

Table 4-1. Responses to Comments

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1127	1	Elsinore Valley Municipal Water District (EVMWD) appreciates the opportunity to provide comments on the December 2025 Revised Draft Sacramento/Delta Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan) and Chapter 13 of the draft Staff Report/Substitute Environmental Document. EVMWD is a public non-profit water agency that provides public water service, water supply development and planning, wastewater treatment and disposal, and recycling. We currently serve approximately 164,000 residents in Western Riverside County, with approximately 10% of our water supply coming from local sources, with the remainder being imported. About 1/3 of the parcels in the District are disadvantaged and severely disadvantaged. EVMWD recognizes the effort by State Water Board staff to update the Bay-Delta Plan in a manner that considers protection of beneficial uses, including fish and wildlife resources, while addressing the need for reliable water supplies for California communities. Overall, EVMWD is supportive of the direction and framework reflected in the revised drafts. While EVMWD thrives to bolster local water supplies, our current water portfolio is largely dependent on imported water due to the need to treat PFAS in our local water supplies, making the Bay-Delta Plan even more critical to ensure a reliable water source for our customers.	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.
1127	2	EVMWD notes the emphasis on adaptive management, monitoring, and periodic review to address hydrologic variability, climate change, and evolving scientific understanding. These components provide mechanisms to adjust implementation as conditions change and to evaluate the effectiveness of management actions over time. Incorporating structured monitoring and review processes can help ensure that outcomes are assessed and that adjustments can be made based on updated information.	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.
1127	3	EVMWD also recognizes the inclusion of collaborative implementation approaches, including the Voluntary Agreement and Healthy Rivers and Landscapes pathways. To ensure the	The State Water Board is not a signatory to the VA proposal nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.

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		ultimate success of this initiative, we respectfully request that the Agreements be incorporated into the final draft updates in a manner that remains consistent with the specific proposals advanced by the Agreements parties. From our perspective, the Agreements provide critical benefits to our water management operations and the stability of our local water supplies. These approaches are designed to allow coordination among water agencies, stakeholders, and regional entities to meet environmental objectives while maintaining operational flexibility. EVMWD acknowledges that collaborative mechanisms may provide additional options for planning and resource management without prescribing a single approach. The Sacramento/Delta region is critical to the overall health of California's ecosystems, agricultural productivity, and water supply reliability. The Agreements present an opportunity to move away from a one-size-fits-all regulatory approach and instead tailor solutions that account for the unique characteristics of the various water users in the region. EVMWD looks forward to continued engagement as the Bay-Delta Plan update moves toward finalization and implementation.	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.
1128	1	The Draft Bay-Delata Plan represents significant progress toward the administration's goal of finalization and adoption of the Bay-Delta Plan update in 2026. Metropolitan is particularly encouraged by the inclusion of the Healthy Rivers and Landscapes Program (HRL Program) as an implementation path that contributes to meeting the new narrative water quality objectives and the existing Salmon Protection narrative objective. The HRL approach to contributing to the narrative objectives comes from the published scientific literature that explains that integrating flow and non-flow measures to create "functional flows" is necessary for achieving successful biological outcomes. For example, as explained in the 2020 Public Policy Institute of California (PPIC) report, Making the Most of Water for the Environment, at p. 9 the use of "functional flows" is recommended because: Increasing the volume of water allocated to the environment	The State Water Board is not a signatory to the VA MOU 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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		could be expected to benefit ecosystems. However, improvements in ecosystem condition would likely diminish with increasing water volumes because of physical habitat constraints and other limiting factors, such as invasive species, poor water quality, and ocean conditions, By coupling physical habitat improvements with environmental water that preserves key aspects of flow variability, functional flows yield greater improvements in ecosystem conditions relative to conventional, minimum flows and therefore represent a more efficient approach to managing environmental water. And, Although water itself provides habitat for aquatic species, the way it interacts with channel beds, riverbanks, floodplains, and other structural features- known as physical habitat- is critical to supporting the ecosystem functions of flowing water. For example, wet season peak flows in rivers confined between levees will not support ecologically beneficial floodplain inundation. Water flowing through concrete-lined channels will provide limited habitat value for aquatic and riparian species and will fail to replenish groundwater that sustains dry season baseflow ... This functional flow approach is the foundation of the HRL Program, including as further recommended by the PPIC Report in that the HRL Program also includes a strong science and adaptive management program and dedicated funding. Even though we acknowledge the tremendous progress that is reflected in the Draft Bay- Delta Plan and the inclusion of the HRL Program, the protection of the SWP is of paramount importance. Specifically, as it relates to the details of the Bay-Delta Plan, it is important that the Water Board honors the 2022 Memorandum of Understanding between the State administration, that included Cal EPA and California Natural Resources Agency, and the HRL participants, particularly as it relates to: 1.) the commitment of no redirected impacts, and 2.) the commitment that HRL is the sum total of new implementation obligations. It is also important that the	

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		implementation responsibility for the Bay-Delta Plan include the entire watershed.	
1128	2	Metropolitan requests a limited number of edits to protect SWP water supplies, as follows: 1. No Redirected Impacts to the SWP Metropolitan is concerned by the lack of acknowledgment that the Water Board is not currently in a situation where it can protect HRL and UIF flows from unlawful diversion. Since there is a lack of real-time diversion information, the SWP would not be able to determine whether HRL and UIF flows were in fact present as Delta inflow until a week or more after the SWP has already bypassed the required quantity of inflow as outflow. If the required inflow was not in-fact present, or if non- project reservoirs are refilling prior to "excess" conditions, the SWP would suffer redirect impacts caused by backstopping the regulatory responsibility held by others. Requested change - We request a statement in the implementation plan that no water or financial obligations will be placed on the SWP and CVP, either directly or indirectly, beyond those identified in the HRL Program or, if applicable, under the UIF implementation pathway. To avoid such impacts, Metropolitan requests a review and reporting process like that included in HRL Flow Accounting, and if such impacts occur, albeit improper, Metropolitan requests that the Program of Implementation for the Bay Delta Plan include a mechanism that would ensure SWP and CVP are able to recover lost supplies and made whole.	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.
1128	3	2. No new SWP implementation commitments beyond HRL. a.New Interior Delta Narrative Objective: The Draft Bay-Delta Plan identifies the SWP and CVP as being solely responsible for this new Interior Delta narrative objective, particularly as it relates to flow. Requested Change - Strike references to the biological opinions and ITP as implementation measures. Broaden Bay-Delta Plan implementation responsibility to those implementing through	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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		the HRL Program, implementing through UIF, and implementing the "other measures in the watershed."	
1128	4	New Funding Obligations: The Program of Implementation for the Draft Bay Delta Plan assigns sole financial responsibility for the existing science and monitoring program required by existing water right decisions, as well as the proposed Bay-Delta Monitoring and Evaluation Program (BDMEP), to the SWP and CVP. Given that the BDMEP serves a purpose broader than ensuring the SWP and CVP compliance with regulatory obligations, the SWP and CVP should not be solely responsible for funding the BDMEP. It should be a shared obligation among all the water right holders within the Bay-Delta. Requested Change - Strike the language that cites various water right decisions and assigns sole responsibility for the BDMEP to the SWP and CVP. Add language to the implementation plan assigning financial responsibility for BDMEP to all water right holders within the Bay Delta.	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.
1128	5	3. Bay-Delta Plan implementation responsibility should be watershed-wide. a. In-Delta diverters should share implementation responsibility: The in-Delta interests do not appear to have implementation responsibility for UIF, and it also appears that the Water Board would not take action to protect against the unlawful diversion of HRL and UIF flows by in-Delta diverters. There are approximately 2,000 in-Delta agricultural diverters, and their combined effect is significant. In-Delta agricultural diverters should have meaningful implementation responsibility, including as it relates to funding the Water Board's proposed BDMED program. Requested change: Add language in the implementation plan to include in-Delta agricultural diverters in the implementation of UIF and clarify that the Water Board will protect HRL and UIF flows from unlawful diversion by in-Delta agricultural diverters. Broaden the implementation responsibility for the BDMED to include in-Delta agricultural water users.	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.
1128	6	b. Include "Other Actions" in implementation plan: Each of the new narrative objectives specifically includes "other actions in	The revised proposed Plan amendments already include habitat restoration and other ecosystem projects. Updates on those

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		the watershed,” which are actions beyond the HRL Program and UIF. Examples of the types of “other actions” that are required to meet the new narrative objectives are set forth by the State of California and the United States in documents such as California’s Salmon Strategy for a Hotter, Drier Future: Restoring Aquatic Ecosystems in the Age of Climate, and the National Marine Fisheries Service’s Recovery Plan for The Evolutionarily Significant Units of Sacramento River Winter-run Chinook Salmon and Central Valley Spring-run Chinook Salmon and the DPS of California Central Valley Steelhead. Given the state of the estuary, the State Water Board must hold those responsible for the actions or regulation of those actions accountable. Requested change: Add language that all narrative objectives will be implemented through: (1) the HRL Program and UIF, and (2) the “other actions in the watershed”. Further, to ensure that the State Water Board is aware of the progress on those other actions, if any, the State Water Board should commit in the Program of Implementation to holding biannual workshops at which federal, state, and local agencies, as well as other interested parties, would be asked to provide updates on “other action” efforts.	actions could be provided in annual or periodic reviews. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information.
1128	7	We appreciate the hard work and dedication of the State Water Board members and staff. We value your partnership and are committed to advancing solutions that enhance the viability of native species while also balancing the need for reliable water deliveries to our constituents. Thank you for your consideration of these 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.
1129	1	The Solano community respectfully submits these comments on the above referenced Water Quality Control Plan for the San Francisco Bay / Sacramento-San Joaquin Delta Watershed, December 2025 Draft (hereinafter “Draft Staff Report”).[Footnote 1: SCWA and its member agencies join in and hereby incorporate by reference the separate written comments on the Draft Staff Report submitted to the State Water Board by the State Water Contractors, Sites Project Authority, Solano County, City of Vallejo, City of Fairfield, NCFC&WCD, ACWA, SID, NCWA, CCWD, EBMUD, Yuba County Water Agency and YCFC&WCD.] The purpose of this letter is to provide the State Water Resources Control Board (SWRCB) comments on behalf of	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 municipal and agricultural communities in Solano County. As a Bay-Delta County, we understand and appreciate the SWRCB staff's concerns for the continued viability of the state's fisheries resources, and the urgency that has driven the Board's action on the Water Quality Control Plan to date. Additionally, our Solano agencies appreciate the incorporation of the Healthy Rivers & Landscape (HRL) program into the Draft Staff Report, as a more comprehensive approach in restoring native fish populations, while balancing municipal and agricultural water supplies. The approach mirrors, on a larger scale, the success that has been observed on Putah Creek for the last 25 years with the recovery and increase in native fish species. The Solano agencies also appreciate the thoughtfulness by the State Water Board in creating the Water Supply Adjustments, as an additional mechanism to balance beneficial uses within the Bay-Delta watershed. Nevertheless, the Solano region continues to have broad-level concerns on the regulatory pathway of the Draft Staff Report. The Solano County Water Agency (SCWA) on behalf of our member agencies has put together a detailed comment letter in response to the Draft Staff Report, Draft Substitute EIR, and supporting appendices. Where appropriate, SCWA has provided some additional recommendations and supporting technical information.	
1129	2	Water Quality Control Plan for the San Francisco Bay / Sacramento-San Joaquin Delta Watershed (December 2025 Draft) Consultation with State and Local Agencies (Water Code Section 13240) and Factors to be Considered (Water Code Section 13241) As briefly discussed in Sections 1.1 – 1.3 and 3.1 the Draft Staff Report references Water Code Section 13240, 13241 and California Constitution, Article X, Section 2. Water Code Section 13240 states "During the process of formulating such plans the regional boards shall consult with and consider the recommendations of affected state and local agencies." While the Yolo and Solano agencies have been proactive in trying to engage and submit comments to the State Water Board, there has been almost no direct consultation by the State Water Board to local agencies in Napa and Lake County	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's consideration of the factors listed in Water Code section 13241. The State Water Board has evaluated the factors listed in Water Code section 13241 throughout the Staff Report. For a discussion of this analysis, please see final Staff Report Section 13.6.2, Water Code Section 13241 Analysis. Please also see Staff Report Sections 13.7.4, Agriculture and Forest Resources, and 13.7.20, Utilities and Service Systems, regarding potential impacts to agriculture and public utilities, respectively, that may result from changes in water supply under the revised Plan amendments. The State Water Board has satisfied its obligation to consult with state and local agencies throughout the water quality control planning process, as required under Water Code section 13240.

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		with regards to impacts in the Putah Creek, Cache Creek, or Feather River Watershed (municipal water supply impacts to Lake & Napa Counties). Additionally, Water Code Section 13241 provides six factors to be considered by a regional board in establishing water quality objectives: (a) Past, present, and probable future beneficial uses of water. (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto. (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area. (d) Economic considerations. (e) The need for developing housing within the region. (f) The need to develop and use recycled water. For Solano County, our community exemplifies past, present, and probable future beneficial uses of water including our agricultural economy, affordable housing through expanded development, compliance with our Urban Water Management Plans, and specifically in providing safe, reliable, high-quality water to our residents, businesses, and industries. The Putah Creek Accord, which was a legal settlement in 2000 of public and NGO entities, is a great example of balancing the beneficial uses of water (environmental, agricultural, municipal, recreational) for Putah Creek. Solano County has also planned and sustained smart growth in our urban areas, while protecting agricultural and green space buffers. Of the 9 Bay Area County Region, Solano County continues to be the most affordable with regards to housing. Unfortunately, the Draft Staff Report and corresponding Draft Substitute EIR, does not accurately address components (a), (d), (e), (f) above. In many cases, actual costs and water supply impacts are understated or not calculated, with a narrative of being too complex to determine. Examples include not fully	See Staff Report Section 13.2, Planning Process, for a description of the thorough and lengthy process through which the State Water Board has developed the Sacramento/Delta update to the Bay-Delta Plan. This process has involved numerous workshops, working meetings, and opportunities for state and local agencies to provide feedback, informing revisions made to the Plan amendments and its supporting analysis, e.g., those related to inclusion of tributary-wide water supply adjustments for Putah Creek. The State Water Board also met with public water agencies, including Solano County Water Agency on March 7, 2025, regarding flow accounting for the VA pathway.

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		quantifying municipal and agricultural water supply impacts within the Legal Delta, particularly of lands both above and below sea level. In Solano County, this would include portions of Rio Vista, the Yolo Bypass, Reclamation District 2068, Maine Prairie Water District, North Delta Water Agency and other Solano unincorporated regions that make up the Legal Delta.	
1129	3	Another example from the Draft Substitute EIR would be the analysis of water supply impacts, that disregards potential changes in groundwater. From Section 13.4.4.1 of the Draft Substitute EIR, “As described in Section 6.2, SacWAM Model Assumptions, SacWAM simulations assumed no change in groundwater pumping for each of the scenarios. Therefore, the Sacramento/Delta supply results presented here include only surface water. Note that, in response to reductions in Sacramento/Delta supply, water users may seek to obtain more water from groundwater resources in areas where groundwater is available.” For Solano County, this is a very significant impact that is not estimated, as Solano County has two significant groundwater basins, the Solano Subbasin (Medium Priority basin) and Suisun Subbasin (Low Priority basin), in addition to smaller groundwater basins within the Suisun Valley, Green Valley, and Ulati Alluvial Fan. Many of these basins are used for agricultural, municipal use, and small domestic wells in the unincorporated regions of Solano County.	Please see the response to comment 221-13 (Solano County Water Agency). In addition, 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.
1129	4	Lastly, one of the other factors for evaluation is “the need for developing housing within the region.” However, neither the Draft Staff Report or the Draft Substitute EIR evaluates any of the General City or County Plans for the Bay-Delta Watershed including the Sacramento Valley, Legal Delta, Suisun Marsh, or San Joaquin Valley as well as other impacted regions such as the Bay Area, Central Coast, or Southern California. For Solano County, this would include the seven cities in Solano County: Dixon, Vacaville, Fairfield, Suisun City, Rio Vista, Vallejo, and Benicia as well as Solano County. Other Solano communities would include the Travis Air Force Base (served by Vallejo), California State Prison Solano, and the University of California,	Most municipalities have or are developing alternate water supplies to supplement reduced Sacramento/Delta supplies and ensure adequate water for their communities. Changes in water supply include replacement groundwater pumping, as well as use of other water management actions such as groundwater storage and recovery, water transfers, increased use of recycled water, and water conservation. The Staff Report acknowledges that in some locations, replacement supply may be difficult. Section 7.20.4, Mitigation Measures, of the 2023 draft Staff Report, provides a range of options that various entities can adopt or utilize to mitigate the potential negative effects of the

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		Davis which receives water from the Solano Project. Additionally, Section 13.6.2 (subsection 5) of the Draft Substitute EIR states the “project would not directly restrict development of housing.” The subsection further explains, “While the project would result in reductions to municipal water supply, which in turn could affect housing development, most municipalities have or are developing alternate water supplies, including replacement groundwater pumping, groundwater storage and recovery, water transfers, increased use of recycled water, and water conservation.” The Draft Substitute EIR identifies that the Bay-Delta Plan will impact municipalities but unduly places the burden on municipalities by stating they are already developing alternate water supplies. In Solano County, several of our member agencies do have a diverse water portfolio, all of which would be impacted by the regulatory pathway of the Draft Staff Report.	revised proposed Plan amendments, including conservation and efficiencies. The mitigation measures may not be applicable to every location or for every action within the State Water Board’s authority. Some mitigation measures are largely within the jurisdiction and control of other agencies; accordingly, the State Water Board cannot guarantee that measures will always be adopted or applied to fully mitigate all potential impacts. In addition, 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 1.2, Water Quality Control Planning Process, for a discussion on the factors to be considered in establishing water quality objectives, including the need for developing housing.
1129	5	Recommendation: State Water Board staff should have direct and well-documented communication with all of the impacted local agencies in the Napa, Solano, Yolo, and Lake County region to better understand the impact on municipal, agricultural, and domestic water supplies, and ways to reasonably balance all of the beneficial uses of water.	Please see Chapter 12, Public Participation, for a summary of public participation activities that occurred during the environmental review and water quality control planning processes for the Sacramento/Delta update to the Bay-Delta Plan. The State Water Board provided many opportunities for interested parties to provide input on the Sacramento/Delta updates to the Bay-Delta Plan, and that valuable input was carefully considered when revising the draft updates to the Bay-Delta Plan and this Staff Report.
1129	6	Recommendation: Reasonably expected changes in groundwater pumping should be accurately reflected in the Draft Substitute EIR. State Water Board staff should communicate with local agencies including Groundwater Sustainability Agencies (GSAs) as well as a review of Groundwater Management Plans (GMPs) within the Plan and Impacted Area for direction on potential changes in groundwater pumping associated with the Draft Staff Report.	CEQA does not require the State Water Board to provide region-specific or individualized environmental impact analyses for its plan updates partly due to the size and complexity of the Sacramento/Delta water supply system and myriad of uses. Nevertheless, the Staff Report acknowledges that changes to Solano Irrigation District’s groundwater management may be necessary to meet requirements for the Sustainable Groundwater Management Act (SGMA) and the Sacramento/Delta Bay Delta Plan update. Avoiding overdraft

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			conditions in Solano County can be achieved by adapting to changes in water supply and incorporating efficient conjunctive use management, as intended by SGMA. Adverse effects caused by overdraft will be addressed in a future update to the Solano Subbasin Groundwater Sustainability Plan (GSP). The Staff Report also considers various adverse effects on groundwater in a qualitative manner, such as reduced incidental groundwater recharge, land subsidence, and challenges associated with the Sustainable Groundwater Management Act (SGMA). For medium and high priority basins, the Groundwater Sustainability Plan (GSP), or alternative document in some cases, is the best approach for managing groundwater and surface water resources sustainably. Groundwater Sustainability Agencies (GSAs) are required to consider regulatory requirements on water resource related plan(s) may affect the GSP (Wat. Code § 10727.2(g)). GSAs are required to periodically evaluate GSPs and make necessary course adjustments to account for changing conditions or circumstances in the basin to achieve groundwater sustainability goals (Wat. Code § 10728.2). Please see Sections 7.12.2 and 13.7.12.2, each titled Groundwater, for more information on the qualitative impact analysis for groundwater and mitigation measures. Please also see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for more information on how the Sacramento/Delta update to the Bay Delta plan aligns with the implementation of SGMA and an overview of Groundwater Sustainability Agencies (GSAs) responsibilities. Also see Common Response 7.1, CEQA and Approach to the Analysis, for more information on the level and scope of the analysis.
1129	7	Recommendation: General Plans for Cities and Counties (and others where appropriate) are a critical part of how housing is developed within a region. The impact of the Draft Staff Report on these planning documents and ultimately on housing should be in the Draft Substitute EIR and reflecting the objectives of Water Code Section 13241.	As discussed in the 2023 draft Staff Report, activities that would have an impact on population and housing would be development or infrastructure projects that could induce substantial population growth in an area or activities that could result in displacement of substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere. Changes in hydrology and changes in water supply would not result in activities that would affect population and housing.

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			Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on the factors to be considered in establishing water quality objectives, including municipal use and the need for developing housing.
1129	8	Narrative Inflow Objective for Sacramento/Delta Tributaries (Section 4.4.2.2) Section 4.4.2.2 provides a narrative inflow objective for Sacramento/Delta Tributaries and states “The inflow objective applies throughout the Sacramento/Delta watershed, including on upstream tributaries, on the Sacramento/Delta tributaries that support or contribute to the protection of anadromous fish species...” and includes Putah and Cache Creek. However, Putah and Cache Creek are intermittent, low elevation, rainfall driven streams, that historically did not provide year-round cold-water habitat or support salmon except during wet years (Brown 2001). Furthermore, historically Putah and Cache Creek entered a sink, that was only connected to the Delta during large flood events. Even to date, neither Putah and Cache Creeks are directly connected to the Sacramento River or the Delta, and instead must pass through flood conveyance facilities and features such as the Cache Creek Settling Basin, the Yolo Bypass Toe Drain, the Los Rios Check Structure, and the Lisbon Weir (all state and federally owned and managed facilities) before reaching the unrestricted connectivity of the Delta. While both Yolo and Solano County are strongly supportive of restoration efforts and for Putah Creek to be a refugia for Chinook Salmon, the narrative inflow objective should not be applied to either watershed.	Please see Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report and Common Response 3.1, Fish Protection, for a discussion of the benefits of increased flows. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the rationale for the regulatory pathway requirements.
1129	9	As part of the Narrative Inflow Objective, the Draft Staff Report indicates, “Implementation of the Sacramento/Delta inflow requirements discussed in this section will begin within two years of approval of the current plan amendments by OAL.” The Draft Substitute EIR in Section 13.3.5 (Implementation Methodology) further details, “To inform the above curtailments, the State Water Board would develop an implementation methodology to determine when water is not available at water right holders’ priorities of right. The methodology would be based on the Water Unavailability Methodology for the Delta Watershed, which was developed and used to implement	The development of the implementation methodology would occur after adoption of the Plan amendments, through a public process with opportunities for water users and other interested members of the public to provide input. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology.

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		emergency drought curtailment requirements in water years 2021-2023.” However, the Napa and Solano community experienced a significant impact from this untested approach in 2022, as described below. During the Emergency Drought Curtailments in 2022, the Napa and Solano community experienced first-hand the impact of untested regulatory requirements by the State Water Board. On 3/28/2022 the Napa and Solano – North Bay Aqueduct (NBA) users were contacted by DWR (who had been notified by the State Water Board) to curtail NBA SWP usage within 24-hours. The Napa and Solano NBA users were extremely concerned, as rapid and unplanned changes in source water can cause major water quality changes, destabilize water treatment plant processes, and risk drinking water safety. In particular, the City of Napa was very concerned, as their distribution system was at risk of depressurization if the NBA supplies were turned off. Depressurization of a distribution system will result in a loss of water to households, risk of water contamination, lack of fireflow protection, and require boil water notices to all impacted customers. The Napa and Solano community pushed back on DWR and began to engage the Division of Drinking Water (a different arm of the State Water Board), to deal with this untested and unintended consequence, which was ultimately a regulatory oversight. Over the course of several weeks, DWR and the Napa-Solano NBA users worked closely to resolve the operational issues, and DWR and the State Water Board were able to work through clarifying language to prevent the regulatory conflict from occurring again. Letters documenting the event were provided to the SWRCB in the prior comment letter by SCWA. The event highlights the importance of testing new regulatory tools, before they are used as legal enforcements by the State Water Board.	
1129	10	Recommendations: Consider the removal of the Narrative Inflow Objective for (a) historically intermittent streams such as Putah and Cache Creeks that have not significantly contributed to anadromous fish species populations within the Bay-Delta and (b) for streams such as Putah and Cache Creek that historically and under existing conditions lack continuous direct connectivity to the Sacramento River or the Delta.	Please see the response to comment 1129-8.

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1129	11	Recommendations: Consider adoption/incorporation of the Putah Creek adjudication (April 1990) and of the March 1995 Condition 12 Settlement Agreement for Putah Creek, based upon the scientifically observed recovery of native fish species in Putah Creek which meets the core objectives of a Water Quality Control Plan as listed in Section 1.2: “(1) beneficial uses to be protected, (2) water quality objectives for the reasonable protection of beneficial uses; and (3) a program of implementation for achieving the water quality objectives.”	Please see the response to comment 1129-8.
1129	12	Recommendations: For any new or modified Curtailment Methodology that will be implemented, the State Water Board should plan to fully develop and test the methodology with state and local agencies over 1-2 years before it is implemented as a regulatory enforcement tool.	Please see the response to comment 1129-9.
1129	13	Tributary-Specific Water Supply Adjustments (WSAs) In Section 4.4.2.2 (Table 5) the Draft Staff Report proposes Tributary-Specific WSAs for specified rainfall dominated and municipal supply dominated tributaries based on local storage conditions. For Lake Berryessa, Unimpaired Flows are reduced to 35% when Lake Berryessa falls below 90% of capacity (1.4-MAF) and 0% Unimpaired Flows when Lake Berryessa falls below 57% of capacity (0.88-MAF). In reviewing the new WSAs, the Solano agencies appreciate the creativity and thoughtfulness that the SWRCB has given with this approach. However, one of the challenges the Solano agencies have encountered is in trying to clearly ascertain what the impacts are on Solano County in the Draft Staff Report, corresponding appendices, and Draft Substitute EIR. In reviewing Appendix H1a2 (Section H1a2.6 Water Supply), Solano County is divided into a Bay Area, Sacramento Valley, and Legal Delta portion and then aggregated with other agencies into several Water Budget Areas. For example, Figure H1a2.6.25 Water Budget Areas 20 and 25 (Agricultural) shows a significant annual delivery reduction ranging from 50-100 TAF associated with the 55 w/WSAs. However, this Water Budget Area includes Yolo County Flood Control & Water Conservation District, North Delta Water Agency, Solano Irrigation District, Maine Prairie Water District, and University of California, Davis, making it hard to assess the impact to Solano County, and to each of our regional water	Agencies whose water supplies stretch across boundaries defined in the staff report may need to consider factors in multiple areas to fully understand impacts relevant to their interests. Water supply adjustments greatly reduce the impacts to users specifically on Putah Creek. Please see Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report for an analysis of the revised proposed Plan amendments. See also Common Response 1.3, Revised Proposed Plan Amendments. The SacWAM results indicate that in the 55 with water supply adjustments scenario, the annual water supply to the Solano Irrigation District through the Putah South Canal is reduced by a maximum of 25% and on average 10% reduction in annual water supply. Information relating to the Changes in Hydrology and Water Supply as defined in the 2025 partially recirculated draft Staff Report can be found in Section 13.4, Changes in Hydrology and Water Supply. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for more information regarding the level of detail of the analysis.

