hardcodes key reservoirs throughout the watershed so that reservoir operations and storage do not change under the Regulatory Pathway. (Appendix H1a3 at Table H1a3-136 [No change in storage under any unimpaired flow scenario for Buck Lake, Butt Valley, Lake Almanor, Scotts Flat, Whiskeytown], Tables H1a3-297–300 [No change in storage under any unimpaired flow scenario for Sly Creek Reservoir], Tables H1a3-237–240 [No change in storage under any unimpaired flow scenario for Little Grass Valley Reservoir], Tables H1a3-241–244 [No change in storage under any unimpaired flow scenario for Loon Lake], Tables H1a3-253–256 [No change in storage under any unimpaired flow scenario for Merle Collins Reservoir], Tables H1a3-257–258 [No change in storage under any unimpaired flow scenario for Mountain Meadows Reservoir], and Tables H1a3-275–276 [No change in storage under any unimpaired flow scenario for "PhilbrookRoundValley"].) Chapter 13's voluminous modeling analyses thus do not provide individual diverters with information sufficient to understand how their specific water-supply operations would be impacted by the December 2025 Revised Draft. Before the State Water Board can implement the 55% w/WSAs scenario as to individual diverters, it must prepare a supplemental analysis that adequately discloses impacts at that level. (See County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931 [CEQA analysis inadequate because it lacked description of proposed action on reservoir operations and related impact areas].)	

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		Similarly, the Regulatory Pathway evaluated by Chapter 13 includes WSAs that would modify the “required percent of unimpaired flow based on hydrologic conditions during the initial implementation of the Plan” in order to “reduce water supply impacts and allow more water to be stored in reservoirs.” (Ch. 13 at 13-9.) If the State Water Board adopts the proposed WSAs as part of the Plan, the watershed-wide inflow requirement would be 55 percent of unimpaired flow during the wettest third of conditions, 45 percent of unimpaired flow during the intermediate third of hydrologic conditions, and 35 percent of unimpaired flow in the driest third of conditions. (Id. at 13-15.) The Regulatory Pathway’s proposed WSAs, however, could end at any time. (See e.g., Ch. 13 at p. 13-15 [“The Board could modify these water supply adjustments in the future within the 45 to 65 percent of unimpaired flow range . . .”]; id. at pp. 13-191 [“However, because the water supply adjustments could be modified after initial implementation . . .”, 13-198, and 13- 217.]) The modeling conducted in support of Chapter 13’s analysis, however, assumes that WSAs will occur in every simulated year, with no off ramp or trigger that switches SacWAM to unmodified unimpaired flow requirements. (See generally, Appendix H1, Modeling for the Revised Proposed Plan Amendments.) Chapter 13 acknowledges that “the water supply adjustments could be modified after initial implementation . . . impacts could also be as high as those identified in Section 7.4” of the DSR, but does not appear to contain an analysis of the environmental or economic impacts of this possibility on specific diverters or resources. (Id. at pp. 13-150, 13-244.) It also does not quantitatively analyze the WSAs’ hydropower effects [Footnote 22: Hydropower generators have submitted extensive comments on the Draft Plan’s impacts on hydropower generation and the failure of the DSR to appropriately analyze, describe, and mitigate those impacts, which are incorporated herein by reference. (See Comment Letter of Hydroelectric Power Producers – Sacramento/Delta Draft Staff Report (Jan. 19, 2024); SMUD/EID/PCWA Joint Comment Letter Draft Bay-Delta Water Quality Control Plan Updates (Jan. 9, 2025).) The final Bay-Delta Plan Update and DSR must be revised to consider and address those comments]. The	

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		State Water Board therefore will need to prepare a supplemental analysis of the proposed WSAs before it attempts to apply the Regulatory Pathway to specific diverters through measures with regulatory effect.	
1122	20	(a) The State Water Board Will Need to Prepare a Supplemental Technical Analysis Before Attempting to Adopt Any Curtailment Regulations. Chapter 13's discussion of its implementation methodology is clear: the State Water Board intends to implement the Plan "primarily through water right curtailments . . ." (Ch. 13 at p. 13-33.) Although Chapter 13 indicates that the Board's curtailment methodology has not been fully developed, its basic framework is also clear: Chapter 13 asserts that its curtailment methodology will be based on the Water Unavailability Methodology for the Delta Watershed. The State Water Board previously relied on this methodology to implement curtailments in 2021–2023. (Ibid.) [Footnote 23: Numerous water users challenged the State Water Board's implementation of the curtailment tool during the 2021-23 drought in still-pending coordinated litigation, State Water Resources Curtailment Cases (Santa Clara County Super. Ct., Case No. JCCP 5229)]. While the State Water Board apparently intends to rely on the existing Water Unavailability Methodology, Chapter 13 does not analyze the effects of implementing that methodology. Under CEQA, an agency must conduct an environmental review adequate to identify the impacts of site-specific rules at the times those impacts can be identified. (See <i>City of Arcadia v. State Water Resources Control Bd.</i> (2006) 135 Cal.App.4th 1392, 1423–26 (regional water quality control board violated CEQA by not analyzing impacts of compliance measures when they could be identified).) Chapter 13, though, just states that all curtailment effects are simply embedded within SacWAM's supply changes—even as it acknowledges that curtailments may cause greater impacts than modeled. (Ch. 13 at p. 13-165.) This acknowledgment merely reflects the fact that the SacWAM model does not operate at the level of water-right priorities, but rather employs broader "demand units" that combine supplies produced by diverters with significantly different priorities	The State Water Board will develop and adopt regulations through a public process to implement portions of the Plan updates, including regulations to administer the water right priority system with applicable Bay-Delta Plan requirements and commitments. This methodology will be developed and refined through a public process with opportunity for public comment. As part of the public process for considering curtailment, the State Water Board would determine what, if any, new review is required under CEQA for the particular action before the State Water Board. Please see Common Responses 1.2, Water Quality Control Planning Process and 1.3, Revised Proposed Plan Amendments, regarding the implementation of the revised proposed Plan amendments. Additionally, please see the response to comment 1120-13.

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		[Footnote 24: Sacramento Water Allocation Model (Sept. 2023 draft) pp. 4-2-4-13, available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/sacwam/docs/sacwam-2023.06.12-doc.pdf]. Chapter 13's groundwater modeling results similarly do not track Bulletin 118 basins and, in fact, appear to combine multiple Bulletin 118 basins so that it is impossible for diverters and groundwater users to determine how any given Bay-Delta Plan scenario—such as the new 55% w/WSAs—based on any given water-right priorities would affect them. (See Appendix H1a2 at pp. H1a2-379-384, and Appendix H1a3, pp. H1a3-379- H1a3-384.) Because curtailments are proposed to be the central tool through which the Regulatory Pathway flow objectives will be implemented and enforced, the State Water Board will need to analyze the environmental and economic effects of implementing curtailments that actually reflect water-right priorities before implementing curtailments to implement a revised Bay-Delta Plan. (See Laurel Heights Improvement Assn. v. Regents of University of Cal. (1988) 47 Cal.3d 376, 394 [“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved”]; Californians for Alternatives to Toxics v. Dept. of Food & Ag. (2005) 136 Cal.App.4th 1, 7, 12-20 [agency prepares EIR when adopting long-term regulations based on CEQA-exempt emergency regulations and cannot rely on separate certified regulatory program].)	
1122	21	(b) Chapter 13's Discussion of Impacts to Groundwater and Agricultural Resources Emphasizes the Need for More Specific Analysis Before the State Water Board Attempts to Implement Diverter-Specific Measures under a Revised Bay-Delta Plan's Regulatory Pathway. Chapter 13's description of the Regulatory Pathway's impacts on groundwater and agricultural resources is the best example showing how supplemental analysis will be required before the	The Staff Report acknowledges that following adoption of the Plan amendments the Board will assign responsibility to Sacramento/Delta water right holders through further water quality or water right proceedings, such as via an implementation regulation, issuance of water quality certifications, conditioning of water rights, or a combination of actions, each of which will have the appropriate level of further environmental review as necessary. Please see Common Response 1.2, Water Quality Control Planning Process for further

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		Regulatory Pathway is implemented as to specific diverters. As Chapter 13 acknowledges, there are tradeoffs between these two categories of impacts. Reductions in available surface water supply as a result of implementing the Regulatory Pathway will result in impacts to both types of resources. On the one hand, if the reduction in surface water supply occurs in tandem with similar or greater groundwater pumping, the impacts to groundwater resources will be higher; on the other hand, if groundwater pumping does not increase commensurately with the decrease in surface water supply, then the State Water Board can expect greater impacts to agricultural resources. (See Ch. 13 at p. 13-372.) Chapter 13, though, does not describe how these tradeoffs would be made at a real-world level. For Impact GW-b, Chapter 13 simply asserts that impacts under both the Regulatory and VA pathways would be something less than the “worst-case scenario” of the originally proposed 55 percent unimpaired flow requirement—unless, of course, the State Water Board terminates WSAs under the Regulatory Pathway or terminates the VA Pathway. (Ch. 13 at p. 13-373.) Further, despite the acknowledgement that groundwater pumping would increase under both scenarios (id. at p. 13-370), the modeling assumes that groundwater pumping under both pathways would be essentially the same as baseline pumping conditions (id. at p. 13-190). That modeling shows little difference between pumping under various unimpaired flow scenarios. (Appendix H1a3 at pp. 367–85.) This is not a realistic assumption for real-world operations resulting from diverter-specific curtailments. It therefore may be adequate for the programmatic adoption of a revised Bay-Delta Plan, but supplemental project-level analysis will be required before the relevant curtailments could be implemented as to specific diverters and the specific agricultural and groundwater resources that would be affected. (Ch. 13 at p. 13-372.) The issues with the groundwater pumping discussion become particularly clear when one considers Chapter 13’s analysis of likely impacts to agricultural resources. If groundwater pumping could be expected to remain essentially the same as under baseline conditions, then the impacts to agricultural resources	discussion of the Plan update’s interaction with other State Water Board regulatory activities. The commenter misinterprets the appendix modeling outputs by treating SacWAM’s groundwater-pumping constraints and/or long-term cumulative groundwater-storage differences as findings of the groundwater impact analysis. The comment also conflates surface-water modeling assumptions and results presented in Chapter 6, Changes in Hydrology and Water Supply, and Chapter 13, Revised Proposed Plan Amendments, with the groundwater impact analysis, which is conducted separately in Sections 7.12.2 and 13.7.12.2, each titled Groundwater, using different assumptions, methods, and analytical objectives. As a result, the conclusions presented in the comment do not reflect the purpose, scope, or findings of the groundwater analysis in the Staff Report, nor do they represent any predictions or estimations of actual groundwater storage or use in a groundwater basin; please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for clarification on the appropriate groundwater impact analysis, on SacWAM’s consideration of groundwater and further discussion on SGMA considerations.

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		might not reach the “worst-case scenario.” (See Ch. 13 at p. 13-247.) But given the implementation of SGMA and reduced surface water supplies available to recharge groundwater aquifers, it is possible that agricultural water users will be unable to pump as much groundwater as they have historically and will thus need to fallow more land. The implementation of Sustainable Groundwater Management Act (“SGMA”) has resulted in the availability of extensive information about the status of groundwater basins in the Sacramento Valley and specific plans that are intended to ensure that those basins are managed sustainably, so they could provide the basis for the State Water Board’s supplemental analysis of real-world implementation of the regulatory measures Chapter 13 discusses at the programmatic level [Footnote 25: See, e.g., SGMA Portal, Department of Water Resources, available at: sgma.water.ca.gov/portal/].	
1122	22	2. Chapter 13’s Analysis of Impacts to End-of-September Shasta Storage Omits Material Information about Applicable Requirements under the 2024 NMFS BiOp. Shasta carryover storage is an important factor in meeting the December 2025 Draft Plan’s narrative cold water habitat objective. (Ch. 13 at pp. 13-17–13-18.) Chapter 13 relies on SacWAM results to evaluate Shasta Reservoir carryover storage under the revised Draft Update. However, those results are materially inconsistent with the drought protection framework adopted in the 2024 NMFS BiOp, and Chapter 13 does not disclose or reconcile that inconsistency. The 2024 BiOp establishes a bin-based Shasta Management Framework with explicit carryover storage thresholds and estimated frequencies (2024 NMFS BiOp at pp. 285-287.) Only Bin 3B is defined as having projected end-of-September storage below 2.0 MAF, with Bin 3B conditions expected to occur in less than 8.5 percent of years. (Ibid.) The 2024 NMFS BiOp treats end-of-September carryover storage of less than 2.0 MAF as an environmental and water supply emergency because “carryover less than 2.0 MAF provides little drought protection if the following year continues to be dry.” (Id. at Appendix A, p. 3-21.) The 2024 NMFS BiOp prescribes a variety of actions intended to	The 2024 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp) establishes carryover storage targets that are not treated as explicit thresholds, as has been demonstrated in the 2025 and 2026 water year governance of Sacramento River temperature management. Additionally, the storage thresholds and the Bin frequencies in the 2024 NMFS BiOp are not borne out in the modeling that supports the BiOp’s Proposed Action. The Bin frequencies highlighted in the comment are results from older CalSIM2 modeling that have been removed from the latest versions of the Long Term Operation documentation. Chapter 13, Revised Proposed Plan Amendments of the Staff Report contains additional information on the 2025 Record of Decision and the Drought Protection Program. SacWAM baseline and VA scenario results show end-of-September Shasta storage below 2 MAF approximately 12 percent of years as shown in Section H1a2.5.4.3, Shasta Lake (Sacramento River Watershed) of Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments of the 2025 partially recirculated draft Staff Report. While SacWAM does not implement the bin system for temperature management, the reservoir operations logic uses reservoir buffers to achieve similar outcomes as anticipated in the Drought Protection Program. Please see Common Response

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		prevent end-of-September storage from falling below this critical level, including the DPP. (See id. at 3-21 – 3-24; see also 2024 NMFS BiOp at p. 800.) In analyzing the impacts of the VA Pathway, Chapter 13 appears to ignore the 2024 NMFS BiOp’s approach to managing end-of-September Shasta storage. First, Appendix H1a3 provides numeric cumulative distributions for Shasta carryover storage only for the Regulatory Pathway but does not provide a corresponding distribution for the VA Pathway. (Appendix H1a3, at p. 280, Table H1a3-289) Instead, VA Pathway results for Shasta are shown only as a figure, without any tabulated percent-exceedance values. (Ch. 13 at p. 13-140, Fig. 13.4-55.) Because no VA Pathway cumulative distribution table exists, Chapter 13 does not disclose the frequency with which Shasta EOS would fall below 2.0 MAF under the VA pathway, preventing a comparison to the Regulatory Pathway and depriving the public of a key drought-risk metric. (See People ex rel. Bonta, supra, 105 Cal.App.5th at 1231.) Second, the information Chapter 13 does provide suggests that the State Water Board’s modeling failed to incorporate the 2024 NMFS BiOp’s requirements applicable to end-of- September storage in evaluating the VA Pathway. Figure 13.4-55 of Chapter 13 contains an exceedance plot for end-of-September Shasta storage in which the implementation of the VA pathway shows that storage closely tracks the modeled baseline scenario. But the modeled baseline scenario indicates that end-of-September Shasta storage is expected to fall below 2.0 MAF in approximately 17 percent of years. (See MBK Technical Review at pp. 13-14, Figs. 10 and 11.) As the MBK Technical Review explains, inclusion of the DPP as part of the VA Pathway would show increased Shasta carryover storage in the driest 10-20 percent of years under HRL. (See MBK Technical Review at p. 14.) If the modeling used to support Chapter 13’s impacts analysis for the VA Pathway properly incorporated the 2024 NMFS BiOp’s requirements with respect to end-of-September Shasta storage, it is unclear why there is such a dramatic difference between the frequency at which the VA Pathway leads to end-of-September	6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding carryover storage targets and SacWAM reservoir buffer pools.

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		storage of less than 2.0 MAF and the 2024 NMFS BiOp's conclusion that such storage conditions will occur in less than 8.5 percent of years. (See Ch. 13 at p. 13-47 [explaining that HRL flow commitments are intended to incorporate the 2024 NMFS BiOp].) Thus, Chapter 13 overstates the impacts that the VA Pathway would have on Shasta storage and underreports the VA Pathway's beneficial effects.	
1122	23	3. Chapter 13 Largely Repeats The 2023 DSR's Generalized Mitigation Measures, so the State Water Board Will Need to Develop More Specific Mitigation Measures Before Attempting to Apply Regulatory Measures to Specific Diversifiers. NCWA previously provided extensive comments on the inadequacy of the DSR's measures for mitigating the environmental impacts of the Draft Plan Update under CEQA. (See NCWA January 2024 Comment Letter, Appendix 2 at pp. 18-21.) Chapter 13 continues to rely on generalized goals for the impacted parties to adopt voluntary implementation plans, invest in diversified water portfolios, and increase water use efficiency to offset the significant water supply impacts resulting from the State Water Board's adoption of the Draft Plan Update. (See generally, Appendix H3; see also Ch. 13 at p. 13-374 [suggesting that water users' diversification of their water supply portfolios would reduce impacts to groundwater resources]) In order to be consistent with CEQA for actual implementation of diverter-specific measures under the Regulatory Pathway, the State Water Board will need to develop more specific mitigation measures before adopting such measures. (See e.g., King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814 856 [explaining the distinction between a "generalized goal" and "specific performance criteria" and holding that the former constitutes the impermissible deferral of mitigation measures]; Sierra Watch v. County of Placer (2021), 69 Cal.App.5th 86, 110 [explaining that an agency cannot provide "good neighborly advice" as a substitute for providing guidance for how feasible procedures may be modified to lessen the impact].)	Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the adequacy of the mitigation measures. To the extent this comment incorporates other comments by reference, please refer to the responses to those comment letters.
1122	24	V. Conclusion	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		Based upon the foregoing, the State Water Board's final version of the Bay-Delta Plan Updates should adopt and provide for the implementation of the Healthy Rivers Program as proposed by the HRL Participants. Sincerely, NORTHERN CALIFORNIA WATER ASSOCIATION	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1122	25	MBK Engineers (MBK) was tasked with a technical review of the December 2025 Revised Draft Sacramento/Delta Updates (December Updates) to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan) and Supporting Draft Staff Report, Chapter 13 (Recirculated DSR), and associated modeling. We have not undertaken any separate or independent analysis and are commenting on the technical work contained in the various documents from the State Water Resources Control Board (State Board). This report is a summary of the technical review and key findings. MBK produced a similar report in January 2024 (2024 MBK Report), which provided comments on the 2023 Draft Staff Report/Substitute Environmental Document, and associated modeling (2023 DSR). Additionally, the December Update is a revised version of the October 2024 Draft Update. MBK prepared a technical memorandum dated January 9, 2025, (2025 MBK TM) that posed foundational questions and provided technical comments on the October 2024 Draft Update. Many of the findings and comments from the 2024 MBK Report and 2025 MBK TM are applicable to the December 2025 Recirculated DSR and the Revised Draft Bay-Delta Plan Update. Sections and Key Findings This report is organized into five sections. The first section provides an overview of the key findings and defines the terminology used throughout the report. The second section describes the major new component analyzed in the Recirculated DSR, the water supply adjustments. The second section describes the factors and considerations for the water supply adjustments and water right priorities.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment references other comments, please see the substantive responses to those comments.

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1122	26	The third section describes several key assumptions related to analysis of the HRL Alternative that support the following finding: We identified three areas where the analysis of the HRL Alternative in the Recirculated DSR understates or misses quantifying benefits expected with the HRL Proposal. The fourth section of the report makes direct comparisons between the results of the HRL Alternative and the 55% unimpaired flow (UIF) scenarios, using information taken directly from tables in the Recirculated DSR, appendices, or Sacramento Water Allocation Model (SacWAM) results. The Recirculated DSR presents the information in different tables or figures for the HRL Alternative and 55% UIF scenarios, which make direct comparisons challenging. The key finding from the fourth section of this report is as follows: Analysis contained in the Recirculated DSR demonstrates that the HRL Alternatives provides more benefits with less adverse impacts than the 55% UIF scenarios. While the 55 w/WSA scenario reduces the adverse impacts of the 55% UIF scenario and can show some benefits for certain rivers and metrics, a more complete quantitative analysis of the HRL Proposal would show additional benefits not included in the Recirculated DSR. The fifth and final section provides comments on the December Update, including Appendix B.1, which describes flow accounting for the HRL Proposal. The key finding related to our analysis of the December Update is: The HRL Proposal can be implemented significantly faster than a UIF requirement due to efforts such as the 2025 Flow Operations Team Dry Run and continued efforts planned for 2026. There are still significant technical challenges to implementation of a UIF requirement. Terminology This report uses terms for specific documents, model scenarios, and alternatives. The Recirculated DSR is primarily a new	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments. The State Water Board is not a signatory to the VA proposal nor bound by its terms. See also Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.