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		supply sources. Additionally, for areas of Solano County outside of the SacWAM Water Budget Area (aka western Solano County), they are lumped together with the San Francisco Bay Area and further divided into Figure H1a2.6.45 San Francisco Bay Area (Urban) and Figure H1a2.6.44 San Francisco Bay Area (Agriculture) making it extremely difficult to assess what the impact of the WSAs compared to Baseline Conditions would be on Solano County. Nevertheless, the Solano agencies have developed spreadsheet models for Lake Berryessa using a monthly time step, Lake Berryessa inflows and outflows, evaporation estimates, Water Year Index, as well as Watershed and Tributary Specific WSAs for the period of October 2006 – September 2025. The analysis looked at baseline and the WSAs using a 45-TAF per month (750-cfs) outlet limit for Lake Berryessa, as shown in Figure 1. The results with the WSAs show an improvement, with fewer impacts to water supply. However, for the 2014-2017 and 2020-2022 drought periods, Lake Berryessa would drop to levels that would lead to significant water supply reductions and conflict with the Cold-Water Carryover Storage requirements. (As a note, this approach assumed that Lake Berryessa was limited to a max outlet release of 45-TAF per month with no carryover of prior unimpaired flows to the following month. This approach also assumed that even when 0% unimpaired flows were allowed, Putah Creek Accord minimum flows would still be met.)	
1129	14	Modification to the Tributary-Specific Water Supply Adjustments Another approach to consider for the Tributary-Specific Water Supply Adjustments would be to include an annual maximum limit (volume in AF) that reflects the optimal flow regime for spawning and rearing habitat over a fixed duration of 21 days, as recommended by the 2023 Draft Supplemental Science Report (Section 5.3.2). For Lower Putah Creek, a Hec-Ras model has been developed with the use of Green Lidar (for bathymetry) that was flown in early 2025. Figures 2-3 show plots of spawning and rearing habitat versus flow, using only velocity and depth criteria for simplicity. For Putah Creek, the figures show that a peak in spawning and rearing habitat is achieved at around 100-cfs which then begins to decrease and is not regained until flow	Increased flow has additional benefits beyond the creation of habitat, so a flow requirement based solely on metrics of habitat acreage would not fully capture the flow at which benefits are optimized. Please see Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and Chapter 4, Other Aquatic Ecosystem Stressors, of the Staff Report and Common Response 3.1, Fish Protection, for discussions of the benefits of flow and habitat. In addition, Putah Creek water users could propose a local cooperative solution to shape the required flows to provide optimal benefits for fish and wildlife. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on local cooperative solutions.

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		exceeds 750-cfs. Based upon SCWA's familiarity with Putah Creek, we suspect that additional modeling runs may show that the optimal flow regime may be closer to 150-200 cfs. Taking a closer look at one of SCWA's early implementation HRL projects, the Nishikawa Restoration Project, provides additional insight to this type of approach. The Nishikawa Project is located upstream of Pedrick Road near Dixon and is located within the UC Davis Riparian Corridor of Lower Putah Creek. The Nishikawa Restoration Project focuses on 0.5-miles of Putah Creek, narrowing and meandering the low-flow channel for improved habitat, while lowering the elevation of the floodplain to improve the amount and inundation frequency of floodplain and rearing habitat available to juvenile Chinook Salmon and other native fish species. Figure 4 below shows the combined Spawning and Rearing Habitat for existing and restored conditions for the Nishikawa Restoration Project. For existing conditions, the results mirror what is described above for the entire creek, with an initial peak habitat area at a flow of 100-cfs, decreasing with additional flows, and not regaining any additional habitat until flows exceed 750-cfs. For the restored conditions, habitat area doubles from 3 to 6 acres at around 200-cfs. For the regulatory pathway, a minimum flow rate for Putah Creek could be set over a 21-day duration (to develop a dedicated volume of water), that prioritizes ecological benefit and function, while simultaneously balancing municipal and agricultural water supplies in the Putah Creek watershed. Outside of the 21-day duration, SCWA would recommend the Putah Creek Accord would be the baseline, due to the long-term success of the Accord and native fish species recovery in Putah Creek. Furthermore, the 21-day duration could be specified to occur sometime between the months of February – April (but as one event), to maximize benefits to native fish species, including out-migrating juvenile salmon. Figure 1 shows Lake Berryessa storage for baseline, WSAs, and a modified WSA (that uses a fixed minimum volume of environmental water). The modified WSA shows slightly lower storage levels than baseline, but with no impacts to water supply or risk to carryover targets, while simultaneously meeting quantifiable ecological targets as	

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		described in the 2023 Supplemental Science Report. Recommendation: The State Water Board should consider the updated bathymetric conditions of Lower Putah Creek, the depth and velocity criteria for spawning and rearing habitat as contained in the Draft Staff Report, to develop a flow regime over 21-days that is consistent with the 2023 Supplemental Science Report while also balancing the agricultural and municipal water supply needs of the Putah Creek watershed.	
1129	15	Sacramento/Delta Cold Water Habitat Objective (Section 4.4.2.3) Section 4.4.2.3 stipulates, “The cold water habitat requirements in this section require management of cold-water storage and releases and/or alternative protection measures to ensure that fish below dams are kept in good condition consistent with Fish and Game Code 5937.” For Putah Creek, this was the primary focus of the 1990-2000 adjudication and development of the final settlement that resulted in the Putah Creek Accord. For the last 25 years (1990-2025), the Putah Creek Accord has implemented the flow regime developed by technical experts including Dr. Peter Moyle at the University of California, Davis and based upon Fish and Game Code 5937. SCWA is not aware of any post-Accord concerns or documentation from the California Department of Fish & Wildlife (DFW) that additional changes are needed to the Putah Creek Accord. There has been extensive long-term monitoring and scientific literature and reports that indicate long-term recovery and stability of native fish populations in Putah Creek (Jacinto 2023). Lastly, adding Putah Creek and Lake Berryessa to the list of Reservoirs and Water Right Holders Subject to Initial Cold-Water Habitat Implementation Actions on the Sacramento/Delta Tributaries (Table 7) as well as Carryover (End-of-September) Storage Target Ranges (Table 8) adds additional unnecessary and burdensome regulation, when there is no scientific evidence to support the regulatory action on Putah Creek. In Appendix H1a1, Section H1a1.8 provides a more detailed analysis for Lake Berryessa, and notes “There are no temperature indicators for fish specific to Putah Creek. Therefore, the composite temperature indicators at the bottom	Please see Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report for a discussion of the benefits of increased flow and cold water storage requirements. As described in Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures, carryover storage target ranges are necessary to prevent reservoir depletion for multiple purposes (health and safety, meeting other minimum flows, etc.) and provide some level of protection for cold water habitat in the fall. These ranges are broad and offer considerable flexibility. In addition, the revised proposed Plan amendments allow for reservoir operators to propose alternative carryover storage levels and temperature targets as part of long-term strategies. Please see response to comment 1129-19 regarding water temperature measurements downstream of Putah Diversion Dam and Chinook salmon temperature indices for Putah Creek. The temperature index used to evaluate rainbow trout rearing is relevant for all months because juvenile rainbow trout rear throughout the year. 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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		of Table H1a1-3 were used to assess Lake Berryessa storage. As observed for other reservoirs, temperature indicators would be most difficult to obtain in October when water temperatures of 56°F or lower are needed to provide for Chinook salmon spawning and incubation (Figure H1a1-21). Because fall-run Chinook salmon could wait until water temperatures drop before spawning, meeting the resident rainbow trout rearing indicator of 65°F (same indicator as for steelhead) could be a more realistic and important outcome.” It is important to note that Table H1a1-3 is a composite table of temperature indicators of Northern Sierra Rivers (Feather, American, Yuba, Bear). The composite table does not accurately reflect low-elevation, interior coast-range watersheds such as the Putah and Cache Creek watersheds. Additionally, the spawning/rearing season for Rainbow Trout in the Putah Creek watershed is mid-November through early March, when water temperatures are consistently cold, well below 65°F. Lastly, recreating the chart as shown in Figure H1a1-20 using actual water temperature from the Putah Diversion Dam and monthly Lake Berryessa Storage from 2016-2025 (Figure 5 below) shows that temperatures never exceed 65°F even when Lake Berryessa Storage is below 800-TAF for any month of the year. • Recommendation: Consider the removal of the Cold-Water Habitat Objective for historically intermittent, low-elevation streams such as Putah and Cache Creeks that have not significantly contributed to anadromous fish species populations within the Bay-Delta. Recommendation: If the Cold-Water Habitat Objective is not removed, appropriate temperature standards should be used that reflect low-elevation, interior coastal watersheds, that lack marine-layer cooling, as both the Putah and Cache Creek watersheds are insulated from significant marine-layer cooling that occurs in other coastal watersheds. • Recommendation: Based upon the review of additional data, specifically water temperature data for the Putah Diversion Dam from 2016-2025, the State Water Board should consider updating and/or revising Table 7 of the Draft Staff Report. • Recommendations: As discussed above, the State Water Board should consider alternatives such as listing Putah Creek as De	

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		Minimis or other category of tributary, not a Cold-Water tributary, setting goals instead of regulatory mandates, and/or other approaches that are both comprehensive but also recognize the uniqueness of each tributary.	
1129	16	Habitat Restoration and Other Ecosystem Projects (Section 4.4.10.7) Section 4.4.10.7 provides a narrative list of, “numerous actions that state, federal, and local agencies and other entities should take to contribute towards achieving the overall goal of improving conditions for fish and wildlife in the Bay-Delta watershed. These complementary measures include actions to protect and restore habitat; reduce impacts from recreational, commercial, and illegal harvest; identify and reduce the negative impacts of introduced species on native species, including predation and competition; improve hatchery management; and address barriers to fish passage, among others.” In each of these actions many agencies including DFW, USFWS, NMFS, DWR, Reclamation, California Fish and Game Commission, the Pacific Fisheries Management Council, the California Coastal Commission, California State Parks Division of Boating and Waterways, and other appropriate agencies and entities are listed with a general statement that “the State Water Board will support” these efforts. While many of these actions make sense and are important for the recovery of fish and wildlife in the Bay-Delta watershed, the regulatory pathway of the Draft Staff Report continues to focus on a flow-only approach, even though the Report recognizes other actions are needed and necessary, as illustrated in this section. Recommendations: Since the Draft Staff Report recognizes the importance of a comprehensive approach to fish and wildlife species recovery in the Bay-Delta Watershed, consider the Voluntary Agreement pathway the default for all parties within the Bay-Delta Watershed, with the Regulatory Pathway as a backstop for parties that fail to meet the green-yellow-red light criteria as outlined in the Draft Staff Report.	Please see Common Response 1.3, Revised Proposed Plan Amendments, for an explanation of the habitat restoration actions included in the regulatory pathway and for the process to add new water rights to the VA pathway.
1129	17	Voluntary Agreements – Addition of New Parties Section 4.4.1.9 indicates that the “State Water Board encourages	The revised proposed Plan amendments include defined processes for adding additional water rights to the VA pathway after Plan adoption. Please see Common Response 1.3, Revised

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		parties to present any executed voluntary agreement to the State Water Board for its review as soon as feasible to improve conditions in the watershed.” However, the process for new parties to join the HRL program is unclear and not always equitable to smaller or less funded agencies and landowners within the watershed. In Solano County, public agencies such as Reclamation District No. 2068, Maine Prairie Water District, City of Vallejo, and others are not fully covered by HRL. As a regional water supply agency, SCWA and our member and partner agencies (and landowners) are highly interested and motivated in finding solutions and ensuring equity across Solano County. Recommendations: If a Voluntary Agreement pathway for all parties is not adopted as the default pathway, provide a reasonable and transparent process for new parties to join the Voluntary Agreement pathway. The process should account for small and large diversions, riparian and appropriative diverters, and recognize that not all diverters have the technical knowledge, funding, or staffing resources as larger organizations.	Proposed Plan Amendments, for information on new HRL proposals.
1129	18	Voluntary Agreements – Termination of the VA Pathway Section 4.4.9.10 provides an entire section on Possible Modification or Termination of the VA Pathway as Part of the Annual and Periodic Review Processes. The section notes that while it is the State Water Board’s intent to consider extension, modification, or termination of the VA pathway at year eight, the State Water Board has the right to terminate the VAs at any time. Furthermore, in the subsection on “Significant Evidence 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 State Water Board reiterates that it has the right to modify or terminate the VA pathway at any time. While the Solano agencies understand the importance of the State Water Board being able to ensure the VAs are implemented, Solano as a Bay-Delta County also recognizes the complexity and challenge of trying to achieve large-scale improvements in the face of climate change, sea-level rise, reductions in species diversity, increases in non-native species populations, coupled with shrinking federal, state, and	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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		local budgets. In the Cache Slough Complex itself, UC Davis in their annual North Delta Arc Report (UC Davis 2025), continues to note the challenges of native fish species recovery, even in restored areas and during multiple high flow years. Recommendations: The State Water Board should consider additional language that both protects their legal pathway but also allows VA parties more than a 45-day public review and comment period. One suggestion would be to follow the SGMA model, where DWR is a liaison between the State Water Board and local GSAs. For the Bay-Delta Plan, DWR would work with the tributary and Delta VA parties. If DWR is unable to work with the VA party to meet HRL commitments, the party would be moved to a public process with the State Water Board, just like with SGMA. SGMA compliance has proven to be very successful, with DWR as the lead technical state agency and liaison, and the State Water Board as the regulator and enforcement agency.	
1129	19	B.) Appendix H1a1 – Assessment of Reservoir Storage on Reservoir Release Temperatures Lake Berryessa – Data & Data Evaluation (Sections H1a1.8.3 – H1a1.8.4) In addition to the data listed in the Draft Staff Report, Appendix H1a1 (Section H1a1.8.3), SCWA also collects 15-minute water temperature data at the Putah Diversion Dam (PDD). This data has been collected since March 1, 2016 to present, and represents periods of high and low Lake Berryessa Storage (790 – 1,630 TAF). In replicating Figure H1a1-20 with the new data set (Figure 5), average water temperatures are consistently below 65°F at the PDD for every month of the year. While seasonal warming was highest during the drought year of 2022, average water temperatures at the PDD were well within the thresholds of coastal rainbow trout. Section H1a1.8.4 further contemplates the use of the composite temperature indicators at the bottom of Table H1a1-3 to assess Lake Berryessa storage. However, as a noted above, this table is based upon temperature indicators of four Northern Sierra Rivers (Feather, American, Yuba, and the Bear River). Using	The data used in Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures, includes water temperature measurements taken downstream of Monticello Dam during periods with lower storage than occurred during the data measurements proposed for use in the comment letter. Temperature data from 2016 to present at Putah Diversion Dam would not provide information on water temperatures associated with carryover storage lower than 500 TAF (which is the lower end of the carryover storage target ranges presented in the Appendix H1a1), because the range in storage levels during the period of data do not include levels below 790 TAF. Additionally, as the commenter points out, levels as low as 790 TAF have led to sufficient protection of temperature. Most of the Chinook salmon that utilize Putah Creek currently originate from other Central Valley watersheds and would not be expected to have evolved to tolerate different temperatures than other Central Valley Chinook salmon. The rainbow trout rearing indicator of 65 °F used for Putah Creek is the same as the indicator for steelhead rearing in the lower American River (Table H1a1-3), which is a lower elevation section of the river that experiences temperatures that are warmer than Putah Creek downstream of Monticello Dam (Figure A1c-8).

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		temperature indicators from four high-elevation, primarily snow dominated (mixed for the Bear River), Northern Sierra watersheds are not applicable to a low-elevation, interior coastal watershed such as Putah Creek. • Recommendation: The additional water temperature data set from the Putah Diversion Dam should be added to the data set, to reflect actual water temperature across the Interdam Reach. • Recommendation: The temperature indicators should be updated for Putah Creek to reflect the actual watershed, a low-elevation, interior coastal watershed, that does not benefit from marine-level cooling as other coastal watersheds.	Please also see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for discussion of 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.
1129	20	Minor Corrections to Appendix H1a1 The total reservoir storage capacity of Lake Berryessa is 1,551 TAF but there are several locations throughout Appendix H1a1 that list the older capacity of 1,602 TAF. On page H1a1-37 the last paragraph states “Solano Irrigation Dam” which should be the “Putah Diversion Dam.”	Text has been modified accordingly.
1129	21	C.) Appendix H1a2 – Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments Limited Influence of Putah and Cache Creeks on the Yolo Bypass In reviewing the Sacramento Water Allocation Model (SacWAM) model results for Putah Creek, Cache Creek, and the Yolo Bypass below Putah Creek in both Appendix H1a2 and H1a3, there appears to be little to no ecological benefit associated with the Unimpaired Flows compared to baseline conditions for Putah and Cache Creek. For the Yolo Bypass, flows at or above 6,000-cfs are considered necessary to achieve ecological benefit with inundation between 14-21 days (Delta Stewardship Council, 2026). When flows from both Putah and Cache Creek are combined, they are considerably less than the 6,000- cfs target for the Yolo Bypass. Additionally, when looking at the SacWAM results for the Yolo Bypass, the monthly box plots show that the median flow never reaches 6,000-cfs for the months of December – March. Furthermore, even the 25-75% percentiles	The purpose of the Plan amendments is to provide reasonable protection of fish and wildlife beneficial uses in the tributaries to the Sacramento River and Delta and within the Delta and Bay. The relative contribution of Putah Creek to the Yolo Bypass, Delta inflow, and outflow may be smaller than other tributaries, however, Putah Creek provides important habitat for salmon and other fish species that the Plan amendments are intended to protect. Please see 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. The proposed Plan amendments would provide for flow conditions in the Sacramento/Delta watershed and its tributaries (including Putah Creek) to support successful spawning, rearing, migration, and other life history stages of native fish and wildlife—including the magnitude, frequency, timing, duration, and rate of change of flow conditions to which native species are adapted. Please see Common Response 3.1, Fish Protection, on the

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		for the Yolo Bypass never exceed 6,000-cfs except for February, of which even the baseline condition exceeds the threshold without the need for Unimpaired Flow. The significantly higher February values are primarily driven by inputs from the Sutter Bypass, not from Putah or Cache Creeks.	frequency of flows. Flows exceeding 6,000 cfs in the Yolo Bypass can initiate inundation of floodplain areas within the bypass. However, most inundation events occur during high Sacramento River flows (typically exceeding 55,000 cfs), when water overtops the Fremont Weir. In contrast, flows from Putah and Cache Creeks generally do not result in Yolo Bypass inundation, except during rare, exceptionally high flow events in Cache Creek. Although we do not identify a set threshold for Putah Creek from the literature analyzed in the Staff Report, any increase in inundation can be beneficial.
1129	22	Limited Influence of Putah Creek and the North Bay Aqueduct portion of the Feather/Sacramento River on the Bay-Delta Hydrodynamics In addition to the SacWAM model results, SCWA worked with Resource Management Associates (RMA) to model the Unimpaired Flow (UIF) pathway for both Putah Creek and the North Bay Aqueduct (NBA) portion of the State Water Project. The coarse level analysis looked at 35% and 55% UIF for Putah Creek as well as the NBA using a tracer analysis. The results modeled existing conditions but with UIF applied only to Putah Creek and the NBA, to show the maximum environmental benefit possible. The results, while coarse, showed less than a 2% tracer influence (1.5% Putah, 0.2% NBA) to the Bay-Delta under a very conservative, unrealistic scenario. If the results were extended to include UIF from all the other tributaries, the influence of both Putah and the NBA (on the Feather River) would be significantly reduced. The results show that neither Putah Creek or the NBA portion of the Feather River have little to no ecological benefit and hydrodynamic influence on the Bay-Delta.	The purpose of the Plan amendments is to provide reasonable protection of fish and wildlife beneficial uses in the tributaries to the Sacramento River and Delta and within the Delta and Bay. The relative contribution of Putah Creek to Delta inflow and outflow may be smaller than other tributaries, however, Putah Creek provides important habitat for salmon and other fish species that the Plan amendments are intended to protect. Please see 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. The proposed Plan amendments would provide for flow conditions in the Sacramento/Delta watershed and its tributaries (including Putah Creek) to support successful spawning, rearing, migration, and other life history stages of native fish and wildlife—including the magnitude, frequency, timing, duration, and rate of change of flow conditions to which native species are adapted. Please see Common Response 3.1, Fish Protection, for a discussion of the effects of flows resulting from the Putah Creek Accord on native fish species. More recent evidence cited in Common Response 3.1 substantiates the text in Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report describing that non-native species continue to dominate the lower reaches of Putah Creek and that additional flow would be expected to provide benefits to native fish species.

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1129	23	Lake Berryessa – End of April and September Storage Impacts For reservoir management, the SacWAM results show significant differences for Lake Berryessa Storage (Section H1a2.5.24) between the UIF (55% w/WSAs) versus the Baseline or VA conditions, that conflicts with the Cold Water Storage narrative of the Bay-Delta Plan. For example, Figure H1a2- 108 shows for both April and September End of Month Conditions, the Baseline and VA conditions have consistently higher levels of storage in Lake Berryessa for 0 – 75% exceedance values. At only very low values of storage (< 600-TAF) does the UIF pathway show a potential storage benefit, of which Lake Berryessa has only reached three times in September (3/69 = 4%) and never for April in the 69-year history of the Solano Project. Furthermore, when looking at the 50% exceedance value for April the UIF scenario decreases storage to 1,150 vs 1,350-TAF and for September 950 vs 1,100-TAF. While the Draft Staff Report has an entire section dedicated to Carryover Storage requirements, implementation of the regulatory pathway leads to a decrease in Carryover Storage at Lake Berryessa, placing additional and unnecessary risk on Cold Water storage for Lake Berryessa, with little to no environmental benefit achieved from the regulatory pathway for Putah Creek.	Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures, indicates suitable Lake Berryessa reservoir release temperatures for resident rainbow trout below Monticello Dam at carryover storage levels above 700 TAF and possibly above 500 TAF. The decreases in storage associated with the flow scenarios occur when carryover storage levels are greater than approximately 700 TAF. At lower carryover storage levels, which pose more of a concern for release temperatures, carryover storage is greater for the flow scenarios than for baseline conditions (Figure H1a2-108). The cold water habitat objective is narrative in order to provide sufficient flexibility for implementation options. The Staff Report acknowledges potential temperature increases could occur in some streams under some circumstances and managing these factors to protect cold water habitat for fish is complex and challenging. However, the implementation of the narrative cold water habitat objective and the flexibility provided in the inflow requirements would be expected to improve water temperature conditions for native cold water fish. The cold water habitat objective is intended to bolster existing legal protections to ensure comprehensive temperature protection over time. Although approaches may differ among tributaries, the effectiveness of cold water management will require ongoing coordination, collaboration, and technical review among water managers, stakeholders, and technical experts to facilitate both short-term and long-term planning and decision-making efforts. Please also see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for discussion of 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.
1129	24	Water Supply – Water Budget Areas Section H1a2.6 (Water Supply) shows detailed results for Water Budget Areas as well as Annual Exceedance plots and tables, yet there is no map showing where these areas are located. In reviewing the Draft Staff Report there is also no reference to these Water Budget Areas. Since these Water Budget Area tables	A detailed map of the valley floor water budget areas can be found in Figure 4-1 in the SacWAM Documentation available on the State Water Board's Sacramento Water Allocation Model (SacWAM) web page.

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		and figures make up a significant portion of the Water Supply Analysis, a map and/or location of where to find a map of these Water Budget Areas should be readily available.	
1129	25	Water Supply – Water Budget Areas 20 and 25 (Agricultural & Urban) Sections H1a2.6.25 and H1a2.6.26 appear to show the Agricultural and Urban impacts associated with the VA and regulatory pathway for Solano County. However, all of Yolo and Solano volumes are grouped into one unit, including agricultural water supplies from Yolo County Flood Control & Water Conservation District, Non-District Supplies, North Delta Water Agency Non-District, UC Davis, Solano Irrigation District, and Maine Prairie Water District. For the urban component, all cities/communities within the Valley Floor of Yolo and Solano County are similarly grouped into one unit, making it difficult to ascertain what the impact would be on the Solano County Water Agency and each of our agricultural and urban member agencies.	See the response to comment 1129-13. The draft Staff Report does not analyze impacts at the individual water district scale; rather, changes in water supply s are analyzed at a regional scale. 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.
1129	26	Water Supply – Water Budget Area 50 (Agricultural) Section H1a2.6.35 shows the Water Budget for Area 50, which is the Legal Delta. Figure H1a2-195 shows no change in the exceedance curve for the baseline, VA, and regulatory pathway. However, this result is inconsistent with the Draft Staff Report which indicates that the State Water Board is contemplating (but has not yet approved) exempting lands below sea level that are within the Legal Delta. However, there are significant areas within the Legal Delta that are above sea level, and would not fall under this exemption, that are not analyzed or included in the analysis as shown in Figure H1a2- 195. The final impact as shown in Section H1a2.6.35 for the Legal Delta does not reflect the intent or narrative as described in the Draft Staff Report. Furthermore, for the five Delta Counties (Sacramento, Yolo, Solano, Contra Costa and San Joaquin) and numerous state agencies tasked with protecting the Delta, such as the Delta Protection Commission, Delta Stewardship Council, and Delta Conservancy, having accurate information and clearly quantifying the potential impacts (and benefits) is critical in making informed decisions.	Water diversions in the Delta are assumed to be higher priority than other demands in the system, reflecting the relative seniority of water rights in the Delta. However, as stated in Chapter 6, Changes in Hydrology and Water Supply, Section 6.4.5, Sacramento/Delta Supply to the Delta, reduced Delta diversions may occur as a result of the proposed Plan amendments, but significant reductions are not modeled explicitly in the SacWAM scenarios due to the uncertainty in observed Delta depletions and how depletions may change if diversions were curtailed. SacWAM results show as the flow requirements increase from 35 to 75 percent unimpaired flow, the availability of water for diversion is reduced throughout the watershed. Therefore, it is likely that the frequency of insufficient natural and abandoned flows to meet Delta and other riparian diversions would increase. To the degree that such shortages occur, they would be represented in the analysis as a share of total agricultural water supply (Table 6.4-1) and overall cumulative changes in water supply. Impacts from changes in Sacramento/Delta supply are further evaluated for the Delta in Sections 7.4, Agriculture and Forest Resources and 7.20, Utilities and Service Systems, and corresponding analyses in Chapter 9, Proposed Voluntary Agreements, and Chapter 13, Revised Proposed Plan

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			Amendments. The revised Plan contains a provision to study and consider a possible exemption for lands below sea level if they are determined to have no effect on Delta Outflow. Please refer to the updated Section 13.7.4, Agriculture and Forest Resources, for results that show potential impacts on agriculture and forest resources that may result from changes in water supply or changes in hydrology under the revised proposed Plan amendments.
1129	27	Water Supply – Delta (Urban) Section H1a2.6.36 shows the Water Budget for the Delta (Urban) but specific to the City of Antioch (demand site U_ANTOC_NU) and likely what appears to be only a portion of the City of Antioch. However, it is important to recognize that there are other urban areas within the Legal Delta that should be accounted for that include all or portions of Rio Vista, West Sacramento, Sacramento (Pocket Freeport Region), Clarksburg, Walnut Grove, Isleton, Stockton, Lathrop, Manteca, Tracy, Mountain House, Bryon, Brentwood, Oakly, Antioch, as well as Pittsburg. Being able to clearly and accurately show water supply impacts (both urban and agriculture) is an important part of balancing coequal goals for the Delta	Some of the modeled demand is captured in the Delta depletions, others, especially those at the margins of the Delta, are captured in other regions. The results featuring Delta M&I include other urban water usage. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for more information regarding the scope and level of detail of the analysis. Staff added language in Section 6.4.5, Sacramento/Delta Supply to the Delta, clarifying that diversions by small in-Delta communities are captured in the Delta depletions arc.
1129	28	Water Supply – San Francisco Bay Area (Agricultural) Section H1a2.6.44 shows the Agricultural Water Supply impacts for the entire San Francisco Bay Area. For western Solano County, this would include the Suisun Valley, Green Valley, and Cordelia regions which are aggregated into the entire 9-County Bay Area region, making it very difficult to determine the impacts to Solano County. Furthermore, in Solano County, both the Suisun and Green Valley regions are important American Viticulture Areas (AVA). The coarse level results make it incredibly difficult to ascertain what the agricultural water supply impacts would be to western Solano County, and particularly to this important AVA region of Solano County.	Please see the response to comment 1129-25 regarding the level of analysis.
1129	29	Water Supply – San Francisco Bay Area (Urban) Section H1a2.6.45 shows the Urban Water Supply impacts for the	Please see the response to comment 1129-25 regarding the level of analysis.

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		entire San Francisco Bay Area. For western Solano County, this would include the Cities of Vallejo, Benicia, Fairfield, Suisun City, as well as Travis Air Force Base (served by Vallejo). However, this aggregation into the 9-County Bay Area region makes it very difficult to ascertain what the specific impact would be on Solano County's western cities which represents about 300,000 residents or 70% of the population in Solano County.	
1129	30	Water Supply – State Water Project Appendix H1a2 provides overall water supply impacts to the State Water Project (SWP), of which Napa and Solano County comprise about 2% of the SWP. Unfortunately, for both Napa and Solano agencies it remains difficult to ascertain what the water supply impacts would be to each region as explained below. Section H1a2.6.60 shows the impact on SWP Table A North of Delta (NOD) diversions, which presumably includes Napa and Solano County, and may include Yuba City (the appendices are not clear). Section H1a2.6.66 shows the impact on SWP Article 21 but just for Napa County. The reason for this nuance is that the SacWAM results are based upon historical water use. Historically, Solano County has not heavily relied on SWP Article 21, but this is an important and vital part of Solano's SWP water portfolio, especially for the City of Vallejo as well as into the future for the Cities of Dixon, Rio Vista, and Suisun City should they choose to develop SWP surface water treatment for their communities. Section H1a2.6.68 shows the impact on SWP Settlement Water, which shows a small increase under the UIF scenarios. However, it is important to note that Settlement Water is limited to only the cities of Fairfield, Vacaville, and Benicia. For Delta water, the City of Vallejo cannot use Settlement Water and would need to rely on Table A and Article 21 water, in addition to Vallejo's Cache Slough Permit Water. Lastly, the City of Vallejo's Cache Slough Permit Water, which is independent of the SWP, but conveyed through SWP facilities, is an important and vital regional water supply to the City of Vallejo and Travis Air Force Base (which receives their water supplies from the City of Vallejo) as well as to the communities of American Canyon, Benicia, and Fairfield. The result is an unclear picture of what the actual SWP water supply impacts would be individually to Napa and Solano agencies. Additionally, for NOD SWP Contractors like	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for more information regarding the level of detail of the analysis. Please refer to the discussion in Section 6.4 Changes in Surface Water Supply for information on how the water supply is summarized. "Water supply is summarized by where the water is ultimately supplied, not by where the water may be diverted." The settlement volumes, Table A, Article 21 and permit water for Vallejo, Benicia, Vacaville and Travis Air Force Base are all included in SacWAM. SacWAM documentation available on the State Water Board's website describes the details of each of these components in Section 8.23 North Bay Aqueduct.

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		Yuba City, it is unclear where their water supply impacts are being shown in Appendix H1a2.	
1129	31	Total Groundwater Pumping In Section H1a2.7.1, Figure H1a2-229 shows the average annual groundwater pumping across all basins by Water Year Type (WYT) for the baseline, regulatory, and VA scenarios. However, the results show essentially no change in groundwater pumping between each scenario. The reason being, is the SacWAM model assumes there will be no change in groundwater pumping associated with any of the scenarios. This assumption is highly inaccurate, even as demonstrated in this figure between WYT. For example, in Critical WYs (when surface water is less available), overall groundwater pumping is ~4,900-TAF/yr for all scenarios. For Above Normal WYs (when surface water is more available), overall groundwater pumping is ~3,700-TAF/yr. This difference between WYT represents an increase in groundwater pumping of 1,200-TAF/yr and is a direct response by both urban and agricultural water users to reductions in surface water availability. The regulatory pathway of the Draft Staff Report would create a similar response by both urban and agricultural water users, to increase groundwater pumping as surface water supplies become curtailed or not available. To estimate groundwater pumping, the State Water Board could review the publicly available Groundwater Sustainability Plans (GSPs), annual GSP reports, and consult with each of the local Groundwater Sustainability Agencies (GSAs). For Solano County and the Solano Subbasin, the 2021 Groundwater Sustainability Plan for the Solano Subbasin would be helpful for the State Water Board to review and incorporate into the Draft Staff Report, appendices, and Draft Substitute EIR.	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.
1129	32	Groundwater Pumping by Basin In Section H1a2.7.4, Figure H1a2-232 shows the annual average pumping by groundwater basin for each of the Staff Draft Report scenarios. As noted above, each of the groundwater basins including the Yolo-Solano Groundwater Basin, show no significant changes between each of the scenarios. For the Solano Subbasin, surface water supply reductions in the Solano Project and/or SWP, would lead to increased groundwater pumping by	Please see the response to comments 1129-31 and 1129-41.

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		the City of Vacaville (urban), Solano Irrigation District (urban & agricultural), Maine Prairie Water District (agricultural), Reclamation District No. 2068 (agricultural), as well as by private landowners within the Solano Subbasin but outside of these local jurisdictions. Furthermore, reductions in surface water supplies would impact the future ability of Cities like Dixon and Rio Vista to develop and invest in surface water supplies that they have a right to access from SCWA, even though there are known groundwater water quality concerns such as Chromium-VI and Arsenic in their existing groundwater supplies.	
1129	33	Total Groundwater Recharge by Basin In Section H1a2.7.8, Figure H1a2-236 shows annual average groundwater recharge by basin. Similar to the groundwater analyses above, there is little to no significant difference in recharge by groundwater basin. However, for the Solano Subbasin, Deep Percolation of Applied Water is an important component within the groundwater basin, representing 130-TAF per year (Solano Subbasin GSA, 2021). Since the regulatory pathway will require surface water reductions within the Solano Subbasin, it is expected and highly anticipated that there will be a reduction in the Deep Percolation of Applied Water and ultimately in groundwater recharge for the Solano Subbasin. The SacWAM results as shown in Figure H1a2-236 appear to be inconsistent with the Solano Subbasin GSP.	Please see the response to comment 1129-31. For more discussion on SGMA considerations, including GSA roles and duties, see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act.
1129	34	Groundwater Storage by Basin Section H1a2.7.13 provides results showing the annual and long-term rate of change in groundwater storage by basin. Figure H1a2-246 shows the long-term rate of change in groundwater storage for the Suisun Groundwater Basin which is in western Solano County. The Suisun Basin is currently a Low Priority basin, as it is primarily only used for small domestic wells and is considered to be stable. Agriculture in this region is primarily served by Solano Project (Putah Creek) surface water. For the VA and BiOps Scenario, there is little to no change from baseline conditions. For the UIF scenario (55% w/WSAs) there is a continuous and steady decline in groundwater storage from the 1920s – 2020s at about -950 AF/yr.	Please see the response to comment 1129-31.

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		Figure H1a2-250 shows the long-term rate of change in groundwater storage for the Yolo-Solano Groundwater Basin, of which the Solano Subbasin is in eastern Solano County. The Solano Subbasin is a Medium Priority Basin, and provides municipal water for 3 cities (Vacaville, Dixon, and Rio Vista), small domestic wells, and agricultural water in areas where surface water is not provided such as near Putah Creek, between Dixon and Davis, and other portions of eastern Solano County. The basin is considered to be stable with an average net positive influx of water. For the VA and 2008-2009 BiOps Scenario there is a slight increase in long-term groundwater storage for the period of 1920s – 2020s, which is reflective of baseline conditions. For the 2019 BiOps Scenario there is a small but steady decline of about -750 AF/yr. For the UIF scenario, there is a very significant decline in storage of - 1,050 TAF over this same time period, or about -10,500 AF/yr. The results show that the regulatory pathway will significantly impact groundwater for both Yolo and Solano County, including the Suisun Subbasin, Yolo Subbasin, and Solano Subbasin regions.	
1129	35	Partially Recirculated Draft – Staff Report/Substitute Environmental Document in Support of Potential Upgrades to the Water Quality Control Plan for the San Francisco / Sacramento-San Joaquin Delta Estuary for the Sacramento River and its Tributaries, Delta Eastside Tributaries, and Delta Prior Issues Discussed Above Many of the issues discussed above are also located in Chapter 13 of the Substitute Environmental Document. To avoid redundancy, these issues are not flagged again, as they have already been discussed and referenced above. Sacramento/Delta Supply to the Delta – Not Modeled In Section 13.4.4.3, Subsection on Sacramento/Delta Supply to the Delta, Figures 13.4-69 and 13.4-70 show no difference in annual volume between baseline, UIF (55 w/WSAs), and the VA scenarios. The subsection further notes, “Significant reductions are not modeled explicitly in the SacWAM scenarios due to the uncertainty in observed Delta depletions and how depletions	Most in-Delta diverters claim riparian water rights, which are the most senior diverters of natural and abandoned flows in the watershed. In SacWAM, the demands representing these in-Delta diversions are assumed to have a higher priority than most other demands in the system to represent the seniority of these claims of right. Because these demands in SacWAM have a higher priority, the model allocates water to the demands before meeting demands of lower priority, which is why they are rarely unmet. Table 13.4-121 shows a 5 TAF reduction in water supply on average to the Delta region in critical years. It is not as the commenter says “too complex” to model, rather a full analysis at the water right scale is required to fully determine water availability to senior Delta diverters, which is beyond the scope of this analysis. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope of the analysis.

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		may change if diversions were curtailed. SacWAM results show that the availability of water for diversion is reduced throughout the watershed. Therefore, it is likely that the frequency of insufficient natural and abandoned flows to meet Delta and other riparian diversions would increase.” In simple terms, SacWAM is not modeling changes to Delta diversions, because it is complex. Furthermore, the report recognizes that there will likely be less water available to meet Delta and other riparian diversions. However, this result or impact is not quantified or shown in any way and instead Figures 13.4-69 and 13.4-70 incorrectly show there is no impact to the Delta region.	
1129	36	Agriculture and Forest Resources • Impact AG-a: Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Important Farmland)...to nonagricultural use. • MM-AG-a,e: Mitigate impacts related to the conversion of Prime and Unique Farmland of Statewide Importance (important farmland) to nonagricultural use. In Solano County many of the proposed mitigation measures such as Diversify Water Portfolios, Increase Efficiency of Agricultural Water Use, Reduce Impacts on Groundwater, Oversight and Approval of Water Transfers are already being done. Other mitigation measures such as Impose Conditions on Land Use Changes do not address the fundamental fact that farmland may not have sufficient water supplies to continue farming if the Draft Staff Plan is implemented. Furthermore, the mitigation measures in MM-AG-a,e do not provide any funding or specific on the ground mitigation measures that could be implemented in Solano County.	The Staff Report estimates the effects of reduced Sacramento/Delta water supply on irrigated farmland in the San Francisco Bay Area, which includes Solano County, in Section 7.4, Agriculture and Forest Resources, of the 2023 draft Staff Report. The results identify the potential reduction in irrigated acres from baseline conditions for the proposed Plan amendments by year type. The Staff Report identifies mitigation measures that could avoid or reduce impacts to agriculture. As discussed in Staff Report Section 7.1, Introduction, Project Description, and Approach to Environmental Analysis, some potentially significant impacts can be mitigated to less-than-significant levels. Many other identified potentially significant environmental impacts could be reduced to less-than-significant levels with mitigation incorporated; however, due to the large scope of the project and wide range of possible response actions, sufficient information is not available to conclude with certainty that the mitigation measures will reduce all impacts to less-than-significant levels in all circumstances. Some mitigation activities are within the State Water Board’s jurisdiction. However, other mitigation measures are largely within the jurisdiction and control of other agencies or depend on how water users respond to the project. Accordingly, the State Water Board cannot guarantee that measures will always be adopted or applied fully to mitigate potentially significant impacts. Therefore, unless and until the mitigation is fully implemented, the impacts remain potentially significant. Please refer to Common Response 7.1, General CEQA

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			and Approach to the Analysis, for further discussion of mitigation measures.
1129	37	Air Quality • Impact AG-a: Conflict with or obstruct implementation of the applicable air quality plan. • Impact AG-b: Violate any air quality standard or contribute substantially to an existing or projected air quality violation. • Impact AG-c: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. • MM-AQ-a-c: Mitigate impacts from criteria air pollutant emissions from groundwater pumping. The proposed mitigation measure is vague and does not provide examples or funding for mitigating impacts from criteria air pollutant emissions from groundwater pumping. Additionally, the narrative suggests that most groundwater pumps would be powered by electric pumps, and the energy being provided is already permitted. However, the narrative fails to address that while this may already be permitted, it is still a significant increase in energy usage, and associated air quality pollution with the increase in energy usage. Furthermore, throughout the Sacramento Valley, Delta, and in Solano County, many of the areas that rely on water from the Sacramento River watershed or Delta, utilize gravity or low lift diversions requiring far less energy than groundwater pumping.	The assertion that MM-AQ-a-c is vague and does not provide examples for mitigating impacts from criteria air pollutant emissions from groundwater pumping is not supported by the Staff Report. As stated in Section 7.5.4, Mitigation Measures, MM-AQ-a-c specifically states that “Water users who utilize increased use of groundwater pumping to replace surface water supplies and conduct groundwater storage and recovery operations should consider energy-efficient pumps and other equipment, including using alternatives to diesel-fueled pumps.” Additionally, MM-AQ-a-c provides examples to mitigate such impacts, such as using “diesel pumps with engines meeting USEPA Tier 4 Final or better,” or using “electric, compressed natural gas, or other alternatively fueled pumps instead of the diesel counterparts, where available.” Regarding the assertion that the proposed mitigation measure does not provide funding for mitigating impacts, CEQA does not require that mitigation measures allocate or itemize specific funding amounts for mitigation. Regarding the assertion that the draft Staff Report fails to address the increase in energy usage due to increased groundwater pumping, please refer to Common Response 7.8, Energy and Hydropower. As discussed therein, energy required for groundwater pumping is part of the energy expenditure needed for replacing reductions in surface water supply as discussed for Impact EN-e. The evaluation for Impact EN-e in Section 7.8 and Section 13.7.8, Energy, of the Staff Report ultimately concludes that, depending on how water users respond to decreased water deliveries, the energy used to replace reduced Sacramento/Delta water supply potentially could exceed the energy saved by conveying less Sacramento/Delta water to end users. As such, the potential increase in energy demand could result in increased energy production from nonrenewable power sources. However, these facilities are already built and permitted to emit a maximum amount of criteria pollutants. These facilities are required to offset additional power generation by using pollution credits under existing regulations. Therefore, if additional emissions are

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			generated as a result of increased energy demand, these emissions would be generated by facilities that are permitted to do so. The permit requirements would ensure that no net increase in pollutant emissions would occur beyond individual facility permit levels, which ensures consistency with existing air quality plans. As such, the Staff Report adequately considers and discloses energy use and criteria pollutant emissions associated with the potential increase in electric pumping. If gravity or low lift diversions are used, as suggested by the commenter, energy consumption and the potential for increased energy production from nonrenewable power sources would be reduced.
1129	38	Biological Resources – Terrestrial • Impact TER-a: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. • Impact TER-f: Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. • MM-TER-a: Mitigate impacts on special-status species. The proposed mitigation is vague and does not provide specific examples of mitigation or funding for mitigating impacts on special-status species. In Solano County, the Draft Staff Plan could significantly impact agriculture in eastern Solano County and the Cordelia area of western Solano County, which is primarily comprised of alfalfa, irrigated pasture, field-grass hay, corn, and grain crops that provide foraging habitat for Swainson Hawk, Greater Sandhill Crane, and Tricolored Blackbird. Additionally, the Draft Supplemental EIR does not address or recognize the Solano Habitat Conservation Plan, which SCWA has spent millions of dollars and over 20-years of dedicated staff time in developing.	Please see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion about the level and scope of the analysis presented in the 2023 draft Staff Report, as well as a discussion of mitigation measures. The 2025 partially recirculated draft Staff Report analyzes and discloses impacts to agricultural resources and terrestrial biological resources in Sections 13.7.4, Agriculture and Forest Resources, and 13.7.6.1, Terrestrial Biological Resources, respectively. The environmental setting in Section 7.3, Aesthetics, through 7.20, Utilities and Service Systems, of the 2023 draft Staff Report informs the impact analyses in Chapters 7, Environmental Analysis and 9, Proposed Voluntary Agreements, and Chapter 13, Revised Proposed Plan Amendments (2025 partially recirculated draft Staff Report) for the revised proposed Plan amendments. Table 7.6.1-4 in the environmental setting section for Section 7.6.1, Terrestrial Biological Resources, describes numerous approved regional habitat conservation plans and natural community conservation plans (together identified as conservation plans) in the study area including the Solano Multispecies Habitat Conservation Plan. Examples of mitigation can be found in Sections 7.6.1.5, Mitigation Measures, and 13.7.6.1, Terrestrial Biological Resources. Also see Section H3.1.4, Terrestrial Biological Resources, of Appendix H3, Mitigation Measures for the Revised Proposed Plan Amendments, for specific examples of mitigation for MM-TER-a.

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1129	39	Energy • Impact EN-a: The effects of the project on energy resources. • Impact EN-b: The effect of the project on peak and base period demands for electricity and other forms of energy. • Impact EN-c: The effects of the project on local and regional energy supplies and requirements for additional capacity. • MM-EN-a-e: Mitigate the project effects on energy resources. The proposed mitigation is vague and does not provide specific examples of mitigation, including how reservoir management could change, how to diversify water portfolios (as the Draft Staff Report curtails the use of many water supplies), how to promote the use of renewal energy, and implement Greenhouse Gas Emissions Mitigation when the Draft Staff Report itself has a significant impact and will increase Greenhouse Gas Emissions. For Solano County, many of our surface water supply systems require little to no pump head (low elevation systems). Additional groundwater pumping to supplement surface water reductions will require large amounts of electricity (and some diesel pumping as well). Furthermore, the regulatory pathway could impact small renewable hydroelectric powerplants like the Solano Irrigation District's Monticello Power Plant, which provides hydropower 11 months out of the year, typically December – September. The regulatory pathway could decrease hydropower production during multi-drought periods during the summer months, compared to the baseline or VA pathway. While the impact is small on a state-wide scale, it is locally important from both a power standpoint and revenue standpoint for the Solano Irrigation District, City of Vacaville, City of Fairfield, City of Vallejo, and Napa County Flood Control & Water Conservation District.	Please see the mitigation measures discussion in Common Response 7.1, General CEQA and Approach to the Analysis. The Staff Report acknowledges in Chapter 7, Environmental Analysis, and Chapter 13, Revised Proposed Plan Amendments, that mitigation measures may not be adequate to fully mitigate impacts. While the State Water Board has some authority to ensure that mitigation is implemented for some actions, other mitigation measures are largely within the jurisdiction and control of other agencies or depend on how water users respond to the Plan amendments. Accordingly, the State Water Board cannot guarantee that measures will always be adopted or applied to fully mitigate potential impacts. Unless and until the mitigation is fully implemented, the impacts remain potentially significant. The discussion for Impact EN-e in Section 7.8, Energy, acknowledges that for some regions, groundwater pumping could require more energy than conveyance of surface water. Effects on small hydropower facilities, including the Monticello hydropower facility, that are part of the California Renewables Portfolio, were considered for Impact EN-d in Section 7.8. In addition, hydropower effects at Monticello Dam were incorporated in the power flow analysis of grid reliability performed for Impact EN-c in Section 7.8. Please also see Common Response 7.8, Energy and Hydropower, regarding the evaluation of local effects and the power flow analysis. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding scope of analysis. Please see Chapter 8, Economic Analysis and Other Considerations, regarding cost of groundwater use, cost of groundwater wells, and costs associated with changes in hydropower generation. In addition, please see Common Response 8.1, Economic Analysis and Other Considerations, for more information regarding replacement water supply costs and hydropower revenue effects.

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1129	40	Greenhouse Gas Emissions • Impact GHG-a: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. • Impact GHG-b: Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases. • MM-GHG-a: Mitigate impacts from greenhouse gas emissions. • MM-GHG-b: Comply with applicable greenhouse gas emission reduction plans, policies, or regulations. The proposed mitigation on Greenhouse Gas Emissions, such as Water Use Efficiency, Water Conservation, Energy Efficiency, Irrigation Systems, is already being addressed with existing Urban and Agricultural Water Management Plans, as well as independent regulation by the State Water Board for Making Conservation a California Way of Life. Proposing these actions as mitigations to the Draft Staff Report is inaccurate, as they are already being done by separate legislation, independent and not related to the Draft Staff Report. Additionally, in Section 13.7.10 (Greenhouse Gas Emissions) the report references a threshold of 10,000 metric tons of CO₂, which is inconsistent with the Yolo-Solano Air Quality Management District (YSAQMD). For Solano County, the YSAQMD sets a threshold that a “major source” is defined as: - 100 tons per year of any pollutant subject to regulation - 25 tons per year of volatile organic compounds or nitrous oxides - 10 tons per year of any single hazardous air pollutant - 25 tons per year of all hazardous air pollutants If the regulatory pathway of the Draft Staff Report were implemented, it would be defined as a “major source” in Solano	The assertion that the greenhouse gas mitigation measures presented in the Staff Report (Mitigation Measures MM-GHG-a and MM-GHG-b) do not provide adequate environmental protection because they identify strategies complementary to existing agency water conservation and energy efficiency measures is incorrect and unsupported. Please refer to Common Response 7.10, Greenhouse Gas Emissions and Mitigation, regarding greenhouse gas mitigation. The assertion that the regulatory pathway would be defined as a “major source” under YSAQMD regulations fails to recognize that the YSAQMD definition of “major source” only applies to stationary sources as defined by YSAQMD Rule 3.8, Federal Operating Permits, Section 231. YSAQMD’s definition of a stationary source applies to individual industrial and stationary source projects. As such, YSAQMD’s definition of a stationary source does not apply to the regulatory pathway, as emissions from implementation of the regulatory pathway would be generated by numerous individual emission sources. Therefore, the regulatory pathway would not be considered a major source pursuant to YSAQMD regulations. The draft Staff Report conservatively uses a stationary source threshold of 10,000 MTCO₂e; however, comparing the regulatory pathway emissions to the stationary source threshold does not subject the project to regulations set forth by YSAQMD for stationary sources. The assertion that the regulatory pathway would result in air quality impacts to the SFNA is supported by analysis in Section 13.7.5, Air Quality. The Staff Report discloses that emissions from diesel-powered groundwater pumps would result in a potentially significant impact on air quality. Mitigation Measures MM-AQ-a–c would be implemented to reduce potential air quality impacts from diesel pumps; however, unless and until the mitigation is fully implemented, the impact on air quality attainment goals, including emissions in the SFNA and SJVAB, remains potentially significant.

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		County. The regulatory pathway would also be in direct conflict of the Sacramento Federal Non-attainment Area (SFNA) with regards to compliance for fine Particulates and Ozone. As cropland is taken out of production, dust from fallowed land would contribute to an increase in fine Particulates, which is already an issue in the San Joaquin Valley. Increased groundwater pumping would lead to increase NOx and VOC emissions (either directly from diesel pumps, or increase energy demands and resulting power plant emissions, of which about 45% of California's energy production comes from natural gas), that when combined with sunlight these compounds can increase ozone levels as well as fine Particulates which conflicts with the goals of the SFNA.	
1129	41	Hydrology & Water Quality – Groundwater • Impact GW-b: Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted). • Impact GW-a: Violate any water quality standards or waste discharge requirements. • MM-GW-b: Mitigate the substantial depletion of groundwater supplies or the substantial interference with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. • MM-GW-a,f: Mitigate impacts to groundwater quality from depletion of groundwater supplies or the substantial interference with groundwater recharge. Similar to the above statements, many of the proposed mitigation measures are already being implemented, separately and independently of the Draft Staff Report. Furthermore, the regulatory pathway of the Draft Staff Report would conflict with	The Staff Report recognizes that impacts to groundwater (Impact GW-b, a and f) could occur because of the potential response by water users substituting reduced Sacramento/Delta surface water supplies with groundwater. However, the Staff Report and proposed Plan amendments are not a directive that water users should increase groundwater pumping, especially in light of SGMA and groundwater basin management, which requires local public agencies in high and medium priority basins to take swift action in reaching groundwater sustainability. However, the mitigation measures listed, including SGMA, (see Section 7.12.2.4, Mitigation Measures) are primarily the responsibility and jurisdiction of public agencies other than the State Water Board. While the State Water Board can ensure that mitigation is implemented for actions within its authority, the State Water Board cannot guarantee that measures by other agencies will be adopted or applied in a manner that fully mitigates the impacts. Therefore, unless and until the mitigations are fully and successfully implemented, the impact to groundwater levels (Impact GW-b) and groundwater quality (Impact GW-a) remains potentially significant. The Sacramento/Delta Bay Delta Plan update does not conflict with SGMA; together they allow for an integrated planning of scarce water resources that does not trade impacts between surface and groundwater. Depending on the subbasin, it will be up to the local Groundwater Sustainability Agencies (GSAs) to take the appropriate actions for groundwater sustainability.