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		chapter, Chapter 13, to the 2023 DSR. The new Chapter 13 describes revisions to the Proposed Bay-Delta Plan Amendments that include water supply adjustments (WSA) to the proposed unimpaired flow requirements. Chapter 13 presents a variety of model results for a 55% of unimpaired flow with the water supply adjustments (55% w/WSA) scenario and model results for the Voluntary Agreement (VA) Alternative. Results for the VA Alternative, as defined and analyzed by State Board staff, are referred to in this report as the Agreements to Support Healthy Rivers and Landscapes (HRL) Alternative. This report refers to the alternatives and modeling results as 55 w/WSA, 55% UIF when describing an unimpaired flow scenario without water supply adjustments, and HRL Alternative when describing a scenario or results for the VA Alternative described in Chapter 13. The term HRL Proposal in this report refers to the specific actions and commitments made by HRL participants which in some instances differ from the HRL Alternative as defined and analyzed by State Board staff. The term 55% UIF scenarios is used to refer to results for both the 55 w/WSA (watershed-wide and tributary specific) and 55% UIF scenarios.	
1122	28	II. Water Supply Adjustments The Recirculated DSR provides analysis of a modification to the UIF scenarios originally analyzed in the 2023 DSR. The modification is the application of water supply adjustments (WSA) that reduce or eliminate the UIF requirement based on certain conditions. Two WSAs are analyzed in the 55 w/WSA scenario. The first is a watershed-wide WSA that applies to all rivers and tributaries in the Sacramento Valley and the Cosumnes, Mokelumne, and Calaveras rivers. The watershed-wide WSA is determined based the cumulative sum of the prior 12 months of the Sacramento Valley Four River Index, which is comprised of the Sacramento, Feather, Yuba, and American rivers. The December Update defines two threshold values for the cumulative, 12-month, four-river index (WSA index). When the WSA index is below 20.2 million acre-feet (MAF) the required UIF percentage is 45%. When the WSA index is below 13.2 MAF the required UIF percentage is 35%. The December Update states that these thresholds were established to result in a required UIF percentage of 55% in one third of years, 45% in	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		one third of years, and 35% in one third of years. The WSA index is to be updated for each month between October and May, and the final May value applies through the immediately following September. The watershed-wide WSA is intended to reduce the water supply impact of meeting a 55% UIF requirement during drier hydrologic conditions. It is important to note that text throughout Chapter 13 repeatedly describes the 55 w/WSA scenario as the “starring point for the regulatory pathway” and that the WSAs “could be modified after initial implementation” (for example, see page 13-191). Figure 1 illustrates the required UIF percentage with the watershed-wide WSA factor based on the WSA index and defined thresholds for the historical hydrology from water year 1976 through 2025. The required UIF is updated each month from October through May and the May value applied from May through the immediately following September. Figure 1 shows the WSA index and resulting required UIF percentage. The watershed-wide WSA reduces the required UIF percentage during dry hydrologic conditions. There are two potential technical modifications that could be made to the watershed-wide WSA that would improve the intended outcome. First, the California Department of Water Resources (DWR) publishes forecasts of unimpaired flow for the four rivers included in the four-river index during the winter and spring months. These forecasts, at an appropriate exceedance, could be incorporated into the WSA index so the index is both backward and forward looking. This can make the resulting UIF requirement higher or lower than a purely backward-looking cumulative volume depending on the forecast. When transitioning from wetter to drier conditions, incorporating a forecast may reduce the UIF requirement earlier, when future dry conditions are forecasted, allowing more water to be stored in reservoirs. An example of this is the spring of 2020 when forecasts showed reduced runoff, but the prior 12-month volume included the wet year of 2019. An earlier reduction to the required UIF percentage would allow more water to remain in storage and increase flexibility for the later drought years. The	

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		opposite would also be true when transitioning from drier to wetter conditions. The second potential modification is refinement of the thresholds and the UIF requirement to avoid the “stair-step” nature of the requirement with two thresholds. Further refinement to add thresholds for 5% changes in the required UIF would reduce significant changes in the required volume of flows when the WSA index is barely over or under a threshold. A 10% difference in the UIF requirement can be 100,000 acre-feet of water in a single month. An example of this refinement may be a requirement for 40% UIF instead of 45% during 1989. During this year, the WSA Index was between 14 and 15 MAF from April 1989 through February 1990, largely due to a single month, March 1989, of higher runoff. In this instance a single month of higher inflow resulted in a 45% UIF requirement for 11 months during a drought sequence. Refined thresholds to move the UIF requirement in 5% increments will smooth the water supply effects by reducing the volume of required flow when the WSA index is just over or under a threshold. The second WSA analyzed as part of the 55 w/WSA scenario in the Recirculated DSR is tributary-specific WSAs. Tributary-specific WSAs, “apply for specific rainfall dominated and municipal supply dominated tributaries” of the Mokelumne River, the Calaveras River, and Putah Creek (December Update, page 47). The tributary-specific WSAs are based on the fraction of total regulated storage capacity on each river or creek. Table 5 of the December Update specifies the storage fractions below which the required UIF is 35% or eliminated entirely. These storage fractions vary for the three watersheds and there is no description regarding how the storage fractions were determined in the December Update. The UIF requirement for these three Delta tributaries is the lower of the watershed-wide or tributary-specific WSA. A review of SacWAM model results determined the UIF requirements with application of both the watershed-wide and tributary-specific WSAs. Figure 2 illustrates the probability of exceedance for the UIF requirements with the watershed-wide and tributary-specific WSAs for the three watersheds where the	

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		tributary-specific WSAs apply. Figure 2 shows the watershed-wide WSA results in UIF requirements of 55%, 45%, and 35% approximately 1/3 of the time each. The tributary-specific WSAs further reduce the UIF requirement for those specified watersheds. The UIF requirement for the three tributaries with tributary-specific WSAs is 55% UIF approximately 10% to 15% of the time, 45% UIF approximately 10% of the time, 35% UIF approximately 40% of the time, and approximately 20% of the time the UIF requirement is eliminated. There is an additional 20% of the time when the UIF is zero; therefore, there would be no requirement regardless of the percentage. The application of tributary-specific WSAs raises questions regarding water right priorities and the purpose of the UIF requirements. While the California Water Code recognizes a preference for meeting domestic needs, it is unclear why WSAs extend a preference for municipal and industrial uses to watersheds where municipal supply is the “dominant purpose” and the watershed is rainfall dominated. The December Update does not provide any additional information or rationale regarding how State Board staff determined these three watersheds would be considered for tributary-specific WSAs, while other watersheds that provide municipal supplies, or where rainfall-runoff determines much of the available water supply, were not included.	
1122	29	III. Analysis of HRL Alternative We identified three areas where the analysis of the HRL Alternative in the Recirculated DSR understates or misses quantifying benefits expected with the HRL Proposal. Two of the issues relate to the modeling assumptions for the HRL Alternative, relative to the State Board’s defined baseline condition. The third issue relates to quantitative analysis of certain floodplain habitat commitments under the HRL Proposal. Baseline and HRL Alternative Assumptions for Delta Exports	There is only one project baseline, which is described in Staff Report Sections 6.2.1, Baseline Assumptions, and 13.4.2.2, Baseline Condition, and is further discussed in Common Response 6.2, Baseline and No Project Alternative. The analysis in the draft Staff Report compares the 35-75 and 55 w/WSA flow scenarios and the VA scenario to the same project baseline. Please see Common Response 6.2, Baseline and No Project Alternative, for response to comments that raise issues with the project baseline and how it relates to the VA scenario.

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		The effects of the HRL Proposal are determined by comparison of model results of the HRL Alternative and the baseline condition. SacWAM modeling of the HRL Alternative includes an assumed change in the regulatory requirements for Delta exports from the regulatory requirements assumed in the SacWAM Baseline. This is a key difference and undermines the ability to understand the effects of the HRL Proposal. This same issue was described in the 2024 MBK Report providing comments on the 2023 DSR. The specific change in the assumptions is whether the San Joaquin River Inflow-to-Export (SJR I:E) ratio applies to Delta exports at the Central Valley Project's (CVP) Jones Pumping Plant (CVP Exports) and the State Water Project's (SWP) Banks Pumping Plant (SWP Exports) in April and May. The SJR I:E restriction was first included in the 2009 National Marine Fisheries Service Biological Opinion. The SacWAM Baseline assumption is that SJR I:E applies to both CVP and SWP Exports. This is the same baseline assumption as contained in the SacWAM modeling for the 2023 DSR, as described in Table 6.2-1 of the 2023 DSR. SacWAM modeling for the HRL Alternative removes the SJR I:E restriction from both CVP and SWP Exports. The reason provided for removal is because HRL flow assets are to be accounted from a baseline operation of the CVP and SWP under the 2024 Long-term Operations (2024 LTO), associated biological opinions, and the 2024 SWP incidental take permit (2024 ITP). The removal of SJR I:E from the HRL Alternative results in an increase in Delta exports, as compared to the baseline, but the HRL Proposal does not include an increase in Delta exports. The removal of SJR I:E for CVP Exports has occurred as part of a separate process. Additionally, assumptions regarding SJR I:E are also different between the 55 w/WSA and the 55% UIF scenarios. Modeling for the 55 w/WSA scenario removes the SJR I:E restriction from CVP Exports, but includes the restriction for SWP Exports. The Recirculated DSR states that the SJR I:E is no longer included in the Proposed Bay-Delta Plan Amendments (page 13-304), but while the 2024 LTO removes the restriction, the 2024 SWP ITP	

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		includes the restriction if DWR is not implementing the HRL Proposal (page 13-304). By comparison the 55% UIF scenario assumes the SJR I:E applies to both CVP and SWP Exports, consistent with the baseline. The Recirculated DSR includes two appendices – Appendix H1a4 and H1a5, with SacWAM model results for export constraint sensitivity analyses. These appendices include SacWAM results for changes in flows in tributaries and the Delta, reservoir operations, and water supply. The results from these sensitivity analyses were not used in the subsequent analyses for fisheries benefits presented in Chapter 13. Figure 3 illustrates the average annual change in combined CVP Exports and SWP Exports by water year type, as modeled in SacWAM, for the HRL Alternative and the 55% UIF scenarios. Results illustrated in Figure 3 are from Table 13.4-79, Table 13.4-82, and directly from SacWAM results for the HRL Alternative, 55 w/WSA, and 55% UIF, respectively. Figure 3. Change in Combined CVP and SWP Delta Exports under HRL and 55% UIF Scenarios SacWAM results in Figure 3 show increases in Delta exports under the HRL Alternative in all but critical years, though increased Delta exports are not a component of the HRL Proposal. Additionally, while the 55 w/WSA scenario shows a reduction in combined Delta export, the effects are different on the CVP and SWP. Simulated average annual CVP Exports under the 55 w/WSA scenario increase 13 thousand acre-feet (TAF) while average annual SWP Exports decrease 388 TAF. Both CVP and SWP Exports are simulated to be reduced under the 55% UIF scenario. Comparisons of the HRL Alternative to a baseline with different underlying regulatory requirements is inappropriate and is contrary to standard industry practice in the engineering profession. In the engineering profession it is standard practice when performing technical analyses of an alternative to include only the components of that alternative in the analysis while keeping all other assumptions consistent with the baseline. Performing the analysis in this way ensures that the results of	

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		the analysis reflect only the changes attributable to the alternative. The addition of other changes to the model assumptions introduces confounding effects. As described in Appendix A1 to the 2023 DSR, the SacWAM results are intended to be used in comparative analyses to understand the incremental effects between two scenarios (2023 DSR Appendix A1, A1-3). Comparative analyses are the standard practice in the engineering profession for evaluating model results such as those presented in the Recirculated DSR. However, it is critical to ensure that these comparisons, such as the change between an alternative and the baseline, represent only the changes associated with the alternative. All other assumptions and inputs, not specifically part of the alternative, should remain consistent with the baseline. Additionally, the changes in regulatory restrictions on Delta exports across the three different scenarios confound the analysis of interior Delta flows and Delta outflow. While Table 13.4-91 shows average annual increases in Delta outflow under the HRL Alternative, after post-processing analysis by State Board staff to account for additional Delta outflow under HRL water purchases, these values would be higher without the increase in Delta exports summarized in Figure 3 and Table 13.4-82 of the Recirculated DSR. The additional Delta outflow and changes in interior Delta flows would affect the beneficial environmental effects within the Bay-Delta for the HRL Alternative that are summarized in section 13.5.4.2 of the Recirculated Draft.	
1122	30	HRL Alternative and the Drought Protection Program The Recirculated DSR states the HRL Alternative is relative to CVP/SWP operations under the 2024 LTO and 2024 SWP ITP. This is the rationale for removal of the SJR I:E export restriction in the analysis of the HRL Alternative. Based on this rationale, it is appropriate to include all actions under the 2024 LTO in the HRL Alternative, including the Drought Protection Program (DPP) on the Sacramento River. The DPP is a water reduction and infrastructure improvement agreement between the U.S. Bureau of Reclamation (Reclamation) and the Sacramento River	The Drought Protection Program (DPP) was not directly modeled because of the uncertainties regarding its implementation and the way in which its effects would complicate other changes resulting from the 2024 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp). Staff has interpreted the commitments outlined in the DPP to depend on several factors that are outside of governance of the HRL Alternative and therefore would be difficult to directly model. While it seems likely that the DPP would result in more Shasta carryover storage and benefits to temperature management

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		Settlement Contractors (SRSC) in response to drought conditions at Shasta Lake. Under Phase 1 of the DPP, from 2025 through 2035, the SRSC will reduce contract supply by up to 500 TAF during years when specific hydrologic conditions occur, with the goal of maintaining the water in Shasta Lake. The DPP is separate from the HRL Proposal, but the period of DPP Phase 1 overlaps with much of the initial eight-year period for the HRL Proposal, depending on the timing of State Board adoption. Inclusion of the DPP in analysis of the HRL Alternative would result in higher storage in Shasta Lake under the HRL Alternative, as compared to the baseline condition, and benefits to downstream water temperatures and subsequent analyses of the effects on fisheries. Similar to the discussion of SJR I:E, the DPP is not part of the HRL Proposal and therefore best practice for evaluating the effects of the HRL Proposal is to not include it in the analysis of the HRL Alternative. However, to be consistent with the rationale for including removal of the SJR I:E export constraint in the HRL Alternative, because it is part of the 2024 LTO regulatory baseline for the HRL Proposal, the DPP should also be included as part of that same regulatory baseline condition. Areas where the inclusion of the DPP in the HRL Alternative would change the results presented in Chapter 13 are noted in subsequent sections of this report.	during some dry years, the implementation of the Shasta Reservoir Bin system introduces further complications to the interpretation of the DPP. Section 13.4, Changes in Hydrology and Water Supply, of the final Staff Report qualitatively addresses the 2024 NMFS BiOp Environmental Impact Statement analysis and, among other things, the potential effects of the DPP. See the response to comment 1122-22 about the uncertainty surrounding implementation of the DPP.
1122	31	Sacramento Valley Floor Floodplain Habitat Sacramento Valley HRL participants committed to advance 20,000 acres of floodplain rearing habitat and 20,000 acres of fish food production in the Sutter Bypass, Butte Sink, and Colusa Basin as part of the HRL Proposal. The floodplain habitat in the Sutter Bypass area is to be generated via a notch to the Tisdale Weir that will allow water into the Tisdale and lower Sutter bypasses at lower flows on the Sacramento River. These commitments are described in Table 13.3-2 and categorized as "Valley Floor" habitat commitments. Categorizing these commitments as Valley Floor habitat means they are not associated with a particular river for any of the subsequent quantitative analyses of benefits. This is further described on page 13-207 of the Recirculated DSR, with a qualitative statement that rearing habitat for the Sacramento River is expected to surpass what is needed to support 25 percent of the	Please see the response to comment 1122-18. The analysis of Tisdale Weir notch operations is provided in the Scientific Basis Report Supplement (Staff Report Appendix G2).

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		doubling goal with the 20,000 acres of floodplain rearing habitat with the HRL Proposal. However, there are multiple locations throughout the quantitative analysis of the HRL Alternative presented in Chapter 13 and associated appendices where the benefits of these habitat commitments are omitted. The SacWAM model simulates the Tisdale Weir notch project for the HRL Alternative. SacWAM model results can be used to illustrate the changes in flow through the Tisdale and lower Sutter bypasses to quantify one measure of the additional benefits of the Sacramento Valley floor floodplain habitat. Figure 4 is a summary of the simulated average annual spills into the Tisdale Bypass and then into the lower Sutter Bypass under the HRL Alternative and the 55% UIF scenarios. Results for the HRL Alternative are from Table 13.4-67, results for 55 w/WSA are from Table 13.4-58, and results for 55% UIF are directly from SacWAM model output. Results in Figure 4 show that with the HRL Alternative, flows into the Tisdale Bypass increase by more than 100 TAF on average, compared to decreased flows under the 55% UIF scenarios. Quantitative analysis of the potential rearing habitat and floodplain inundation associated with these increased flows was not included in the Recirculated DSR. Areas where the inclusion of these acres and flows would change the results presented in Chapter 13 are noted in subsequent sections of this report.	
1122	32	IV. HRL Proposal: More Benefits with Less Impacts The following section compares the HRL Alternative to the 55% UIF scenarios using information and results presented in the Recirculated DSR. Tributary Salmonid Habitat The HRL Proposal provides more salmonid benefits on the tributaries than the 55% UIF scenarios, increases habitat to address limiting factors, and provides benefits across all water year types by making efficient use of existing flows and the HRL flow assets.	Please see Common Response 3.1, Fish Protection, for information on the habitat benefit analyses.

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		Figure 5 is the percent change in median salmonid spawning habitat for the HRL Alternative and the 55% UIF scenarios on the Sacramento Valley rivers. Results for the HRL Alternative are from Table 13.5-6, results for 55 w/WSA are from Table 13.5-2, and results for 55% UIF are from Table 3.14-8 of the 2023 DSR. Results in Figure 5 show the HRL Alternative increases the median spawning habitat on the American, Feather, and Sacramento rivers. Spawning habitat on the Yuba River is not identified as a limiting factor and therefore HRL habitat commitments are not designed to increase spawning habitat. The 55% UIF scenarios result in no change or small reductions in median spawning habitat on all four rivers. Figure 6 is the percent change in median salmonid rearing habitat for the HRL Alternative and the 55% UIF scenarios on the Sacramento Valley rivers. Results for the HRL Alternative are from Table 13.5-7, results for 55 w/WSA are from Table 13.5-3, and results for 55% UIF are from Table 3.14-9 of the 2023 DSR. Results in Figure 6 show the HRL Alternative increases the median rearing habitat on all four rivers, and increases exceed those provided with either 55 w/WSA or 55% UIF. The largest increase in rearing habitat under the 55% UIF scenarios occurs on the Feather River with a small increase on the American and decreases on the Sacramento and Yuba rivers. Results for the HRL Alternative do not include 20,000 acres of floodplain restoration in the flood bypasses that will provide rearing habitat for fish from the Feather and Sacramento rivers, in addition to the results shown in Figure 6. As described in Recirculated DSR Table 13.3-2, these acres are categorized as “Valley Floor” habitat commitments and not quantitatively analyzed as part of any river system. The 2023 DSR included additional details regarding the percentage of increases in tributary salmonid habitat with the HRL Alternative in Appendix G2, the Supplement to the Scientific Basis Report, tables 6- 1 and 6-2. This information was not updated as part of the Recirculated DSR, but is repeated here to illustrate some key points regarding the HRL Proposal. Figure 7	

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		and Figure 8 summarize the median percent increase from these tables for spawning and rearing habitat, respectively. Results summarized in these two figures illustrate two key points regarding the HRL Proposal. First, the HRL Proposal strategically addresses the specific needs of each tributary. For example, spawning habitat is not a limiting factor on the Yuba River and therefore HRL habitat commitments focus on additional rearing habitat on that system. Second, HRL habitat projects provide benefits across the range of existing flows, including years without HRL flow contributions. The result is an efficient use of existing and HRL flows to increase salmonid habitat in all years. Figure 9 illustrates the change in frequency (percent of years or occurrence) with “meaningful floodplain events” that inundate 25% of the habitat to achieve the doubling goal. A meaningful floodplain event is defined in Appendix H1c to occur for at least two months of a rearing season and at least two out of three years. Results for the HRL Alternative are described in the text on pages 13-208 and 13-209. Results for the 55 w/WSA scenario are from Table 13.5-4. While this analysis was also conducted for 55% UIF as part of the 2023 DSR, the analysis and baseline have been updated since then and results may not be comparable with results in the Recirculated DSR and are not illustrated here. Results in Figure 9 show the HRL Alternative increases the frequency of meaningful floodplain events on the Feather and Yuba rivers more than 55 w/WSA. Results reported in Chapter 13 show increases on the Sacramento River under the 55 w/WSA scenario, but as previously described, the additional floodplain habitat along the Sacramento River is not included in the quantitative analysis. The Recirculated DSR includes a qualitative statement that rearing habitat for the Sacramento River is expected to surpass what is needed to support 25 percent of the doubling goal with the 20,000 acres of floodplain rearing habitat in the HRL Proposal, but does not quantify the increase in frequency of meaningful floodplain events.	
1122	33	Reservoir Storage	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		The HRL Proposal better maintains the ability of reservoirs to provide multiple benefits as compared to the 55% UIF scenarios. Figure 10 illustrates the probability of exceedance for end-of-May, simulated storage in Shasta, Oroville, Folsom, and New Bullards Bar reservoirs for the baseline, HRL Alternative, and 55% UIF scenarios. The end-of-May storage is the reservoir condition at the end of the spring period when both the HRL Alternative and the 55% UIF scenarios typically require increased releases, and the start of the summer period when demands increase and reservoir storage is needed for water supply, temperature management, hydropower generation, and other beneficial uses. Figure 10. End-of-May Simulated Storage in Four Major Reservoirs in the Sacramento Valley Results in Figure 10 show storage in the HRL Alternative is higher at the end-of-May, as compared to the 55% UIF scenarios in most years. Storage in Oroville and Folsom can be 100 TAF or more higher in 50% to 60% of years under the HRL Alternative. Higher spring storage provides flexibility to meet multiple benefits. Storage in Shasta and Oroville in the driest 10% of years is higher under the 55 w/WSA scenario, as compared to the baseline and HRL Alternative. This is primarily due to reduced releases for downstream diversions to assist meeting the cold-water habitat objective. End-of-May storage under the 55 w/WSA scenario is higher than under the 55% UIF scenario, though both have the same cold-water habitat objective. These changes in storage results in changes in water temperatures downstream of the reservoirs. Figure 11 provides the same probability of exceedance for end-of-September, simulated storage in Shasta, Oroville, Folsom, and New Bullards Bar reservoirs for the baseline, HRL Alternative, and 55% UIF with and without WSA scenarios. Also included in Figure 11 are shaded regions that illustrate the nondrought and drought carryover storage targets from Table 8 of the December Update that are applicable to the 55% UIF scenarios. These target storage ranges are provided to understand how well SacWAM model results reflect the targets described in the	raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding carryover storage targets and reservoir buffer pools; the storage target for New Bullards Bar Reservoir is not 750 TAF. In relation to the baseline used for analyzing effects of the VA pathway, please see Common Response 6.2, Baseline and No Project Alternative.