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		several of the proposed mitigation measures such as implementation of SGMA, SGMA Oversight, and Diversify Water Portfolios as the Draft Staff Report would limit the availability of surface water supplies and lead to increase groundwater pumping to supplement surface water curtailments. The mitigation would also conflict with regulatory water quality requirements on municipal water supplies. In Solano County, the City of Vacaville would have less available surface water, increasing reliance on groundwater, when there are already known Chromium VI water quality concerns. For the Cities of Dixon and Rio Vista that are currently solely groundwater dependent, the Draft Staff Report would reduce the ability of these cities to invest in surface water treatment, as surface water would be less available (State Water Project, Solano Project), while both of these cities have existing Chromium VI and/or Arsenic water quality concerns with groundwater. Lastly, it is important to recognize that the Draft Staff Report has also not fully contemplated changes in groundwater pumping that would likely occur, as discussed above.	Sustainably managing surface water and groundwater resources synergistically is the only way to ensure the protection of both resources. For this to occur, the State Water Board allows for creative opportunities to facilitate the adaptation of management from the water users' response to changes in water supplies. Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for more discussion on the groundwater impact analyses and mitigation measures and how the Sacramento/Delta Bay Delta Plan update aligns with implementation of the Sustainable Groundwater Management Act (SGMA). On municipal use and water quality concerns, Section 7.12.1, Surface Water, acknowledges that reductions in surface water supplies for municipalities could result in the use of alternative sources of water for municipal use and those alternate sources of water could be groundwater with lower quality than surface water. Nevertheless, drinking water providers must comply with water quality standards and regularly monitor water quality to ensure that drinking water standards are met. New or additional sources of water may cause drinking water treatment facilities to temporarily fall short of drinking water standards. This impact would be potentially significant, as part of the surface water impacts SW-a and SW-f, and the mitigation measures were discussed in 7.12.1.4, Mitigation Measures, under MM-SW-a,f. As mentioned in the surface water impact analysis, a drinking water treatment facility may need to take additional actions to ensure that a new or additional source of water does not result in water quality concerns with permit requirements. Physical modifications to drinking water treatment plants are further discussed and evaluated in Section 7.22, New or Modified Facilities. Section 8.8.2.1, New or Modified Drinking Water Treatment Plants, in the 2023 draft Staff Report, (Section 8.9.2.1, New or Modified Drinking Water Treatment Plants, in the final Staff Report), discusses potential costs related to new or modified drinking water treatment plants. Multiple funding sources are available to assist communities with obtaining clean, safe, and reliable water supplies. The Drinking Water State Revolving Fund and Proposition 1-eligible projects can assist publicly owned water systems, privately owned community

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			water systems, and nonprofit or publicly owned noncommunity water systems with the planning, design, and construction of drinking water infrastructure projects that improve the community's water efficiency and ensure a drought-resilient water supply. Section 7.20, Utilities and Service Systems, discusses relevant mitigation measures and the State Water Board will continue its commitment to the human right to water through financial assistance, technical assistance, consolidations, and other means, including for communities that may be affected by reduced groundwater supplies or groundwater quality concerns.
1129	42	Land Use and Planning • Impact LU-b: Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. • Impact LU-c: Conflict with any applicable habitat conservation plan or natural community conservation plan. The impact conclusions indicate either No Impact or Less than Significant. However, the Draft Substitute EIR does not appear to have reviewed any of the general City or County Plans for the Plan Area or impacted regions such as the San Francisco Bay Area, Central Coast, or Southern California. Furthermore, the Draft Substitute EIR does not appear to have reviewed any existing Habitat Conservation Plans within the Plan Area, including the Solano Habitat Conservation Plan. Additional analyses are needed before the actual impacts can be reasonably and accurately assessed.	Section 7.13, Land Use and Planning, discusses potential impacts related to land use and planning. As explained there and in the corresponding sections of Chapter 9, Proposed Voluntary Agreements, and Chapter 13, Revised Proposed Plan Amendments, the revised proposed Plan amendments would not, by their nature, conflict with applicable plans or physically divide established communities. For example, as stated in Section 7.13, "[c]onflicts with local or regional planning documents may result if land is proposed for a land use designation that differs from that outlined in applicable land use plans, policies, or regulations that were adopted to avoid impacts on environmental resources. Changes in hydrology and changes in water supply do not involve these types of projects." As noted in Section 7.13.1, Environmental Checklist, the environmental checklist for the land use analysis, habitat conservation plans are discussed in Section 7.6.1, Terrestrial Biological Resources. Please see the response to comment 1129-38 regarding that analysis.
1129	43	Population and Housing • Impact POP-a: Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). • Impact POP-b: Displace substantial numbers of existing	As discussed in the Staff Report, activities that would have an impact on population and housing would be development or infrastructure projects that could induce substantial population growth in an area or activities that could result in displacement of substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere. Changes in hydrology and changes in water supply would not result in activities that would affect population and

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		housing, necessitating the construction of replacement housing elsewhere. • Impact POP-c: Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. The impact conclusions for this section are No Impact. However, as discussed above, the Draft Substitute EIR does not provide any review of General City or County Plans within the Plan Area or impacted regions outside of the Plan Area. Furthermore, the Draft Substitute EIR does not contemplate housing affordability and potential impacts associated with the regulatory pathway of the Draft Staff Report. A recent article by the Public Policy Institute of California (PPIC) indicates that housing costs continue to play an important role in population trends in California (PPIC 2026).	housing. In addition, 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 1.2, Water Quality Control Planning Process, for a discussion on the factors to be considered in establishing water quality objectives, including municipal use and the need for developing housing.
1129	44	Utilities and Service Systems • Impact UT-b: Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. • Impact UT-d: Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new expanded entitlements needed. • MM-UT-b: Avoid or reduce impacts from the construction of new water or wastewater treatment facilities or expansion of existing facilities. • MM-UT-d: Avoid or reduce impacts on municipal supplies. The proposed mitigation measures are broad, vague, and conflict with the regulatory pathway of the Draft Staff Report. For example, many agencies in Solano County already have a diversified water portfolio. However, the regulatory pathway of the Draft Staff Report proposes or will contemplate in the future curtailment of almost every surface water available to Solano	Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the adequacy of the mitigation measures. The mitigation measures may not be applicable to every location or for every action within the State Water Board's authority. Some mitigation measures are largely within the jurisdiction and control of other agencies; accordingly, the State Water Board cannot guarantee that measures will always be adopted or applied to fully mitigate all potential impacts. The Staff Report describes a variety of available funding assistance programs in Chapter 8, Economic Analysis and Other Considerations. Refer also to Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act and Common Response 8.1, Economic Analysis and Other Considerations, for a discussion of funding for alternative water supplies. It is unclear from the comment where the cost of water recycling for the City of Fairfield comes from, but the range of cost is consistent with example treatment plants and costs in the study area provided in Section 7.20.2.1, Wastewater Collection and Treatment, which includes EcoWater and M1W water recycling facilities and project costs. However, the commenter incorrectly compares costs for construction of new and modified facilities to

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		County agencies. Additional mitigation measures include Increase Water Use Efficiency, which as described above is already occurring under separate and unrelated legislation. Other mitigation measures include reducing impacts on groundwater, which directly conflicts with the Draft Staff Report, which will lead to increase groundwater pumping. Lastly, for Solano County, the cost of Water Recycling for the City of Fairfield is likely to exceed \$50-\$75 million. When coupled with other Solano Cities like Vacaville, Benicia, Dixon, and Rio Vista, the costs would exceed the starting range of cost estimates listed in Table 13.8-3 for just Solano County alone.	Table 13.8-3 annual average supply needs and cost estimates to replace reduction in Sacramento/Delta supplies for municipal use. Table 13.8-6 provides relative cost information for new or modified facilities; please see Common Response 8.1, Economic Analysis and Other Considerations, for information on the overall approach and how costs reported in the literature were used.
1129	45	Agricultural Water Supply Economic Effects In Section 13.8.2 the Draft Substitute EIR assesses the economic impact that could result in surface and groundwater supply reductions to agricultural users in the study area. The change from baseline conditions is summarized in Table 13.8-1. However, the results of this table seem to be inconsistent with the results observed in Appendix H1a2 and the resulting exceedance plots for each Water Budget Area. Additionally, the Draft Substitute EIR does not indicate on a local level (e.g. Solano County) what the specific impacts and what land would be expected to be removed from agricultural production. Lastly, for areas such as the Legal Delta the scenarios show no change in the water budget, though the narrative recognizes that there will most likely be water curtailments. A further refinement of this analysis would allow local agencies to more clearly understand what the local impacts would be to our community.	Section 13.8.2, Agricultural Water Supply Economic Effects, summarizes the annual average reductions in Sacramento/Delta supply for agriculture use by region and pathway type for the regulatory pathway (55 w/WSAs) and the VA pathway, and Table 13.8-1 displays changes in agricultural water supply from baseline in thousand acre-feet per year (TAF/year). Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments, presents SacWAM output in the form of exceedance plots at the Water Budget Area (WBA) scale. Exceedance plots for the WBAs show the probability distribution of annual water deliveries for all uses in TAFs across all flow scenarios. Table 13.8-1 shows only the average agricultural water supply reduction while Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments, has the full probability distribution, thus they are not directly comparable. Agricultural impacts are assessed using the SWAP model and are intended to estimate cropping pattern changes considering farmer behavior and response due to changes in water supply. Additional details of the SWAP model are provided in Common Response 8.1, Economic Analysis and Other Considerations. The SWAP model uses SacWAM water supply output as input and is the best available model to measure economic impacts in agriculture in the Central Valley. The economic analysis provided in the Staff Report is appropriately detailed for the scope of the project. The SWAP model uses a multi-region approach, with Solano County located within SWAP Region 6. Detailed results by SWAP region are provided in Appendix A3, Agricultural

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			Economic Analysis: SWAP Methodology and Modeling Results. The SWAP model provides results at an appropriate geographic level of analysis, as identifying specific lands to be impacted would be speculative given uncertainty in predicting individual farmer responses. Please see Common Response 7.4, Agricultural Resources, for further discussion on the geographic scope of the SWAP analysis. In summary, the narrative in the draft Staff Report in general, and in Section 13.8, Economic Analysis and Other Considerations, in particular, reflects that the flow scenarios and the regulatory pathway (55 w/WSAs) recognize some water supply reductions in the Sac/Delta, consistent with the appropriate level of analysis. Impacts at a more refined scale, as the commenter states, can be determined through review of the smaller scale model results in Appendix A3, Agricultural Economic Analysis: SWAP Methodology and Modeling Results. Little or no change in water supply will therefore be reflected in little or no change in crop production at the SWAP region level.
1129	46	Municipal Water Supply Economic Effects In Section 13.8.3 the Draft Substitute EIR assesses the economic impact that could result in municipal water supply reductions. As discussed above, the Draft Substitute EIR does not indicate on a local level (e.g. Solano County) what the specific impacts would be. Table 13.8-3 provides an Upper Bound Annual Average Supply Needs to Replace Reduction in Sacramento/Delta Supplies. For the Sacramento River watershed this is listed as \$3-\$4 million, San Joaquin Valley \$1.6-\$5 million, and the San Francisco Bay Area, Central Coast, and Southern California at \$160-\$383 million. However, as discussed above, for the City of Fairfield, the cost of water recycling would be in the ballpark of \$50- \$75 million. When other Solano cities such as Vacaville, Dixon, Benicia, and Vallejo are added, this easily exceeds the starting range of costs as shown in Table 13.8-3 for the entire State by just Solano County. As another example, Table 13.8-6 provides a summary of costs associated with new and modified facilities. However, many of these costs do not reflect actual costs that would be incurred by local public agencies. The Draft Substitute EIR should review the cost of actual projects within	Please see response to comment 1129-44. The economic analysis provided in the Staff Report is appropriately detailed for the scope of the project. Please see Common Response 8.1, Economic Analysis and Other Considerations, for regulatory context including a discussion of the level and scope of the analysis. Section 8.5.1, Approach to Analysis, explains that the upper bound represents the maximum annual estimated cost for using reserve supplies to replace reduced Sacramento/Delta supply and the estimated cost for purchasing additional water supplies to completely replenish any reserves used to replace the reduced Sacramento/Delta supply, with no action to manage demand through demand management measures. Consistent with the approach to estimating upper bound costs identified in Chapter 8, Economic Analysis and Other Considerations, the upper bound costs identified in Table 13.8-3 reflect annual costs, which include the amortized capital cost plus operating costs. This approach is appropriate to provide a comparison among alternative sources of supply with different investment costs,

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		the Plan or Impacted Area, to obtain more realistic values. Such examples could include municipal well development by cities in the Central Valley and Bay Area; Desalination Projects such as the City of Antioch, Carlsbad, or Santa Barbara Plants; increase reservoir storage such as with San Luis Reservoir, Sites Reservoir, or Los Vaqueros Reservoir; Drinking Water Treatment Plans (Central Valley, Bay Area, Southern California); Wastewater Treatment Plants and Water Recycling (Sac Regional Tertiary Plant Upgrades and Harvest Water, City of Vacaville, others in Central Valley, Bay Area, Southern California), new or modified Points of Diversion (North Bay Aqueduct Alternate Intake, Contra Costa Water District Intakes, City of Stockton, Freeport Intake, likely others as well).	expected life, and operating cost. In addition, Section 13.8.3, Municipal Water Supply Economic Effects, has been updated to include a new sentence that clarifies that the lower bound and upper bound costs reflect annual costs. Table 13.8-6 provides a summary of new or modified facilities and relative cost information from Section 8.8, Costs Associated with New or Modified Facilities, in the 2023 draft Staff Report (Section 8.9, Costs Associated with New or Modified Facilities, in the final Staff Report). The costs related to New or Modified Facilities are reasonable values using the best available data at the time of the analysis. The data for these costs come from multiple academic and peer-reviewed studies involving the synthesis of multiple, or in some cases dozens, of California projects and as-built construction and operating costs, including some listed by the commenter. As indicated in the footnote to Table 13.8-6, the costs were adjusted to 2022 values using the published Bureau of Labor Statistics Consumer Price Index (CPI-U) for the purposes of the analysis. Please see Common Response 8.1, Economic Analysis and Other Considerations, for details on the municipal supply analysis approach, including replacement water supply costs.
1130	1	On behalf of the Association of Bay Area Governments (ABAG), we appreciate the opportunity to comment on the draft updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan). ABAG represents the Bay Area's 101 cities and nine counties and is responsible for coordinating housing planning for the Bay Area. Two-thirds of the region's urban water supply comes from sources in the Bay-Delta watershed. From this regional planning perspective, reliable and resilient water supplies are foundational to meeting California's housing and economic goals, particularly in a region already facing severe housing shortages and affordability challenges. The Bay Area's ability to plan for and deliver infill and transit-oriented housing depends on long-term certainty in water supply and water quality. Local agencies must demonstrate adequate water availability when approving development, 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. See also Common Response 1.2, Water Quality Control Planning Process, for a discussion of reasonable protection of fish and wildlife beneficial uses, and consideration of other beneficial uses, including comments on housing.

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		uncertainty in water supply may delay housing production. As the State continues to pursue ambitious housing targets, including Regional Housing Needs Allocation (RHNA) goals, it is essential that water management policies recognize and support the connection between ecosystem health, operational reliability, and community growth. At the same time, ABAG recognizes that water supply reliability cannot be separated from the ecological health of the San Francisco Estuary. The San Francisco Estuary Blueprint articulates a shared regional vision that links a healthy estuary to the Bay Area's economic vitality, climate resilience, and quality of life. Complementing this vision, the recently updated Freshwater Flow indicator on the State of Our Estuary website documents how reduced fresh water flowing into the Estuary has contributed to chronic "artificial drought" conditions in the Estuary impacting key processes such as fish migration and reproduction. These findings underscore that water supply reliability for communities and ecosystem health are not competing objectives, but interdependent outcomes of effective, science-based water management.	
1130	2	As the State Water Board considers final updates to the Bay-Delta Plan, ABAG encourages an approach that advances ecological recovery while also providing the regulatory clarity and operational flexibility needed to meet regional and state housing needs. Aligning Bay-Delta water quality objectives with the Estuary Blueprint's integrated vision will help ensure that California can simultaneously restore the San Francisco Bay Estuary, adapt to climate change, and deliver the housing needed to support equitable and sustainable communities throughout the Bay Area.	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.
1131	1	The SWC is a non-profit association of 27 public agencies from Northern, Central, and Southern California that purchase water under contract from the California State Water Project ("SWP"). The SWP is the state's largest water delivery system, and collectively, members of the SWC deliver SWP water to more than 27 million residents throughout the state and more than 750,000 acres of highly productive agricultural land. SLDMWA is a public agency based in Los Banos, California. It was	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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		formed in 1992 as a joint powers authority and has twenty-seven member agencies. Twenty-five of these agencies contract with the United States for the delivery of water from the federal Central Valley Project (“CVP”). Most of SLDMWA’s member agencies depend upon the CVP as the principal source of water they provide to users within their service areas. That water supply serves approximately 1.2 million acres of agricultural lands within areas of San Joaquin, Stanislaus, Merced, Fresno, Kings, San Benito, and Santa Clara Counties, a portion of the water supply for over 2 million people, including in urban areas within Santa Clara County referred to as Silicon Valley, and approximately 200,000 acres of managed wetlands and wildlife refuges within the largest continuous wetland in the western United States. The Water Agencies have each submitted separate letters on the Revised Amendments and Chapter 13, but provide this letter to underscore their respective commitments to the Healthy Rivers and Landscapes Program (“HRL Program” or “Voluntary Agreements”).	
1131	2	Further Revisions Are Required to Better Incorporate the HRL Program into the Bay-Delta Plan We appreciate the State Water Board’s inclusion of the “VA Pathway” in the Revised Amendments, but reiterate here the need for revisions to ensure consistency with the HRL Program proposed by signatories to the 2022 Memorandum of Understanding Advancing the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and other Related Actions (“MOU”). Changes to the Revised Amendments described in the SWC and SLDMWA comments submitted separately are necessary for the State Water Board to uphold the HRL framework outlined in the MOU and Term Sheet that was signed by the State administration. The State Water Board should uphold the MOU and protect the SWP and CVP by not imposing any new implementation responsibilities, allowing no redirected impacts, and by providing meaningful enforcement. We object to the imposition of new implementation responsibility solely on the SWP and CVP	The 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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		for new Interior Delta Narrative Objective and as the sole funding source for the Water Board's new BDMEP science program. The SWP and CVP and their water contractors are already responsible for significant water and funding obligations under D-1641 and as part of the proposed HRL Program. We also object to any redirected impacts to the SWP and CVP that could occur caused by backstopping the regulatory responsibilities of other parties, and we are seeking a process for identifying potential impacts and a path to recovering lost supplies. And finally, we are requesting that the Water Board have a method for protecting HRL and other regulatory flows from unlawful diversion. As it relates to HRL, the curtailment methodology is not well suited, but regardless of methodology, all water users, no matter the size, are prohibited from diverting regulatory flows and the State Water Board must enforce accordingly.	
1131	3	The VA Pathway remains a superior alternative to the Regulatory Pathway described in the Revised Amendments. The commitments described therein are readily implementable, result in significant flow contributions, and will result in habitat improvements the State Water Board cannot otherwise require.	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.
1131	4	We encourage the State Water Board to take action to approve the VA Pathway/HRL Program, with further revisions to better align it to the commitments described in the MOU and Term Sheet. Thank you for your consideration of these 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. The State Water Board is not a signatory to the VA MOU nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.
1132	1	The San Luis & Delta-Mendota Water Authority ("Water Authority"), Westlands Water District ("WWD"), and the San Joaquin River Exchange Contractors Water Authority ("SJRECWA") (together "Commenting Parties") ¹ [footnote 1: See Attachment 1 for a detailed description of the Water Authority, WWD and the SJRECWA] appreciate the opportunity to provide comments to the State Water Resources Control Board ("State Water Board") in response to the Revised Draft Sacramento/Delta Bay-Delta Plan Updates ("Revised Amendments") and Chapter 13 of the Draft Staff Report in support of the Revised Amendments ("Chapter 13"). The Water Authority and WWD are signatories to the 2022 Memorandum of Understanding ("MOU") and support the Healthy Rivers 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.

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		Landscapes Agreements[footnote 2 Section 2.2 of the MOU states that the Voluntary Agreements (“VAs”) will consist of the Global Agreement, the Implementing Agreements, and Government Code section 11415.60 Agreements. The March 29, 2024 draft “Global Agreement to the Healthy Rivers and Landscapes Program in the Bay-Delta” (“Global Agreement”) identifies a “Healthy Rivers and Landscapes Program” which includes the Global Agreement, Supported Amendments to the Bay-Delta Plan, Implementation Agreements, Enforcement Agreements, and a Strategic Plan. This package of agreements constitute the HRL Agreements referenced herein] (“HRL Agreements”) and stand ready to implement the commitments outlined in the MOU with the State of California. The Revised Amendments modify prior versions of Bay-Delta Plan updates released in October 2023, October 2024, and July 2025, while Chapter 13 supplements analysis contained in the October 2023 Draft Staff Report (“Draft Staff Report”).[Footnote 3: The Water Authority provided comments to the State Water Board regarding prior versions of the Bay-Delta Plan updates as follows: (1) the Draft Staff Report was released on September 28, 2023 and our comments in response are dated January 19, 2024; and (2) the proposed Plan amendments were released on October 25, 2024 and our comments in response are dated January 10, 2025 and January 30, 2025 (the later comments were on alternatives 5a and 6a). We hereby incorporate those comments herein by reference.] The Revised Amendments continue to include two pathways for implementing water quality objectives: (1) the “Regulatory Pathway,” which includes a 55% unimpaired flow (“UIF”) requirement with water supply adjustments (“WSA”) (the “55 w/WSA”) and Cold Water Habitat objectives; and (2) the “VA Pathway,” which would apply to parties to the HRL Agreements in lieu of the Regulatory Pathway and which those parties contemplated would faithfully describe and implement the commitments outlined in the HRL Agreements.	
1132	2	As the Water Authority made clear in their prior comments on the Bay-Delta Plan update, the HRL Agreements provide a far superior approach for implementing the water quality objectives in the Revised Amendments than the Regulatory Pathway because they are readily implementable, result in significant flow	The State Water Board is not a signatory to the VA 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

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		contributions, and will result in habitat improvements that the State Water Board cannot otherwise require. However, the Commenting Parties have significant concerns regarding material differences between the commitments outlined in the HRL Agreements and the VA Pathway described in the Revised Amendments. The clear intent of the parties to the HRL Agreements, including the signatory agencies of the State of California, was that any VA Pathway ultimately included as a component of the Bay-Delta Plan would fully conform to the HRL Agreements. This principle is consistent with the idea that the HRL Agreements advance a framework, by agreement of the parties, requiring flow and non-flow habitat actions that the State Water Board could not otherwise legally mandate in the context of the Bay-Delta Plan Update. As a corollary, it is, or at least it should be, evident that the State Water Board cannot now unilaterally change or condition the terms of a program it would not otherwise have legal authority to adopt on its own initiative. These concerns and other comments regarding other requirements in the Revised Amendments are addressed in Attachment 2 to this comment letter.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1132	3	With respect to the Regulatory Pathway, the Revised Amendments modify in part the proposed Plan amendments that were studied in the Draft Staff Report. Key changes are outlined in Chapter 13, Section 13.3. As Chapter 13 makes clear throughout, the 55 w/WSA scenario is a “starting point,” and the full range of UIF requirements evaluated in the Draft Staff Report could be implemented in the future. As the Water Authority’s comments on the 2023 Draft Staff Report make clear, the prior analysis does not provide sufficient information regarding implementation to satisfy the State Water Board’s obligations under the California Environmental Quality Act (“CEQA”), the Porter-Cologne Water Quality Control Act (“Porter-Cologne Act”), and Article X, Section 2 of the California Constitution. Updated modeling of the 55 w/WSA scenario in Chapter 13 suggests that the Regulatory Pathway will have lesser water supply impacts than the proposed Plan amendments analyzed in the Draft Staff Report. Based on these modeling results, Chapter 13 concludes that the Regulatory Pathway would result in less-significant impacts to resource areas than were disclosed in the	Please see Common Response 1.2, Water Quality Control 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. Please also see Common Response 1.3, Revised Proposed Plan Amendments, and Common Response 7.24, Alternatives Analysis, regarding the VA pathway and the range of feasible alternatives, respectively. 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. 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. As a starting point, this

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		Draft Staff Report. However, as outlined in Attachment 3 to this comment letter, these modeling results are based on flawed assumptions and understate the potential water supply impacts from the Regulatory Pathway. Therefore, Chapter 13 does not provide sufficient information and analysis for the State Water Board to adopt the Regulatory Pathway and satisfy its obligations under CEQA, the Porter-Cologne Act, and Article X, Section 2 of the California Constitution. In contrast to the 55 w/WSA scenario, the flow and non-flow measures in the HRL Agreements and related submittals are clear and the modeling results regarding the range of potential water supply impacts from the VA Pathway do not suffer from the same flawed assumptions. The State Water Board has sufficient information and analysis before it to adopt the VA Pathway (as corrected to better match the commitments outlined in the HRL Agreements) without violating CEQA, the Porter- Cologne Act, or Article X, Section 2 of the California Constitution. Chapter 13 is also flawed because it overstates the biological benefits from the Regulatory Pathway and understates the biological benefits from the HRL Agreements. As Attachment 3 explains, the modeling for the Regulatory Pathway includes carryover storage requirements for the 55 w/WSA scenario that improve river temperature in late-summer and fall of dry years, but the modeling of the VA Pathway does not include otherwise applicable temperature management requirements from other permits that would likewise improve river temperatures. The modeling of the VA Pathway also does not include the benefits of 20,000 acres of salmon rearing habitat that will be provided under the VA Pathway. These and other flaws in how the biological benefits from the VA Pathway were compared to the biological benefits from the Regulatory Pathway creates the false impression that the Regulatory Pathway will result in greater relative biological benefits. Instead, when the modeling results regarding the biological benefits of the Regulatory Pathway and VA Pathway are closely scrutinized, it becomes clear that the VA Pathway will result in more biological benefits than the Regulatory Pathway. That the Regulatory Pathway is fraught with difficulties of analysis, uncertainty of outcomes, delay and enormous	methodology would be based on the Water Unavailability Methodology for the Delta Watershed (developed and used to implement emergency drought curtailment regulations in water years 2021-2023) and would be further developed and refined through a public process before use in implementation of the Bay-Delta Plan. 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. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		complication of implementation across a massive watershed should not be surprising. For more than a century California water policy has supported storage of water to address the mismatch of timing in water availability and water need. The fundamental requirement of the Regulatory Pathway that a percentage of unimpaired flow remain instream each year, regardless of season and need, represents a radical and abrupt reversal of that policy. Further, the tool chosen to implement this radical change, water quality planning under the Porter-Cologne Act, is ill-suited to the task. The attempts in the Revised Amendments to moderate the impacts of these changes with adjustments and promised flexibility inevitably fall short and raise yet further complications. There are far too many issues and complications specific to individual streams and rivers for the one-size-fits all approach of the proposed flow-based objectives. The far better course would be to set general, narrative-based objectives for fish and wildlife and implement them through individualized water rights proceedings and other implementation methods that can account for specific and unique circumstances and impacts. Given these fundamental problems with the Regulatory Pathway, the VA Pathway, if it is revised to match the HRL Agreements, offers a more promising path forward for improved protection of fish and wildlife beneficial uses while also protecting other beneficial uses. Additional, specific comments regarding the Revised Amendments are included in Attachment 2, and additional specific comments on Chapter 13 are included in Attachment 3. These additional, specific comments both expand on the comments in this cover letter, and offer additional reasons why Regulatory Pathway is legally incorrect and requires significant revisions. We thank you for your consideration of these comments.	
1132	4	I. The VA Pathway Remains Superior to the Regulatory Pathway and Should Be Improved by Clarification and Changes that Ensure Consistency with the HRL Program The Commenting Parties commend the State Water Board for including a VA Pathway and a Narrative Viability Objective in the Revised Amendments (the December 2025 Draft Water Quality	The State Water Board is not a signatory to the VA proposal nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. To the extent that this comment summarizes other comments, please see the substantive responses to those comments. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		Control Plan). The VA Pathway described in the Revised Amendments, with further changes to make it consistent with the Healthy Rivers and Landscapes Program (“HRL Program”), continues to be superior to the Regulatory Pathway under all key metrics, including species benefits, impacts to water users, implementation timeline, and feasibility. However, the VA Pathway described in the Revised Amendments still materially deviates from the “Supported Amendments”[Footnote 1: The HRL Program is premised on the State Water Board’s decision to adopt changes to the Bay-Delta Plan that do not materially deviate from the “Supported Amendments.” The Supported Amendments are further described in Section 5 of the Global Agreement, and proposed text to include in the Bay-Delta Plan is included in Exhibit A to the Global Agreement. The Supported Amendments include a new narrative water quality objective to be included in Table 3 of the Bay-Delta Plan and changes to the program of implementation in Chapter 4 of the Bay-Delta Plan.] in ways that will create significant challenges during implementation. Further revisions must be made to the Revised Amendments to ensure consistency with the Supported Amendments in the HRL Program. Moreover, the Revised Amendments do not adequately address concerns raised in the Water Authority’s January 10, 2025 comment letter on the Proposed Plan Amendments (in the October 2024 Draft Water Quality Control Plan) regarding the premature termination mechanism, new requirements for review and approval by the Executive Director, and the failure to incorporate the Science Plan. These aspects of the Revised Amendments continue to materially deviate from the Supported Amendments and are inconsistent with the Global Agreement as well as the spirit and intent of the 2022 Memorandum of Understanding Advancing the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and other Related Actions (“MOU”). The comments below address aspects of the Revised Amendments that differ from the Proposed Plan Amendments and raise new concerns. The Commenting Parties urge the State Water Board to address the issues highlighted below, which are critical to ensuring successful and rapid implementation of the	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.