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		December Update. It should be noted that carryover storage values in Table 8 are described as targets and lower targets may be approved by the Executive Director “on a temporary one-year basis” (December Update, page 55). The SacWAM modeling implements the carryover storage targets using reservoir buffer pools. The actual operations of each reservoir to achieve the cold-water habitat objectives will be determined through a required planning process that must be completed by each reservoir owner operator and approved by the Executive Director, as described in the December Update. Results for end-of-September or carryover storage show differences across the four reservoirs. Carryover storage under both 55% UIF scenarios is lower than the HRL Alternative in approximately 60% of years in Shasta, but higher approximately 10% to 20% of the driest years because of the narrative cold-water habitat objective. The carryover storage targets from Table 8 are generally met in Shasta under 55 w/WSA. As previously described during the discussion of the assumptions for the HRL Alternative, the inclusion of the DPP as part of the 2024 LTO baseline would show increased storage in the driest 10% to 20% of years under the HRL Alternative. Carryover storage in Oroville is lower approximately 50% of the time under both 55% UIF scenarios, but higher under 55 w/WSA in approximately 20% of years. Carryover storage in Folsom is similar to baseline under both the HRL Alternative and 55% UIF but can be lower in approximately 40% of years under 55 w/WSA. Carryover storage in New Bullards Bar for the 55% UIF scenario reflects a fundamental change in the operation of that reservoir with a carryover storage target of 750 TAF compared to 650 TAF in the baseline, HRL Alternative, and 55 w/WSA. Results for Oroville, Folsom, and New Bullards Bar show the drought year carryover targets are not met in approximately 5% of years under 55 w/WSA. Differences in carryover storage affect simulated water temperatures downstream of the reservoirs.	
1122	34	Water Temperature Management The HRL Proposal will have less impact on the ability to manage water temperature below reservoirs, as compared to the 55% UIF scenarios. Model results for the 55% UIF scenarios reflect	Regulatory pathway implementation of the cold water habitat objective is adequately described for the purpose of the analysis, as discussed further in Common Response 1.3, Revised Proposed Plan Amendments. Because implementation of the cold water habitat objective is complex, methodology for individual

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		implementation of the narrative cold-water habitat objective that is currently undefined. Appendix H1b to the Recirculated DSR contains water temperature modeling and fish assessment results for the HRL Alternative and 55% UIF scenarios. Appendix H1b describes the use of U.S. Army Corps of Engineers, Hydrologic Engineering Center 5Q (HEC-5Q) models to simulate reservoir and river temperatures on the Sacramento, Feather, Yuba, and American rivers. HEC-5Q analysis is performed on these four rivers based on reservoir operations simulated in SacWAM. Results presented in Appendix H1b are the 10th, 50th, and 90th percentiles for average monthly temperatures. Percentile values indicate the percentage of all the values in the data set above and below the given percentile. For example, the 90th percentile average temperature for a given month is the temperature where 10% of the average monthly temperatures for that month are warmer and 90% are cooler. Results are presented at multiple river locations on the four rivers and for a range of UIF scenarios from 35% to 65% and the 55 w/WSA scenario. The following tables are extracted from tables in Appendix H1b at key locations on each of the four rivers and show the change in average monthly temperature percentiles relative to the baseline for the 55% UIF scenarios and the HRL Alternative. Values in Table 1 for the Sacramento River were extracted from Table H1b-39. Results in Table 1 show reduced April temperatures for all three alternatives compared to the baseline. The 55% UIF scenarios, for the median or 50th percentile, show increased May through July temperatures and lower August and September temperatures. The 55% UIF scenarios show reduced temperatures at the 90th percentile from August through November. Temperature reductions at the 90th percentile and in these months are a result of the higher storage in Shasta Lake shown in Figure 11. The higher storage under the 55% UIF scenarios results from reductions in releases for downstream water supply within the Sacramento Valley to meet the cold-water habitat objective.	tributary implementation will take time. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, regarding implementation of the cold water habitat objective and flexibility included in the revised proposed Plan amendments related to long-term temperature management strategy and refinement of the carryover storage target ranges. For the Feather River, all simulations route excess water that is above low flow channel recommended flows through Thermalito due to concerns about fish habitat area in the low flow channel. Routing more water through the low flow channel could improve temperature results for all scenarios, not just the VAs. The relative effects of all scenarios are comparable since the routing of flow is the same for each scenario. For the American River, please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for a description of HEC-5Q modeled American River temperatures sensitivity to Folsom Reservoir release temperature targets. As described in Staff Report Section 13.7.6.2, Aquatic Biological Resources, because the sources of the unspecified water purchases are not fully known at this time but could include inflow sources within the Sacramento/Delta watershed, it is possible that there could be additional changes in water temperature on the American, Feather, Sacramento, and Yuba Rivers or other Sacramento/Delta tributaries beyond the changes that were modeled and analyzed. In relation to the baseline used for analyzing effects of the VA pathway on the Sacramento River, please see Common Response 6.2, Baseline and No Project Alternative.

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		Results for the HRL Alternative show reduced April temperatures, and largely unchanged temperatures in the remainder of months. There are increased temperatures at the 90th percentile in July, October, and November, relative to the baseline. This is a result of higher spring releases from Shasta Lake and shows why it may be prudent to carryover the Sacramento River HRL flow assets under some conditions. Simulated water temperatures on the Sacramento River at the 90th percentile for the HRL Alternative would show reductions relative to baseline had the HRL Alternative included all aspects of the 2024 LTO baseline including the DPP. Values in Table 2 for the Feather River were extracted from Table H1b-51. Results in Table 2 show reduced temperatures in April and May for the 55% UIF scenarios, and generally higher temperatures in most other months. Temperatures under the HRL Alternative are generally closer to baseline with most differences being less than 0.5 degrees Fahrenheit (oF), with the exception of median April temperatures, and March and April temperatures at the 90th percentile. The reason for increased Feather River temperatures in April under the HRL Alternative is unclear, but it may be related to the assumption that HRL spring pulse flows are routed through the Thermalito Afterbay and not down the Low-Flow Channel. Simulated HRL flows typically increase Feather River flows by approximately 500 cfs in both April and May with relatively little difference in end-of-May Oroville storage compared to the baseline, as shown in Figure 10. Values in Table 3 for the American River were extracted from Table H1b-55. Results in Table 3 show increased median May through November temperatures under the 55% UIF scenarios, with the largest increases in June through August. There are reduced temperatures in March and April at both the 50th and 90th percentiles and May at the 90th percentile for the 55% UIF scenarios. Temperature changes under the HRL Alternative are generally smaller in magnitude with the largest magnitude	

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		changes being cooler temperatures at the 90th percentile during April and June and no increased temperatures greater than 0.6 oF. Values in Table 4 for the Yuba River were extracted from Table H1b-57. Results in Table 4 show similar changes in Yuba River temperatures as shown in Table 3 for the American River. Temperatures under the 55% UIF scenarios show increases from June through October with the largest increases in June through August median temperatures. Temperature increases are less under 55 w/WSA, as compared to 55% UIF. Temperatures are generally reduced from January through April at both the 50th and 90th percentiles. Temperature changes under the HRL Alternative are generally smaller in magnitude, with the largest magnitude changes being cooler median temperatures in April and May, and no increased temperatures greater than 0.4 oF.	
1122	35	Potential Effects on Salmon Omitting the DPP and 20,000 acres of Valley floor floodplain habitat from the analysis of potential effects on salmon underestimates the benefits of the HRL Proposal on the Sacramento River. Analyses on other rivers show comparable outcomes for the HRL Alternative and 55 w/WSA. The Recirculated DSR built upon an analysis conducted as part of the 2023 DSR to assess the effects of temperature on various fish species by life stage. Results of the analysis are summarized in section 13.7.6.2 of Chapter 13 and additional details are provided in Appendix H1b. The outcome of the analysis is summarized as both favorable and unfavorable changes from baseline for the HRL Alternative and 55 w/WSA. An example of the summary is Table 13.7.6.2-1 for the Sacramento River. These analyses were performed for all runs of Chinook salmon, steelhead, and green sturgeon if assumed to be present on a river. The determination of favorable or unfavorable changes is based on comparisons of simulated temperatures to index values or	The temperature analysis presented in Section 13.7.6.2, Aquatic Biological Resources, focuses on potential water temperature impacts. For this reason, it does not combine unfavorable and favorable effects. It also does not combine possible temperature impacts with floodplain benefits. The commenter states, "Some thresholds used to determine exceedance are based on maximum daily temperatures that are estimated from simulated average daily temperatures." To clarify, only the 7DADM index values are converted to daily average, but the reverse conversion (daily average to 7DADM) was not performed. By converting the 7DADM indices to daily averages, a single set of simulated daily average water temperature results could be used in the analysis, rather than requiring use of two sets of temperature results: 7DADM and daily averages. As described in Section H1b.6.1, Methods, temperature indices that were in the form of 7-day average daily maximum temperatures (7DADM) were converted to daily average temperature indices based on measured differences between daily average and 7DADM temperatures in historical water temperature data collected by stream gages in each river.

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		thresholds for each species and life stage. The source of the selected temperature thresholds is provided in tables for each river in Appendix H1b. The analysis involves a comparison of the simulated water temperatures to the threshold values to determine the number of days when the threshold is exceeded and the magnitude of the exceedance. The number of days exceeded and magnitude of exceedance for the HRL Alternative and 55 w/WSA were then compared to the baseline to determine changes. Changes for both number of days and magnitude of exceedance were reported by month and water-year type for multiple locations on each river, relative to life-stage-specific thresholds, during months when the life-stage would be present. An example of this analysis is in Table H1b-70 in Appendix H1b. The determination of favorable and unfavorable changes is based on changes to both number of days and magnitude of exceedance. A change in the number of days exceeded greater than 5%, coupled with a change in the magnitude of exceedance of more than 0.5 oF, in a month and water-year type, is considered favorable, for reduction in days exceeded and magnitude of exceedance, or unfavorable for increases in days exceeded and magnitude of exceedance. The number of months and water-year types for a species, life-stage, and river location that show favorable and unfavorable changes relative to the baseline are summed and divided by the total number of months, water-year types, and river locations for the species and life-stage. This is the metric reported in Chapter 13 as a percent favorable and unfavorable change by species and life-stage. As described above and in Appendix H1b the analysis involves multiple models and numerous steps. Reservoir operations are first simulated in SacWAM and results used to simulate water temperatures in HEC-5Q models. Any inaccuracy in modeling the expected changes in reservoir operations under an alternative will be carried forward to the temperature analysis. Some thresholds used to determine exceedance are based on maximum daily temperatures that are estimated from simulated average daily temperatures. While the 5% frequency and 0.5 oF magnitude criteria for determining a favorable or unfavorable change for a month may be reasonable, no scientific support for these thresholds is provided in Appendix H1b. An additional	Support for the criteria used in the fish assessment is provided in Section 7.6.2, Aquatic Biological Resources, which states that the 5-percent criterion is based on best professional judgment of fisheries biologists from NMFS, CDFW, DWR, and Reclamation and is consistent with the assumed level of model noise associated with hydrologic and water temperature modeling. The 0.5°F criterion is based on (1) a review of the water temperature-related mortality rates for steelhead eggs and juveniles that indicated changes in temperature of <0.5°F had little effect on survival (DWR 2016, Appendix 5.D); and (2) a reasonable water temperature differential that could be detected in measurements that track the effect of changes in real-time operations. The 0.5°F value was applied to all species/races and life stages, although it was partially based on data for steelhead eggs and juveniles. Consideration of limiting factors or critical life stage for a given species would be included in the long-term temperature strategies to be developed for implementation of the cold water habitat objective as described in Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat. In addition, consideration of the level of importance of each exceedance of the two components of the analysis used to determine whether a result was favorable or unfavorable (change in the number of days exceeding a temperature index value was greater than 5%, and a change in the magnitude of exceeding a temperature index value was greater than 0.5°F) was part of the impact assessment and contributed to the determination of potentially significant impacts. As described in Section 7.6.2, Aquatic Biological Resources, for those months and water year types that met the two criteria, a thorough review was conducted to determine whether these patterns were persistent across multiple year types and months. In addition, the occurrence of exceedance relative to the temporal and spatial patterns of fish presence, the magnitude of temperature increase, and whether the differences could be alleviated during real-time operations were considered. In relation to the baseline used for analyzing effects of the VA, please see Common Response 6.2, Baseline and No Project Alternative.

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		summary of this analysis was developed to illustrate the potential net effect of both favorable and unfavorable changes. Unfavorable changes were subtracted from favorable changes by species and life-stage to calculate a potential net effect. Figure 12 is an example of this summary for fall-run Chinook salmon life-stages as the only species of Chinook salmon present on all four rivers. Results in Figure 12 are from Table 13.7.6.2-1, Table 13.7.6.2-3, Table 13.7.6.2-4, and Table 13.7.6.2-6, for the Sacramento, American, Feather, and Yuba rivers, respectively. The net potential effects summarized in Figure 12 under 55 w/WSA are unfavorable for fall-run on the American River and favorable on the Sacramento River. Results on the Feather and Yuba rivers show both favorable and unfavorable potential effects depending on life stage. There are no changes under the HRL Alternative on the American, Sacramento, or Feather rivers, and relatively small changes on the Yuba River. There are at least two key considerations for interpreting this analysis. The first is that the analysis does not consider the limiting factor or critical life stage for a given species. For example, favorable and unfavorable potential effects may be more important to certain life stages if those life stages are known to be problematic under baseline conditions. Second is that the analysis of the HRL Alternative does not include all aspects of the 2024 LTO baseline, specifically the DPP that will result in higher storage in Shasta Lake and cooler temperatures during dry years. Analysis of the HRL Alternative also omits the addition of 20,000 acres of floodplain habitat on the Sacramento Valley floor.	
1122	36	Rice Acres and Terrestrial Habitat The HRL Proposal will have less impact on the acres of rice in production and terrestrial habitat in the Sacramento River Basin than the 55% UIF scenarios. Potential Executive Director exceptions for water deliveries to national wildlife refuges may create conflicts with water right priorities. The HRL Proposal for the Sacramento River Basin will make water available by idling up to 35,000 acres of rice land in	The Staff Report uses a reasonable and conservative approach to evaluating potential agricultural impacts of the flow scenarios. Potential changes in crop acreage presented in Section 7.4, Agriculture and Forest Resources, and Section 13.7.4, Agriculture and Forest Resources, are obtained from the SWAP model. SWAP is currently the best available tool for modeling agricultural economic responses to water supply shortage. It has been peer-reviewed and applied to numerous policy analyses and impact assessments over the last two decades. As shown in Table 7.4-18, SWAP estimates approximately 144,000 acres of total fallowing

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		above normal, below normal, and dry years. An estimate of the annual reduction in rice land in production under the 55% UIF scenarios was developed based on reduction in SacWAM diversions to the primary rice growing areas of the Sacramento River Basin, including those areas served by the SRSC; diversions from the Thermalito Afterbay on the Feather River; Yuba Water Agency diversions; and South Sutter Water District diversions from the Bear River. The combined reduction in simulated irrigation season diversions were divided by an approximate diversion duty of five acre-feet per acre to estimate the reduced rice acres each year. Figure 13 illustrates the annual average reductions in Sacramento River Basin rice acres in production for the HRL Alternative and 55% UIF scenarios. Results summarized in Figure 13 show average irrigated rice acreage will be reduced between approximately 125,000 and more than 200,000 acres in critical years under the 55% UIF scenarios. These include multiple periods of consecutive years with annual reductions that can exceed 100,000 acres. By comparison, under the HRL Proposal the maximum reduction in rice acreage in production in the Sacramento River Basin in any one year is 35,000 acres. Reductions in rice acreage results in reduced habitat for terrestrial species in the Sacramento Valley including waterfowl and giant garter snakes (2023 DSR, 7.6.1-54). SacWAM modeling for the Recirculated DSR prioritizes surface water deliveries to Sacramento Valley National Wildlife Refuges (NWRs) such that deliveries are maintained at baseline levels under the 55 w/WSA scenario. This is a change from modeling for the 2023 DSR which showed significant reductions in NWR deliveries. The December Update states the Executive Director may approve exceptions to curtailments for wildlife refuge supplies (December Update, page 51). An exception to meeting the UIF requirement and cold-water habitat objectives for wildlife refuge diversions does not align with historical practice and may not be consistent with water right priorities. Historically, Reclamation has provided the same percentage of contract supplies to the SRSC and the NWRs, including in 2022 during operations under the Interim Operations Plan ordered by the federal district court. Executive Director exceptions have the	in the Sacramento/Delta watershed under the 55 flow scenario, including roughly 74,400 acres of fallowed rice acres. As discussed in Section 13.7.4.1, Impact Analysis, reductions in agricultural water supply would be lower under 55 w/WSAS compared to the 55 flow scenario analyzed in Section 7.4; therefore, the impact on land fallowing would be less under 55 w/WSA than that under the 55 flow scenario. The commenter estimates a much larger reduction in rice crop acreage under the 55 flow scenario based on the analysis by MBK Engineers. Such an estimate is not reasonable for several reasons. First, the commenter appears to assume that all Sacramento/Delta surface water supply reductions to agriculture in the Sacramento/Delta watershed would affect only rice growers, and that these changes would not affect any other crop types. It is unreasonable to assume that all changes in Sacramento/Delta water supply to agriculture would affect only rice crop growers. Nearly all of California's rice acreage is located within a few counties in the Sacramento River watershed, and the actual Sacramento/Delta surface water supply reductions as estimated by SacWAM and presented in Appendix A1, Sacramento Water Allocation Model Methods and Results, would be expected to be distributed among a much larger geographic area and group of water users than the commenter's analysis appears to assume. Actual crop acreage changes would depend on a number of different factors, including the priority of individual water rights, availability of local supplies, and other factors. In addition, the commenter's analysis appears to assume that any reduction in agricultural water supply would result in fallowed lands. It is unreasonable to assume that all growers would respond to reduced Sacramento/Delta supplies by fallowing land. In reality, individual water users may choose to increase groundwater pumping, where available and not locally restricted, substitute with lower-water-use crops, engage in deficit irrigation, or fallow land. Finally, the commenter appears to have estimated rice acreage reductions by comparing each year's resulting acreage to the single maximum baseline acreage observed under full water-supply conditions. This approach ignores that agricultural surface-water supplies—and therefore baseline rice acreage—

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		potential to create conflicts with water right priorities between the underlying water rights of the SRSC and deliveries to the NWR that are served by Reclamation's water rights.	are lower in dry years than in wet years under existing conditions. As a result, the rice crop acreage reductions estimated by the commenter are artificially high for drier years. In contrast, the Staff Report's analysis of impacts on agriculture is informed by the SWAP model, which identifies the cropping pattern that maximizes the net returns given water supply constraints, technical production relationships, and market conditions. SWAP incorporates information on the availability of water supplies within a SWAP modeled region, such as SWP and CVP deliveries, local surface water supplies, and groundwater in its analysis. As conditions change within a SWAP modeled region (e.g., the quantity of available SWP and CVP water supply decreases or the cost of groundwater pumping increases), the model optimizes production by adjusting the crop mix, water sources and quantities used, and other inputs. Please see Common Response 7.4, Agricultural Resources, and Common Response 8.1, Economic Analysis and Other Considerations, for additional information on the SWAP model, agricultural impacts, and agricultural economic effects. As discussed in Section 13.4, Changes in Hydrology and Water Supply, SacWAM results for average annual Sacramento/Delta water supply to wildlife refuges under the 55 w/WSAs scenario show limited changes for all water year types that would be assumed to be negligible and are within the expected precision of the model. These changes are very similar to those for the flow scenarios generated using SacWAM version 2025.08.28 and presented in Appendix H1a3, Sacramento Water Allocation Model Results for Updated Unimpaired Flow Scenarios, and are less than those generated using SacWAM version 2023.06.12 and evaluated in Chapter 6, Changes in Hydrology and Water Supply, and Chapter 7, Environmental Analysis, for the flow scenarios. As discussed in Section 13.4, refuge priorities were increased relative to other senior demands to reflect provisions of the December 2025 revised draft Bay-Delta Plan intended to prioritize refuge water supplies. While the SacWAM results suggest that changes in Sacramento/Delta water supply to wildlife refuges under the 55 w/WSAs scenario and flow scenarios could be negligible, the analysis of impacts resulting

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			from changes in refuge water supplies is complicated by Reclamation's past practice of reducing water supplies to Central Valley Project Improvement Act (CVPIA) wildlife refuges when it reduces allocations to Sacramento River settlement contractors; therefore, it is possible that reductions in Sacramento/Delta surface water supplies to wildlife refuges could at times be larger than indicated by the modeling. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding CVP allocations and obligations. The revised Plan includes a provision that allows for the Executive Director to approve exceptions to curtailments for wildlife refuges. The Executive Director exceptions will not create conflicts with water right priorities because the exceptions will only be granted in the context of existing laws. The State Water Board has authority to enforce the public trust, and to prevent waste or unreasonable use of water, regardless of the basis under which the water right is held. The limiting principles of reasonableness and the Public Trust Doctrine apply to all water rights, regardless of their legal basis. Please see Common Response 1.2, Water Quality Control Planning Process, for further discussion on the State Water Board's authority and public trust.
1122	37	Surface Water Supply Water supply impacts of the HRL Proposal are manageable and can be mitigated. The water supply impacts of the 55% UIF scenarios show a wide-range depending on the application of WSAs, but can exceed an average of 2 million acre-feet in dry and critical years without WSAs and 750 TAF in critical years with WSAs. The Recirculated DSR includes information to summarize the water supply impacts of the 55 w/WSA and the HRL Alternative. This information is contained in Table 13.4-107 for the 55 w/WSA, and Table 13.4- 111 for the HRL Alternative. Information for the 55% UIF Alternative is from Chapter 6, Table 6.4-2 of the 2023 DSR. These tables include the surface water supply changes within the Sacramento River/Delta area. The	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding carryover storage targets and SacWAM reservoir buffer pools for a response to comments about modeled monthly diversion patterns.