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		flow measures and habitat improvements in the HRL Agreements.	
1132	5	A. The Early Termination Provision Should Be Removed The Proposed Plan Amendments included an early termination provision. In prior comments the Water Authority previously explained this proposed termination mechanism constitutes a material deviation from the HRL Agreements and should be removed due to the uncertainty it creates regarding investments into flow and non-flow measures during the agreed-upon term. The Revised Amendments continue to permit the VA Pathway to be terminated “based on significant evidence that continuing implementation of the VA pathway will not provide reasonable protection of beneficial uses or will jeopardize the continued survival of native fishes.” (Revised Amendments, p. 97.) In addition, the Revised Amendments include new language that has increased the State Water Board’s discretion regarding the timing when it may consider early termination; the State Water Board may now “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 ...” (Revised Amendments, p. 96 (emphasis added).) The threat that the State Water Board could abruptly end the VA Pathway within its first few years – even if all commitments are fulfilled – would force participating agencies to reconsider the reasonableness of the investments in the flow and non-flow measures required to participate. The ambiguous, open-ended standard used to determine if early termination will occur creates no clear limit on the circumstances that can lead to termination. For example, the VA Pathway could be terminated on grounds that it “will not provide reasonable protection” for beneficial uses that are defined entirely by narrative standards and lack objective metrics. Additionally, it is unclear if the phrase “jeopardize the continued survival of native fishes” is intended to import the legal standard from the state Endangered Species Act (“CESA”) and federal Endangered Species Act (“ESA”).[Footnote 2: If it is the State Water Board’s intention to adopt provisions in the Bay-Delta Plan that allow it to functionally operate in an oversight role for compliance with the ESA and CESA, then this	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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		early termination standard is particularly problematic because the State Water Board has no legal authority to implement or oversee compliance with either the ESA or CESA.] The early termination provision discussed above stands in stark contrast to the detailed, predictable, and fact-based determinations outlined in the “Default Process for Continuation, Modification or Termination of the VAs” (“Default Process”) outlined in Section 4.4.9 of the Revised Amendments. If the parties to the HRL Program fulfill their commitments, then the State Water Board should commit to allowing implementation of the HRL Program for the full eight years so that the results of the flow and habitat improvement measures may be observed and evaluated. These results should be measured based on the twelve-factor analysis identified in section 4.4.9.10 and, following a transparent public review process, the State Water Board should issue a decision consistent with “red, yellow, green light” framework. In addition, achieving the HRL Program’s expected outcomes is dependent on the State Water Board’s timely and effective implementation of elements of the program of implementation included to ensure water right holders that are not participating in the HRL Agreements make appropriate contributions of flow and outflow for the protection of beneficial uses of water. The early termination provision does not account for a circumstance in which achieving the HRL Program’s expected outcomes is impeded by the State Water Board’s failure to act with regard to other parties who bear a shared responsibility for protecting beneficial uses of water. In other words, the State Water Board’s own inaction could result in early termination of the VA Pathway. This is an outcome that is inconsistent with the spirit and the letter of the HRL Agreements. For these reasons, the Commenting Parties urge the State Water Board to remove the early termination provision from the Revised Amendments if all parties to the HRL Program are fulfilling their commitments.	
1132	6	B. If the Early Termination Provision Is Included, It Should Provide Opportunities for Terminated Parties to Obtain Judicial	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		Review of Any Amendments to the Bay-Delta Plan Under section 4.4.9.10 of the Revised Amendments, if the State Water Board determines that one or more of the parties to the HRL Program has failed to implement their commitments, or one or more parties withdraw and that withdrawal “materially affects” the ability of the remaining parties to perform, then the VA Pathway can be terminated without an amendment to the Bay- Delta Plan. (Revised Amendments, p. 97.) It also provides in “considering whether to modify or terminate under this section, the State Water Board will endeavor to preserve the VA pathway for those HRL participants who have met their commitments.” (Id.) Section 4.4.9.10 provisions should be revised to make clear that if the Board decides to terminate the VA Pathway as to an HRL Participant for any reason, then it will adopt a Bay-Delta Plan amendment to apply the Regulatory Pathway to such a party, and afford that party a right to judicial review of any of the adopted amendments. Clarifying that the parties to the HRL Program will have a subsequent right to obtain judicial review of the adopted amendments if the VA Pathway is terminated will alleviate the need to seek judicial review upon adoption of any objectionable changes to the Bay-Delta Plan that will apply to a party absent their participation in the VA Pathway. These revisions would be consistent with the language at page 95 of the Revised Amendments, which describe how in a red light scenario, the State Water Board will either approve a new update to the Bay-Delta Plan or make a new judicially reviewable decision to maintain the then existing provisions of the Plan.	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.
1132	7	C. The Provisions in the Revised Amendments that Address Flow Accounting and the Protection of HRL Flows for the VA Pathway Should Be Clarified 1. Recommended Clarifications to Flow Accounting Provisions The Revised Amendments also include new information regarding the process of accounting for flow and non-flow measures under the VA Pathway that should be clarified to ensure that it is consistent with the HRL Agreements. Rather	The Board is not a signatory to the VA proposal and is not bound by its terms. Please refer to Chapter 13, Revised Proposed Plan Amendments, and Appendix H1a Section H1a.3.2, Sensitivity to LTO of the CVP and SWP, which summarizes the differences between the 2019 BiOp and 2024 BiOp. 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

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		than attempt to redefine accounting procedures, the Bay-Plan should incorporate the details from the HRL Agreements themselves, including the “Strategic Plan” (Exhibit F to the Global Agreement), which provides details on the Flow and Non-Flow Measures and the accounting procedures that will be used to track them (Appendix E to the Strategic Plan). The State Water Board’s redefined flow accounting principles for flow contributions from Delta tributaries and foregone exports by the Central Valley Project (“CVP”) and State Water Project (“SWP”) are discussed in Appendix B.1 of the Revised Amendments. A comparison of the accounting procedures in the Revised Amendments to those in the Appendix E of the Strategic Plan reveals the need for further clarification regarding the use of the 2024 Biological Opinions for Long Term Operations (“LTO”) of the CVP and SWP (“2024 BiOps”) as a reference condition for foregone exports and new provisions that govern modifications to the flow accounting measures. (1) Transition from 2019 Biological Opinions for LTO of the CVP and SWP (“2019 BiOps”): The flow accounting procedures in Appendix E of the Strategic Plan state that, although the flow contributions outlined in the strategic plan were formulated based on the 2019 BiOps, the HRL parties agree to rely on the 2024 BiOps as a reference condition for flow contributions if three prerequisites were satisfied: • An expectation that the 2024 BiOps will be the same as the proposed action in the biological assessment prepared for the related consultation. • If that expectation is correct, the 2024 BiOps will rely almost exclusively on predetermined criteria based on biological or abiotic factors, with limited use of risk assessments and real-time decision making. • Accounting for the Export Flow Measure will be facilitated by having a reference operation that is consistent with the regulations in place and being implemented at the time of the action. (Appendix E to Strategic Plan, p. 55.) More clarity should be	changes to the project since the December 2025 revised draft Plan.

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		provided in Appendix B.1 of the Revised Amendments to demonstrate how these prerequisites from Appendix E of the Strategic Plan have been satisfied.	
1132	8	(2) The Approval Process for Modifications to Flow Accounting Measures Following Changes to LTO for the CVP and SWP: With respect to the effect of potential future changes to LTO for the CVP and SWP, Appendix B-1 of the Revised Amendments provide that: In the event the substantive provisions of the 2024 LTO are amended 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, as appropriate. (Appendix B-1, pp. B-20-21.) This approval requirement appears inconsistent with the HRL Agreements because it could force the HRL parties to undertake an undefined public process that could affect the magnitude of flow contributions. As written, it appears that this public approval process could be used to alter the accounting procedures that define the magnitude of HRL parties' flow contributions before a red, yellow, or green light determination at year eight. The scope of the determinations that would be permitted during that public process are also unclear (e.g., are there any limits on the scope of the Executive Director's discretion to alter a proposed accounting method?). Therefore, this new public approval process should be clarified to state that there can be no changes to fundamental components of the VA Pathway before year eight and it does not provide the Executive Director discretion to modify the accounting measures.	The 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.
1132	9	2. Recommended Clarifications to Statements Regarding the Protection of HRL Flows The Revised Agreements acknowledge what is a key component of the Supported Amendments for the Commenting Parties – that HRL flows must be protected from diversion by other water right holders. (Revised Amendments, p. 66.) In Appendix B-1, however, there are certain statements around the protection of HRL flows that require clarification. First, there is language at	The implementation methodology will protect the VA flows from diversion by other water users. If the VA flows are not provided, the VA pathway could be subject to termination or modification for lack of compliance. It is the expectation that VA parties will attempt to resolve issues internally before compliance issues arise. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		page B.1-10 stating that “[u]pstream tributary HRL flows are required be bypassed by the Projects and produce corresponding increases in Delta inflow and outflow above reference conditions...” This language should be corrected to reference the obligation of all water users— not just the Projects—to protect HRL flows. Second, the Delta Accounting Procedures described at page B.1-3 should describe how the water supply of the CVP and SWP (the “Projects”) will be protected if the required HRL flows do not materialize; the Projects have not agreed to any additional water supply impacts beyond the term of the HRL Program. Language should be added stating that the avoidance of redirected impacts is addressed through monthly reporting of whether anticipated regulatory outflow was present when the Projects made a flow bypass (“foregone exports”), with a provision that includes Project recovery of lost water supplies. New language should also allow an updated calculation of salinity offsets and system losses, as new information is available. Finally, as Westlands Water District, the State Water Contractors, and many other water users have explained in detail, the use of curtailments to enforce water rights and protect flows in general should be reconsidered, as the State Water Board does not have generalized authority to issue non-emergency curtailments in the manner proposed. (See California Water Curtailment Cases (2022) 83 Cal.App.5th 164, 191-195.) Non-emergency regulatory curtailments simply do not provide adequate due process protections for water rights holders; a water rights hearing is required. The proposal to use the curtailment method to implement the HRL Program is even more problematic. (See Section V.A below.)	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. See also Common Response 1.2, Water Quality Control Planning Process, for a discussion of State Water Board authorities to implement the Plan.
1132	10	D. The Monitoring Requirements for the VA Pathway Should Be Revised Section 4.4.9.7 of the Revised Amendments introduces a new requirement for VA parties to “submit proposed VA targets for approval by the Executive Director within 6 months of adoption of the current plan amendments, with the possibility for extension to 9 months for good cause shown.” (Revised Amendments, p. 88.) Given the complexity and scale of the required scientific monitoring and modeling, this timeline is	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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		unrealistic and infeasible. Rather than attempt to redefine the monitoring requirements that will govern the VA Pathway in a compressed timeframe, the Bay-Delta Plan should be amended to incorporate the details from the HRL Agreements themselves, directly incorporating the Science Plan (Appendix C to the Strategic Plan) that already provides the framework and comprehensive approach for evaluating the outcomes of the flow and non-flow measures. The monitoring requirement for the “actual and, as feasible, forecasted future effects of restored HRL habitat and HRL flows on “the abundance and condition of Chinook salmon, steelhead, green and white sturgeon, and native estuarine fishes” (Revised Amendments, p. 89, subparagraph v.) represents an unsupported expansion of scope. The requirement to monitor actual and forecasted effects of the VAs on the food web (Revised Amendments, p. 89) is an effectively impossible task under current conditions due to the complexity of aquatic food webs, particularly in systems like the Delta and its tributaries. Targets cannot be reasonably calculated within 6-9 months of adoption of the current plan amendments. In contrast, Section 2.2.4.1 of Science Plan provides clear a metric, covariate, and baseline for monitoring the hypothesis that the HRL Agreements will provide tidal wetland support for beneficial food web processes. (Science Plan, p. 26.) While the Commenting Parties support the use of scientific monitoring to evaluate the effectiveness of the VA Pathway, the proposed monitoring program described in Section 4.4.9.7 assumes a level of precision, coordination, and technological capability that is not currently available. We recommend that Section 4.4.9.7 be revised to reflect actual capabilities and avoid setting up implementation of the VA Pathway for inevitable criticism or failure.	
1132	11	II. The Prescriptive Flow Objectives and Carryover Storage Requirements Should Be Removed from the Plan to Avoid Unlawful Adjudication of Water Rights The Water Authority’s January 10, 2025 comment letter	Please see Common Response 1.2, Water Quality Control Planning Process, for information on lawful parameters for water quality objectives. Please also see Common Response 3.1, Fish Protection, for a

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		explained why flow and water project operations cannot lawfully be used as parameters for water quality objectives. Among other reasons, doing so impermissibly bypasses the distinct and separate standards and procedures required for the imposition of constraints on, or revisions to water rights. Unfortunately, in the Revised Amendments the State Water Board now proposes to add specific reservoir carryover storage requirements to the program of implementation for the Regulatory Pathway. (See Revised Amendments, pp. 54-55.) Both the prescriptive flow objectives and the carryover storage requirements should be removed from the Bay-Delta Plan to avoid impermissibly determining water rights. The State Water Board of course has regulatory jurisdiction over both water rights (under Division 2 of the Water Code) and water quality (under Division 7 of the Water Code). Water quality and water diversions are related, a fact reflected in the Water Code. When acting on applications to appropriate water, for example, the State Water Board must “consider” water quality control plans, and “may” subject appropriations to conditions necessary to carry out such plans. (Wat. Code, § 1258.) It must also consider the beneficial uses identified in such plans when deciding how much water is available for appropriation. (Wat. Code, § 1243.5.) Likewise, when adopting water quality objectives, the State Water Board must consider reasonable protection of all beneficial uses, including beneficial uses that depend on diversions of water pursuant to water rights authorizing those diversions. (Wat. Code, § 13241.) The State Water Board must exercise its water quality authority to achieve “the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” (Wat. Code, § 13000, emphasis added.) Thus, the State Water Board must always be cognizant of impacts of its exercise of either source of authority on the other. It is incumbent on the State Water Board to act in a way that harmonizes the various statutes and processes governing its exercise of each function. “Although the two functions are merged under a single board, each has distinct attributes.” (United States v. State Water Resources Control Bd. (1986) 182	discussion of the State Water Board’s approach to analyzing the effects of flow on species abundance and life cycle models. Contrary to this commenter’s assertion, the revised proposed Plan’s carryover storage targets and temperature management plan requirements (described in more depth in Staff Report Section 13.3.3.3, Cold Water Habitat) do not amount to an improper use of the State Water Board’s water quality authority. While carryover storage requirements could be applied via a quasi-adjudicative process, these general requirements can also be applied to reservoirs in the Sacramento/Delta watershed via a quasi-legislative mechanism like a water quality control plan, despite the limited number of reservoir owner/operators. Parties subject to the cold water habitat provisions will have the opportunity to provide feedback and raise issues as part of the annual and periodic review processes and may propose carryover storage requirements outside the specified ranges based on evidence and documentation that those requirements will provide for protection of cold water habitat and other critical purposes like human health and safety supplies.

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		Cal.App.3d 82, 112.) In adopting a water quality control plan, “the Board acts in a legislative capacity.” (Id.) “In contrast, in undertaking to allocate water rights, the Board performs an adjudicatory function.” (Id. at 113.) Given the distinct attributes and process applicable to each function, it is imperative that the State Water Board carefully observe the rules and processes applicable to each. That is, it must take care not to exercise one function in a way that contradicts the law governing its other function. This is particularly so when the State Water Board adopts or amends a water quality control plan. Water Code section 13247 provides that “State offices, departments, and boards . . . shall comply with water quality control plans” when carrying out activities affecting water quality. In State Water Resources Control Bd. Cases the court held the State Water Board was compelled by section 13247 to amend water rights to implement the Vernalis pulse flow objective just as it had described it would in the 1995 Bay-Delta Plan. (State Water Resources Control Bd. Cases (2006) 136 Cal.App.4th 674, 724-734.) The court held the State Water Board could not instead allow for implementation of the Vernalis Adaptive Management Plan, as it had done in Decision 1641. Thus, by being overly prescriptive in the plan the State Water Board both denied itself flexibility in implementation and had predetermined through its water quality planning process water rights issues that should properly have been decided in the later water rights adjudication to implement the plan. Adding new, potentially higher prescriptive requirements for reservoir carryover storage through the Revised Amendments would exceed the State Water Board’s water quality control planning authority. Nevertheless, the State Water Board proposes to add these to the plan as compared to the October 2024 draft Plan. To reduce or mitigate harm from higher water temperatures that will result from the unimpaired flow objectives, section 4.4.2.3 of the program of implementation in the Revised Amendments directs eight water rights holders named in Table 7, including the Bureau of Reclamation, to annually prepare temperature management plans and submit them to the Executive Director for approval. Section 4.4.2.3	

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		further directs that the temperature plans include minimum required storage at the end of the water year. (Revised Amendments, p. 53 ["At a minimum, the annual operations plan must describe how the tributary-specific end of September carryover storage requirements, or alternative approved measures, will be implemented in combination with the inflow requirements."].) Table 8 in section 4.4.2.3 specifies the volume of carryover storage that must be included in the annual plans for specified reservoirs. The eight named water rights holders must propose carryover storage requirements in their temperature plans within ranges identified in Table 8. For example, for Shasta Reservoir, Reclamation must propose carryover storage requirements within the range of 1,500 – 2,000 TAF for drought years, and >2,000 – 3,000 TAF for non-drought years. Carryover storage outside these ranges would be allowed only upon a showing satisfactory to the Executive Director. As part of periodic review the Executive Director may "approve or require adjustments to the carryover storage requirements based on best available scientific and technical information." (Revised Amendments, p. 55.) While the newly added ranges and reiteration of the commitment to revisit carryover storage requirements in the future promises some flexibility, the fundamental problem remains that such requirements should not be imposed as part of water quality planning at all. These specific carryover storage requirements applicable to specific water rights bear the hallmarks of a quasi-adjudicative rather than quasi-legislative act. Indeed, permit conditions on reservoir operations are a classic example of a condition imposed through an adjudication of water rights. Yet the State Water Board has not invoked its water rights authority as part of the Bay-Delta Plan update process, and it has not applied the standards or followed the due process protections that are necessary to adjudicate water rights. The specific carryover storage requirements in the Revised Amendments, and any other specific operational conditions imposed on specific water rights holders, are therefore unlawful and should be removed from the program of implementation. The Commenting Parties acknowledge that the elevated water	

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		temperatures that would result from implementation of the proposed unimpaired flow requirements under the Regulatory Pathway must be addressed. Indeed, the adverse effect of specifying unimpaired flow as a water quality objective, and the changes required to reservoir operations to avoid or reduce related adverse temperature effects, was not adequately addressed when the State Water Board adopted the Phase 1 Amendments to the Bay-Delta Plan in 2018. The State Water Board should not repeat that error in the current phase of the Bay-Delta Plan update. However, the solution to potential temperature impacts caused by the unimpaired flow objectives is not to further compound the problems they create by adopting yet further restrictions on water rights through prescriptive carryover storage requirements in the program of implementation. Instead, the State Water Board should not adopt as part of the Bay-Delta Plan the prescriptive, flow-based objectives that create the water temperature problems the carryover storage requirements in the program of implementation are intended to address. In sum, the State Water Board should not adopt specified flows as a water quality objective, as explained in the Water Authority's January 10, 2025 comments, and further should not adopt the carryover storage requirements newly proposed for the program of implementation. The Bay- Delta Plan should instead provide that the State Water Board will implement the narrative water quality objectives in the plan for protection of fish and wildlife at least in part through exercise of its water rights authority. It can then properly determine both specific required instream flows and any related reservoir operation requirements in a properly noticed and conducted water rights proceeding specific to each watershed and the unique considerations and needs applicable to each.	
1132	12	III. The Revised Amendments Should Not Incorporate Standards and Requirements from Other Regulatory Processes Incorporating existing operating requirements that have been imposed through other state or federal regulatory programs into the Revised Amendments is problematic because the requirements from those state or federal programs may change	The revised proposed Plan amendments include provisions for annual and periodic review that would enable updates to the Plan or implementation measures in response to evolving scientific understanding. 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

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		or, and it is hoped, become unnecessary. Incorporating operating requirements imposed by other regulatory programs will make corresponding changes to the Bay-Delta Plan slow and cumbersome. The time required for amendments to the Bay-Delta Plan may result in a long delay in ceasing or revising operational requirements that have been found under that other regulatory process to be unnecessary or even unhelpful. Our previous comments identified three problematic instances of such incorporation that remain in the Revised Amendments. These should be corrected in the final version of the plan. For example, the Revised Amendments incorporate operations requirements for the Delta Cross-Channel (“DCC”) gates arising from the NMFS biological opinion. (Revised Amendments, section 4.4.4.2 [“The Delta Cross Channel Gate closure objective is implemented through water right requirements of the CVP and the NMFS BiOp for CVP operations”].) Under the Revised Amendments the period of potential closure of the gates would be expanded to include the month of October. (Id.) These NMFS requirements may change based on updated scientific data or delisting of species. By incorporating highly prescriptive operational requirements for the DCC in the Revised Amendments, however, the State Water Board is creating a potential additional regulatory hurdle that must be cleared to make those changes. In addition, section 4.4.4.1 of the Revised Amendments states the narrative objective for interior Delta flows is implemented by measures including the “USFWS and NMFS BiOps and DFW ITP requirements for the operations of the CVP and SWP export facilities.” (Revised Amendments, p. 61.)[Footnote 3: Section V.B of this Attachment identifies an additional issue with section 4.4.4.1 at page 61 that require correction.] The reference to the BiOps and ITP should be removed to avoid any implication that if the requirements therein change, then the State Water Board must necessarily adopt new or additional measures to implement the objective. The State Water Board should not constrain its discretion—or the discretion of state or federal agencies to effectuate change—through express reference to these existing documents developed under other regulatory programs.	Amendments, for a general summary of comments received and responses, project description, summary of the changes to the project since the December 2025 revised draft Plan, and for more information on annual and periodic review provisions in the revised proposed Plan amendments. Also see Common Response 1.2, Water Quality Control Planning Process, for information on Fish and Game Code section 5937.

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		Finally, in section 4.4.2.3, the Revised Amendments state: “The cold water habitat requirements in this section require management of cold water storage and releases and/or alternative protection measures to ensure that fish below dams are kept in good condition consistent with Fish and Game Code section 5937.” Section 5937 applies to the “owner of any dam;” it is not the duty of the State Water Board to enforce its application through exercise of its regulatory jurisdiction over water quality. (Fish & G. Code, § 5937.) The Revised Amendments should be modified to make clear that the State Water Board is not adopting the standards of Fish and Game Code section 5937 as a substantive requirement of the Bay-Delta Plan. Instead, the provisions of the Plan must conform to the “reasonable protection” standard of the Porter-Cologne Act.	
1132	13	IV. The Revised Amendments Should Not Impose Requirements Related to the Trinity River Watershed In Section 4.4.10.1, the program of implementation directs Reclamation “to ensure that implementation of the Bay-Delta Plan, including approved VAs, does not result in redirected impacts to native fish and wildlife resources in the Trinity River watershed, including temperature and instream flow impacts.” (Revised Amendments, p. 93.) As was explained in our prior comments but has not been corrected, this direction is problematic for several reasons. First, the Trinity River is not within the San Francisco/San Joaquin Delta watershed. [Footnote 4: The Trinity River is part of the Trinity Watershed, which is addressed in the North Coast Basin Plan. (https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/.)] Accordingly, the Trinity River is not included within the scope of analyses prepared in support of the Bay-Delta Plan update. The Revised Amendments should not prescribe any measures or requirements related to the Trinity River without analysis or appropriate environmental review. Second, the Bay-Delta Plan update will result in changes to the	The revised proposed Plan amendments do not impose any additional requirements on the Trinity River. Obligations to meet the new Bay-Delta Plan requirements are to be met by water rights and diverters in the Bay-Delta watershed, not the Trinity River. The provision preventing redirected impacts is similar to conditions in Order 90-5. Please see Common Response 1.5, Trinity River, on independent federal statutory obligations on the Trinity River and future Trinity River water quality proceedings.

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		operations of various CVP facilities within the San Francisco/San Joaquin Delta watershed. Those changes to operations of other CVP facilities could in turn necessitate changed operation of the Trinity River Division, given that Congress has directed Reclamation to operate the Trinity River Division as “an integral part of the” CVP. (Act of August 12, 1955, 69 Stat. 719.) Any requirement purporting to prevent Reclamation from operating the Trinity River Division as an integral part of the CVP would be preempted by federal law. Third, what would qualify as a prohibited “redirected impact” is unclear and this language should be deleted. Reclamation’s operation of the Trinity River Division is currently subject to numerous requirements designed to protect native fish and wildlife resources in the Trinity River, including conditions in applicable water rights permits. So long as it continues to meet those requirements, Reclamation should be free to alter operations of the Trinity River Division, including in response to implementation of the Bay-Delta Plan, update as needed to best serve the multiple purposes of the CVP. The Bay-Delta Plan amendment process does not provide the State Water Board with an opportunity to alter the requirements applicable to Reclamation’s operation of the Trinity River Division and the Bay-Delta Plan’s language should be amended to so reflect.	
1132	14	V. The State Water Board Should Clarify Certain Additional Portions of the Revised Amendments A. Section 4.4.3 Should Be Revised to Eliminate the New Reference to Vague Implementation Procedures Section 4.4.3 contains the following statement regarding the methodology to determine water unavailability and implementation of the Bay-Delta Plan and associated water right curtailments: Within two 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. Those requirements will include monitoring and reporting of diversions and related information	The final sentence quoted by the commenter acknowledges the State Water Board’s flexibility to implement through other actions including issuance of 401 certifications, a water rights order, or some other mechanism. 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 summary of the changes to the project since the December 2025 revised draft Plan.