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		Recirculated DSR includes more detailed, regional results and results by agricultural, urban, and wildlife refuge use. Figure 14 compares the reductions in surface water supply under the HRL Alternative and the 55% UIF scenario with and without WSA, as reported in the Recirculated DSR and 2023 DSR for 55% UIF. Results for 55% UIF with- and without-WSA are provided because text throughout Chapter 13 repeatedly describes the 55% w/WSA as the “starting point for the regulatory pathway” and that the WSAs “could be modified after initial implementation” (for example, see page 13-191). Therefore, it is important to recognize that the water supply impacts may start as shown for 55 w/WSA, but may increase with modifications to the WSA and could be up-to 55% UIF if the WSAs were removed. As shown in Figure 14, the water supply impacts under the 55 w/WSA scenario are similar to the HRL Alternative in wet, above normal, below normal, and dry years; however, impacts in critical years exceed 750 TAF as compared to approximately 25 TAF under the HRL Alternative. Water supply adjustments in critical years typically reduce the required unimpaired flow to 35%, but this still results in significant adverse impacts to water supply when coupled with the cold-water habitat objective. Results for the 55% UIF scenario exceed those under the HRL Alternative by more than 2.1 million acre-feet (MAF) in critical and dry years, 1.8 MAF in below normal years, 1 MAF in above normal years, and 700 TAF in wet years. Similar to analysis contained in the 2023 DSR, the surface water supply impacts for the 55 w/WSA scenario are also underestimated in the Recirculated DSR. Results reported in Chapter 13 are developed from monthly model results of simulated water diversions in SacWAM. The SacWAM model calculates a monthly diversion requirement as the water necessary to meet crop evapotranspiration and maintain adequate soil moisture. If the simulated diversion is less than the diversion requirement, the SacWAM model simulates a soil moisture deficit that must be made up in future months if higher diversions are possible. The result is diversions that can exceed the baseline diversions in some months when diversions in prior	

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		month were less than the simulated diversion requirement. Figure 15 illustrates this issue using monthly SacWAM diversions by all SRSC for the baseline and 55 w/WSA scenario for an example year. Figure 15 shows reductions in the monthly SacWAM diversions by SRSC in the 55 w/WSA scenario as compared to the SacWAM Baseline in May, June, July, and August. The maximum percent reduction is 47% in June. The SacWAM diversions for September are 118% higher in the 55 w/WSA scenario than the baseline due to the soil moisture deficit from shortages in prior months. When aggregated for the purpose of summary tables in the Recirculated DSR, the increased September diversions offset a portion of the decreased diversions in the prior three months. This results in an underestimate of the surface water supply impacts reported in Chapter 13 because additional deliveries, above the baseline deliveries, in months that follow reductions, provide minimal benefit for agricultural water users following two months of 40% reductions. The 55 w/WSA scenario would result in a loss of approximately the same percentage of the planted crops as the maximum monthly percent reduction in the water supply, 47% in June.	
1122	38	Groundwater The Recirculated DSR includes results of the effects of various flow alternatives on Sacramento Valley groundwater basins that are not adequately supported and difficult to decipher and interpret, and therefore, those results have limited value and cannot be relied upon to assess the effects on groundwater. Appendix H1a2 to the Recirculated DSR includes results for the effects of the scenarios on groundwater basins within the Sacramento Valley. There are few details provided regarding the groundwater analysis used to produce the various tables and figures; therefore, it is difficult to understand the value of the information or rely upon it to assess potential effects. Accordingly, there are a few key areas to consider when evaluating the information. Most results for the various flow alternatives are provided as a change relative to the simulated baseline. While this is generally good practice, it is important to	Please see the response to comment 1122-21.

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		understand the baseline condition. Figure 16 illustrates the average annual change in baseline groundwater storage for Sacramento Valley basins from Appendix H1a2, Table H1a2-474. Results illustrated in Figure 16 show annual reduction in storage, or groundwater overdraft, for most Sacramento Valley basins. These results are not consistent with locally prepared groundwater sustainability plans and make subsequent results that build upon these baseline conditions of questionable value. Additional results presented in Appendix H1a2 show changes in groundwater pumping, groundwater recharge, and annual change in storage for the HRL Alternative and UIF scenarios, as compared to the baseline condition. Figure 17 illustrates the average annual change in groundwater pumping from Table H1a2-465. Results in Figure 17 show unexpected changes in groundwater pumping across the various basins and the two alternatives. An increase in groundwater pumping under the HRL Proposal may occur to make water available from the Sacramento and Feather rivers, yet results show an increase only in the American River basin. An increase in groundwater pumping is expected in all basins under 55 w/WSA in response to the reduction in surface water supplies, yet results show only a small increase in the Colusa basin. Text in section 13.4.5 states that the relatively small changes in groundwater pumping under 55 w/WSA is because, "...groundwater pumping in the unimpaired flow scenarios was constrained to be no greater than the corresponding monthly value of groundwater pumping from the baseline scenario." (page 13-190). There is no rationale or justification provided for this assumption. Figure 18 illustrates the average annual change in groundwater recharge from Table H1a2-469. Results in Figure 18 show reductions in groundwater recharge across the various basins and the two alternatives. Appendix H1a2 does not provide any detailed explanation or information supporting the simulated reduction in recharge for either	

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		alternative but simply states that groundwater recharge includes stream gain/loss, infiltration from applied water and precipitation, and transmission losses. Appendix H1a includes simulated changes in stream-groundwater flux or gain/loss (see Table H1a2-473), that is one component of the change in groundwater recharge. Notably, the average annual changes in groundwater recharge are several times larger than the change in groundwater pumping. It is unclear why this would be the case. Figure 19 illustrates the average annual change in groundwater storage from Table H1a2-474. Results in Figure 19 show annual changes in groundwater storage across the various basins and the two alternatives. The 55 w/WSA scenario shows a larger annual reduction in storage than the HRL Alternative in all basins except for Butte where both alternatives show an increase in storage. These annual changes in groundwater storage over the 100-year simulation create the figures in Appendix H1a2 that show change in groundwater storage through time, such as the following figure for the American River basin. As shown above, the primary cause of reduction in groundwater storage is a reduction in groundwater recharge, not an increase in groundwater pumping. While it is clear that the 55% UIF scenarios reduce the availability of surface water, and this is likely to increase groundwater pumping and reduce groundwater storage, it is difficult to support that opinion based on the analysis and results presented in Appendix H1a2.	
1122	39	Benefits and Adverse Impacts Comparison Summary Analysis contained in the Recirculated DSR demonstrates that the HRL Proposal still provides more benefits with less adverse impacts than the 55% UIF scenarios. While the 55 w/WSA scenario reduces the adverse impacts of the 55% UIF scenario, and can show some benefits for certain rivers and metrics, a more complete quantitative analysis of the HRL Proposal would show additional benefits not included in the Recirculated DSR.	Please see Common Response 3.1, Fish Protection, for information on the benefit analyses.

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		Table 5 provides a summary of benefits and adverse impacts of the HRL Proposal compared to the 55% UIF scenarios for the resource metrics described in the previous sections. Table 5. Summary of Benefits and Impacts of HRL versus 55% UIF Scenarios *The HRL Proposal has impacts to terrestrial habitat and water supply to provide the flow assets, but the impacts are manageable as compared to impacts under the 55% UIF scenarios.	
1122	40	V. Timing of Implementation The HRL Proposal can be implemented significantly faster than a UIF requirement due to efforts, such as the 2025 Flow Operations Team Dry Run and continued efforts planned for 2026. There are still significant technical challenges to implementation of a UIF requirement. The State Board released a December Update that describes the implementation of both the UIF scenarios, cold-water habitat objectives, and the HRL Proposal. The December Update is a revised version of the October 2024 Draft Update. The 2025 MBK TM posed foundational questions and provided technical comments on the October 2024 Draft Update. Many of the questions and comments raised in the 2025 MBK TM are still applicable to the December Update. The preceding section also identified comments regarding some aspects of the December Update, e.g., potential exceptions to water right curtailment to deliver water to wildlife refuges. A key aspect of the December Update is the proposed implementation of both the HRL Proposal for some tributaries and a UIF requirement for others. While theoretically possible, the December Update re-states the timing for full implementation of a UIF requirement may take up-to eight years from adoption (December Update, page 48). The initial period for the HRL Proposal is eight years, and implementation will likely begin within one or two years after adoption. There has been significant progress to develop operational teams,	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		approaches, and methodologies to make available, track, and report on HRL flow assets through efforts like the 2025 Flow Operations Team dry run. These efforts will continue in 2026, to further expand involvement from other HRL participants, test the governance structure, and further refine the methods and tools. By comparison, the foundational questions and significant technical challenges associated with implementing a UIF requirement, as described in the 2025 MBK TM, are largely unaddressed. An example of one of the unaddressed questions is exactly how compliance with the UIF requirement will be measured. While the default compliance is defined as a 7-day running average of the required percent of UIF, the December Update section on Flow Shaping (page 50) creates uncertainty regarding what flows count toward compliance, as described in the following sentences: “The total volume of water provided within a water year must be no lower than the volume of water that would have resulted from meeting the applicable unimpaired flow percentage on a 7-day running average, included applicable WSAs. Flows that would have occurred absent flow shaping (releases for water diversions, flood control purposes, hydropower releases, or other uncontrolled flows in excess of the applicable unimpaired flow percentage) do not reduce the overall required inflow levels.” The second sentence appears to state that not all flows measured at a compliance location count towards meeting the required percent of UIF. A second example of an unaddressed question that will make timely implementation of a UIF requirement problematic is defining the specific locations where the requirement will be applied. The December Update lists 24 tributaries that are initially subject to a UIF requirement in Table 6. Additionally, the footnote to Table 6 states in part, “Compliance locations also include the confluence of every major fork, branch, and tributary of the tributaries listed in this table unless determined through the implementation process that they are not needed or	

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		appropriate.” It is unclear from this description what defines a “major fork, branch, or tributary” to the specific streams listed in Table 6, and the question of whether the UIF requirements apply upstream of rim dams is still unresolved in the December Update.	
1122	41	Appendix B.1: HRL Flow Accounting The December Update includes Appendix B.1, which describes the approach, information required, and reporting for HRL Flow Accounting. While there are edits and corrections needed for specific tributaries, there are also common edits applicable to the Sacramento, Feather, and American rivers as tributaries with either CVP or SWP reservoirs. The following table provides a list of suggested common redlines for these three river systems.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	42	Appendix B.1 Text: B.1.3 item ii(a) (p. B.1-7) “For Sacramento Valley tributaries and water sources including Sacramento, Feather, American, Yuba, Bear, Putah, forgone exports, and water purchases, the flow commitments will be defined by the 40-30-30 Sacramento Valley Water Year Type Index, 50 percent exceedance forecast. The May forecast will be used into the following water year until a new forecast is available, generally December 1st.” Description in how this creates an “operational” or “additive obligation”: An alternative approach has been developed between PWAs, DWR, and Reclamation to provide consistency across multiple tributaries. The proposed text should also be used through Appendix B.1 when describing the water year type for Sacramento Valley Tributaries. Proposed red line edit(s). Replace the text in column 1 with the following, “The water year type during January through June will be determined based on the 90% exceedance forecast for January through March, the 75% exceedance forecast in April, and the 50% exceedance forecast in May. The Systemwide Governance Committee shall make the final determination regarding deployment of HRL flow assets no later than April 15th informed by the 75% exceedance	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		forecast for April. This decision will set the HRL flow assets to be deployed, even in the event of a changed water year type determination in later months.”	
1122	42.1	Appendix B.1 Text: B.1.9.3 (p. B.1-37) Sacramento River B.1.10.3 (p. B.1-43) American River Describing reference conditions and the 2024 LTO, item ii (Sac) and item iii (American) “In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document would require update as approved by the Executive Director through a public process with opportunity for public comment.” Description in how this creates an “operational” or “additive obligation”: Shifting the baseline creates operational uncertainty and additive obligations to control the uncontrollable. Additive in that other reference conditions (like in-basin deliveries and COA) will adequately address concerns regarding CVP operations. Proposed red line edit(s): “In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document would require update as approved by the Executive Director through a public process with opportunity for public comment. [begin new text] Any update to these reference conditions due to changes to the 2024 LTO shall not have redirected impacts on the ability of the HRL parties to make flow contributions nor require the HRL parties make flow contributions greater than those described. [end new text]”	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	43	Appendix B.1 Text: B.1.9.4 (p. B.1-39) Sacramento River B.1.10.4 (p. B.1-45) American River	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project

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		B.1.11.4 (p. B.1-51) Feather River Describing information documented through the public website tracking system, item i(d) “Water supply deliveries that would have been made in reference conditions and those actually delivered to in-basin water right holders and contractors and releases made for CVP (SWP) exports.” Description in how this creates an “operational” or “additive obligation”: The required information appears to cover all in-basin water right holders and contractors. This is overly broad and extends beyond the parties who are implementing HRL. HRL implementing parties do not have access to the information. The text referring to releases made for CVP/SWP exports is a request to “color the water” bypassed or released from upstream reservoirs to account for the intended beneficial use. This is not done as part of daily reservoir operations within the system, is overly burdensome, and not necessary for successful and transparent accounting of HRL flow assets. Proposed red line edit(s): “Water supply deliveries that would have been made in reference conditions and those actually delivered to [begin new text] HRL implementing parties [end new text] [begin strikeout] in-basin water right holders and contractors and releases made for CVP exports.” [end strikeout]	description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	44	Appendix B.1 Text: B.1.9.4 (p. B.1-40) Sacramento River B.1.10.4 (p. B.1-45) American River B.1.11.4 (p. B.1-51) Feather River Description in how this creates an “operational” or “additive	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		obligation”: Similar to language regarding releases made for CVP/SWP exports, this is a request to “color the water” bypassed or released from upstream reservoirs to account for the intended beneficial use. This is not done as part of daily reservoir operations within the system, is overly burdensome, and not necessary for successful and transparent accounting of HRL flow assets. Proposed red line edit(s).: Strike item i(e).	
1122	45	Appendix B.1 Text B.1.9.6 (p. B.1-42) Sacramento River B.1.10.6 (p. B.1-47) American River B.1.11.6 (p. B.1-52) Feather River Describing items to be included in annual reporting, item iv “Documentation that HRL flow measures did not affect reference conditions, including on a seasonal basis and from year to year.” Description in how this creates an “operational” or “additive obligation” A primary purpose of HRL flow accounting is to ensure that HRL flows are additive to, and did not affect, the reference condition. It is unclear what additional documentation is envisioned by this requirement. Proposed red line edit(s). “[begin strikeout] Documentation[end strikeout] [begin new text] Statement [end new text] that [begin strikeout] VA [end strikeout] [begin new text] HRL [end new text] flow measures did not affect reference conditions, including on a seasonal basis and from year to year.”	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1122	46	Appendix B.1 Text: B.1.9.6 (p. B.1-42) Sacramento River B.1.10.6 (p. B.1-47) American River B.1.11.6 (p. B.1-52) Feather River Describing items to be included in annual reporting, item v “Demonstration that water use has not increased to reduce base flows in a manner inconsistent with the provision to protect the HRL flow base (reference conditions) described in Bay-Delta Plan section 4.4.9.” Description in how this creates an “operational” or “additive obligation”: This is a vague requirement that does not specify what the increase would be relative to. Water use changes each year in California due to a variety of factors including climate and hydrology. Proposed red line edit(s).: ““[begin strikeout] Demonstration “[end strikeout] [begin new text] Statement [end new text] that water use[begin new text], absent actions taken to implement HRL flows, is consistent with the reference conditions [end new text] “[begin strikeout] has not increased to reduce base flows in a manner inconsistent with the provision to protect the VA flow base (reference conditions) described in Bay-Delta Plan section 4.4.9. “[end strikeout]”	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	47	Appendix B.1 Text: B.1.9.6 (p. B.1-42) Sacramento River B.1.10.6 (p. B.1-47) American River B.1.11.6 (p. B.1-53) Feather River Describing items to be included in annual reporting, item vi	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		“Verification that implementation of the VA pathway has not resulted in another HRL participant or water user reducing the amount of flow they bypass or release from storage, including to meet other regulatory obligations, due to the provision of HRL flows.” Description in how this creates an “operational” or “additive obligation”: A primary purpose of HRL flow accounting is to ensure that HRL flows are additive to, and did not affect, the reference condition. It is unclear what additional verification is envisioned by this requirement and the ability of HRL parties to verify the actions of a non-HRL party is questionable. Proposed red line edit(s).: “[begin new text] Statement that HRL flow measures did not affect reference conditions [end new text] [begin strikeout] Verification that implementation of the VAs has not resulted in another VA party or water user reducing the amount of flow they bypass or release from storage, including to meet other regulatory obligations, due to the provisions of VA flows. [end strikeout]”	
1122	48	Appendix B.1: HRL Water Rights The December Update includes information regarding water rights and the process to include additional water rights to become HRL participants. The following table provides a list of suggested common redlines to provide for additional clarity in this regard, as well as for consistency between sections of the December Update and other relevant approaches by the State Board.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	49	December Update Text: Section 4.4.9.3: “Within 6 months of adoption of the current plan amendments, HRL participants will provide a list of the water rights, and any accompanying substantiating information requested by the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Executive Director, for water purchases that could be dedicated instream in accordance with the procedures and criteria identified in section 4.4.9.2.” Similar language is included elsewhere in the document, such as in Section 4.4.9.2. Description of Basis for Suggestion: Securing arrangements with willing participants that will contribute water for permanent state water purchases involves technical, legal, and financial elements. Additional time should be provided after adoption of plan amendments to ensure those arrangements can be completed in order to provide a list of water rights to the State Board for those purchases. Proposed red line edit(s): “Within [begin strikeout] 6 months [end strikeout] “[begin new text] 18 months “[end new text] of adoption of the current plan amendments, HRL participants will provide a list of the water rights, and any accompanying substantiating information requested by the Executive Director, for water purchases that could be dedicated instream in accordance with the procedures and criteria identified in section 4.4.9.2.”	
1122	50	December Update Text: Section 4.4.9: “Water rights that are not identified in Appendix B.1 are subject to the Sacramento/Delta inflow and cold water habitat provisions and inflow-based Delta outflow provisions described in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6, unless an exception applies.” Description of Basis for Suggestion: Coordination and engagement with thousands of willing water right holders that will contribute water, habitat, and/or funding for HRL involves education and securing those contributions.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Additional time should be provided after adoption of plan amendments to ensure those contributions can be arranged and thereafter, provide an updated list of water rights to the State Board. This also would provide additional time for State Board to process and issue identification numbers for Initial Statements of Water Diversion and Use. Proposed red line edit(s): ““[begin new text] Within 18 months of adoption of the current plan amendments, HRL participants will provide an updated list of water rights for Appendix B.1. “[end new text] Water rights that are not identified in Appendix B.1 “[begin new text]by that time “[begin new text]are subject to the Sacramento/Delta inflow and cold water habitat provisions and inflow-based Delta outflow provisions described in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6, unless an exception applies.	
1122	51	December Update Text: Section 4.4.9: “Minor modifications to the water rights listed in Appendix B.1, including inclusion of existing water rights less than or equal to 100 acre-feet on a specific HRL water right list, may be approved by the Executive Director after a minimum 45- day public comment period...” Description of Basis for Suggestion: Proposed clarifications for: • consistency with the timeline for the proposed updates above, • consistency with the State Board’s existing Measurement Regulation threshold requiring hourly measurement frequency for diversions over 1,000 acre-feet per year. Proposed red line edit(s): “[begin new text] After 18 months of adoption of the current	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. In addition, this issue is unrelated to the Board’s measurement regulations.

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		plan amendments, m“[end new text] [begin strikeout]M[end strikeout]inor modifications to the water rights listed in Appendix B.1, including inclusion of existing water rights less than or equal to [begin strikeout] 100 [end strikeout] [begin new text] 1,000 “[end new text] acre-feet on a specific HRL water right list, may be approved by the Executive Director after a minimum 45-day public comment period...”	
1122	52	December Update Text: Section 4.4.9: “Substantive modifications, including inclusion of water rights larger than 100 acre-feet that were not previously identified, inclusion of newly issued water rights approved after December 31, 2025, or inclusion of water rights on new tributaries, to the water right list in Appendix B.1 could be considered for approval by the Board...” Description of Basis for Suggestion: Proposed clarifications for: • consistency with the timeline for the proposed updates above, • consistency with the State Board’s existing Measurement Regulation threshold requiring hourly measurement frequency for diversions over 1,000 acre-feet per year. Proposed red line edit(s): “Substantive modifications after the 18-month period, including inclusion of water rights larger than [begin strikeout] 100 [end strikeout] [begin new text] 1,000 [end new text] acre-feet that were not previously identified, [begin new text] or [end new text] inclusion of newly issued water rights approved after “[begin new text] before the end of that period, [end new text] [begin strikeout] December 31, 2025, [end strikeout] or inclusion of water rights on new tributaries, to the water right	Please see the response to comment 1122-51.

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		list in Appendix B.1 could be considered for approval by the Board...”	
1122	53	December Update Text: Section 4.4.2.2: “De minimis water diversions are defined as diversions of 10 acre-feet or less per year unless otherwise specified by the State Water Board through an annual or periodic review, water right, or water quality action, as necessary, to implement the inflow objective including through the development of a regulation.” Description of Basis for Suggestion: Proposed clarifications for consistency with the State Board’s existing Measurement Regulation threshold requiring hourly measurement frequency for diversions over 1,000 acre-feet per year. That threshold accounts for the vast majority (more than 90%) of diversions within watersheds where HRL contributions are proposed, based on the State Board’s database for 2018 diversions. Proposed red line edit(s): “De minimis water diversions are defined as diversions of [begin strikeout] 10 [end strikeout] [begin new text] 1,000 [end new text] acre-feet or less per year unless otherwise specified by the State Water Board through an annual or periodic review, water right, or water quality action, as necessary, to implement the inflow objective including through the development of a regulation.”	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	54	Appendix B-1 also contains tables of water rights covered under HRL by river system or HRL participant. The following water rights should be added to the tables in Appendix B-1. Table 6. Additional HRL Water Rights to be Added to Appendix B.1	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	55	NCWA Redlines to Section 4.4.9.10 Excerpt From Dec. 2025 Draft (2-2-2026 Draft Revisions)	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3,

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		4.4.9.10 Continuation, Modification, or Termination of the VA Pathway The VA pathway will remain in effect for a term of eight years after the effective date, unless the VA pathway is terminated before eight years or extended beyond eight years as discussed below. The State Water Board may also require modifications to the VA pathway as discussed below. Prior to a decision to extend, modify, or terminate the VA pathway, State Water Board staff will produce a draft recommendation with supporting rationale that will be subject to a minimum 45-day public review and comment period. Based on public comments, the draft recommendation will be updated, provided to the Delta Independent Science Board for review and input, and then a final staff recommendation, along with any recommendations from the Delta Independent Science Board, will be brought to the State Water Board for consideration at a public Board meeting. The following default and annual and periodic review processes apply to extension, modification, or termination of the VA pathway for HRL water rights. Default Processes for Continuation, Modification, or Termination of the VA Pathway At year six of the VA pathway, the HRL participants may submit a request to the State Water Board to extend the VA pathway, including any requested modifications, beyond the initial eight-year term. Upon receipt of the request, the State Water Board will initiate a process to evaluate the VA pathway for consideration of extending them beyond the initial eight-year term, including with possible modifications. Following receipt of any request for extension of the VA pathway, the State Water Board will solicit public comments and hold a public workshop to discuss the possible extension and modification of the VA pathway, including information regarding the effectiveness of the VA pathway at achieving the applicable narrative objectives. Following the public workshop, the State Water Board will act on the request for extension or modification to determine whether to extend the VA pathway after year eight. The State Water Board will consider the green, yellow, and red light criteria described	Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		below to determine the continuation of the VA pathway (green light), modification of the VA pathway (yellow light), or termination of the VA pathway (red light). In determining whether to continue, modify, or terminate the VA pathway under the default process, the State Water Board will consider the following: i. Whether HRL participants timely and fully provided HRL flow and non-flow commitments consistent with State Water Board approved accounting protocols; ii. Whether the monitoring, science, and reporting requirements and other requirements were met; iii. The HRL participants' synthesis of the most current science and analyses of the effects of the HRL implementation, including evaluation of the HRL hypotheses, the habitat suitability assessments, the habitat utilization and biological effectiveness assessments, and the ecological outcomes analysis; iv. Public comments and analyses on the effectiveness of the VA pathway; v. The status and trends of native fishes and other aquatic organisms; vi. Whether the periodic reports or other sources of reliable information indicate that factors outside of the VA pathway are impairing the ability to achieve the narrative ecosystem protection objective and narrative salmon protection objective by 2050; vii. Whether HRL flows have been adequately protected; viii. Whether funding has been available for the HRL commitments and additional funds are available to continue the HRL commitments; ix. The past, present, and probable future beneficial uses of water; x. The environmental characteristics of the Bay-Delta watershed, including the quality of water available thereto;	

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		xi. Water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality in the Bay-Delta watershed; and xii. Economic considerations. [begin strikeout] In addition to[end strikeout] [begin new text]After consideration of [end new text]the factors set forth in i through xii above, if the State Water Board staff's draft recommendation is to terminate the VA pathway, the [begin strikeout] State Water Board [end strikeout] staff will include an addendum to the Scientific Basis Report Supplement that synthesizes the then-current scientific information concerning flows [begin new text] and habitat conditions [end new text] for the protection of fish and wildlife beneficial uses[begin new text], and includes a draft assessment of the factors set forth in i through xii above. [end new text] The addendum will be publicly circulated for comment with the draft recommendation for continuation, modification, or termination of the VA pathway and provided to the Delta Independent Science Board for review and input. The State Water Board will consider that addendum as part of its Board Meeting on the staff recommendation for continuation, modification, or termination of the VA pathway. If the State Water Board concludes that it is appropriate to terminate the VA pathway under the red light scenario discussed below, it will also [begin new text]perform any further environmental review required under the California Environmental Quality Act and [end new text]decide whether any modifications to the [begin new text] non-VA Pathway [end new text]regulatory provisions [begin strikeout] in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 [end strikeout] of the Bay-Delta Plan are necessary in recognition of updated scientific information in the addendum or other legal or policy reasons and take one of the following actions: (a) If the Board determines modifications to the [begin new text] non-VA Pathway [end new text] regulatory provisions [begin strikeout] in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 [end strikeout] are necessary, it will immediately commence an update to the Bay-Delta Plan or its implementing regulation to incorporate the necessary changes.	

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		(b) If the Board determines modifications to the [begin new text] non-VA Pathway [end new text] regulatory provisions [begin strikeout] in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 [end strikeout] are not necessary, it will provide a new determination, that is judicially reviewable under Code of Civil Procedure section 1085, that the [begin new text] non-VA Pathway [end new text] regulatory provisions [begin strikeout] in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 [end strikeout] of the Bay-Delta Plan are legally and scientifically appropriate under the provisions of Water Code section 13241.	
1122	58	Green Light A green light determination could occur if the State Water Board concludes that the HRL participants provided flow and non-flow commitments, including in a manner substantially consistent with Board-approved accounting protocols, and the monitoring, science, reporting, and other requirements of the Bay-Delta Plan have been fulfilled. The State Water Board must also determine that the VA pathway is substantially achieving the HRL metrics and targets, including biological effectiveness, habitat suitability, and habitat utilization criteria; and that the ecological outcomes analysis and other relevant information support the conclusion that continuing the VA pathway will contribute the HRL participants' responsibility toward attainment of the narrative ecosystem protection and salmon protection objectives by 2050. If the above green light criteria are met, the State Water Board may approve continuation of the VA pathway without any substantial modification, except for changes necessary to continue the VA pathway. Yellow Light A yellow light determination could occur if the State Water Board concludes that the HRL participants provided flow and non-flow commitments, including in a manner substantially consistent with Board-approved accounting protocols, and the monitoring, science, reporting, and other requirements of the Bay-Delta Plan have been fulfilled. The State Water Board must also determine that the VA pathway is meeting a significant	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		number of HRL metrics and targets, including biological effectiveness, habitat suitability, and habitat utilization criteria; and the ecological outcomes analysis and other relevant information support the conclusion that continuing the VA pathway, with modifications, will contribute the HRL participants' responsibility toward attainment of the narrative ecosystem protection and salmon protection objectives by 2050. If the above yellow light criteria are met, the State Water Board may approve continuation of the VA pathway with modification. Red Light A red light determination could occur if the State Water Board concludes that the VA pathway and HRL participants are not achieving the conditions above for green or yellow light determinations. Under a red light determination, the State Water Board may determine that the HRL water rights are subject to the [begin new text] non-VA Pathway [end new text] regulatory provisions described above[begin strikeout], including the new Sacramento/Delta inflow and cold water habitat and inflow-based Delta outflow provisions described in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6[end strikeout]. The State Water Board may also determine that modifications to the [begin new text] non-VA Pathway [end new text] regulatory provisions are needed and pursue appropriate processes to update the Bay-Delta Plan.	
1122	59	Possible Modification or Termination of the VA Pathway as Part of Annual and Periodic Review Processes The State Water Board will use the default processes described above to consider extension, modification, or termination of the VA pathway at year eight unless, consistent with the State Water Board's periodic review obligations, there is a need to consider modification or termination of the VA pathway and associated components of the Bay-Delta Plan and its implementation at any time, including before year eight, due to: 1) the HRL participants' failure or inability to implement HRL commitments as described for the VA pathway in the Bay-Delta Plan; or 2) significant evidence that continuing implementation of the VA pathway will not provide reasonable protection of beneficial uses [begin strikeout], or will jeopardize the continued survival of native	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		fishes[end strikeout],. HRL participants' Failure to or Inability to Implement HRL Commitments The State Water Board may consider modification or termination of the VA pathway, including components of the VA pathway or the VA pathway as a whole, at any time, including before year eight, due to a lack of compliance as described in this section. The State Water Board will first conduct a public workshop and solicit public comments, including as part of annual or periodic review processes, to assess whether the HRL participants have fulfilled the commitments described for the VA pathway in the Bay-Delta Plan. The State Water Board may allow additional time for the HRL participants to come into compliance before considering the need for modifications to or termination of the VA pathway under this section. Modification or termination of the VA pathway for compliance issues include any of the following reasons: i. Failure to implement the HRL flow, habitat, funding, monitoring, science, or other provisions consistent with this program of implementation; or ii. Withdrawal of a party or parties from the VA pathway if the withdrawal materially affects the ability of any remaining HRL participants to fulfill their HRL commitments included in the program of implementation. In considering whether to modify or terminate [begin new text] the VA pathway [end new text] under this section, the State Water Board will endeavor to preserve the VA pathway for those HRL participants who have met their commitments. The Board may modify or terminate the VA pathway without a Bay-Delta Plan amendment for the compliance issues stated above consistent with the annual and periodic review processes in section 4.6. [begin new text] Any such determination to modify or terminate the VA pathway shall be judicially reviewable under Code of Civil Procedure section 1085. [end new text]	

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1122	60	Significant Evidence that Continuing Implementation of the VA Pathway Will Not Provide Reasonable Protection of Beneficial Uses [begin strikeout], or Will Jeopardize the Continued Survival of Native Fishes [end strikeout], As part of the periodic review processes, the State Water Board may [begin strikeout] consider[begin strikeout] [begin new text] make a determination to [end new text] modify[begin strikeout] ing[end strikeout] or terminat[begin new text] e[end new text] [begin strikeout] ing[end strikeout] the VA pathway, including components of the VA pathway or the VA pathway as a whole, at any time, including before year eight, based on significant evidence that continuing implementation of the VA pathway will not provide reasonable protection of beneficial uses [begin strikeout] or will jeopardize the continued survival of native fishes[end strikeout]. Any such [begin strikeout] consideration of modification or termination of[end strikeout], [begin new text] determination regarding [end new text] the VA pathway will be informed by a[begin strikeout]n[end strikeout] [begin new text] draft [end new text] assessment prepared by State Water Board staff [begin new text] of the twelve factors (i through xii) above, and the draft assessment will be [end new text] [begin strikeout], that is [end strikeout], subject to a minimum 45-day public review and comment period. Based on public comments, the draft assessment will be updated, provided to the Delta Independent Science Board for review and input, and then a final staff recommendation, along with any recommendations from the Delta Independent Science Board, will be brought to the State Water Board for consideration at a public Board meeting. If, after consideration of public input and Delta Independent Science review, the State Water Board determines that significant evidence supports the conclusion that continuing implementation of the VA pathway will not provide reasonable protection of beneficial uses or will jeopardize the continued survival of native fishes, the Board may modify or terminate the Bay-Delta Plan's VA pathway through a Bay-Delta Plan amendment.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1122	61	Process for Parties Changing Pathways The State Water Board encourages water-right holders not	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3,

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		participating in, not aware of, or not otherwise covered by the Healthy Rivers and Landscapes program to join that program in accordance with the Global Agreement, and corresponding provisions in the various Implementation Agreements and Enforcement Agreements providing for the addition of new parties. New parties may join the Healthy Rivers and Landscapes Program provided they meet the criteria outlined below and in accordance with the process described. Criteria. New parties to the Healthy Rivers and Landscapes Program must develop proposals demonstrating that their participation would contribute meaningfully to meeting the narrative objectives for salmon protection and native fish viability. Proposals shall be based on the best available science, be appropriate for the size of the tributary/party in question, and should generally include both flow and non-flow measures, funding, and a commitment to the science program, and should be proportional to other tributary contributions by HRL parties. Process. Initial proposals must be submitted to the California Department of Water Resources (DWR), the California Department of Fish and Wildlife (CDFW), and the responsible HRL: tributary/Delta governance (detailed below) for review and approval, no later than 18 months after the State Water Board adopts its Bay-Delta Plan Update. For new parties that are situated on tributaries (or the Delta) that are already part of the HRL Program, their proposals will also be submitted to the relevant tributary/Delta governance entity for review and comment. The tributary/Delta governance entity may then recommend the proposal to the Systemwide Governance Committee as well as consult with DWR and CDFW on the proposal. If approved, the Systemwide Governance Committee will then recommend the proposal along with CDFW and DWR to the State Water Board which may then convene a public process to review and approve the proposal. If approved, State Water Board staff will work with the HRL parties to update the relevant Implementation and Enforcement agreements, as appropriate. For new parties that are situated on tributaries that are not	Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		already part of the HRL program, the proposals will also be submitted to the Systemwide Governance Committee for review. If approved, the Systemwide Governance will then recommend the proposal to the State Water Board, which may then then convene a public process to review and approve the proposal. If approved, State Water Board staff will work with the new parties to negotiate and execute new Implementation and Enforcement agreements.	
1123	1	Introduction The Mayor's Office of the City of Stockton respectfully submits this written comment on the proposed updates to the Bay-Delta Water Quality Control Plan. Stockton is the largest city in the San Joaquin Delta— socially, economically, and environmentally tied to the San Francisco Bay/Sacramento-San Joaquin Delta watersheds. Proposed changes to flow objectives, water quality standards, and implementation pathways will have direct and measurable impacts on Stockton's water supplies, residents, ratepayers, and community health. Background & Context The Bay-Delta Plan establishes water quality control measures and flow requirements intended to protect beneficial uses — including drinking water supplies, fisheries, agriculture, recreation, and ecosystem functions throughout the Bay-Delta watershed. Revisions to Delta flow objectives and proposed implementation pathways (voluntary agreements vs. regulatory flows) will influence surface water availability and cost for urban water users in Stockton.	The program of implementation provides flexibilities that can help minimize water supply impacts. The revised proposed Plan amendments include water supply adjustments for existing water right holders at the outset of Plan implementation to reduce water supply impacts and allow more water to be stored in reservoirs. Finally, Plan provisions will allow the State Water Board to develop and implement qualified exceptions to curtailments associated with Bay-Delta Plan implementation for human health and safety needs. Please see Common Response 8.1, Economic Analysis and Other Considerations, for a discussion of the range of costs associated with alternative municipal water supplies and funding sources aimed at alleviating costs for municipalities.
1123	2	Water Supply Reliability & Local Costs Reliable access to safe drinking water is central to Stockton's community well-being. The City of Stockton Municipal Utilities Department currently provides water services to approximately 53,000 residential and commercial connections, with water rates structured on a tier basis: Tier 1 (0–15 units; 1 unit = 748 gallons) at roughly \$2.67 per unit and Tier 2 (15+ units) at about \$3.19 per unit (effective July 1, 2024). Monthly connection charges for a typical 1-inch residential meter are about \$37.82,	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		with usage charges added based on consumption. Based on estimates using service area population metrics, the population served by MUD's water service is approximately 182,000–188,000 people within the Stockton metro area. These rates reflect only part of the cost of water production, treatment, delivery, and infrastructure maintenance. A recent City utilities cost report indicates that, at present residential rates, revenues fall short of the actual cost of service by 23% to 33% across customer classes, meaning Stockton must continually invest in capital upgrades and system maintenance to meet service demands while balancing affordability. In addition, Stockton customers served by Cal Water's Stockton District face upcoming rate adjustments tied to infrastructure investment plans. Cal Water's Infrastructure Improvement Plan proposes replacing aging mains, enhancing security, and expanding supply reliability, with rate increases phased in beginning in 2026, reflecting the actual cost of providing safe and reliable water service to roughly 175,000 local customers. Cal Water These cost pressures are layered on top of general water affordability challenges. Statewide analyses show that many urban water systems in California have monthly bills that approach or exceed affordability thresholds for basic needs relative to local income — an issue that directly affects Stockton families. Public Policy Institute of California	
1123	3	Community Demographics & Equity Considerations Stockton's population is diverse, and a significant portion of households may experience water affordability challenges and environmental health vulnerabilities. As of recent data, Stockton has over 325,000 residents and a median household income of roughly \$78,000–\$79,900, with approximately 15–16% living at or below the poverty line. Families in Stockton tend to be larger than average, with an	Please see Common Response 10.1, Economically Disadvantaged Communities, for discussion of water provider comments and DACs. Please also see Common Response 8.1, Economic Analysis and Other Considerations, for a discussion on municipal water rates.

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		average of over 3 people per household, meaning utility costs are spread across more residents. These demographics illustrate that any increases in water costs — whether due to supply scarcity, stricter water quality requirements, or higher operational costs passed through to consumers — have outsized economic effects on lower-income families, working households, and vulnerable populations.	
1123	4	Public Health & Water Quality Impacts Stockton’s urban water systems — whether operated by the City of Stockton or by private providers like Cal Water — consistently invest in treatment, infrastructure, and system upgrades to ensure safe water delivery. Nonetheless, residents and community advocates continue to express concerns about water quality, treatment costs, and the complexity of addressing contaminants within established regulatory standards. Independent household reports reflect a wide range of monthly water bills (often \$60 to more than \$150 per month depending on usage) — a direct lived experience of affordability pressures that many Stockton families face. Any reduction in freshwater flows, increases in salinity, or changes in source water quality resulting from policy decisions on the Bay-Delta Plan can increase treatment costs and supply uncertainty, leading to higher operational costs for utilities and, ultimately, higher costs for residents.	The analysis of replacement water supply indicates approximately 6,340 AF would be needed to replace all supply reductions under the 55 scenario (Table D-11, estimates for U_60S_NU1 node which includes Stockton). SacWAM results show that changes in Sacramento/Delta supply to municipal use in Sacramento River Watershed, Delta, and Delta Eastside Tributaries regions under the 55 w/WSAs scenario are expected to be more similar to changes under the Low Flow Alternative (Table 13.7.20-2). Based on water service reliability in Stockton’s 2020 UWMP, the projected water demand and supply for 5th consecutive dry year in 2030 indicate surplus of more than 44,000 AF (Table D-2), indicating that Stockton’s existing surface water and groundwater supply sources may already be sufficient. Additionally, according to SEWD’s supply and demand assessment, urban demands are prioritized over demands from agriculture (SEWD 2021). As discussed in Page A2-69 of Appendix A2, Delta Simulation Model II (DSM2) Methods and Results, “Changes in EC at the City of Stockton intake will be similar to the changes in EC at Prisoners Point, which is only approximately 3.5 miles downstream. EC at Prisoners Point is generally expected to be similar or reduced as a result of the flow scenarios”. Therefore, increase in salinity at the city of Stockton is not expected. Please see response to comment 1123-1 regarding flexibilities provided in the program of implementations. Refer also to Common Response 8.1, Economic Analysis and Other Considerations, for information related to funding for municipal water providers and DACs.