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		needed to inform curtailment decisions, which may be in addition to other required monitoring and reporting. The Board may consider implementation procedures other than, or in addition to curtailment regulations, that are designed to achieve comparable protections. (Revised Amendments, p. 61.) As an initial matter, the proposed curtailment methodology remains problematic, especially as it proposed to apply to the HRL Program. (See, e.g., pp. 65, 66, 80.) The HRL Program has never been based on water right priority, as senior water rights are contributing flow before all junior water rights are fully expended. It is therefore inappropriate to utilize a curtailment method to implement HRL. At the same time, it is unnecessary to use curtailments because the HRL Program is being implemented by agreement and appropriate flow accounting. In addition, the final sentence in the excerpt above is a new addition in the Revised Amendments, and although it appears to have been added to provide an alternative to the criticized curtailment approach, it is vague and adds new uncertainty. It is unclear what “implementation procedures other than, or in addition to curtailment regulations” means, and by what standard the Board will consider such implementation procedures; without further clarification, it is better to strike this sentence altogether. There are defined limits and standards governing the State Water Board’s ability to modify or constrain water rights that are not satisfied through adoption of regulations.	
1132	15	B. Section 4.4.4.1 Should Be Revised to Clarify that the Incidental Take Permit for the SWP Does Not Govern CVP Operations, that “Consistent” Operations Are Not Required, and that the SWP and CVP Are Not Required to Bear Sole Responsibility for Implementation of the Narrative Objective for Interior Delta Flows Section 4.4.4.1 contains the following statement regarding the narrative objective for Interior Delta Flows: 4.4.4.1 Narrative Objective for Interior Delta 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 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 narrative objective for interior Delta flows is implemented through compliance by SWP and CVP with the numeric interior Delta flow objectives 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 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 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. (Revised Amendments, p. 61.) The first sentence in the excerpt above could be read to imply that “DFW ITP requirements” apply to the “operations of the CVP” despite CESA’s inapplicability to the federal government. It should be rewritten to clarify that the CVP will comply with the USFWS and NMFS BiOps, while the SWP will comply with the USFWS and NMFS BiOps and the DFW ITP. Moreover, the second sentence in the excerpt above states that in evaluating the effectiveness of the interior Delta flow objectives and implementation, the State Water Board will evaluate whether the operations of CVP and SWP export facilities are “consistent.” That language should be removed. The federal CVP is subject to the ESA, and not CESA; the federal ESA and CESA are different legal standards, and the application of the ESA to the CVP, and the ESA plus CESA to the SWP, may result in different operations. It is inappropriate to suggest that consistent CVP and SWP operations are required to provide for the reasonable protection of fish and wildlife, or of any designated beneficial use. Lastly, Section 4.4.4.1 appears to suggest that the CVP and SWP may be required to bear sole responsibility for implementation of the narrative objective for interior Delta flows. (Revised Amendments, p. 61.) By stating that the objective is implemented through compliance “by the SWP and CVP” and that the CVP and SWP export facilities are a key factor in determining the protections provided by this narrative standard, the Revised	

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		Amendments could be read to impose sole responsibility for implementation on the Projects. The operators of the CVP and SWP, and stakeholders who depend upon supplies from the CVP and SWP, have long asserted that the State Water Board should not assign sole responsibility to the CVP and SWP for meeting objectives in the Bay-Delta Plan.[Footnote 5: The Commenting Parties join in the comments of the State Water Contractors requesting that the State Water Board revise (1) Table 6 (page 48) to ensure that the list of waterways initially subject to the Sacramento/Delta Inflow Requirement include all appropriate waterways, including in-Delta; (2) page 58 to ensure that all water users, including in-Delta water diverters, are required to protect regulatory flows; and (3) page 108 to ensure that all water users in the watershed, including in-Delta water users (not solely the CVP and SWP), are responsible for funding the new Bay- Delta Monitoring and Evaluation Program.] Not only does this approach unfairly prejudice the CVP and SWP by requiring that they address problems that are exacerbated by other water users, but it limits the effectiveness of such measures by only applying them to a small portion of the total water rights in or affecting the Delta. As a result, the State Water Board should strike the reference to the CVP and SWP and include new language in Section 4.4.4.1 to make clear that other water rights holders will share responsibility for meeting this objective through implementation of the VA Pathway and the Regulatory Pathway.	
1132	16	C. Section 4.4.2.2 Should Be Revised to Clarify the Intent of the Human Health and Safety Provision Currently, the section clarifying that the State Water Board will develop provisions to address reasons for curtailment exemptions, such as continued diversions for minimum human health and safety water supplies, is nested in Section 4.4.2.2 – Narrative Inflow Objective for Sacramento/Delta Tributaries. (Revised Amendments, p. 51.). As consideration of such provisions applies broadly to objectives outside of the Narrative Inflow Objective for Sacramento/Delta Tributaries, the section entitled “Human Health and Safety and Other Appropriate Provisions” should be relocated to clarify its intent and broader	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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		overall applicability. We suggest moving this section to the beginning of Chapter 4, the program of implementation.	
1132	17	I. The VA Pathway Remains a Superior Alternative to the Regulatory Pathway but Must Be Clarified to Ensure Consistency with the HRL Program A. Only the VA Pathway May Be Adopted Consistent with CEQA; Like the Earlier Version of the Draft Staff Report, the Description and Analysis of the Regulatory Pathway Provided in Chapter 13 Fails to Comply with CEQA As detailed in the Water Authority’s January 19, 2024 comments on the Draft Staff Report, the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.) requires the State Water Board to adopt the VA Pathway. The VA Pathway is the only proposal that achieves the purpose of the proposed Sacramento/Delta update to the Bay-Delta Plan (i.e., the “Project” under CEQA). (Pub. Resources Code, § 21065.) The VA Pathway is feasible, will be implemented immediately, and will avoid significant adverse environmental impacts associated with the proposed Regulatory Pathway.	All elements of the revised proposed Plan amendments and all alternatives presented in the Staff Report are analyzed as required by CEQA, Porter-Cologne, and all other applicable requirements. Please see Staff Report Section 13.7.23, Ability to Achieve Project Purpose and Goals, for a discussion of the ability to achieve project purpose and goals and Common Response 7.24, Alternatives Analysis, regarding the range of feasible alternatives.
1132	18	Pursuant to its certified regulatory program, the State Water Board must comply with CEQA’s broad policy goals and substantive requirements. (Pesticide Action Network North America v. Department of Pesticide Regulation (2017) 16 Cal.App.5th 224, 239, 241-242, 247 (“Pesticide Action Network”); POET, LLC v. California Air Resources Board (2013) 218 Cal.App.4th 681, 710 (“POET”). The State Water Board’s CEQA document must therefore include the same types of essential environmental information as an environmental impact report (“EIR”). (Pesticide Action Network, supra, 16 Cal.App.5th at p. 247.) Essential information includes an accurate and complete project description, analysis of the project’s reasonably foreseeable direct and indirect environmental consequences, mitigation measures and alternatives to avoid or substantially lessen significant environmental impacts, and evaluation of cumulative impacts. (Ibid.) However, like the earlier version of the Draft Staff Report, Chapter 13 fails to satisfy these fundamental standards under CEQA. [Footnote 1: While these CEQA comments specifically concern Chapter 13 of the Draft	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 or introduces other comments, please see the substantive responses to those comments.

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		Staff Report and associated appendices, they are equally applicable to the Draft Staff Report as a whole for the reasons provided in Water Authority's prior comments dated January 19, 2024.] A complete project description, the foundation of an informative CEQA analysis, must clearly identify the project objectives and the ways in which the proposed action is expected to achieve them. (CEQA Guidelines, § 15124(b); <i>We Advocate Through Environmental Review v. County of Siskiyou</i> (2022) 78 Cal.App.5th 683, 691-692 ("WATER"); <i>Habitat & Watershed Caretakers v. City of Santa Cruz</i> (2013) 213 Cal.App.4th 1277, 1299 ("Habitat Caretakers").) "[W]hen an EIR contains unstable or shifting descriptions of the project, meaningful public participation is stultified." (<i>San Joaquin Raptor Rescue Center v. County of Merced</i> (2007) 149 Cal.App.4th 645, 656.) Stating that the eventual proposed project will be somewhere in a 'reasonable range of alternatives' is not describing a stable proposed project." (<i>Washoe Meadows Community v. Department of Parks & Recreation</i> (2017) 17 Cal.App.5th 277, 288 ("Washoe Meadows").) A description of a broad range of actions with different impacts violates CEQA by presenting "the public with a moving target." (<i>Ibid.</i>) In sum, CEQA documents must include "accurate, stable and finite" project descriptions. (<i>Rio Vista Farm Bureau Center v. County of Solano</i> (1992) 5 Cal.App.4th 351, 370.) Whereas CEQA requires a fixed project description, an adaptive plan designed to change in response to future events or studies is inherently shifting and unstable. A shifting adaptive plan therefore deviates from well-settled standards regarding project descriptions under CEQA. To overcome this fundamental tension, an adaptive plan designed to change in response to future events or studies must identify the type of actions that may be taken and criteria for their implementation. (<i>Washoe Meadows</i>, <i>supra</i>, 17 Cal.App.5th at pp. 288-289; <i>Preserve Wild Santee v. City of Santee</i> (2012) 210 Cal.App.4th 260, 281; CEQA Guidelines, § 15146 [the degree of specificity required in an EIR corresponds to the degree of specificity involved in the underlying activity described in the EIR].) To properly frame the Regulatory Pathway for adaptive implementation, the Draft Staff Report	

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		must contain a detailed management plan and associated experimental design for monitoring the proposed action's performance in achieving metrics of salmonid viability. (POET, supra, 218 Cal.App.4th at pp. 739-740 [under CEQA a regulatory plan designed to improve environmental conditions must include objective performance criteria by which to measure success].) Put simply, to provide an accurate, finite, and stable project description, CEQA requires the State Water Board to develop and disclose the metrics or criteria that would govern adaptive management. Otherwise, the State Water Board's decision makers and affected agencies will be deprived of a meaningful opportunity to evaluate the feasibility of an adaptive plan and to compare the relative merits of alternate pathways. The description and analysis of the VA Pathway contains the essential information described above. The VA Pathway would also provide reasonable protection for native fish species. In recognition of these facts, the State Water Board "exercised its independent judgment" and revised the Draft Staff Report to include the VA Pathway that "would have regulatory effect upon adoption of Plan amendments." (Ch. 13, pp. 7-8.) As proposed, the VA Pathway would apply to the list of HRL water rights identified in Appendix B.1 "in lieu of implementing" the Regulatory Pathway's "provisions for tributary inflow, cold water habitat, and inflow-based Delta outflows." (Ch. 13, pp. 8, 10.) The VA Pathway includes "HRL flow commitments and non-flow habitat restoration measures on the American, Bear, Feather, Mokelumne, Sacramento, and Yuba Rivers, Putah Creek, Auburn Ravine, and in the Delta, that are proposed over 8 years (with the possibility of extension) for the HRL water rights." (Ch. 13, p. 223.) In other words, the VA Pathway would be the implementation pathway for the Sacramento River and its primary tributaries. Establishing the VA Pathway as the primary implementation pathway is consistent with the scientific consensus that a combination of flow and non-flow (e.g., habitat restoration) activities are necessary to provide reasonable protection for native fish species. In contrast, as demonstrated below, the State Water Board's description and analysis of the proposed Regulatory Pathway violate CEQA in several material aspects. Consistent with these	

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		comments, major revisions are required to Chapter 13 and the previous version of Draft Staff Report. In terms of its scope, the Regulatory Pathway would only immediately apply to the non-HRL tributaries, which primarily consist of “tributaries that lack a major storage reservoir or other flow-regulating infrastructure.” (Draft Staff Report, pp. 6-21–6-25; Ch. 13, pp. 53, 87-99.) [Footnote 2: The exception is that the Regulatory Pathway’s carryover storage requirements would immediately apply to eleven (11) tributaries and reservoirs. (Ch. 13, Appendix H1a1; Revised Amendments pp. 52-55.) As demonstrated below, implementation of these requirements would result in substantial water supply impacts.] For example, Battle Creek, and Big Chico Creek are “unregulated tributaries with low surface water demand” are “unlikely to change under all [unimpaired] flow scenarios,” there would be no need to implement Regulatory Pathway’s unimpaired flow requirements. (Draft Staff Report, pp. 6-21– 6-25; Ch. 13, p. 87.) As for unregulated tributaries with higher water demands, streamflows under the Regulatory Pathway would be substantially similar to baseline conditions, with increased flows and reduced diversions during the summer. (Ch. 13, p. 88.) Therefore, the Regulatory Pathway is primarily a regulatory “backstop to the VA pathway that would apply to the HRL water rights in the event the VA pathway is discontinued.” (Ch. 13, pp. 13, 218, 519.) While the Commenting Parties support the State Water Board’s proposal to adopt the VA Pathway, subject to necessary clarifications, the State Water Board has failed to analyze the Regulatory Pathway in accordance with CEQA. [Footnote 3: As demonstrated in these comments, the State Water Board’s description of the VA Pathway must be clarified to ensure consistency with the HRL Program.] Fundamentally, the Water Authority’s prior comments regarding the Regulatory Pathway remain unaddressed. These CEQA violations must be cured before the State Water Board can rely on the Regulatory Pathway as a backstop to the VA Pathway.	
1132	19	1. Chapter 13 Does Not Cure the CEQA Defects Identified in Previous Comment Letters on the Draft Staff Report (a) The Description of the Regulatory Pathway Remains Incomplete and Continues to Violate CEQA	The comment’s reference to “standards and performance criteria” and related law appears to assume that the requirements of the regulatory pathway are mitigation measures. To the contrary, the regulatory pathway, like the rest of the revised proposed Plan amendments, is a regulatory program intended to, among other goals, improve habitat for

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		Under CEQA, a regulatory plan designed to improve environmental conditions must identify the advances it is intended to make (i.e., clearly stated project objectives) and include standards and performance criteria by which to measure success (POET, supra, 218 Cal.App.4th at pp. 739- 740; CEQA Guidelines, § 15124(b).) An adaptive plan designed to change in response to future events or studies must identify the type of actions that may be taken and criteria for their implementation. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281 [post-approval formulation of active habitat management plan invalid because EIR did not describe expected management actions or include management standards].) The VA Pathway satisfies this requirement. For example, the VA Science Program contains objective performance criteria/standards to both measure and ensure the VA Pathway's success in providing reasonable protection to native fish species. In contrast, like the flawed description in the earlier version of the Draft Staff Report, the discussion of the Regulatory Pathway in Chapter 13 omits essential information necessary to evaluate whether implementation of the proposed Plan amendments can achieve fish and wildlife benefits. As detailed in the Water Authority's January 19, 2024 comments on the Draft Staff Report, these omissions include: (1) an adequate description of proposed temperature control and reservoir management criteria; and (2) flow shifting / shaping metrics and criteria. These protocols and principles governing flow patterns are key considerations in deciding whether and how to implement the proposed Plan amendments. Despite these prior comments, Chapter 13 continues to improperly rely on incomplete and inadequate descriptions of these essential components.	aquatic species. It is not a measure identified to reduce or avoid the potentially significant impacts of the project under review. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding the Staff Report's description of the regulatory pathway's numeric inflow requirements and implementation strategies that are proposed to be applied for the regulatory pathway. Section 13.3, Revised Proposed Plan Amendments, describes the numeric and narrative objectives for tributary inflows, Delta outflows, cold water habitat, interior Delta flows, and fish viability. Additionally, Section 13.3 describes the inflow-based Delta outflow objective for the protection of fish and wildlife to the Bay-Delta Plan and a program of implementation to achieve those objectives. Section 13.3.2, Water Quality Objectives for Fish and Wildlife Uses, provides details concerning the cold water habitat objectives. To the extent that this comment summarizes or introduces other comments, please see the substantive responses to those comments.
1132	20	(b) The Description of the Regulatory Pathway Lacks Essential Information, Including Objective Metrics and Management Criteria, Regarding Temperature Control and Reservoir Management The Regulatory Pathway would require implementation of a cold water habitat objective that would reduce changes in reservoir drawdown to meet carryover storage targets. (Ch. 13, pp. 17-18, 216, 217, 385.)[Footnote 4: As demonstrated in the Water	Water right holders and reservoir owners/operators of the reservoirs identified within Table 7 of the December 2025 revised draft Bay-Delta Plan will be required to develop proposed carryover storage requirements within specified ranges as part of their long-term temperature management strategies. Water right holders may develop proposed carryover storage requirements outside of this range based on evidence and documentation that carryover storage requirements outside of these ranges will provide for protection of cold water habitat

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		Authority's detailed comments on the Revised Amendments, carryover storage requirements should be removed to avoid unlawful adjudication of water rights. These CEQA comments do not change the fact that carryover storage requirements must be removed to comply with the full scope of the State Water Board's legal obligations.] Those carryover storage targets are a key component of the Regulatory Pathway. Consistent with <i>Lotus v. Dept. of Transportation</i> (2014) 223 Cal.App.4th 645, 657-658, the State Water Board removed cold water habitat objective implementation measures from the list of mitigation measures because they are an integral part of the Regulatory Pathway. (Ch. 13, p. 227; Water Authority's Comments on 2023 Draft Staff Report, pp. 13-15.) This change reaffirms the Water Authority's prior comments that the description of the Regulatory Pathway is inadequate because it lacks essential information, including objective metrics and management criteria regarding the proposed temperature control and reservoir management strategies. This essential component of the Regulatory Pathway's project description, however, remains incomplete. Contrary to the State Water Board's approach, development of these essential metrics and criteria cannot be deferred. For example, Chapter 13 provides, in part: All water rights not covered by the VA pathway that affect temperature management would be subject to the cold water habitat requirements and reservoir owners/operators identified in the revised program of implementation would be required to undertake specific implementation actions. The owners and operators of reservoirs identified in the revised proposed Plan amendments that are not part of the VA pathway would be required to develop long-term temperature management strategies identifying how rim reservoirs and associated facilities will be operated to meet the cold water habitat requirements, based on an assessment of the effectiveness of cold water habitat protection measures on their tributaries and needed improvements to those measures for the purpose of complying with the cold water habitat objective. The long-term temperature management strategies would be required to identify temperature targets and locations where those targets will be measured. The strategies would also be required to evaluate other available measures to improve temperature	and other critical purposes, including health and safety supplies. Implementation of the cold water habitat objective is intentionally not prescriptive to afford owners and operators flexibility to operate and meet objectives for the unique and specific circumstances of the specific tributary. Water rights covered by the HRL commitments would not be required to implement the cold water habitat objective for the term of the VA scenario. Most, if not all of the owners and operators listed in Table 7 of the December 2025 revised draft Bay-Delta plan are also listed for the HRL commitments. Temperature models from Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report apply carryover storage to the 55 w/WSAs scenarios because reservoir owners and operators not covered by the HRL commitments are required to propose a carryover storage target within the range identified in the revised proposed Plan amendments. This allowed for definitive modeling of relevant temperature predictions for these reservoirs under the 55 w/WSAs scenarios. The carryover storage target ranges listed in the December 2025 revised draft Bay-Delta Plan allow for substantial flexibility in carryover storage. Cold water habitat provisions in the 2025 revised draft Plan 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 effects. Appendix H1a1, section H1a1.13, in the December 2025 partially recirculated draft Staff Report emphasizes that targets for storage ranges are necessarily broad to account for variability in hydrologic conditions. Refinement of these storage ranges is likely to occur as part of additional analysis that is expected as part of development of long-term temperature management strategies for each reservoir that is subject to the regulatory pathway. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for a discussion concerning the development and refinement of carryover storage target ranges.

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		management, including passage, temperature control device measures, riparian habitat improvements, and other measures that would be implemented to contribute to meeting the narrative cold water habitat objective and a timeline for implementing those measures. In addition to the strategies, annual operations plans would be required to be developed each year, in coordination with the State Water Board and fisheries agencies, identifying how temperature protection and related operations for the protection of salmonids and other native species would be achieved each year. ***In the event that water right holders do not develop proposed carryover storage levels, State Water Board staff would undertake a public process to develop those requirements. The annual operations plans would include, at a minimum, a description of how the end-of-September carryover storage levels, or alternate approved measures, would be implemented in combination with the inflow requirements. The Executive Director of the State Water Board could require long-term temperature management strategies and annual operations plans on additional Sacramento/Delta tributaries as part of the periodic review process based on information indicating that water diversion and use practices are causing elevated water temperatures that negatively affect the aquatic ecosystem. (Ch. 13, p. 18.) First, the statement that “[o]wners and operators of rim reservoirs not covered by the VA pathway would not be required to propose a carryover storage within the range identified in the revised proposed Plan amendments” contradicts Section 4.4.2.3 of the revised Bay-Delta Plan (“Revised Amendments”). Table 7 of the Revised Amendments states that the Bureau of Reclamation (“Reclamation”), the Department of Water Resources (“DWR”), Yuba County Water Agency, East Bay Municipal Utility District, South Sutter Water Agency, and Yolo County Flood Control and Water Conservation District – all signatories to the HRL Commitments – would be “required to take specific implementation actions below.” (Revised Amendments, pp. 52-55.)[Footnote 5: Yet, as documented in Section IV.A.2 of these comments, infra, Chapter 13’s associated	The cold water habitat and implementation provision for the regulatory pathway do not violate CEQA. The State Water Board provides these flexibilities with the intent that water diverters and reservoir owner/operators utilize these provisions with the acknowledgement that they often have a good understanding of unique circumstances on a specific tributary. The flexibility, including the default standard and the adaptive ranges, are fully described in the Staff Report, as the comment notes. Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, of the 2023 draft Staff Report includes a sufficiently detailed description of the cold water habitat objectives to inform analyses and implementation measures. Section 5.4.3.4, Implementation, of the 2023 draft 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. In addition to storage, long-term strategies can include non-flow measures, such as fish passage projects and riparian habitat. CEQA requires lead agencies to provide a project description in sufficient detail to allow for a meaningful analysis and a comparison of conditions under alternatives to the project. CEQA’s requirement of a stable and finite project description does not preempt the State Water Board’s discretion to provide flexibility in implementing the Plan. Under the regulatory pathway, the cold water habitat objective would be implemented through requirements for management of cold water storage and releases, and/or alternative protection measures. These requirements were established to ensure that fish below dams are kept in good condition consistent with Fish and Game Code section 5937 and the narrative objective. The cold water habitat implementation actions described in this section would be integrated with the inflow implementation actions described in Section 13.3.3.2, Sacramento/Delta Tributary Inflows, of the 2025 partially recirculated draft Staff Report including the water supply adjustments and adaptive

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		temperature modeling improperly applies carryover storage to the 55 w/WSA scenario but not to the VA Pathway, which presents an uneven and analytically inconsistent comparison of temperature effects. This misleading analysis is inconsistent with CEQA's informational purposes.] Chapter 13 and/or the Revised Amendments must be corrected to resolve this inconsistency. Second, the Regulatory Pathway contains an unstable description of the carryover (end-of- September) storage targets specific to each impacted reservoir. While not provided in the body of Chapter 13, carryover storage target ranges are disclosed for 11 tributaries and reservoirs in Appendix H1a1 and the Revised Amendments. (Ch. 13, Appendix H1a1, Table H1a1-1, p. H1a1- 8; Revised Amendments, pp. 52-55.) These ranges vary considerably. For example, for Shasta Reservoir, the carryover storage target ranges would span from 1,500-2,000 thousand acre-feet ("TAF") during drought years to ">2,000-3,000 TAF" during non-drought years. (Ibid.) For Folsom Reservoir, the carryover storage target ranges would vary by at least 100 TAF during both drought and non-drought years, respectively. (Ibid.) Thus, the description of these targets is unstable and inadequate because they are expressed in terms of ambiguous ranges. The State Water Board expressly deferred development of specific carryover storage targets to post-approval implementation of the Regulatory Pathway. (Ch. 13, p. 18; Revised Amendments, pp. 52-55.) The State Water Board also expressly provides that carryover storage targets may be established outside of the disclosed ranges. (Ibid.) This further diminishes the informational value of the vague ranges provided. Further complicating matters, the State Water Board acknowledges "[t]hese ranges are designed to . . . prevent some level of protection for cold water habitat in the fall. In most cases, at the low end of ranges, additional actions would likely be needed to protect cold water habitat." (Revised Amendments, p. 55.) These conflicting statements, which raise questions about the true scope of the Regulatory Pathway's carryover storage requirements and their feasibility, are insufficient to satisfy CEQA's informational requirements. Third, the State Water Board's proposal to defer development of specific carryover storage requirements through subsequent	implementation. The Staff Report's description of the project is, moreover, sufficient to inform analysis of the environmental impacts of the proposed Plan amendments, as explained in Common Response 7.1, General CEQA and Approach to the Analysis.

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		long-term management strategies and annual operations plans violates CEQA. CEQA requires the State Water Board to completely describe its project and to use its best efforts to find out and disclose all that it reasonably can. (CEQA Guidelines, §§ 15144, 15151.) It is feasible to establish the applicable carryover storage requirements now. This conclusion is evidenced by the State Water Board’s identification of carryover storage target ranges, its modeling and impact analysis of carryover storage, and the information readily available to the State Water Board. (See Ch. 13, pp. 119-146; id. at Appendix H1a1 pp. H1a1-6-H1a1-52.) While each reservoir has a slightly different elevation-volume relationship and dam intake elevation configuration that influences the minimum carryover storage that provides adequate cold water release, each potentially affected reservoir has been identified. (Ch. 13, Appendix H1a1, pp. H1a1-7-H1a1-8.) The State Water Board considered detailed information regarding each potentially affected reservoir. (Ch. 13, Appendix H1a1 pp. H1a1-6-H1a1-52.) In establishing the proposed carryover storage target ranges, the State Water Board states it considered factors including water supply reliability, variable hydrologic conditions, temperature and flow needs of fish that are present in the summer, location of fish that are present in the fall, and feasibility of providing protection for different species and life stages of fish. (Ch. 13, Appendix H1a1, p. H1a1- 6.) The data required to evaluate the relevant variables is available through extensive historical data regarding operation of these reservoirs. It is also feasible for the State Water Board to consult with the reservoir operators. In sum, establishing specific carryover targets does not involve undue speculation. This is not a case where the State Water Board “currently can only dimly guess what measures will be needed to respond to conditions several generations from now,” but one where the State Water Board must define its own project. (Citizens’ Committee to Complete the Refuge v. City of Newark (2021) 74 Cal.App.5th 460, 479.)[Footnote 6: As demonstrated in Section V.L, infra, Appendix H1A provides an inadequate description of the “reservoir buffer values” that were used to model carryover requirements under the Regulatory Pathway. The issue there is that the State Water Board failed to disclose necessary information that the State Water Board considered, which prevents informed decision making and meaningful public	

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		participation in the CEQA process.] The fact that carryover storage targets may change in the future during adaptive implementation is not an excuse to prepare a curtailed project description. CEQA does not require “perfection but . . . adequacy, completeness, and a good faith effort at full disclosure.” (CEQA Guidelines, § 15151.) Based upon the lack of this essential information and “the inherent flexibility built into” the Regulatory Pathway for implementation of cold water habitat and flow requirements, Chapter 13 discloses that actual impacts related to carryover storage requirements “may vary from the specific scenarios modeled.” (Ch. 13, p. 13-142.) Until the State Water Board adequately defines the Regulatory Pathway’s carryover storage requirements, meaningful impact analysis cannot occur. Fourth, Chapter 13 defers development of long-term temperature management strategies without establishing any performance standards or criteria used to “identify temperature targets,” and evaluate various “measures to improve temperature management.” (Ch. 13, pp. 18, 217.) There are also no objective metrics or criteria governing the development of operations plans by State Water Board staff or the Executive Director of the State Water Board’s ability to “require longterm temperature management strategies and annual operations plans.” (Ibid.) Through Chapter 13, the State Water Board continues to improperly assume that the Regulatory Pathway’s cold water habitat requirements will result in long-term environmental benefits without identifying any protocols or principles to govern possible temperature control and reservoir management activities, or any standards or criteria by which to measure whether and to what degree any environmental benefits occur on the various tributaries. The relevant cold water habitat strategies cannot “provide flexibility for reservoir operations to manage temperature, flow, and carryover storage in a coordinated manner,” without first developing and disclosing objective metrics or criteria that would be used to guide these decisions. (Ch. 13, p. 239.) Therefore, if carryover storage requirements associated with the Regulatory Pathway are retained, then the Regulatory Pathway’s project description must be revised to comply with CEQA as provided above.	

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1132	21	(c) Chapter 13 Fails to Adequately Describe Flow Shifting/Shaping Criteria The proposed Regulatory Pathway has been revised to reflect the “55 w/WSA” unimpaired flow requirement during “initial implementation.” (Ch. 13, pp. 15, 191, 198, 217, 223.) Under this proposal, “55% of unimpaired flow is required in the wettest one-third of years, 45 percent of unimpaired flow in the middle one-third of years, and 35 percent of unimpaired flow in the driest one-third of years.” (Ch. 13, p. 45.) However, the State Water Board “could modify these water supply adjustments in the future within the 45 to 65 percent of unimpaired flow range and the applicable water supply adjustments.” (Ch. 13, pp. 15, 191, 198, 217.) Those changes could be “as high as those identified in Chapter 6,” with water supply impacts “as high as those identified in Section 7.4” of the 2023 Draft Staff Report. (Ch. 13, pp. 191, 248.) According to Chapter 13, these “refinements include the possibility of moving up in the range of unimpaired flow under certain conditions and the potential for modifying the water supply adjustments in the future. The flow requirements under the regulatory pathway along with other provisions in the program of implementation would enable Plan implementation to adjust to future changing conditions, including climate change.” (Ch. 13, p. 223.) Thus, flow shaping, shifting, and sculpting remains a key component of the proposed Regulatory Pathway, which “retain[s] the required unimpaired flow levels from prior drafts of the Plan of 55 percent unimpaired flow year-round on a 7-day running average within an adaptive range of 45 to 65 percent.” (Ch. 13, p. 15.) “Adaptive implementation includes the ability to manage the numeric flow requirements as a total volume of water on a water year basis to shape flows (e.g., providing pulse flows to cue migration) for the benefit of fish and wildlife.” (Ch. 13, p. 16.) “The shaping of flows would be required to specifically ensure that flows are maintained year-round to support temperature maintenance, passage, and rearing; avoid stranding and dewatering of salmonids; and provide appropriately timed contributions to Delta outflows to protect estuarine species.” (Ibid.; see Ch. 13, pp. 217, 220.) As further provided in the Revised Amendments, “[a]daptive implementation may be	Based on the commenter’s cited legal references, this commenter appears to assume that CEQA requirements for mitigation measures apply to the project under review. To the contrary, CEQA does not remove the State Water Board’s discretion to provide flexibility in implementing the requirements and standards of the revised proposed Plan amendments. The flow shaping provisions would allow that flows provided for the numeric inflow requirement could be managed as a total volume of water on a water year basis and released on an adaptive schedule. Flows may be tailored to the needs of each tributary. Please see Common Response 1.3, Revised Proposed Plan Amendments, concerning Sacramento/Delta tributary inflows. Please also refer to Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the analysis of environmental impacts in light of the Plan’s broad scale and the variety of implementing agencies.