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1123	5	Support for Strong, Enforceable Standards & Equity-Focused Policy The City of Stockton supports a Bay-Delta Plan that: • Protects beneficial uses for all water users, including urban residents, agriculture, fisheries, and recreation. • Upholds public health protections and water quality safety in urban systems. • Addresses economic equity by acknowledging water affordability challenges faced by Stockton households. • Ensures any voluntary agreement or regulatory pathway has clear, enforceable standards, measurable outcomes, accountability, and protections for communities that rely on Delta water.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1123	6	Call to Collaborative Action The City of Stockton remains committed to working collaboratively with the State Water Resources Control Board, water agencies, Tribal governments, and community stakeholders to refine and implement solutions that are scientifically sound, fiscally responsible, equitable, and protective of our shared water future. Conclusion Thank you for considering the City of Stockton's comments on the proposed Bay-Delta Plan updates. These decisions have real implications for Stockton's residents, ratepayers, and environment, and we appreciate the opportunity to contribute to the record with data and community context.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1124	1	The Draft Staff Report is not protective of the public trust and sadly reflects a continuation of the state and federal official actions circumventing the law by prioritizing exports of water which is not surplus to the present and future water needs in the counties and watersheds of origin and shifting SWP contractor costs onto the general taxpayers.	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the Public Trust Doctrine and the State Water Board's consideration and protection of beneficial uses. While the State Water Board may consider implementation

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		The proceeding of the State regulating itself continues to ignore the SWRCB duty of setting water quality objectives to protect all beneficial uses in compliance with law including water right priorities and constitutional mandates for reasonable beneficial use and diversions. The proposed actions seek to shift the obligations of the SWP and CVP contractors onto senior water right holders and increase extractions of water from the Delta watershed which is not surplus to the needs and development within the Delta watershed. The proposals also seek to shift costs which are by contract and law to be paid by state water project contractors onto the general taxpayers. The exclusion of portions of the Delta watershed impacting the San Joaquin River including Friant Dam and other areas improperly shifts the burdens onto others and precludes the adoption of an adequate water quality Control plan. As proposed the result is inadequate quality objectives, degraded water quality, unlawful impairment and curtailment of senior water rights and further depletion of water supply within the counties and areas of origin. There is no reservation of real water for future needs within the counties and areas of origin. As explained in the "Racanelli Decision," United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 116 : "In its water quality role of setting the level of water quality protection, the Board's task is not to protect water rights, but to protect 'beneficial uses.'" (Emphasis added.) The Court also provided: "In 1959, when the SWP was authorized, the Legislature enacted the Delta Protection Act. (§§ 12200-12220.) The Legislature recognized the unique water problems in the Delta, particularly 'salinity intrusion,' which mandates the need for such special legislation 'for the protection, conservation, development, control and use of the waters in the Delta for the public good.' (§ 12200.) The act prohibits project exports from the Delta of water necessary to provide water to which the Delta users are 'entitled' and water which is needed for salinity control and an adequate supply for Delta users.(§§ 12202, 12203, 12204.)"	procedures other than, or in addition to curtailment regulations, it is likely that the State Water Board will develop and adopt regulations through a public process as necessary to implement portions of the plan updates, including regulations to administer the water right priority system with applicable Bay-Delta Plan requirements and commitments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology to be developed after approval of the revised proposed Plan amendments. The policy concerns contained in this comment appear to relate to the commenter's belief that Delta water users generally need not pay for enhanced water quality. The basis for this claim is also somewhat unclear but may be based on the commenter's mistaken belief that the protection of the Delta has priority over project contractors including exports from the Delta. The commenter appears to support this claim in citing to United States vs. State Water Resources Control Board (1986) 182 Cal.App. 82 (Racanelli). The commenter begins by referencing the court's discussion of the policy goals behind the California Legislature's enactment of the Delta Protect Act, and follows with the statement from Racanelli that "Thus both substantively and conceptually, the contractors cannot justify any reasonable expectation of a certain or guaranteed water supply for delivery." (Racanelli 182 Cal.App 82, 141. But this concluding statement is not because protection of the Delta has some kind of alleged priority over project contractors but because, as noted in the decision "the CVP's appropriated water rights are, by definition, conditional—subject to the continuing supervisory authority of the State Water Board, the constitutional limitation of reasonable use, and the priorities of senior rights holders." (Id. at p. 147.) In addition, to the extent that the commenter believes that the Delta Protection Act provides an ongoing responsibility to guarantee Delta users always have sufficient water of adequate quality, even if that requires, for example, the Projects to release stored Project water to support Delta diversions when natural and abandoned flows are inadequate to satisfy the demands of Delta users, this argument is misplaced. Nothing in the Delta Protection Act

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		As the court further explains: "Thus, the Board's authority in setting water quality standards is not limited to the protection of water rights but extends to the protection of all beneficial uses from degradation of water quality, even if the resulting level of water quality exceeds that provided by water rights." (Id. p. 141, emphasis in original.) "Thus, both substantively and conceptually, the contractors cannot justify any reasonable expectation of a certain or guaranteed water supply for delivery." (Id. p. 148.) SWRCB Resolution No. 68-16 makes it clear that the nondegradation policy applies to the granting of permits and licenses for unappropriated water and provides : "WHEREAS the quality of some waters of the State is higher than that established by the adopted policies and it is the intent and purpose of this Board that such higher quality shall be maintained to the maximum extent possible consistent with the declaration of the Legislature."	entitles Delta users to Project water, or serves to exempt Delta users from regulatory requirements. It is true that consistent with county and watershed of origin protections, the Delta Protection Act does afford Delta users priority over the Projects' rights to divert natural and abandoned flows to support exports from the Delta watershed. But the Delta Protection Act does not mean that Delta users are entitled to water previously stored by the Projects in accordance with the priority system that is released for export from the Delta or to meet water quality objectives. As underscored in the State Water Resources Control Board Cases (2006) 136 Cal.App.4th 674, 771-772: Nothing in the Delta Protection Act purports to grant any kind of water right to any particular party. The Delta Protection Act does preclude the diversion of water from the Delta that is necessary for salinity control or to provide an adequate water supply for users within the Delta; however it is for the State Water Board to decide, in the exercise of its judgment, what level of salinity control should be provided and what is an adequate supply of water for users in the Delta. Thus, neither United States vs. State Water Resources Control Board nor the Delta Protection Act support the position that protection of the Delta has priority over project contractors including exports from the Delta. Furthermore, the Delta Protection Act does not create any new water right outside the purview of the State Water Board's regulatory authority, nor does it provide users within the watershed with any right to stored water held within or released from Project reservoirs.
1124	2	The degradation of the water quality objective at Brandt Bridge should be corrected and the objective should be restored to .7 EC. Minimum river flows for all year types including critical years should be established as the quality and flows are most needed in such years.	The Southern Delta salinity standard referred to by the commenter was updated in the 2018 LSJR/SD updates to the Bay-Delta Plan. Please see Common Response 1.2, Water Quality Control Planning Process, for the relationship of this project to the 2018 LSJR/SD Update to the Bay-Delta Plan.
1124	3	Measures within the Delta watershed such as fallowing land, groundwater substitution, purchase of land with senior water	The Bay-Delta Plan's regulatory pathway does not require water users within the Delta watershed to fallow land, substitute

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		rights and acquisition of senior water rights should be precluded as such could adversely impact ground water and surface flows. Actions which reduce stream flows by increasing stream losses to the underground, reducing return flows and reducing accretions to areas downstream should be precluded. The evidence is clear that the CVP and SWP required that the Delta be provided with supplemental water from surplus water development in the North Coast starting in about 1980 and increasing to 5-million-acre feet annually by the year 2000. Such development did not occur. See DWR Preliminary Edition Bulletin 76 Delta Water Facilities December 1960 Report to the legislature.	surface water supplies with groundwater, or purchase water or land from senior water right holders. Water users may alternatively supplement reduced water supplies through water management actions including water recycling or water conservation. Various HRL participants proposed to be covered under the revised proposed Plan's VA pathway, would provide flow commitments via a combination of mechanisms including land fallowing and groundwater substitution. Please see final Staff Report Section 13.7.12, Hydrology and Water Quality, for an environmental analysis of the revised proposed Plan amendments, including potential impacts on surface water and groundwater. See also final Staff Report Section 13.4, Changes in Hydrology and Water Supply, for an analysis of potential changes to hydrology and water supply (for both surface water and groundwater) that could occur as a result of the revised proposed Plan amendments.
1124	3.1	It is also clear that flowing ground water and surface flow are interrelated in the delta watershed and the proposed VA actions related to fallowing land, ground water substitution and increased ground water extraction for storage do not add new supply. Storage and ground water banking of major flood flows may add water but careful regulation is required and export out of the Watershed must be limited to that which is truly surplus to the present and future needs of fish, wildlife, recreation, health and safety, food supply and cultural needs including those of native Americans and disadvantaged communities.	Please see the response to comment 1124-3. Please also see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, regarding groundwater-surface water interactions.
1124	4	The San Joaquin River is particularly in need of water quality control plan protection. Friant and other areas contributing to the degradation must be included. The San Joaquin River Restoration Program which is directed at Spring Run Salmon is basically a voluntary agreement which includes recirculation of the fish flows and no reduction to the water supply for others. The allowed diversion of such fish flows before they reach the Delta pool and can effectively guide the spring run salmon to the spawning areas near Friant Dam reflects a concern as to the success of the program. We support the limitation on diversion of such fish flows prior to entry into the Delta pool. There are other beneficial uses besides propagation of Spring Run Salmon that need the Water Quality Control Plan Protection.	Section 7.12, Hydrology and Water Quality, of the 2023 draft Staff Report, includes information about the upper San Joaquin River and water quality problems in streams on the San Joaquin Valley floor from salt loading from agricultural drainages and nutrients from municipal, industrial, and agricultural sources. The 2018 updates to the Bay-Delta Plan focused on the Lower San Joaquin River, and the Stanislaus, Tuolumne, and Merced Rivers because they support existing salmon runs and supply more than 60 percent of the average unimpaired flow available in the San Joaquin River watershed. The upper San Joaquin River was not included in the 2018 Plan update because it did not support salmon runs at the time, though the substitute environmental document supporting the 2018 Plan update acknowledged the independent effort by the San Joaquin River Restoration

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		Salinity, boron and in particular, selenium continue to degrade the river and Delta. The San Luis Act requirement for a valley drain with an outlet to the Ocean was circumvented and huge amounts of salt continue to be delivered into the valley with the irrigation water resulting in accumulation in the land and groundwater and adding salt to the river and flow into the Delta. Some of the irrigated lands have high levels of salt, selenium and boron which is leached from the soil with irrigation thereby adding to the degradation of the river. The selenium impact on fish may continue to be an issue. See attached article. Exclusion of portions of the San Joaquin River Areas would appear to be inconsistent with the SWRCB duty to adopt an appropriate Water Quality Control Plan. Attached is a copy of P.L. 99-546, HR 3113 which requires CVP compliance with the State Water Quality Standards for the San Francisco Bay/Sacramento-San Joaquin Delta and Estuary.	Program to provide flows needed to restore and maintain fish populations. This update of the Bay-Delta Plan focuses on the Sacramento/Delta watershed. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses and the relationship with the LSJR/SD updates to the Bay-Delta Plan in 2018.
1124	5	The proposal to provide credit for foregone exports ignores that the CVP and SWP were designed to develop sufficient surplus water to meet the present and future needs within the areas of origin and the desires of the water contractors who were to pay for the cost of the projects which they have failed to develop. Only water surplus to the present and future needs within the counties and areas of origin was to be exported. They have not developed the needed supplies and have been exporting water that is not surplus to the needs within the areas of origin and water that is not compliant with WC 10505.5 which prohibits use of any water outside of the county of origin which is necessary for the development of the county.	The State Water Board is not a party to the HRL participants' 2022 Memorandum of Understanding (2022 MOU), nor is it bound by the various associated documents drafted by HRL parties. While the HRL does provide for some compensation of parties providing water, the State Water Board itself is not providing any compensation for HRL flow commitments. Any such compensation is beyond the jurisdiction of the State Water Board. The State Water Board considered the documents and other comments received and exercised its independent judgement as it developed the voluntary agreement pathway described in the 2024 and 2025 drafts of the Bay-Delta Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding a description of the VA pathway. In addition, please see the response to comment 1124-1.
1124	6	THE NEED TO ESTABLISH ADEQUATE WATER QUALITY OBJECTIVES FOR THE DELTA IS MUCH BROADER THAN JUST FISH The entire Bay Delta Estuary is dependent on water quality in the Delta. The health and safety for water contact, air quality, food consumption, water consumption, and meeting the cultural needs of native Americans are all related. In addition, the present	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the Board's consideration of beneficial uses and public trust resources during the water quality control planning process. The Sacramento-San Joaquin Delta Reform Act was adopted in 2009 (Delta Reform Act) (Wat. Code, § 85000 et seq.) and codified two coequal goals for the Delta: (1) providing a more

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		and future economic development of the counties and other areas of origin is dependent upon the availability of good quality water. The failure to protect and enhance Delta quality after June is inconsistent with the coequal goal of enhancement for delta uses in the Delta Reform act of 2009 and the Boards own non-degradation policies.	reliable water supply for California and (2) protecting, restoring, and enhancing the Delta ecosystem— both of which are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. To achieve this, the Delta Reform Act established the Delta Stewardship Council (DSC) and tasked the DSC with developing, adopting, and implementing an enforceable long-term plan for the Delta. DSC's Delta Plan (^DSC 2013) includes policies that are legally binding on covered activities as well as advisory recommendations. While the DSC has authority to ensure that covered actions – projects, plans, or programs that occur in the Delta and have a significant impact on achievement of the coequal goals – are consistent with the Delta Plan, the State Water Board's regulatory actions, including its water quality and water right proceedings, are exempt from the definition of covered actions and the DSC's consistency determinations. (Wat. Code, §§ 85225, § 85057.5, subd. (b)(1).) In spite of this, the Plan amendments still further the coequal goals by proposing flow objectives and an alternative implementation pathway to provide flow and non-flow commitments in order to reasonably protect fish and wildlife, while also considering the water supply available for other beneficial uses. The revised proposed Plan amendments establish new water quality objectives and a program of implementation that are intended to improve flow and water quality conditions. The revised proposed Plan amendments do not relax objectives in the existing Bay-Delta Plan, including objectives and implementation responsibilities established in the 1995 Bay-Delta Plan and State Water Board Water Right Decision 1641, in a manner that would result in a lowering of water quality in the Sacramento/Delta, nor will they result in the lowering of water quality in any high quality waters. As such, an antidegradation analysis is not required, and the revised proposed Plan amendments are not inconsistent with the State Water Board's antidegradation policies.
1124	7	THE PROPOSED IMPLEMENTATION INCLUDES DETERMINATIONS OF THE VALIDITY AND QUANTIFICATION OF WATER RIGHTS TO SUPPORT PAYMENT OF PUBLIC FUNDS	Section 2.7, Existing and Future Water Rights in the Sacramento/Delta Watershed, of the 2023 draft Staff Report provides general information on water rights and existing water

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		TO THE EXTENT THAT FLOWING GROUNDWATER OR SURFACE WATER IS ALTERED OTHER WATER RIGHT HOLDERS MAY BE IMPACTED SO AS TO TRIGGER THE NEED FOR ADJUDICATION OF SUCH RIGHTS THE EXTENT OF WHICH IS DIFFICULT TO DETERMINE IN ADVANCE. The interrelationship of flowing groundwater and surface water as affected by the age of such water is only more recently being recognized. Pre-1914 and riparian rights are not subject to the limitations of the Post-1914 State Permit and License terms which include prohibition of use of any water outside the county of origin which is necessary for the development of the county (WC 10505.5). Dam owners are subject to Fish and Wildlife Code 5937 and in some cases Federal licensing. The State Water Project and federal Central Valley Project are additionally subject to the Watershed Protection Act WC 11460 et seq. and Delta Protection Act WC Code 12200 et seq. Such projects are responsible for salinity control and as against Delta water users fish and wildlife delta outflows. The suggested shifting of responsibility for implementing water quality standards will require a determination of water rights and statutory obligations.	right conditions in the Sacramento/Delta watershed. Section 7.12.2, Groundwater, and Section 13.7.12, Hydrology and Water Quality, evaluate potential effects on groundwater. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, VA pathway, water supply adjustments, and implementation methodology. The revised proposed Plan amendments would establish water quality objectives and a program of implementation; adoption of those amendments would not itself determine the validity, quantification, or priority of individual water rights, adjudicate the relationship between groundwater and surface water rights, or determine the statutory obligations of individual water right holders. VA flow commitments, including water purchases, would be subject to the approved accounting procedures and would need to be provided consistent with water right priorities and within the scope of the dedicated water right. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the revised proposed Plan amendments, the regulatory pathway, the VA pathway, and water supply adjustments.
1124	8	ALTHOUGH CONFLICTED AND OBVIOUSLY CORRUPTED BY POLITICS THE STATE PUBLIC OFFICIALS AND AGENCIES HAVE A FIDUCIARY OBLIGATION TO PROTECT THE PUBLIC INTEREST, PROVIDE DUE PROCESS AND PROVIDE EQUAL PROTECTION UNDER THE LAW EVEN TO THOSE WHO ARE NOT SWP OR CVP CONTRACTORS The duty of the SWRCB includes establishing water quality control plan with objectives and standards to protect beneficial uses and to preserve better water quality where such exists. Implementation and the relationship to water rights is a separate issue. The current proceeding is a mix.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 1.2, Water Quality Control Planning Process, regarding the public trust doctrine and the State Water Board's authorities related to water rights and the Porter-Cologne Water Quality Control Act.
1124	9	WATER RIGHTS For all rights based on State Appropriations the Pre-1914 and Riparian rights including subsequent use on riparian land are	Section 5.2.2, Water Rights, of the 2023 draft Staff Report describes California's hybrid system of water rights, including riparian and appropriative rights, and explains that riparian rights do not require a State Water Board permit or license and

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		excluded from the State appropriation process and entitled to priority over State appropriative rights. Additionally, no use of any water outside of the county of origin is authorized if it is necessary for the development of the county.	that post-1914 appropriative rights are subject to the State Water Board's permitting process. Common Response 1.2, Water Quality Control Planning Process, further explains that while the State Water Board does not have permitting or licensing authority over riparian or pre-1914 appropriative rights, the State Water Board's regulatory authority is broader than its permitting authority, including under article X, section 2 of the California Constitution and the public trust doctrine. The revised proposed Plan amendments would establish water quality objectives and a program of implementation; adoption of the revised proposed Plan amendments would not itself authorize a new appropriation or a new out-of-county use of water, determine, quantify, or adjudicate individual water rights, or alter water right priorities. Implementation of adopted objectives would occur, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. Please see Common Response 1.2, Water Quality Control Planning Process, for additional discussion of the relationship between water quality control planning and water right administration, including riparian and pre-1914 appropriative rights.
1124	10	In the Delta watershed there is a clear connection between flowing ground water and surface flow. Surface flow enters the ground water and ground water flows back into the surface flow and connected waterbodies. There is return flow from use of surface water and water pumped from the underground. There is artesian flow and flow from springs. The timing of the interrelated flows does not occur during a single water year. The aging of ground water reflects that much of the ground water is fifty years or less but some is thousands of years old. The resulting accretions entering the Delta may have resulted from rainfall falling on the ground many years prior. There is the delayed residual effect of accretions and flushing flows impacting the quantity and quality of downstream areas including the Delta and other waterbodies. The contribution to natural flow may be many years after the precipitation occurred. Just because water is impounded behind a dam does not establish entitlement to the water. The concept of physical solution remains as a part of California water law. The melting of snow and ice also impacts. What is treated in the proposal as	Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, regarding groundwater-surface water interactions. See also Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of non-flow measures.

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		stored water ignores whether storage was in compliance with law and permit terms.	
1124	11	Dam owners are required by Fish and Wildlife Code section 5937 to bypass sufficient flow to support downstream fisheries. There are other regulatory requirements. The permitted use may not apply to the proposed use to mitigate damage to fish in other areas. Some dams constructed pursuant to pre-1914 water permits are being operated with after acquired Post 1914 water rights. There are terms and conditions in permits other those imposed by the SWRCB such as take permits. For the CVP and the SWP there are statutory requirements in addition to the SWRCB appropriative right requirements and County of origin Act. The Watershed Protection Act WC 11460 et seq. and Delta Protection Act WC 12200 et seq. The Watershed Protection Act Water Code Section 11460 provides: "In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein." (Added by Stats. 1943, c. 370, p. 1896. Amended by Stats. 1957, c. 1932, p. 3410, section 296.) Department includes the USBR . (WC 11128) The Delta Protection Act Water Code Section 12202 provides: "Among the functions to be provided by the State Water Resources Development System, in coordination with the activities of the United States in providing salinity control for the Delta through operation of the Federal Central Valley Project, shall be the provision of salinity control and an adequate water supply for the users of water in the Sacramento-San Joaquin	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		Delta. If it is determined to be in the public interest to provide a substitute water supply to the users in said Delta in lieu of that which would be provided as a result of salinity control no added financial burden shall be placed upon said Delta water users solely by virtue of such substitution. Delivery of said substitute water supply shall be subject to the provisions of Section 10505 and Sections 11460 to 11463, inclusive, of this code." (Added by Stats. 1959, c. 1766, p 4247, 11.) The required provision of Salinity Control by the Projects was to avoid the salinity intrusion that occurred in September 14, 1931 . Prior to that time beginning in about 1917 the State and United States carried out flood control projects which enlarged the channels in the western Delta such that salinity intrusion was increased . Additionally, such channels were further deepened and widened to accommodate ships going to the ports at Stockton and Sacramento and to restore navigation to the Upper Sacramento . Such ship channel deepening extended farther to the west and significantly increased salinity intrusion. It was recognized that export pumping from the South Delta by the projects would further increase salinity intrusion and the salinity of water for export as well as the salinity for uses in the watershed needed to be protected. The SWP and CVP obligations included the provision of salinity control, protection of delta water rights, provision of an adequate water supply in the Delta and preservation of fish and wildlife.	
1124	12	The proposed shifting of the SWP and CVP burdens onto those in the Delta Watershed appears to be to serve the project water contractors. Paying farmers to fallow land, sell water rights, pump from the underground and otherwise facilitate greater exports does not assure that only surplus water will be exported and surely does not further the development of the Counties and areas of origin. The proposal and water availability analysis is grossly biased and in error. It additionally attempts to quantify water rights without a basin wide adjudication.	Section 2.7, Existing and Future Water Rights in the Sacramento/Delta Watershed, of the 2023 draft Staff Report provides general information on California's water right system and water rights and claims in the Sacramento/Delta watershed. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, VA pathway, water supply adjustments, and provisions for an implementation methodology. The VA pathway includes accounting and verification procedures for VA flow commitments, including commitments provided through land fallowing, groundwater substitution, water purchases, and SWP

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			and CVP export reductions. The Staff Report's planning-level water availability and modeling analyses evaluate potential hydrology and water supply effects; they do not themselves determine, quantify, or adjudicate individual water rights. The revised proposed Plan amendments would establish water quality objectives and a program of implementation, and any enforceable obligations needed to implement adopted objectives would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the regulatory pathway, VA pathway, and water supply adjustments, and Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the planning-level modeling and water supply analysis.
1124	12.1	As to some shift of burden to the Delta the issue is set forth as consideration of some exception for lands below sea level. Multiple investigations have shown that farming the delta lands saves water. It is not the level of the land but the level of the water table relative to ground surface. The Delta is connected to the Bay and thence the ocean. Natural flow from the west enters the Delta with the tides. If the channel depths are below low tide, they will always have water. The delta lowlands have historically been defined as lands less than 5 feet above sea level. In the Delta lowlands drainage pumps are controlled by floats and remain in operation to keep the water table below the land surface to facilitate farming. In the higher portions of the uplands the drainage pumps have to run during irrigation or when tides are high. The damage to fisheries caused by the Projects blockage of the rivers, excessive diversions and failure to develop the 5-million-acre feet from the North Coast by the year 2000 should be borne by the those who caused the problem.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1125	1	These comments supplement other comments being submitted on the above-referenced matter by the Central Delta Water	The revised proposed Plan amendments' proposed method for implementing new flow requirements is consistent with the

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		Agency (CDWA). These comments and all other comments by CDWA on this matter are also being submitted on behalf of the South Delta Water Agency (SDWA). 1. The Proposed Plan is Fundamentally Flawed Because it Unlawfully Shifts the DWR and USBR's Responsibilities for the Protection of Fishery Resources to Other Water Right Holders. Attached hereto as Exhibit A are "CDWA SUPPLEMENTAL Comments on Alternative 5a in the Draft Sacramento/Delta Bay-Delta Plan Updates," dated January 30, 2025, which explain why "Shifting the Projects' Obligation to Meet Base Delta Outflow Objectives to Other Water Right Holders) is an Extreme Last Resort that Should Never Come Into Play if the Projects Comply with the Law and Limit Exports to Surplus Water." Those same reasons regarding Delta outflows also apply to all other fishery objectives within the rivers and tributaries that DWR and USBR ("the Projects") influence with their operations. Among other legal responsibilities to protect and enhance fishery resources, the Projects are prohibited under numerous laws from exporting any water out of the areas of origin that is needed to meet the needs within those areas, including fishery needs. (Those laws include the "Watershed Protection Act" [Wat. Code, § 11460 et seq.]; the "County of Origin Laws" [Wat. Code, § 10505 et seq.]; and the "Delta Protection Act of 1959" [Wat. Code, § 12200 et seq].) Section 11460 of the Watershed Protection Act, for example, provides (with emphasis added): In the construction and operation by [DWR and USBR] of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein."	water right priority system. Current responsibilities assigned to the State Water Project and Central Valley Project (Projects) under State Water Board Water Right Decision 1641 (D-1641) are the result of a voluntary agreement, not implementation of the water right priority system. The revised proposed Plan amendments would not remove the underlying obligations for the Projects to meet D-1641 requirements. While additional requirements on other parties to provide flows may help meet D-1641 requirements, under the regulatory pathway the Projects would also be subject to additional requirements. Further, although Delta users have senior priority dates when compared to the Projects' rights to divert natural and abandoned flows to support exports from the Delta watershed, this does not mean that Delta users are entitled to water previously stored by the Projects in accordance with the priority system that is released for export from the Delta or to meet water quality objectives. As underscored in the State Water Resources Control Board Cases (2006) 136 Cal.App.4th 674, 771-772: Nothing in the Delta Protection Act purports to grant any kind of water right to any particular party. The Delta Protection Act does preclude the diversion of water from the Delta that is necessary for salinity control or to provide an adequate water supply for users within the Delta; however it is for the State Water Board to decide, in the exercise of its judgment, what level of salinity control should be provided and what is an adequate supply of water for users in the Delta. Thus, the Delta Protection Act does not support the position that protection of the Delta has priority over Project contractors including exports from the Delta. Furthermore, the Delta Protection Act does not create any new water right outside the purview of the State Water Board's regulatory authority, nor does it provide users within the watershed with any right to stored water held within or released from Project reservoirs. Similarly, water stored in Project reservoirs, including water intended for export, is surplus natural and abandoned flow, after in-Delta needs have been met at the time of diversion to storage,

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		(The Watershed Protection Act applies to the SWP and CVP; see <i>El Dorado Irrigation Dist. v. State Water Resources Control Bd.</i> (2006) 142 Cal.App.4th 937, 974 (El Dorado).) In <i>State Water Resources Control Bd. Cases</i> (2006) 136 Cal.App.4th 674, the Court explains that Water Code section 11460 does not grant a priority to the use of water "between competing uses within the area of origin"; instead, it grants a priority only to the use of water within the area of origin versus the use of that water outside that area of origin. (See <i>id.</i>, pp. 758-760.) What section 11460 means for the Proposed Plan is that the SWP and CVP must be operated to meet all the beneficial needs within the areas of origin, including all fishery needs, before they use any of their facilities to export one drop of water for use outside those areas. It also means facilities such as San Luis Reservoir that temporarily store water that has been diverted from the Delta cannot be operated to use that water outside the areas of origin if it is needed within the areas of origin; instead, that water must be returned to the areas of origin (e.g., to the Delta) directly or indirectly via exchanges with water within those areas. According to the SWRCB in its Proposed Plan, the fishery resources within the areas of origin, including the Delta, need substantially more water to survive and ultimately thrive. The fishery resources need so much more water that the SWRCB's Proposed Plan intends to regularly curtail thousands of water diverters within those same areas of origin so that enough water will remain in those areas for fishery resources. Accordingly, the SWRCB's Proposed Plan has made it crystal clear that substantially more water from the Projects' facilities and operations that would otherwise be exported from the areas of other must remain in those areas of origin to meet the needs of those fishery resources. In furtherance of the Proposed Plan, the Projects' must therefore devote as much water as possible under their water rights to ensure that every drop of that water is devoted to the needs of those fishery resources over the needs	including the protection of fishery resources. The Delta Protection Act does not support the position that in-Delta uses of water for fishery protection have priority over Project contractors receiving water previously diverted under the Projects' right of priority. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		outside those areas of origin. The Projects also cannot operate their export facilities to transfer any water from areas of origin outside those areas, regardless of who owns that water. Section 11460 is clear that the Projects cannot operate to “directly or indirectly” deprive an area of origin of “the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein.” (The Projects’ facilities, of course, include Friant Dam and New Melones Reservoir; as well as south of the Delta facilities such as San Luis Reservoir.)	
1125	2	Because the Proposed Plan has, to CDWA's knowledge, not even mentioned the Watershed Protection Act, the County of Origin Laws, or the Delta Protection Act of 1959, much less applied them to the Proposed Plan, the SWRCB must substantially revise the Propose Plan to do the following to the extent it wants to shift any of the Projects’ responsibilities for area of origin needs to other area of origin diverters: -Comprehensively identify and describe the Projects’ responsibilities for area of origin needs, including fishery needs. -Include provisions in the Proposed Plan that require the Projects to fully implement those responsibilities to the maximum extent possible before any of those responsibilities are shifted to any other area of origin diverter. -In furtherance of the foregoing implementation, the Proposed Plan must require the Projects to put forth a plan showing how they will at all times (including during foreseeable six-year or greater droughts) maximize the operation of their storage and all other facilities to meet the water needs within the areas of origin, including the fishery needs, in priority to exports of that water for non-area of origin needs. -The foregoing plan must include the other provisions discussed in Exhibit A, including the use of San Luis Reservoir, which will ensure the Projects can meet all area of origin needs, including fishery needs.	Please see the response to comment 1125-1. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.

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		Only after the Projects have exhausted their ability to utilize all of their facilities to the maximum extent possible to carry out their responsibilities to meet fishery and other needs within the areas of origin can the SWRCB lawfully force any other diverter within the Delta Watershed (including HRL diverters) to curtail their diversions to meet any of the Proposed Plan's objectives. Additionally, for these reasons, any and all statements in the Proposed Plan and Staff Report that state or suggest DWR or USBR are not required to contribute to fishery or other Bay-Delta objectives within the tributaries and areas in which they operate must be removed.	
1125	3	2.The Projects Have the Primary Responsibility to Meet the Inflow-Based Outflow Objective; In the Extremely Unlikely Event the Projects Cannot Meet that Objective, All Other Diversers Within the Delta Watershed, Including HRL Diversers, Must Meet It Based on the Rule of Priority. The Staff Report states: The inflow-based Delta outflow objective would be implemented by requiring that required inflows be provided as outflows, including required inflows from the Sacramento/Delta tributaries including equivalent accretions from the Sacramento River Valley Floor and Delta and required inflows from the San Joaquin River and its tributaries. The required Delta outflow would be calculated by adding up the applicable required inflows from the Sacramento/Delta tributaries, including an equivalent amount of Sacramento River Valley Floor and Delta accretions, and required lower San Joaquin River flows making appropriate adjustments for natural losses. These flows are in addition to any approved HRL flow contributions to Delta outflows described below in Section 13.3.4, Voluntary Agreement Pathway. Water users downstream of the tributaries, except for de minimis water users, also would bear responsibility for achieving the inflow-based Delta outflow objective through limits on their diversions, including Project diversions and other in-Delta diversions. Implementation would be met in order of water right priority,	The commenter has not described how they believe the quoted sentence should be revised. Under the regulatory pathway, the inflow objective would be implemented in order of water right priority and the inflow-based Delta outflow objective would require those flows be protected as Delta outflow. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology.

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		unless exceptions apply, using the implementation methodology as described in Section 13.3.5, Implementation Methodology." (Staff Report, Ch.13, p 13-19, emphasis added.) To the extent the statement that "[w]ater users downstream of the tributaries . . . would bear responsibility for achieving the inflow-based Delta outflow objective through limits on their diversions" was intended to mean only downstream water users would be responsible for meeting that objective, the SWRCB is entirely wrong. As discussed above (and in Exhibit A) the Projects are responsible for meeting those area of origin fishery objectives under the Watershed Protection Act and Delta Protection Act of 1959 (among other acts and laws) to the maximum extent possible before one drop of water is exported from Delta or used to meet non-area of origin needs. In the extremely unlikely event that the Projects cannot meet the inflow-based Delta outflow objective as a result of maximizing their ability to do so, then all water users, including HRL diverters, must meet that objective based on the rule of priority. To the extent diverters downstream of the tributaries have water rights that are senior to any upstream diverters in those tributaries, those upstream diverters must be curtailed under the rule of priority to ensure that those senior water rights are satisfied. Accordingly, all junior upstream diverters, including any HRL diverters, must contribute enough additional flows beyond the minimum inflow requirements to ensure that the minimum inflows make it all the way to the Carquinez Strait as net-outflow and at the same time all of the senior water right holders downstream of the tributaries have enough water to meet their needs. This is simply the basic and straightforward application of the rule of priority. Again, while it is extremely unlikely that the Projects will be unable to meet the inflow-based Delta outflow objective through curtailment of exports, release of its storage water, and/or purchase and transfer of non-Project water to meet that area of origin need (in lieu of exporting that water for	

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		non-area of origin needs), if the Projects cannot meet it, junior water right holders within the entire Delta Watershed must contribute to that objective before any senior water right holders must contribute to it. For these reasons, the above-quoted statement from the Staff Report must be revised accordingly.	
1125	4	3. The Entire Legal Delta (i.e., Former Swamp and Overflowed Lands) Should Be Exempt from Contributing to the Inflow-Based Delta Outflow Objective; They Are Already Substantially Contributing to Outflow The CDWA has explained to the SWRCB on numerous occasions how the reclamation and farming of lands within the Legal Delta that were formerly Swamp and Overflowed Lands results in a tremendous reduction in consumptive use, on the order of hundreds of thousands of acre feet a year. That reduction has been happening year after year since the early 1990's, after the Legal Delta was essentially fully reclaimed. That reduction is the result of the avoidance of the tremendous amounts of water that would be lost to evaporation and/or evapotranspiration from wild, uncontrolled vegetation if levees were not in place and the land reverted to its unreclaimed, swamp and overflowed status. Also contributing to the tremendous reduction in consumptive use is the fact that the substantial seepage from the river channels into the reclaimed lands (i.e., into the numerous reclamation districts) is continuously collected and returned to those channels via drainage pumps. Diverters with the Legal Delta also re-divert that returned seepage as well as re-divert their excess drainage that is also returned into those channels, thereby effectuating a Delta-wide recycling effort that is widespread, substantial, and always ongoing. Accordingly, in terms of the Legal Delta contributing to Delta outflow, that contribution is tremendous and has been ongoing without interruption throughout the entire Delta since the late 1900's. That contribution dwarfs the amount of water Legal Delta diverters consume through their farming and reclamation activities. The best thing anyone could do to make an enormous contribution to Delta outflow is to encourage and facilitate the	Please see Staff Report Section 4.2, Physical Habitat Loss or Alteration, for a discussion of the impacts of habitat loss on native species. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		continuation of the farming and reclamation of the lands within the Delta reclamation districts. On top of the tremendous ongoing contribution to Delta outflow, CDWA has also explained to the SWRCB on numerous occasions how diversions onto “Delta Lowlands” (lands lying below 5 feet above mean sea level) help improve water quality within the Delta by acting like a “salt reservoir.” The land retains the salt in the applied water in its soil during summer and other times when water quality is most critical and that salt is ultimately flushed out via rainfall during times when water quality is less critical. These benefits to outflow and water quality are further discussed in Exhibit B, which is a copy of CDWA’s “SUPPLEMENTAL Comments on Agenda Item No. 5 for the SWRCB’s July 1 & 2, 2014 Board Meeting . . .,” without the exhibits. (See pages 15 through 21.) Regarding the Proposed Plan’s comment regarding a potential exemption to contributions to the inflow-based Delta outflow requirements for Delta lands that are below sea level, CDWA and SDWA wholeheartedly support an evaluation of such an exception; however, they request that the evaluation be broadened to include all land within the Delta tidal zone with a high water table because concerns over the effectiveness of curtailments apply to all such lands (which are constantly impacted by high tides [i.e., tides above sea level] twice a day) and a thorough and meaningful investigation should include all of such lands. A suggested revision of the following paragraph is as follows: The State Water Board, in coordination with other appropriate agencies and entities, will conduct analyses of water use on irrigated lands WITHIN THE TIDAL ZONE OF THE LEGAL DELTA WITH HIGH WATER TABLES and undertake a public process to evaluate the effectiveness of curtailments of agricultural diversions on SUCH lands below sea level. Based on those analyses, the State Water Board may consider exemptions to the inflow-based Delta outflow requirements during implementation	

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		or during periodic review processes for water rights in which the diversion and use of water is limited to irrigation of SUCH lands	
1125	5	4. The Proposed Plan is Fundamentally Flawed Because it Unjustifiably Violates Thousands of Non-HRL Diverters' Water Right Priorities Under the Rule of Priority. The Healthy River and Landscapes (HRL) diverters believe that requiring them to comply with the Regulatory Pathway to protect fish would be so devastating to their water supply (and everything that depends on it) that they are all but begging the SWRCB to exempt them from complying with that pathway and, instead, allow them to comply with the Voluntary Agreements (VA) Pathway. What is worse is that under the SWRCB's Proposed Plan, the rest of the thousands of water diverters with the Delta Watershed will be required to comply with the same Regulatory Pathway that the HRL Diverters contend would be nothing short of devastating to comply with. The HRL Diverters are so enthusiastic about the VA Pathway (and avoiding the Regulatory Pathway) presumably because, under the VA Pathway, they will have to contribute substantially less water to meet the new fishery objectives than they would under the Regulatory Pathway and/or provide it at a different (and more convenient) time. While it was very difficult to understand precisely how the VA Pathway would work, if it is true that any of the thousands of HRL Diverters will be contributing less water to meet the new fishery objectives than they would under the Regulatory Pathway and/or provide it at a different time, then the Proposed Plan is fundamentally flawed and unlawful. Such a plan would directly and unjustifiably violate the rule of priority and, hence, impair the water rights of the thousands of diverters that must comply with the more onerous Regulatory Pathway. As explained in <i>El Dorado Irrigation Dist. v. State Water Resources Control Bd.</i>, supra, 142 Cal.App.4th 937, 961-962 (El Dorado):	Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, VA pathway, water supply adjustments, and provisions for an implementation methodology. The VA pathway would apply to water rights included in the approved VA pathway, and the regulatory pathway would apply to water rights not included in the approved VA pathway; the regulatory pathway would also apply to water rights included in the VA pathway if the VA pathway is discontinued. The VA pathway incorporates specified flow, habitat, and related commitments, along with accounting, monitoring, reporting, and review provisions for the water rights included in that pathway. The regulatory pathway includes provisions for implementing numeric inflow requirements in accordance with water right priorities. Water rights under the regulatory pathway would not be curtailed any more to make up for water that would have been provided by any junior VA water right. Rather, the implementation methodology will apply curtailments as if all water rights were implementing the regulatory pathway. As a practical matter, less flow will remain instream for the duration of the VA pathway; however, no senior water right will be further curtailed to make up that flow. This arrangement is necessary to ensure that VA flow commitments are from water rights available at their priority date and can be protected from downstream diversion. Please see Common Response 1.2, Water Quality Control Planning Process, regarding water right administration and the relationship between water quality control planning and future implementation actions. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the regulatory pathway, VA pathway, water supply adjustments, and related implementation provisions.

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		Over 60 years ago, our Supreme Court stated with respect to the [SWRCB's] predecessor, the Department of Public Works, that "[i]t should be the first concern of the court in any case pending before it and of the department in the exercise of its powers ... to recognize and protect the interests of those who have prior and paramount rights to the use of the waters of [a] stream." [Citation.] More recently, our Supreme Court stated that "water right priority has long been the central principle in California water law." ([Citation]; see also Hutchins, The California Law of Water Rights (1956) p. 130 ["Priority of right is the essence of the appropriation doctrine"].) Regarding riparian and appropriative rights (which are prevalent within the Delta Watershed): "[A]ppropriation rights are subordinate to riparian rights so that in times of shortage riparians are entitled to fulfill their needs before appropriators are entitled to any use of the water. [Citation.] And, as between appropriators, the rule of priority is 'first in time, first in right.' [Citation.] The senior appropriator is entitled to fulfill his needs before a junior appropriator is entitled to use any water." [Citation.] (El Dorado, p. 961.) El Dorado further explains: Of course, the rule of priority is not absolute, nor is the Board without power to act contrary to that rule in appropriate circumstances. Sometimes, a competing principle or interest may justify the Board's taking action inconsistent with a strict application of the rule of priority. For example, the California Constitution provides that all water use must be reasonable. [Fn. 20 omitted.] (Cal. Const., art. X, § 2.) "[T]he rule of reasonable use as enjoined by . . . the Constitution applies to all water rights enjoyed or asserted in this state" [Citation.] Thus, "no one can have a protectible interest in the unreasonable use of water" [citation], and when the rule of priority clashes with the rule against unreasonable use of water,	

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		the latter must prevail. Every effort, however, must be made to respect and enforce the rule of priority. A solution to a dispute over water rights “must preserve water right priorities to the extent those priorities do not lead to unreasonable use.” [Citation.] (El Dorado, pp. 965–966, emphasis added.) Under the Proposed Plan, water diverters subject to the Regulatory Pathway will be curtailed “based on water right priorities for appropriative rights and pre-1914 appropriative and riparian claims of right, including adjudicated rights . . .” (Proposed Plan, p. 60.) Accordingly, under the Regulatory Pathway, the SWRCB does indeed intend to “respect and enforce the rule of priority” when it allocates responsibilities for meeting the new fishery objectives. However, under the VA Pathway, it apparently does not. Under the VA Pathway the SWRCB will apparently accept whatever water the HRL diverters are comfortable with contributing to those objectives, regardless of their priority when compared to the thousands of non-HRL diverters. The SWRCB cannot “respect and enforce the rule of priority” by exempting the thousands of HRL diverters from the application of that rule when allocating responsibility for the new fishery objectives. Doing so would eviscerate the water right priorities of the thousands of non-HRL diverters that are subject to curtailments based on water right priorities and require them to bear responsibilities for those objectives that are not their own. Again, it is not clear precisely how the Proposed Plan will work and the SWRCB must revise it to make it clear. The SWRCB must explain and demonstrate that every HRL diverter will be providing the exact same amount of water and at the exact same times towards the new fishery objectives as they would if they were curtailed based on the rule of priority that is applicable to every other non-HRL diverter. If that is not the case, then the SWRCB must thoroughly explain	

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		how each HRL diverter is violating the rule of priority and why each of those violations is justified by a “compelling reason based on a principle or interest that trumps the rule of priority.” (El Dorado, p. 971.) At present, the Proposed Plan and Staff Report are entirely devoid of any such explanation or reason.	
1125	6	a. Equal Protection Clause Violations. If each and every HRL diverter is not contributing the same amounts of water at the same time as they would contribute under the rule of priority, then how is the SWRCB determining whether their contributions are sufficient? What is the specific criteria the SWRCB is using to make that determination? And why are some HRL diverters being compensated with taxpayer and other government funds for contributing to the fishery object, whereas none of the non-HRL are being compensated for such contributions effectuated through curtailments? What precisely do all of the other thousands of water diverters need to do to get compensated for being curtailed? “Equal protection of the law means that persons who are similarly situated with respect to a law must be treated alike under the law. [Citations.]” (Arcadia Development Co. v. City of Morgan Hill (2011) 197 Cal.App.4th 1526, 1534.) If HRL diverters are not contributing based on the rule of priority, but instead, are contributing and getting paid for contributing under some other unspecified rule or standard, then this is a massive violation of the equal protection clauses of the state and federal constitutions and cannot be sanctioned. If this is what is happening, then the Proposed Plan and Staff Report must be substantially revised to acknowledge the equal protection clauses and reworked to ensure no diverter is denied equal protection.	The proposed methods for implementing the VA and regulatory pathways together include measures to ensure consistency with water right priorities. Specifically, all water rights would be subject to curtailment when no water is available at their priority of right unless an exception applied (e.g., a nonconsumptive use exception), and curtailments to bypass unimpaired flows by non-HRL parties will be determined assuming that HRL parties are also contributing. Thus, diverters who are subject to the regulatory pathway will not be curtailed more often or more severely due to the existence of the VA pathway. As discussed in Section 13.3.5, Implementation Methodology, of the 2025 partially recirculated draft Staff Report, the implementation methodology would be developed through a public process with opportunity for public participation. The State Water Board is not a party to the HRL participants’ 2022 Memorandum of Understanding (2022 MOU), nor is it bound by the various associated documents drafted by HRL parties. The State Water Board considered the documents and other comments received and exercised its independent judgement as it developed the voluntary agreement pathway described in the 2024 and 2025 drafts of the Bay-Delta Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding a description of the VA pathway. Further, while the HRL does provide for some compensation of parties providing water, the State Water Board itself is not providing any compensation for HRL flow commitments. Any such compensation is beyond the jurisdiction of the State Water Board.