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		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.” (Revised Amendments, p. 49.) Despite the State Water Board’s continued reliance on flow shifting/shaping concepts in its proposed Regulatory Pathway, Chapter 13 omits any shaping/shifting criteria in its description.[Footnote 7: The sweeping statements contained in the Revised Amendments regarding flow shaping and adjustments to the unimpaired flow range fail to provide objective metrics or criteria that can be used to evaluate when such decisions may occur. (Revised Amendments, pp. 49-50.)] Under CEQA, an adaptive plan designed to change in response to future events or studies must identify the type of actions that may be taken and criteria for their implementation. (Preserve Wild Santee v. City of Santee, supra, 210 Cal.App.4th at p. 281; POET, supra, 218 Cal.App.4th at p. 740.) To rely on the Regulatory Pathway’s stated intent to adapt using flow shifting/shaping, the State Water Board must revise its CEQA analysis to disclose the type of actions it would take to shift and shape flows in an attempt to provide reasonable protection to fish species, and identify objective performance criteria for their implementation and evaluation.	
1132	22	(d) Chapter 13 Fails to Adequately Describe Criteria Regarding 55 w/ WSA For the reasons discussed above, Chapter 13 lacks a complete description of its new 55 w/WSA proposal. While this modified unimpaired flow requirement will apply during “initial implementation,” this phrase is not described. In addition to being the starting point for the tributaries and water rights that are not covered by the VA Pathway, 55 w/WSA should be the default starting point in the event the VA Pathway is terminated. The State Water Board should clarify that if adjustments are not necessary, the 55 w/WSA requirement could continue indefinitely and would not necessarily be limited to “initial implementation.” Chapter 13 must also be revised to include specific metrics and criteria that would be used to evaluate potential changes to the 55 w/WSA unimpaired flow	As explained in Chapter 13, Revised Proposed Plan Amendments, future flows could be higher in the range of unimpaired flow on some or all tributaries. To account for this flexibility, 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 on a 7-day running average within an adaptive range of 45 to 65 percent. Two types of water supply adjustments would apply based on hydrological conditions, including watershed-wide adjustments that apply to the entire watershed and tributary-specific adjustments that apply to rainfall-dominated tributaries and tributaries that primarily supply municipalities, including Putah Creek and the Mokelumne and Calaveras Rivers. Under the regulatory pathway, all water right holders on specified tributaries would be subject to the numeric inflow

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		requirement. Without this essential information, the description of the 55 w/WSA requirement is incomplete and unstable in violation of CEQA.	requirements, excluding water right holders with a de minimis effect on flows, other approved exceptions, or water rights covered under the HRL commitments. Numeric requirements include bypass flow requirements based on a percentage of unimpaired flow. After these requirements are implemented, the State Water Board will continue to monitor their effectiveness in achieving the goals of the Plan, and may adjust flow requirements and modify WSAs pursuant to the adaptive management principles set out in the revised proposed Plan amendments and described in Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta. Thus “initial implementation” does not refer to a specific period of time, but a starting point in the adaptive management process.
1132	23	2. Significant Adverse Impacts Associated with the Regulatory Pathway Remain Underestimated and Undisclosed Chapter 13 compares and explains the potential environmental effects that may occur due to implementation of the revised proposed Plan amendments in the context of the analysis contained in the 2023 Draft Staff Report. (Ch. 13, p. 216.) This supplemental analysis mainly focuses on (1) changes in hydrology, and (2) changes in water supply. (Ibid.) It is substantially similar to the analysis contained in the earlier version of the Draft Staff Report. As stated in Chapter 13, the State Water Board could implement the Regulatory Pathway as described in the 2023 Draft Staff Report (i.e., it can deviate from the 55 w/WSA unimpaired flow requirement). (Ch. 13, p. 224.) Therefore, the Water Authority’s prior comments regarding the 2023 Draft Staff Report’s inadequate impact analysis regarding the Regulatory Pathway are equally applicable here and are incorporated by reference. Without limiting the scope or effect of these prior comments, the Commenting Parties raise the following impact concerns. (a) The Regulatory Pathway’s Water Supply Impact Analysis Is Inadequate, and Implementing a Flow-Only Approach Would Have Devastating Water Supply Impacts	The new numeric flow requirements that would be implemented under the regulatory pathway of the revised proposed Plan amendments for the reasonable protection of fish and wildlife are described in Section 13.3.3.2, Sacramento/Delta Tributary Inflows, of the final Staff Report. Changes in surface water supply for the 55 w/WSAs scenario, which would be the starting point for tributary inflow requirements under the regulatory pathway, are described in Section 13.4.4, Changes in Surface Water Supply. 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 refer to Comment Letters 268, 507, and 590 to review responses to the comments incorporated by reference.

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		As extensively documented in the Water Authority’s prior comments and in Section IV of these comments, <i>infra</i>, implementation of the VA Pathway would result in substantially lower water supply impacts while providing better outcomes in terms of native fish protection. (Water Authority’s Detailed Comments on 2023 Draft Staff Report, pp. 2-4, 8-13, 17, 39-52.) As stated in the Draft Staff Report, non-flow measures are essential to provide reasonable protection of native fish species: “Scientific information indicates that restorations of flows and the functions that flow provides in an integration with physical habitat improvements is needed to address the declines” in the Bay-Delta. (Draft Staff Report, p. 1-9.) It further provides: “Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, fish and wildlife protection cannot be achieved solely through flow— habitat restoration and stressor reduction also are needed.” (Draft Staff Report, p. 3-1.) “Recovery of native species would require both habitat restoration and increased flow in Central Valley tributaries and the Delta. Successful recovery of native species is not possible without parallel investment in both efforts.” (Draft Staff Report, p. 3-134.) As confirmed by the Draft Scientific Basis Report Supplement, an independent peer review of the HRL commitments, the VA Pathway provides such an approach that would ensure successful recovery of native species through a combination of flows and habitat restoration. By integrating flow and non-flow physical restoration actions, the VA Pathway provides a holistic and more effective approach than the Regulatory Approach. A flow-only approach is not viable in a highly altered ecosystem like the Sacramento/Delta. Implementing a flow-only approach like the Regulatory Approach would therefore result in significant water supply impacts without providing reasonable protection for native fish species. In addition to providing substantially greater environmental benefits and fully satisfying the fundamental purpose of the Phase 2 Amendments (i.e., fish protection), the VA Pathway would result in lower water supply impacts. The overall reduction in agricultural water supply under the VA Pathway would be less than the reduction under the starting point for the Regulatory Pathway under 55 w/WSA. (Ch. 13, p. 244.) Moreover, as the “starting point” for the Regulatory Pathway	

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		“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 associated with the Regulatory Pathway “could also be as high as those identified in Section 7.4” of the 2023 Draft Staff Report. (Ch. 13, p. 244.) Thus, the upper limit of the Regulatory Pathway’s reasonably foreseeable impacts related to water supply remains a 65 percent unimpaired flow requirement without any water supply adjustments. Implementing the VA Pathway instead of the Regulatory Pathway will prevent significant adverse impacts related to surface water resources while providing better outcomes for fish protection. (a) The Regulatory Pathway’s Water Supply Impact Analysis Is Inadequate, and Implementing a Flow-Only Approach Would Have Devastating Water Supply Impacts As extensively documented in the Water Authority’s prior comments and in Section IV of these comments, <i>infra</i>, implementation of the VA Pathway would result in substantially lower water supply impacts while providing better outcomes in terms of native fish protection. (Water Authority’s Detailed Comments on 2023 Draft Staff Report, pp. 2-4, 8-13, 17, 39-52.) As stated in the Draft Staff Report, non-flow measures are essential to provide reasonable protection of native fish species: “Scientific information indicates that restorations of flows and the functions that flow provides in an integration with physical habitat improvements is needed to address the declines” in the Bay-Delta. (Draft Staff Report, p. 1-9.) It further provides: “Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, fish and wildlife protection cannot be achieved solely through flow— habitat restoration and stressor reduction also are needed.” (Draft Staff Report, p. 3-1.) “Recovery of native species would require both habitat restoration and increased flow in Central Valley tributaries and the Delta. Successful recovery of native species is not possible without parallel investment in both efforts.” (Draft Staff Report, p. 3-134.) As confirmed by the Draft Scientific Basis Report Supplement, an independent peer review of the HRL commitments, the VA Pathway provides such an approach that would ensure successful recovery of native species through a combination of flows and habitat restoration. By integrating flow and non-flow	

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		physical restoration actions, the VA Pathway provides a holistic and more effective approach than the Regulatory Approach. A flow-only approach is not viable in a highly altered ecosystem like the Sacramento/Delta. Implementing a flow-only approach like the Regulatory Approach would therefore result in significant water supply impacts without providing reasonable protection for native fish species. In addition to providing substantially greater environmental benefits and fully satisfying the fundamental purpose of the Phase 2 Amendments (i.e., fish protection), the VA Pathway would result in lower water supply impacts. The overall reduction in agricultural water supply under the VA Pathway would be less than the reduction under the starting point for the Regulatory Pathway under 55 w/WSA. (Ch. 13, p. 244.) Moreover, as the “starting point” for the Regulatory Pathway “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 associated with the Regulatory Pathway “could also be as high as those identified in Section 7.4” of the 2023 Draft Staff Report. (Ch. 13, p. 244.) Thus, the upper limit of the Regulatory Pathway’s reasonably foreseeable impacts related to water supply remains a 65 percent unimpaired flow requirement without any water supply adjustments. Implementing the VA Pathway instead of the Regulatory Pathway will prevent significant adverse impacts related to surface water resources while providing better outcomes for fish protection.	
1132	24	(i) Chapter 13’s Analysis of the Regulatory Pathway’s Surface Water Supply Impacts Fails to Satisfy CEQA’s Informational Requirements by Failing to Consider Any Adaptive Scenarios The fundamental purpose of an EIR is to “provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment.” (CEQA Guidelines, § 21061.) The Regulatory Pathway proposes a 55 w/WSA starting point, with the “potential for modifying the water supply adjustments in the future” and “allowing adjustments to flow requirements within the adaptive range of 45 to 65 percent of unimpaired flow.” (Ch. 13, pp. 15, 220, 223.) The State Water Board’s stated intent for	Modeling results for monthly flows are presented in Appendices A, G, and H to the Staff Report. The revised proposed Plan amendments provide broad flexibility to water suppliers regarding how to meet unimpaired flow requirements, and additional flexibility to the State Water Board to implement adaptive management within the selected unimpaired flow range on the regulatory pathway. Basing the Staff Report’s core analyses and impact conclusions on fine-grained monthly model outputs would be unduly speculative. If the percent of unimpaired flow changed within a water year as the comment suggests, the impacts would fall within the ranges analyzed in the Staff Report.

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		implementing 55 w/WSA is to “reduce water supply impacts and allow more water to be stored in reservoirs on initial implementation.” (Ch. 13, p. 223 [italics added].) Based upon this information and the Regulatory Pathway’s emphasis on adaptive implementation, it is reasonably foreseeable that the State Water Board would adjust the applicable unimpaired flow requirements during a single water year. As stated in Chapter 13, the Regulatory Pathway “includes a range of possible outcomes moving forward.” (Ch. 13, p. 224.) However, like the flawed analysis in the earlier version of the Draft Staff Report, Chapter 13 merely presents annual scenarios regarding the Regulatory Pathway. The environmental impacts associated with reasonably foreseeable adaptive scenarios must be disclosed to satisfy CEQA’s informational requirements.	
1132	25	(ii) The Impacts Associated with the Regulatory Pathway’s Carryover Storage Requirements Remain Unaddressed As demonstrated above, the Regulatory Pathway’s description of carryover storage requirements and associated strategies is unstable and incomplete. Based upon the lack of this essential information and “the inherent flexibility built into” the Regulatory Pathway for implementation of cold water habitat and flow requirements, Chapter 13 admits that actual impacts related to carryover storage requirements “may vary from the specific scenarios modeled.” (Ch. 13, p. 13-142.) Consequently, if the State Water Board retains carryover storage requirements as a component of the Regulatory Pathway, the true scope of the associated impacts (e.g., upon water supply) must be evaluated and disclosed through additional modeling. As discussed in Section IV.A.2 below, Chapter 13 must also be revised to present an even and analytically consistent comparison of temperature effects associated with the VA Pathway and the Regulatory Pathway.	As discussed in Common Response 7.1, General CEQA and Approach to the Analysis, the Staff Report accounts for the revised proposed Plan amendments’ flexibility in its analysis of environmental impacts. It presents ranges of results corresponding to the ranges of potential flow and other requirements, and bases its impact conclusions on the end of the range that would cause the most severe impacts. It thus fulfills its obligations under CEQA to provide disclosure of the project’s environmental consequences and accountability for those consequences.
1132	26	3. The Regulatory Pathway’s Significant Adverse Impacts to Agricultural Water Users and the Environment Are Underestimated Due to Inaccurate Assumptions Associated with Groundwater Supply Through Chapter 13, the State Water Board continues to analyze the Regulatory Pathway’s effects upon groundwater in terms of	As discussed in the Staff Report in Section 7.12.2, Groundwater, because of uncertainties about groundwater availability and water users’ responses to reduced surface water supply, a range between two groundwater pumping bookends are evaluated for the groundwater impact analysis. The agricultural analysis and groundwater analysis both use SWAP modeling and these groundwater pumping bookends, but they are not directives that

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		unrealistic “maximum replacement groundwater pumping and no groundwater replacement groundwater pumping” scenarios. (Ch. 13, p. 243.) The State Water Board continues to assert that “water users likely would increase groundwater pumping to replace some of the amount of reduced surface water supplies.” (Ibid.) Despite acknowledging that “changes in groundwater supply would be largely dependent on . . . SGMA,” Chapter 13 continues to ignore SGMA in analyzing the Regulatory Pathway’s impacts associated with groundwater supply. (Ch. 13, pp. 191, 243-284.) In doing so, the State Water Board underestimates impacts to agricultural resources by assuming that groundwater pumping can increase relative to baseline conditions to offset reduced surface water supplies. (Ch. 13, p. 243 [assuming more groundwater is available for agriculture reduces the severity of impact conclusions for agricultural resources].) As the State Water Board has expressly recognized in other contexts, significant environmental effects go hand-in-hand with reductions in water supply to agricultural water users. These impacts include farmland conversion and air quality and human health [BHFS1.1] impacts associated with the fallowing of agricultural land. Not only may fallowing itself be a significant, unavoidable impact, other “[e]xamples of significant environmental effects on agricultural resources [associated with a reduction in water supply] include the following: (1) conversion of prime farmland, unique farmland, or farmland of statewide importance to non-agricultural use, (2) conflict with existing zoning for agricultural use, or a Williamson Act contract, and (3) other changes in the existing environment, which, due to their location or nature, could result in conversion of farmland to non-agricultural use.[Footnote 8: State Water Board, Revised Order WRO 2002-13, pp. 67-68 (finding allowing could cause significant unavoidable impacts if it results in conversion of farmland to non-agricultural use), available at https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/2002/wro2002-13revised.pdf.] Chapter 13 fails to adequately analyze these significant impacts that will result from the Regulatory Pathway. As extensively documented in the Water Authority’s prior comments, groundwater pumping is not likely to replace reduced Sacramento/Delta surface water supplies or persist at pre-SGMA	farmers should or would replace Sacramento/Delta reductions with groundwater pumping, especially considering requirements to achieve sustainability in basins subject to SGMA. Instead, the groundwater bookends used for the groundwater impact analysis provides a reasonable representation of the potential maximum impacts to groundwater. Additionally, the no replacement groundwater pumping bookend is not an assumption about groundwater demand management in any particular basin, for example under SGMA, but a reasonable representation to model the potential lower limit of pumping. It is also important to note that the potentially significant impacts identified for agriculture and groundwater cannot occur simultaneously because agricultural irrigation is the primary driver of groundwater use. The agricultural impact analysis is discussed in Sections 7.4 and 13.7.4, Agriculture and Forest Resources. For more discussion on the agricultural resource impacts, please see Common Response 7.4, Agricultural Resources. Groundwater management decisions will continue to rest with local Groundwater Sustainability Agencies (GSAs), which are responsible for ensuring sustainable conditions within their subbasins. Local agencies have been aware since 2012 that the State Water Board would be updating the Bay-Delta Plan for the Sacramento/Delta, which is well before the Sustainable Groundwater Management Act (SGMA) took effect in 2015. More than a decade has passed since SGMA’s enactment, and Groundwater Sustainability Plans, substitute documents, and conjunctive-use strategies are expected to address risks of groundwater overdraft. The Bay-Delta Plan update does not conflict with SGMA; rather, the two frameworks together support integrated planning that avoids shifting impacts between surface water and groundwater resources. For additional discussion of how the Bay-Delta Plan update aligns with SGMA implementation, see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act. For information on the level and scope of analysis required under CEQA for this Plan update, see Common Response 7.1, General CEQA and Approach to the Analysis.

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		levels in most critically overdrafted basins. The “no replacement scenario” erroneously and without any evidentiary support assumes that, under the proposed Plan amendments, all baseline pumping (i.e., pumping levels from 2005 to 2015) can continue. This assumption is undermined by the 2023 Draft Staff Report’s discussion of chronic groundwater overdraft in the Study Area, such as the San Joaquin Valley. Like the flawed analysis in the earlier version of the Draft Staff Report, Chapter 13 provides no factual or evidentiary basis that baseline groundwater pumping in critically overdrafted areas can be sustained, much less increase above baseline conditions, in light of SGMA. The “no replacement” scenario, which is more accurately a “status quo pumping scenario,” is clearly not the “potential lower limit of groundwater pumping” and may even exceed the upper limits of allowable pumping in the Study Area’s numerous critically overdrafted basins. The State Water Board therefore cannot adopt the proposed Regulatory Pathway without correcting its contradictory accounts of SGMA and preparing an accurate agricultural impacts analysis. While the impact may remain potentially significant, CEQA requires the State Water Board to disclose the true scope of the Regulatory Pathway’s significant environmental impacts. (Ch. 13, pp. 191, 435, 438-439, 542.)	
1132	27	II. Chapter 13 Does Not Provide the Information and Analysis Necessary to Support Adoption of the Regulatory Pathway Under the Porter-Cologne Act A. Chapter 13 Does Not Provide the Information and Analysis Necessary to Determine Whether the Revised Amendments Will Provide Reasonable Protection for All Beneficial Uses The Porter-Cologne Act requires that the State Water Board set water quality objectives that will provide “reasonable protection” of all beneficial uses. (Wat. Code, §§ 13000, 13240, 13241.) Water Code section 13240 requires the State Water Board to “formulate and adopt water quality control plans . . . [in conformity with] the policies set forth in Chapter 1 (commencing with Section 13000) of this division and any state policy for water quality control.” In turn, section 13000 provides: The Legislature further finds and declares that activities and	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board’s consideration of different beneficial uses, the State Water Board’s consideration of the factors listed in Water Code section 13241, and the State Water Board’s duty to ensure the reasonable protection of beneficial uses through the water quality control planning process. The State Water Board has considered the factors listed in Water Code section 13241 throughout the Staff Report. For a discussion of this analysis, please see final Staff Report Section 13.6.2, Water Code Section 13241 Analysis. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. Finally, section 13241 mandates the “[f]actors to be considered by a regional board in establishing water quality objectives.” (Wat. Code, § 13241.) Sections 13000, 13240 and 13241 impose both broad powers and broad responsibilities on the State Water Board when it adopts a water quality control plan. (United States v. State Water Resources Control Board (1982) 182 Cal.App.3d 82, 110, 116, 117, 118, 122 (hereinafter “Racanelli”).) In Racanelli, the Court of Appeal explained: In formulating a water quality control plan, the Board is invested with wide authority “to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” (§13000.) In fulfilling its statutory imperative, the Board is required to “establish such water quality objectives ... as in its judgment will ensure the reasonable protection of beneficial uses ...” (§ 13241), a conceptual classification far-reaching in scope. “‘Beneficial uses’ of the waters of the state that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.” (§ 13050, subd. (f).) Thus, in carrying out its water quality planning function, the Board possesses broad powers and responsibilities in setting water quality standards. (Id. at 109–110.) As explained below, Chapter 13 contains insufficient information for the State Water Board to meet the “statutory imperative” under Porter-Cologne to “consider all demands” and “ensure the reasonable protection of beneficial uses.” (Ibid.)	

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1132	28	1. Chapter 13 Does Not Include Sufficient Information for the State Water Board to Determine Whether the Revised Amendments Ensure the Protection of Agricultural Beneficial Uses Because it Unrealistically Assumes Replacement Water Supplies Are Available Chapter 13, Section 13.7.4 concludes that, even though there will be water supply reductions to agricultural uses under the Regulatory Pathway, replacement water supplies will be available to supplement lost supplies and limit potential impacts. This assumption is unsupported by any evidence and demonstrates that the State Water Board does not have sufficient information to fully evaluate the severity of the impacts that the Revised Amendments will have on agricultural beneficial uses. Absent accurate information on impacts to agricultural beneficial uses, the State Water Board cannot determine whether the Revised Amendments ensure protection of those uses. Like the flawed analysis in the earlier version of the Draft Staff Report, Chapter 13 continues to assume that increased groundwater pumping or other alternative water sources will be available to mitigate impacts on agricultural uses caused by the reductions in water supply that will occur under the Proposed Plan Amendments. (Ch. 13, p. 13-243.) This analysis begins with a highly inflated baseline pumping levels from 2005-2015 (see Table 13.4-153) and assumes that those pumping levels will either continue or increase following implementation of the Revised Amendments. These assumptions ignore the prior comments which make clear that there is no factual or evidentiary basis to assuming that baseline groundwater pumping from 2005-2015 can continue, much less increase above baseline conditions, in light of the Sustainable Groundwater Management Act ("SGMA"). Because Chapter 13 failed to evaluate the potential impacts to agricultural under the Regulatory Pathway in combination with pumping restrictions that are already taking effect under SGMA, it drastically understates potential impacts to agricultural water users and the environmental effects associated with reductions in water supply to agriculture, including farmland conversion, air quality and human health impacts associated with the fallowing of agricultural land.	The Staff Report acknowledges that changes in Sacramento/Delta surface water supply from the flow scenarios may result in potentially significant impacts on agriculture. Changes in crop acreage in the Sacramento/Delta and San Joaquin Valley are estimated using the SWAP model, for average and dry hydrologic conditions. Because of the uncertainties about groundwater availability and water users' response to Sacramento/Delta supply regarding groundwater pumping, two bookends or bounds were evaluated using SWAP: maximum replacement groundwater pumping and no replacement groundwater pumping. Actual conditions would likely fall between these extremes, with water users increasing groundwater pumping to offset some surface water reductions, but not enough to fully replace lost supplies. Groundwater availability assumptions in the SWAP analysis are discussed on p. 7.4-37 of the 2023 draft Staff Report and in Appendix A3, Agricultural Economic Analysis: SWAP Methodology and Modeling Results, p. A3-10. The assumptions are not derived from groundwater pumping from 2005-2015 as asserted by the commenter. Instead, under no replacement groundwater pumping each SWAP production region is limited to the SWAP model estimated pumping levels for average water years under baseline conditions. Under maximum replacement groundwater pumping in the Sacramento/Delta, the allowed pumping is set at the highest estimated annual pumping levels as estimated by SacWAM. For the SWAP production regions not covered by SacWAM (Regions 9 through 21C), default SWAP groundwater limits representing 2014 estimated groundwater pumping capacities are applied. The Staff Report acknowledges potential cumulative impacts of reduced Sacramento/Delta supply and SGMA implementation. Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for further discussion of consideration of SGMA in the analysis.

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1132	29	2. The State Water Board Must Consider the Impacts to Other Beneficial Uses From Reallocating Water to Fish and Wildlife Uses Chapter 13 misstates the State Water Board’s duties related to adoption or amendment of water quality objectives. Chapter 13, section 13.6.2 states that “reasonable protection of water quality for fish and wildlife, while also ensuring protection of agricultural uses, does not involve analysis of competing water allocations.” (Ch. 13, p. 13-220.) This interpretation of the Porter- Cologne Act is plainly wrong, especially as applied to the Revised Amendments, which will expressly require a reallocation of water to fish and wildlife uses from other beneficial uses including irrigation. Consideration of the impacts of that reallocation on other beneficial uses is essential to determining whether the new objectives provide reasonable protection. The State Water Board must consider the impact of that reallocation on all other beneficial uses of water, including through loss of water supply, to determine whether the proposed reallocation would provide “reasonable” protection. There is no exemption from this requirement for objectives intended to protect fish and wildlife uses. Water Code section 13241 requires the State Water Board to “establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses.” (Wat. Code, § 13241.) The “beneficial uses” to be protected under the Porter-Cologne Act are expressly defined to include “domestic, municipal, agricultural and industrial supply.” (Wat. Code, § 13050(f).) The factors the State Water Board must consider when establishing water quality objectives include the “[p]ast, present, and probable future beneficial uses of water,” “economic considerations,” and “the need for developing housing,” confirming that impacts to water supply for uses other than fish and wildlife must be considered when setting objectives. (Wat. Code, § 13241(a), (c) and (d).) Further confirmation is found in the Legislature’s declaration that “activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the Porter-Cologne Water Quality Control Act, the State Water Board’s consideration of factors under Water Code section 13241, as well as a discussion of reasonable protection of fish and wildlife and consideration of other beneficial uses. 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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		waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” (Wat. Code, § 13000, emphasis added.) In sum, when establishing a water quality objective to protect fish and wildlife uses, or any other uses, by law the State Water Board must consider the impact the proposed objective will have on all other beneficial uses of the water involved. From a policy perspective, too, it is vitally important that the State Water Board consider water supply consequences when setting objectives. The reallocation of water required by the new flow-based water quality objectives proposed in the Revised Amendments would in some years have devastating impacts on the water supply currently relied upon for other beneficial uses. Those impacts call into serious question the reasonableness of the proposed objectives, especially considering the limited benefits flow alone can provide for increasing fish abundance under the Regulatory Pathway. (See <i>infra</i>, Section IV.A.1.) As support for its view that setting reasonable protection of fish and wildlife uses need not involve analysis of competing water allocations, section 13.6.2 draws a distinction between the State Water Board’s water quality planning authority and its water rights authority. While there are certainly important distinctions between those authorities, they do not in any way support the conclusion in section 13.6.2 that water supply impacts are irrelevant to reasonable protection of fish and wildlife under the Porter-Cologne Act. Section 13.6.2 asserts “the term ‘beneficial uses’ as used in water quality control planning context differs from the term ‘beneficial uses’ in a water right context.” (Ch. 13, p. 13-220.) But “domestic, municipal, agricultural and industrial supply” is expressly named among the beneficial uses the Porter-Cologne Act is intended to protect. (Wat. Code, § 13050(f).) Another attempted justification offered in section 13.6.2 is that “fish and wildlife beneficial uses require volumes of water,” but “[o]ther uses, such as agricultural beneficial uses, do not require specific allocations of water.” (Ch. 13, p. 13-220.) This is nonsense. A crop that requires 3 acre feet of water per year will not survive on a supply of 1 acre foot per year. The volume of water available for use matters for fish and wildlife, domestic, municipal, agricultural and industrial uses alike.[Footnote 9: The	

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		Commenting Parties discuss elsewhere in these comments that flow is not an appropriate water quality constituent for fish and wildlife or agricultural beneficial uses. (See Parts II.A.2, IV.A.1, and V, <i>infra</i>.) However, to the extent the State Water Board accepts that flow can be part of a water quality objective, it must be treated as such with respect to all beneficial uses.] All these beneficial uses can be impaired by a shortage of water. It is indeed ironic that the State Water Board attempts to rely on a distinction between water quality control planning and water rights to avoid analysis of “competing water allocations” while at the same time proposing new water quality objectives that reallocate a higher volume of water (through flow) to one beneficial use and away from other beneficial uses. In other words, the State Water Board admits to using its water quality authority to expressly reallocate water among beneficial uses, while claiming it may ignore associated impacts on the users whose rights have been impaired. This is a misuse of water quality planning. If the State Water Board properly observed the distinctions between its exercise of its water quality planning and water rights authorities, it would not use flow as a parameter for a water quality objective at all, because such express reallocation of volumes of water through water quality regulation does not meet the standards and processes applicable to determinations of water rights. In sum, the misstatement in section 13.6.2 regarding the State Water Board’s obligations when setting water quality objectives must be corrected. If and when it adopts the Revised Amendments the State Water Board must consider the impact of the new flow-based water quality objectives on all beneficial uses, including through loss of water supply for agricultural and municipal and industrial uses. Doing so is essential to determining the reasonable protection of beneficial uses required by the Porter-Cologne Act.	
1132	30	3. The State Water Board Cannot Properly Defer Setting Its Biological Goals Until After Adoption of the Revised Amendments As explained in the Water Authority’s January 19, 2024	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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		comments on the Draft Staff Report, there is a material gap in the State Water Board's analysis of reasonable protection for salmonids, because it had expressly deferred deciding on its biological goals. Chapter 13 does not cure that omission. Chapter 13 contains only a brief paragraph explaining the State Water Board still intends to develop its biological goals only after the Revised Amendments have been adopted. (Ch. 13, p. 13-39.) The Revised Amendments confirm this. (Revised Amendments, p. 116.) The plan says "State Water Board staff will develop biological goals for the Sacramento/Delta watershed for approval by the State Water Board within two years of approval of the current plan amendments by OAL." (Id.) The biological goals therefore will not be before the State Water Board when it make the decision whether the Revised Amendments provide reasonable protection, even though the State Water Board intends to use them as its measure of reasonable protection. The biological goals will be used "to assess the health of the ecosystem for representative anadromous and estuarine fish species, including measures to assess the abundance, productivity, genetic and life history diversity; and the population spatial extent, distribution, and structure for native species" and "tributary goals that contribute to meeting the overall goals for each population, including the narrative salmon protection objective, and goals for the Delta." (Id.) "Biological goals for the Sacramento/Delta will use scientific information to establish a numeric value or range of values for biological goals, will be expressed in terms that are SMART (specific, measurable, achievable, relevant, and time-bound), and for anadromous salmonids will be based on viable salmonid population (VSP) parameters including abundance, life history and genetic diversity, productivity, and spatial structure." (Id. at 116-117.) There is no reason why these parameters of desired characteristics for salmonid populations cannot be developed before, rather than only after, adoption of the Revised Amendments. Given the primary purpose of the Revised Amendments is to provide reasonable protection of fish and wildlife uses, the rational approach is for the State Water Board to define at the outset what it seeks to achieve for salmonid populations through	as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife beneficial uses.