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1125	7	5.The Proposed Adaptive Implementation of the New Fishery Objectives Will Make Water Management and Planning Unreasonably Difficult For All Diverters, Including HRL Diverters. Because as will be explained below, HRL diverters are as responsible for the inflow-based Delta outflow objectives as non-HRL diverters, the proposed adaptive implementation of the inflow objectives (and, hence, the inflow-based Delta outflow objectives) will remove any sense of reasonable predictability or reliability of a diverters' water supply throughout the year. Pursuant to the Proposed Plan: -“Adaptive implementation may be allowed on a seasonal, annual, or long-term basis as part of local cooperative solutions or may be required by the Executive Director or State Water Board.” (Proposed Plan, p. 49.) -“For each tributary, the numeric inflows may be managed as a total volume of water on a water year basis and released on an adaptive schedule to meet the inflow requirements.” (Proposed Plan, p. 50.) -“[T]he required percent of unimpaired flow may be adjusted to any value between 45 and 65 percent of unimpaired flow, inclusive.” (Proposed Plan, p. 50.) This expansive adaptability will make the administration of water right curtailments under the Regulatory Pathway extremely challenging and unwieldy and leave all water right holders, including HRL diverters, constantly guessing at when and how much they will be able to divert for their crops or other beneficial uses throughout the year. The Proposed Plan needs to revise the adaptability of the new fishery flows to make it reasonable and workable for diverters as well as the SWRCB's curtailment methodology.	The adaptive implementation provisions are intended both to maximize fishery benefits and to maximize flexibility to reduce water supply impacts. Water diverters would be able to propose their preferred adaptive implementation through local cooperative solutions. The commenter has not explained how they believe these provisions should be changed. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on adaptive implementation of the inflow objective under the regulatory pathway.
1125	8	6. The Proposed Plan Overlooks the Substantial Increase in Consumptive Use and, Hence, a Substantial Reduction in Inflows	The proposed program of implementation provides that water users would be subject to the inflow requirements following the

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		and Outflows from the Habitat Actions. The HRL diverters intend to develop tens of thousands of acres of fish habitat. For example, the Sacramento tributary alone, intends to develop 40,000 acres of flood plain habitat. Such habitat will inevitably result in a substantial increase in consumptive use as a result of increased evaporation and evapotranspiration from the vegetation. As a result, such habitat will cause a substantial reduction in inflows and outflows. Under the Proposed Plan, both HRL diverters and non-HRL diverters will be required to curtail diversions or otherwise contribute flow to offset that reduction. While the HRL diverters can voluntarily consent to such contributions, non-HRL diverters cannot be forced to make such contributions through curtailments. Such curtailments would squarely violate the rule of priority among other violations of the water rights of such diverters.	rule of water right priority, unless adjustments are needed to conform to narrative objectives or exceptions apply (see Section 5.4.2.4, Implementation). Curtailment of non-HRL water rights would not increase as a result of physical habitat implementation. Generally, passive restoration of riparian and floodplain habitat adjacent to a stream would not require a water right. For example, the State Water Board reviewed the Big Notch Project EIS/EIR and determined that the project, as described, did not require a water right permit based on two observations. First, the project is not a “diversion” as that term is understood under California water rights law. Under California law, an appropriative right involves the physical control of water to apply it to a beneficial use. (California Trout, Inc. v. State Water Resources Control Bd. (1979) 90 Cal.App.3d 816, 820, citing Hutchins, The Cal. Law of Water Rights (1956).) The Big Notch Project, in contrast, affects the opposite of a diversion, partially removing an artificial impediment to natural flows that otherwise would occur (and historically did occur) between the Sacramento River and the Yolo Bypass. (Cf. Fullerton v. State Water Resources Control Bd. (1979) 90 Cal.App.3d 590, 603-04 [an appropriative right cannot be initiated or perfected to preserve natural flow within the natural stream channel to protect fish or other instream beneficial uses].) This is distinct from, for example, the dedication of an existing consumptive water right under Water Code section 1707 to instream flow. The purpose of section 1707 is to prevent water that was previously applied to beneficial use and then dedicated to in-stream flow from being considered abandoned and subject to subsequent appropriation. Projects that restore a stream to a more natural functioning condition would generally not require a water right. The VA pathway includes 20,000 acres of Valley Floor floodplain habitat restoration. The other 20,000 acres in the 40,000 acre total quoted by the commenter were for fish food production actions that were intended to provide increased food, but would not be providing habitat since fish would not necessarily have access to the acres used for the fish food action. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on the VA pathway habitat commitments. This type

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			of project would actively divert water and must be conducted pursuant to a valid water right. There will be further opportunities to consider whether and to what extent habitat restoration affects Delta water availability. The inflow-based Delta outflow objective requires that the required inflows from the Sacramento/Delta tributaries including equivalent accretions from the Sacramento Valley Floor and Delta, and required inflows from the Lower San Joaquin River, are provided as Delta outflows with adjustments for downstream natural depletions. The required Delta outflow is to be calculated by adding up the applicable required inflows from the Sacramento/Delta tributaries, including an equivalent amount of Sacramento Valley Floor and Delta accretions, and required lower San Joaquin River flows making appropriate adjustments for natural losses. In determining whether water is unavailable, the State Water Board will consider relevant available information regarding unimpaired flows, including natural accretions, for determining unimpaired flow requirements and natural flows available for diversion; other flows available for diversion, including return flows from agricultural and municipal water uses; depletions from factors other than surface water diversions, including seepage, evaporation, and transpiration from open water as well as riparian and floodplain vegetation that reduce flows available for all purposes; information related to water right priority dates; water right demands and diversions, including actual and projected consumptive use demands for and diversions of water and changes in the timing of flows from non-consumptive demands; travel times for flows; and other relevant information.
1125	9	7. CEQA Deficiencies. The Proposed Plan lists the thousands of water rights of the HRL diverters who will contribute to the VA Pathway. Neither the Proposed Plan nor the Staff Report appears to identify the thousands of water rights that will be foreseeably curtailed under the Regulatory Pathway, nor discuss the extent of their curtailments (full or partial) nor the timing and duration of such curtailments. Such information is essential to a meaningful analysis of whether such curtailments are reasonable and in the	Water rights not identified in the list of HRL water rights included in Appendix B.1 will be subject to the requirements in the Plan's regulatory pathway. While the State Water Board may consider implementation procedures other than, or in addition to curtailment regulations, it is likely that the State Water Board will develop and adopt regulations through a public process as necessary to implement portions of the plan updates, including regulations to administer the water right priority system with applicable Bay-Delta Plan

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		public interest and a meaningful analysis of the direct and foreseeable indirect environmental impacts that may result on a wide range of environmental (and economic) resources affected by such curtailments. The Staff Report needs to be substantially revised to address this deficiency. If the HRL diverters are not contributing in the same amounts and at the same time and duration as they would be required to contribute under the rule of priority, then the Staff Report must compare and contrast compliance versus noncompliance with the rule of priority and meaningfully analyze the direct and foreseeable indirect environmental impacts that may result from both the lawful and unlawful scenarios. The Staff Report needs to be substantially revised to address this deficiency.	requirements and commitments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology to be developed after approval of the revised proposed Plan amendments. Subsequent State Water Board activities, such as discretionary actions to implement the proposed Plan amendments, will be examined in light of the Staff Report to determine whether an additional environmental document must be prepared. See also Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of the environmental analysis conducted in the Staff Report.
1126	1	This comment is intentionally comprehensive. Fragmentation of impacts has been part of the failure. The administrative record must reflect the full causation chain: diversion decisions, temperature and flow collapse, estuary and marine food-web failure, economic destruction, public health and wildfire amplification, regulatory coercion, and the inadequacy of disaster relief. This record is written for the Board, for agencies, for courts, and for the public. Standing, Experience, and Representation I submit this comment as a lifelong California fisherman, commercial salmon fisherman, fishing business owner, inland fishing and hunting guide, and salmon fishery advocate. I am a 70-year-old disabled senior, born and raised in Vallejo, California, and I have spent more than seven decades on the waters of this state. My experience spans California's inland waters, the San Francisco Bay and Delta, the California coast, and Pacific fisheries from Alaska to Mexican waters. Prior to 2004, my fishing experience was recreational. That recreational experience spanned decades during a period when salmon fisheries were viable and stable. In 2004, I transitioned into professional participation and began establishing my commercial salmon fishing business.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 3.1, Fish Protection, for more discussion on the use of the best available science for the protection of fish, other potential environmental stressors, and the benefits of flow and habitat to fish species.

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		In addition to my fishing background, I have been a salmon fishery advocate since the early 2000s, following the mass salmon mortality event in the Klamath River in 2001–2002. That event was an early warning of what occurs when river systems are over-allocated and biologically functional flows are subordinated to export demands. My advocacy has been continuous for more than twenty-five years.	
1126	2	Public Education, Advocacy, and Loss of Outreach Capacity For more than fifteen years, I used a personal social media platform to educate the public about salmon fisheries, water management, and ecological collapse in California. That platform reached millions of people over time and served as a primary source of firsthand, experience-based information for fishermen, coastal communities, and the general public. In June 2024, that long-standing personal account was removed, abruptly eliminating access to a large archive of public-interest educational content during an active period of federal legislative advocacy related to water diversions. No explanation was ever provided for the removal. Multiple attempts to obtain an explanation or restoration were refused, including after a complaint to the Attorney General. Regardless of intent, the result was a substantial chilling effect on public participation and access to information during a critical policy moment. Following the removal, I immediately rebuilt my outreach through a new personal page and existing advocacy groups that remained active under my administration. Since June 2024, these platforms have collectively reached hundreds of thousands to more than one million followers. According to platform activity reports, I have published over 7,000 posts during this period, demonstrating both the scale of public concern and the absence of adequate, transparent communication from governing institutions.	The State Water Board is not aware of and is not involved with the issue raised by the commenter regarding a personal social media platform. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1126	3	Notice of Recent National Academy of Sciences Findings I place the Board on formal notice of a recent National Academy of Sciences report evaluating the long-term operations of the	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see

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		Central Valley Project and State Water Project. This report constitutes new findings regarding cumulative biological impacts of sustained project operations and establishes that long-term CVP and SWP operations cause system-wide ecological harm, including direct harm to fisheries protected under the federal Endangered Species Act and the California Endangered Species Act. The report further addresses the chronic mismanagement and inefficiency of the Shasta Reservoir cold water pool. Cold water pool operations under long-term CVP management have failed to reliably protect temperature-dependent ESA-listed fisheries. Temperature management and flow management are inseparable. Continued reliance on existing operational practices guarantees further biological harm.	Common Response 1.3, Revised Proposed Plan Amendments, for responses to comments on the cold water habitat objective and existing temperature issues.
1126	4	Jurisdictional Reality and Public Trust Obligations Federal CVP operations are presently beyond direct state control. Voluntary Agreements cannot substitute for enforceable protections when the primary driver of harm is sustained federal diversion and export. Delay framed as collaboration does not prevent biological damage. Delay is itself a decision. The Bay-Delta and its tributary waters are held in trust for the people of California. The State and this Board have ongoing, non-delegable public trust obligations to prevent irreversible impairment of public resources, including fisheries, navigable waters, and estuarine and marine ecological functions. These duties cannot be waived, postponed, or delegated away through non-binding frameworks that fail to restore functional flows and temperature regimes.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
1126	5	Identification of Beneficiaries and Regulatory Capture The harms documented here did not occur accidentally. They resulted from long-term water management decisions that prioritized export-driven diversions for a concentrated set of beneficiaries while externalizing ecological, economic, and human costs onto fisheries, coastal communities, Tribes, and the public.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		The primary beneficiaries constitute a regulatory-capture water monopoly cartel: the Metropolitan Water District of Southern California, the Westlands Water District, the Kern Water Bank, and associated corporate agricultural operations including The Wonderful Company (formerly Paramount Farms), owned and controlled by Stewart and Lynda Resnick. These entities received the overwhelming share of diverted water supplies while the resulting impacts—river dewatering, temperature exceedances, food-web collapse, fisheries extinction risk, wildfire amplification, and economic destruction—were borne by others. These outcomes were foreseeable tradeoffs made in favor of maintaining industrial water deliveries.	
1126	6	Chronology of Fishery Collapse I began establishing my commercial salmon fishing business in 2004, investing approximately \$150,000 in preparation for the 2005 season. That reliance was immediately undermined. The 2005 season became the first severely delayed and curtailed commercial opening in modern California history. Since 2005, California has never returned to a full-length commercial salmon season comparable to those that existed for roughly fifty years prior. Complete closures occurred in 2008–2009 and again consecutively in 2023, 2024, and 2025. There is no scientifically credible assurance that a viable commercial salmon fishery will return under current management frameworks. Economic Non-Viability Since 2005, California has not supported a financially viable commercial salmon fishery for salmon-dependent fishermen. In many seasons, allowable harvest was insufficient to cover daily fuel costs, let alone vessel maintenance, gear, insurance, permits, and compliance expenses. A fishery that cannot pay fuel is not viable; it exists on paper only. Direct Economic Harm and Forced Permit Retention	Decline of commercial salmon fisheries is discussed in Section 8.6.2, Commercial Fisheries, of the final Staff Report. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		As a direct result of fishery collapse, my commercial fishing and guide businesses were completely devastated. Rather than earning a livelihood, I incurred sustained losses estimated to exceed \$350,000. Under California Department of Fish and Wildlife rules, failure to pay annual permit fees results in immediate and permanent forfeiture. I have been compelled to pay approximately \$750–\$850 annually since 2004 solely to prevent permanent loss of my permit, totaling tens of thousands of dollars that I have never recouped. This compelled fee extraction occurs despite California’s constitutional right to fish (Article I, Section 25). When fishing opportunity is rendered non-existent or token, compulsory fees become part of the harm, not a neutral administrative detail. Failure of Disaster Relief Disaster relief has not mitigated these harms. Following the 2008–2009 closures, relief amounted to approximately \$5,000. Relief for the 2023 collapse was received only recently and totaled approximately \$700–\$800, covering only one year of permit fees. As of this submission, no disaster relief has been provided for the complete closures of 2024 and 2025. Delayed, nominal, or absent relief does not constitute mitigation. It accelerates permanent displacement from the fishery. Fleet Collapse and Survivorship Bias I acknowledge that I am among the more fortunate individuals affected. Due to age and disability, I was able to survive through early retirement on Social Security. Most others were not. A fleet that once numbered in the thousands has been reduced to hundreds on paper, with only a few dozen vessels economically active over the past decade. Permits may still exist; the people and businesses behind them do not. This represents the loss of	

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		fishing families, coastal communities, and generational livelihoods.	
1126	7	System-Wide Ecological Collapse This record concerns not only salmon but the system-wide collapse of California's river-to-ocean ecological continuum over approximately the past three decades. Since the mid-1990s, California has experienced parallel and simultaneous declines across its rivers, the Sacramento–San Joaquin Delta, San Francisco Bay, and the coastal ocean. These declines span multiple species groups and habitats at the same time, including anadromous fish, estuarine nursery species, forage fish, habitat-forming species such as kelp forests, seaweed (marine macroalgae), and eelgrass, coastal fisheries, seabirds, and marine mammals. These impacts have historically been discussed in isolation—by species, habitat type, or individual project—obscuring a unifying damage pathway. What has been largely absent from the administrative record is recognition of a system-wide causal mechanism explaining why so many ecological failures began during roughly the same period, progressed together, and have persisted despite decades of habitat construction, hatchery supplementation, and episodic favorable ocean conditions. That unifying mechanism is chronic river dewatering and the resulting collapse of nutrient and energy transport from freshwater systems to estuarine and coastal food webs. Rivers are not merely migration corridors. They are the primary conveyor system delivering nutrients and organic matter that sustain estuarine and near-shore marine productivity. Decades of peer-reviewed and agency science establish that river discharge delivers nitrogen, phosphorus, silica, organic carbon, fine sediments, and microbial biomass. These materials fuel phytoplankton production, which supports zooplankton biomass, forage fish recruitment, and higher trophic levels throughout the Bay-Delta and coastal ocean, including salmon, steelhead, sturgeon, Dungeness crab, seabirds, marine mammals, and apex predators such as orcas.	Please see Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, of the Staff Report, for a discussion of the purpose and goals of the Sacramento/Delta Update to the Bay-Delta Plan. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		Nutrients must be transported, not merely present in a watershed. Seasonal flushing events are biologically required to fertilize estuaries, maintain productive salinity gradients, and sustain plankton blooms. Reduced, intercepted, or diverted flows fail to deliver nutrients at biologically meaningful scales or at biologically meaningful times. Low river discharge therefore results in reduced nutrient delivery, reduced primary productivity, weakened forage bases, and food-web starvation that propagates downstream through the entire river-to-ocean system. This food-web starvation directly explains the long-term degradation of habitat-forming marine vegetation, including kelp forests, seaweed assemblages, and eelgrass beds. Seaweed and other marine macroalgae depend indirectly on freshwater-driven nutrient delivery and robust lower-trophic productivity. When plankton production declines and forage species collapse, the ecological conditions that sustain kelp forests and other seaweed communities deteriorate. Large-scale loss of kelp and seaweed along the California coast is therefore not an isolated ocean phenomenon, but part of the same freshwater-driven food-web failure affecting fisheries and higher trophic levels. Habitat restoration cannot substitute for freshwater flow. Nutrients cannot be engineered. Plankton cannot be constructed. Food webs—including kelp forests, seaweed communities, eelgrass beds, and the species that depend on them—cannot function without delivery. Habitat projects implemented without restoring functional flow regimes do not recreate productivity and often mask continued system failure. San Francisco Bay exemplifies this collapse. The Bay has long functioned as a critical nursery system for northern anchovy, Pacific herring, smelt species, juvenile shad, and other forage fish essential to marine food webs. Nursery function depends on freshwater inflow, appropriate salinity gradients, and nutrient-driven plankton production. When inflow is reduced, salinity intrudes landward, plankton production declines, larval survival collapses, and recruitment fails.	

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		San Francisco Bay also functions as a critical nursery and productivity driver for Dungeness crab. Freshwater inflow and nutrient delivery directly influence plankton availability and larval survival, linking inland river flows to crab recruitment success, fishery stability, and coastal economies. This establishes a direct causal connection between river dewatering and coastal fishery collapse, not mediated by ocean conditions alone. Anadromous fish—including salmon, steelhead, green sturgeon, white sturgeon, smelt, and lamprey—function as early-warning indicators of system-wide failure. Their collapse reflects chronic river dewatering, elevated temperatures, loss of flow-dependent habitat, and food-web failure both upstream and downstream. These species are not isolated victims; they signal whole-system breakdown. From approximately the mid-1990s onward, California has experienced parallel declines across multiple ecosystems, including persistent salmon collapse, prolonged low biomass of forage fish, repeated Dungeness crab recruitment failures, large-scale kelp forest loss, widespread seaweed decline, eelgrass degradation, abalone collapse and long-term closures, seabird starvation events, marine mammal stress events, and orcas serving as apex indicators of food-web failure. These trends closely track increased water diversions, reduced Delta outflow, permanent crop expansion during drought, and long-term suppression of freshwater flushing events. This pattern is consistent with food-web starvation, not isolated species-specific problems. This record therefore identifies a distinct and citable damage category: Food-Web and Nutrient-Transport Damage Caused by Chronic River Dewatering (approximately 1995 to present). This category captures system-wide ecological injury, multi-species fisheries losses, degradation of kelp forests, seaweed communities, and eelgrass beds, long-term loss of coastal productivity, and intergenerational damage to a renewable food base. It explains why mitigation has failed, why recovery stalls even during wet years, and why delay compounds irreversible harm.	

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1126	8	Climate Feedbacks, Groundwater Collapse, and Trillion-Dollar Damage Surface water export dependence has been paired with catastrophic groundwater over-pumping, resulting in aquifer collapse, dry wells, land subsidence, and infrastructure destruction. These impacts are permanent in many regions. River dewatering dries soils, reduces evapotranspiration, diminishes rainfall and snowpack persistence, increases temperatures, and amplifies wildfire risk. Post-fire contamination further degrades water quality. The resulting cumulative damages—ecological, economic, infrastructure, and human—realistically total hundreds of billions to over a trillion dollars over three decades. Wildfire-driven insurance collapse has left many Californians unable to obtain coverage. Long-term victims, including those from the Paradise fire, remain unpaid nearly a decade later. These Californians are part of the many harmed by systemic water mismanagement.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1126	9	Conclusion and Emergency Remedy These outcomes were foreseeable and repeatedly warned of. Continued adherence to the same operational choices constitutes knowing risk acceptance. There is no plausible recovery under existing frameworks. This record must prepare for the only realistic remedy capable of preventing irreversible loss: emergency executive action by the next incoming Governor to reduce diversions to survival levels, restore enforceable flow and temperature protections, and halt further collapse.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.