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		the amendments, i.e., its biological goals. Those goals can then be measured against the expected outcomes from implementation of the Revised Amendments. If there is a gap between the goals and what can reasonably be achieved, then refinements to either the goals or the objectives, or both, may be required. That analysis should and by law must occur before adoption of the Revised Amendments. Only through such analysis and comparison can the State Water Board make the informed choice of reasonable protection required by the Porter-Cologne Act.	
1132	31	B. Chapter 13 Does Not Analyze What Water Quality Conditions Can Be Achieved Through Coordinated Control of All Factors Affecting Water Quality Under the Regulatory Pathway The ability to coordinate flow together with non-flow measures such as physical habitat improvements is one of the key advantages of the VA Pathway over the Regulatory Pathway. The VA parties are bringing their authorities and finances to bear to coordinate with changes in flow to enhance the resulting benefits for fish. Providing for a coordinated approach to water quality regulation is one of the purposes of the Porter-Cologne Act. Water Code section 13241, subparagraph (c), requires the State Water Board to actively investigate such opportunities as part of its planning. It directs the State Water Board to consider “water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.” (Wat. Code, § 13241(c).) The State Water Board, however, has taken a very flow-centric approach for the Regulatory Pathway, because it may require flow through its water rights authority, and because it deems flow to be the “master variable.” This approach does not satisfy its obligation under section 13241(c). To assess what conditions could reasonably be achieved through coordinated control requires at least some analysis of the likely results of coordinated actions under the Regulatory Pathway. The Water Authority’s January 19, 2024 comments on the Draft Staff Report explained why the Draft Staff Report did not satisfy the State Water Board’s obligation under subparagraph (c) of	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the Porter-Cologne Water Quality Control Act, the State Water Board’s consideration of factors listed in Water Code section 13241, and a discussion of non-flow measures and the State Water Board’s authority to impose such measures. As discussed in Common Response 1.2, the State Water Board’s analysis of, and inclusion in the revised proposed Plan of adaptive implementation provisions that allow non-flow measures to inform adaptive adjustments to flow requirements and the inclusion of non-flow commitments provided through the VA pathway amounts to consideration of water quality conditions that could be reasonably achieved through coordinated control of all factors that affect water quality, as required under Water Code section 13241. As further discussed in the Staff Report’s Section 7.21, Habitat Restoration and Other Ecosystem Projects, the State Water Board acknowledges that the benefits of increased flow are further enhanced when implemented in concert with non-flow measures such as physical habitat restoration, control of invasive species, and other efforts. However, non-flow measures often depend on sufficient flow for successful implementation. For an in-depth examination of the benefits of flow and its role as a critical element of protection and restoration, see Chapter 3 of the Staff Report, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		section 13241 to consider coordinated control. Chapter 13 does not cure the deficiency. It is no answer that some non-flow factors may be beyond the authority of the State Water Board to regulate itself. When amending state policy for water quality control, which includes water quality objectives, the State Water Board must “consult with and carefully evaluate the recommendations of concerned federal, state, and local agencies.” (Wat. Code, § 13144.) The program of implementation in a water quality control plan must include “recommendations for appropriate action by any entity, public or private.” (Wat. Code, § 13242.) And, the State Water Board can use its plan to compel action by other state agencies; when carrying out activities affecting water quality, state agencies must comply with a water quality control plan unless another statute directs or authorizes otherwise. (Wat. Code, § 13247.) The Revised Amendments and related analysis do not explore coordinated exercise of authority among agencies, and therefore do not provide the Legislature, other interested state and local agencies, and the public with information about opportunities for coordinated control as required by the Porter-Cologne Act. Chapter 13 claims to address coordinated control in Sections 13.4, 13.7.6.2, 13.7.12.1, and various Appendices containing modeling results. (Ch. 13, pp. 13-220 to 221.) But none of these sections actually analyze what water quality conditions could reasonably be achieved through coordinated action. Chapter 13 offers only the conclusory statement that “[w]ater quality conditions to protect fish and wildlife . . . could be reasonably achieved through establishment of flow requirements and requirements for the management of cold water storage and releases, or through a combination of flow commitments and non-flow habitat restoration actions. The water quality conditions that could be reasonably achieved through these flow and non-flow measures include increased flows, temperature improvements beneficial to salmonids, as well as increased area for spawning, instream rearing, and floodplain habitat for the benefit of native fish.” (Ch. 13, p. 13-221.) Might coordinated control reduce the volume of flow needed to achieve reasonable protection of fish and wildlife? Chapter 13 provides no answer,	

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		because it contains no analysis of what results could be achieved under the Regulatory Pathway through coordinated control of flow and non-flow measures. If it had, it might well show that the significantly increased flows required under the Regulatory Pathway are an inefficient and unreasonable way to achieve increased protection of fish populations, because better results at lower water supply costs can be achieved through a combination of efforts.	
1132	32	C. Chapter 13 Does Not Adequately Address the Likely Economic Consequences of the Regulatory Pathway / The Analysis of Economic Impacts Is Deficient The Porter-Cologne Act requires the State Water Board to consider economic impacts and considerations when setting water quality objectives. (Wat. Code, § 13241.) With the State Water Board's proposal to reduce CVP exports under the Regulatory Pathway, the analysis of economic impacts is vitally important. The California Central Valley, including the members and territories represented and served by the Water Authority and its Member Agencies, is heavily dependent on agriculture to fuel its local economies. In turn, these communities, which include some of the most economically disadvantaged counties in the state, are dependent upon a reliable supply of surface water from CVP allocations. As supported by economic research referred to below, continued degradation in surface water dependability and affordability—likely outcomes under the Regulatory Pathway—will continue to jeopardize some of California's poorest communities while placing increased pressure on the social safety net and infrastructure of the Central Valley. As stated below, the Draft Staff Report, including Chapter 13, fails to adequately consider the economic impacts under the Regulatory Pathway in several respects and therefore is inconsistent with the State Water Board's obligations under the Porter-Cologne Act. 1. The Analysis of Economic Impacts Fails to Consider Recent Economic Reporting/Studies	Through the economic analysis, the Staff Report adequately analyzes and discloses potential economic effects as required under the Porter-Cologne Water Quality Control Act. For information on the Porter-Cologne Water Quality Act, please see Common Response 1.2, Water Quality Control Planning Process. In addition, the Staff Report acknowledges that changes in agricultural production could result in additional regional economic effects that affect total industry output (sales), income, and employment that are evaluated using the IMPLAN Input-Output modeling system. These results are presented in Chapter 8, Economic Analysis and Other Considerations, and Appendix A4, Regional Economic Analysis Modeling Procedure. Please see Common Response 8.1, Economic Analysis and Other Considerations, for response to comments concerning the referenced reports (Shires 2022; Shires and Jendian 2025; Sunding and Roland-Holst 2020).

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		In the Water Authority’s previous comment letter regarding the Draft Staff Report, dated January 19, 2024, with respect to Section 7.4, the Water Authority requested the State Water Board to consider two specific studies. That comment is repeated here as follows: The Draft Staff Report should be updated to more fully evaluate and disclose economic (and related environmental) impacts of the proposed Plan amendments to export reductions. The Draft Staff Report should be updated to describe and include reference to the Shires study conducted for Westlands Water District (See https://www.ca.gov/wpcontent/uploads/2022/03/economic-impact-report-2022-update.pdf), which demonstrates that poverty rates are tied to water allocations, as well as the Sunding study conducted for the Water Blueprint for the San Joaquin Valley, which correlated water supply reductions to reduced economic output in various geographic regions of the San Joaquin Valley (see https://waterblueprintca.com/wpcontent/uploads/2021/09/Blueprint.EIA_PhaseOne.2.28-v41.pdf). In comparison to the proposed Plan amendments, the VA alternative would cause less harm to local economies and communities. Chapter 13 remains deficient in this regard, as neither the Shires nor Sunding studies are considered. Chapter 13 should be revised to consider and explain how the aforementioned Shires and Sunding studies inform the State Water Board’s analysis of economic impacts, including to what extent these studies indicate that the VA Pathway would cause less harm to local economies and disadvantaged communities as compared to the Regulatory Pathway. In addition to these two studies, the State Water Board should update the Draft Staff Report, including Chapter 13, to describe, consider, and include a reference to the very recent findings made by Michael A. Shires, PhD, and Matthew A. Jendian, PhD, in the November 2025 update to the aforementioned 2022 report by Shires. (Exhibit 1.) This report is the fourth installment in a continuing series evaluating how water availability—particularly CVP exports and the changing groundwater landscape under	

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		SGMA—affects regional economic conditions, including disadvantaged communities in the Central Valley. In this report, for example, Shires and Jendian find that “[r]educed water availability has led to a 24.7 percent decline in economic activity and a decrease of almost \$25 million in local government revenues since 2019.” (Exhibit 1, pp. iii, V, & 11.) The report also finds, among other things, that “[d]ecreased water availability has led to a loss of almost 7,500 jobs in two of the poorest counties [Fresno and Kings] in the state.” (Exhibit 1, pp. iii, vii, 12, & 25.) This figure, while staggering on its own, represents lost jobs only within the Westlands Water District service area, which is estimated to account for nearly one-fifth of the regional total. (Exhibit 1, p. 25.) The State Water Board cannot adequately meet its obligations under the Porter-Cologne Act without considering this timely study, including to what extent this study indicates that the VA Pathway would cause less harm to local economies and disadvantaged communities as compared to the Regulatory Pathway.	
1132	33	2. The Analysis of Economic Impacts Contains an Inadequate Evaluation of Increased Health Care Costs The State Water Board should quantify the impacts on health care costs as a result of reductions in water supply under the Regulatory Pathway, including the increased demands for health care when more dust is circulated by fallowed fields. The aforementioned 2025 study by Shires and Jendian, for example, illustrates the vital need for the State Water Board to seriously consider and quantify impacts to health care costs. In that study, Shires and Jendian identified increased incidence of Valley Fever (coccidioidomycosis) as a principal public-health consequence of reduced water availability in the Central Valley and specifically linked these health consequences to “increasing levels of dust exposed by less watering and farming.” (Exhibit 1, p. 30.) As reported by the CDC, 5 to 10 percent of people who become infected with Valley Fever will develop serious or long-term problems in their lungs, and about 1 percent will see the infection spread from their lungs to other parts of their body. For some, it is life-threatening. (Exhibit 1, p. 31.) As more lands are fallowed from diminished water supply, Shires and Jendian report that “these infection rates are expected to continue to	The Staff Report adequately evaluates the environmental impacts and economic effects of the Sacramento/Delta update to the Bay-Delta Plan, including impacts related to fugitive dust and Valley fever. Section 7.5, Air Quality, evaluates the potential for exposure to Valley fever as a result of changes in water supply. Section 7.5, Air Quality, discusses that fallowed land could result in exposed soils and windblown fugitive dust, which could increase the likelihood of exposure to naturally occurring asbestos and Valley fever. However, the analysis concludes that any potential for an increase in exposure to substantial pollutant concentrations would be minimal, and this impact would be less than significant. Changes to the Staff Report’s economic analysis to specifically account for Valley fever health care-related costs are not warranted. In addition, the argument that reduced water supply to Westlands Water District would result in less food to local residents is highly speculative and not supported by the information provided by Shires and Jendian (2025) or by the commenter. Many growers, both within and outside of the Westlands Water District service area, produce and sell fresh nuts, fruits, and vegetables that would continue to be available to

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		grow.” (Exhibit 1, p. 34.) Shires and Jendian also identify other effects caused by reductions in water supply that could lead to increased health care costs, such as less food (including healthy produce) and fewer hospitals. (Exhibit 1, p. 30.) Finally, the need for the State Water Board to consider and quantify these impacts is exacerbated by the fact that these impacts will be disproportionately experienced by California’s most disadvantaged communities, such as residents of Fresno and Kings Counties. Valley Fever, for example, is most common in populations that are most likely to be in contact with dust and soil, such as agricultural workers. (Exhibit 1, p. 33.) The State Water Board should therefore consider and quantify these impacts when analyzing the economic impacts under the Regulatory Pathway.	Fresno and Kings County residents and other populations following implementation of the Sacramento/Delta updates to the Bay-Delta Plan. In addition, the connection between reduced water supply, health care costs, and fewer hospitals is not clearly explained by the commenter or by Shires and Jendian (2025). Revisions to the Staff Report are not warranted.
1132	34	3. The Analysis of Economic Impacts Unrealistically Assumes that Groundwater Is Available as a Substitute Water Supply Chapter 13 of the Draft Staff Report expressly acknowledges that “increased groundwater as a substitute supply where available and not locally restricted” is expected “in response to reduced Sacramento/Delta supply” under the Regulatory Pathway. (Ch. 13, p. 13-368.) Chapter 13 also states the Regulatory Pathway may require water users to “switch[] to or increas[e] use of groundwater supplies” (Ch. 13, p. 13-335.) While the State Water Board expects increased groundwater extractions as a substitute water supply, the Draft Staff Report and Chapter 13 state that “SacWAM simulations assumed no change in groundwater pumping ...” (Ch. 13, p. 13-148.) The model’s assumption that there will be no change in groundwater pumping is contradictory to the reliance on increased pumping expected under the Regulatory Pathway. The State Water Board should clarify this contradiction. The Draft Staff Report and Chapter 13 also fail to consider the economic impacts associated with increased competition for well drilling and other aquifer recovery projects due to increased	The Staff Report’s analyses do not assume that water users would replace surface water supplies with increased groundwater as a substitute supply. Groundwater pumping in the SacWAM scenarios was constrained to be no greater than the corresponding monthly value of groundwater pumping from the baseline scenario. This assumption is intended to result in a maximal estimate of the total surface water supply reductions likely to result from the Sacramento/Delta updates to the Bay-Delta Plan. The analysis presented in Section 13.8.2, Agricultural Water Supply Economic Effects, summarizes SacWAM results for changes in Sacramento/Delta agricultural water supply under the starting point for the regulatory pathway and for the VA pathway and discusses the potential effects on agricultural production. The analysis of impacts to groundwater, impacts to agriculture, and agricultural economic effects considers two bookends related to reduced Sacramento/Delta surface water supplies: maximum replacement groundwater pumping, and no replacement groundwater pumping. Section 13.7.12.2, Groundwater, describes the potential impacts on groundwater that may result from changes in hydrology or changes in water supply under the revised proposed Plan amendments. As

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		groundwater reliance under the Regulatory Pathway. This was stated in the Water Authority's January 19, 2024 comments on the Draft Staff Report with respect to Section 8.8.3, and it is repeated here as follows: The project costs of groundwater banking as a replacement water source do not reflect the increased competition and associated increase in cost that would be anticipated from a reduction of surface supplies. The economic analysis in Chapter 8 should be revised to address likely increases in project costs of groundwater banking associated with increased competition for replacement water sources. Accordingly, the State Water Board should reconcile its expectation that reduced Sacramento/Delta supplies will be offset by increased substitute groundwater use despite SacWAM's assumption of no change in groundwater pumping. Further, the State Water Board should revise its analysis of economic impacts to account for the likely groundwater development and groundwater banking cost escalation from increased demand and competition.	discussed in Section 13.7.12.2, Groundwater, water users facing reduced surface water supplies may replace all, some, or none of the reduction with groundwater, depending upon a variety of economic or supply factors and regulatory constraints, including SGMA. While it would be highly speculative to predict specific responses by water users, Section 13.7.12.2, Groundwater, acknowledges that changes in water supply under the revised proposed Plan amendments could result in potential impacts on groundwater levels resulting from substitute groundwater pumping to replace Sacramento/Delta surface water supplies and from reduced incidental groundwater recharge that occurs as a byproduct of excess irrigation. The analysis in Section 13.8.2, Agricultural Water Supply Economic Effects, focuses on agricultural economic effects associated with reductions in Sacramento/Delta surface water supplies, and acknowledges that additional costs could be incurred from reduced groundwater supply to agriculture or to deepen groundwater wells as a response to possible groundwater level declines. The general costs for installing or implementing additional groundwater pumping are described in Section 8.3, Costs Associated with Other Water Management Actions, and are also summarized in Section 13.8.6.1, Costs Associated with Other Water Management Actions. Section 8.8, Costs Associated with New or Modified Facilities, in the 2023 draft Staff Report (Section 8.9, Costs Associated with New or Modified Facilities, in the final Staff Report) provides information regarding the costs to modify or build new or modified dams/reservoirs and points of diversion; groundwater wells and groundwater storage and recovery projects; and new or modified drinking water treatment plans, including desalination plants and wastewater treatment plants. With respect to the analysis of replacement water costs, Appendix D, Supplemental Municipal Supply Analysis Information, included consideration of water banking for municipal water providers that identified water banking as a specific viable source in their respective UWMPs. Costs identified in Chapter 8, Economic Analysis and Other Considerations, were based on literature estimates, as described in Section 8.8.3,

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			Groundwater Wells and Groundwater Storage and Recovery, in the 2023 draft Staff Report (Section 8.9.3, Groundwater Wells and Groundwater Storage and Recovery, in the final Staff Report) and within the Appendix D, Supplemental Municipal Supply Analysis Information, analysis. In addition, the commenter has provided no evidence for the assertion that surface water reductions from this project would result in increased groundwater banking cost. Please refer to Common Response 8.1, Economic Analysis and Other Considerations, for additional information on the analysis of municipal water supply economic effects including replacement water supply costs.
1132	35	4. The Analysis of Economic Impacts Fails to Adequately Consider the Costs Associated with Conservation Measures, Including for Municipal Providers Chapter 13 underestimates the financial impacts associated with water conservation measures, which is an issue the Water Authority raised in their January 19, 2024 comments on the Draft Staff Report with respect to Section 8.8.3. That comment was stated, and is repeated here, as follows: Regarding the “Lower Bound” (the minimum annual cost to municipalities to replace the service of reduced Sacramento/Delta supply), it is not reasonable to assume that “a reduction in municipal supply of up to 10 percent often would be managed through more intensive use of demand management measures.” (Draft Staff Report at p. 8-95.) The Draft Staff Report’s analysis assumes that “urban water conservation measures represent the first source of replacement water” and that these replacement sources come at “no economic cost to the municipal provider.” (Ibid.) The Draft Staff Report’s current analysis assumes urban agencies use these reserves first, before acquiring new supplies, however, water conservation measures – where feasible – cost money to develop. The existing analysis underestimates the financial impacts associated with water conservation measures, and the feasibility of achieving such large-scale conservation in all regions, and should be revised.	Please refer to comment letter 268 to review responses to San Luis & Delta-Mendota Water Authority’s comments on the 2023 draft Staff Report. The Staff Report uses a reasonable and conservative approach to evaluating the municipal water supply economic effects of the flow scenarios that is detailed in Section 8.5, Municipal Water Supply Economic Effects, and is summarized in Common Response 8.1, Economic Analysis and Other Considerations. The environmental and economic analyses presented in the Staff Report do not assume that municipal water suppliers will adopt any specific strategies in response to the Sacramento/Delta update to the Bay-Delta Plan. The analysis of municipal water supply economic effects identifies costs that are estimated as a range representing the extent to which municipal providers may rely on demand management measures and use reserve supplies, if available, versus the cost of acquiring additional water supplies to fully replace the reduction in the Sacramento/Delta water supply. A water provider’s actual cost most likely would fall between the lower and upper bound. The lower bound represents the minimum annual cost to municipalities to replace the service of reduced Sacramento/Delta supply. Urban water conservation measures are evaluated in the lower bound analysis for all regions as these measures were explicitly identified as future water portfolio

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		This issue persists with respect to Chapter 13 of the Draft Staff Report, which does not meaningfully quantify the costs of conservation measures that would be relied upon to manage or offset reduced Sacramento/Delta supplies. Instead, Chapter 13 states that the “actual costs for municipalities to replace reduced Sacramento/Delta surface water supply may differ” based on highly variable and speculative local conditions, and it treats conservation as one of several unspecified response options. (Ch. 13, p. 13-534.) Moreover, Chapter 13 provides that “[m]unicipal water conservation and efficiency measures are among the management actions all service providers could implement to meet current and future water needs,” but it fails to estimate or quantify the amount of conservation that would be reasonably achievable or required to make up for diminished surface supplies under the Regulatory Pathway. Finally, the analysis in Chapter 13 regarding impacts from energy requirements and use, which similarly assumes that vaguely-described water conservation measures and other management actions will be available to offset impacts under the Regulatory Pathway. (Ch. 13, p. 13-335.) In that section, Chapter 13 acknowledges that “[t]here is much uncertainty in the degree to which each approach would be used.” (Ch. 13, p. 13-337.) This underscores the speculative nature of the water conservation measures upon which the Regulatory Pathway relies and cannot provide the State Water Board or the public a reasoned understanding of the conservation costs associated with that approach.	strategies in various urban water management plans. The upper bound represents the maximum annual estimated cost for using reserve supplies to replace reduced Sacramento/Delta supply and the estimated cost for purchasing additional water supplies to completely replenish any reserves used to replace the reduced Sacramento/Delta supply, with no action to manage demand through demand management measures. Because upper bound assumes the purchasing of additional water supplies to completely replenish any reserves used to fully replace the reduced Sacramento/Delta supply, the upper bound estimate covers a scenario where water conservation is either not feasible or costs more than purchasing a replacement supply. For the energy evaluation of energy requirements associated with replacing reductions in water supply, multiple possible response actions were considered. Because water conservation can save energy (see Table 7.8-5, Existing Energy Costs for Pumping Sacramento/Delta Water Supply and Possible Response Actions), the evaluation focused on possible use of more energy intensive actions such as desalination, water transfers, and groundwater pumping. Because water conservation is one of multiple possible response actions, water conservation is not essential to the regulatory pathway.
1132	36	5. The Analysis of Economic Impacts Fails to Evaluate Economic Impacts to Agricultural Users Who Receive Water from the Pacheco Conduit The Draft Staff Report, including Chapter 13, fails to recognize that Santa Clara Valley Water District (Valley Water) provides surface water to agricultural users via the Pacheco Conduit. The economic analysis under the Regulatory Pathway, therefore, fails to consider the surface water supply provided by Valley Water. The Water Authority stated this in their January 19, 2024 comments on the Draft Staff Report with respect to Section 8.4.2.3, and it is repeated here as follows:	See response to comment 1132-37 for discussion on the study area geographic regions. For purposes of the Staff Report’s economic analysis, the CVP’s San Felipe Division, which is served by Pacheco Conduit, is included in the Central Coast region. Section 8.4.2.3, San Francisco Bay Area, Central Coast, and Southern California, estimates the effects on agricultural production that could result from reductions in Sacramento/Delta supply to these regions; the analysis in Section 8.4.2.3 specifically evaluates effects to the CVP’s San Felipe Division in the analysis of changes to the Central Coast. In addition, Section 13.8.2.3, San Francisco Bay Area, Central Coast, and Southern California, evaluates the agricultural economic

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		Pg. 8-63 of the Draft Staff Report states that: "Valley Water serves water to all of Santa Clara County, including agricultural lands [Citation]. However, most agricultural users in the county rely on groundwater." This statement should be revised to state that Valley Water also provides surface water for agricultural users through the Pacheco Conduit. The State Water Board should revise its economic analysis to account for the potential economic impacts to agricultural users within Valley Water's service area.	effects of reductions in Sacramento/Delta surface water supplies to agricultural users in these regions. Overall, the analysis of potential impacts to agriculture fully accounts for impacts to the CVP's San Felipe Division, including to Valley Water's service area.
1132	37	6. The Analysis of Economic Impacts Inaccurately Lists Santa Clara County within the Central Coast Region The Draft Staff Report, including Chapter 13, mischaracterizes Santa Clara County as being located in the Central Coast Region. The Water Authority stated this in their January 19, 2024 comments on the Draft Staff Report, with respect to Section 8.4, and it is repeated here as follows: The Draft Staff Report appears to split Santa Clara County into two different regions for purposes of evaluating impacts: San Francisco Bay Area and Central Coast. It appears that agricultural use in south Santa Clara County is included in the Central Coast Region, while Municipal and Industrial users are included in the SF Bay Area region. To the contrary, Santa Clara County is located in the San Francisco Bay Area and the analysis related to Santa Clara County should be organized within sections pertaining to the San Francisco Bay Area. The Draft Staff Report should correct its regional classification and evaluate all Santa Clara County impacts within the San Francisco Bay Area.	Staff Report Section 2.8, Existing Water Supply, discusses existing water supply and the water sources relied upon for agricultural, municipal, and wildlife refuge beneficial uses. As explained in Section 2.8, Existing Water Supply, the study area is divided into seven regions based on geography and water supply. The study area regions generally correspond to the hydrologic regions defined 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 the Staff Report, and the information presented in the Staff Report occasionally spans regional boundaries. In these cases, information generally is presented where it best aligns with geographic boundaries. Section 2.8.4, San Francisco Bay Area, explains that the Bay Area region includes San Francisco County and portions of Marin, Sonoma, Napa, Solano, San Mateo, Santa Clara, Contra Costa, and Alameda Counties. Section 2.8.6, Central Coast, explains that the Central Coast region includes all of Santa Cruz, Monterey, San Luis Obispo, and Santa Barbara Counties; most of San Benito County; and parts of San Mateo, Santa Clara, and Ventura Counties. Also see Figure 2.8-1a for a map of the study area geographic regions and county boundaries. Despite the difference in regional presentation, the Staff Report's analysis appropriately accounts for changes in Sacramento/Delta supplies. Splitting the county into two different regions does not change the Staff Report's conclusions, and the changes suggested by the commenter are not warranted.
1132	38	III. Adoption of the Regulatory Pathway Without Further Analysis of the Costs and Benefits Would Be Contrary to Article	Please see Common Response 1.2, Water Quality Control Planning Process, regarding Article X, Section 2 of the California

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		X, Section 2 of the California Constitution In Chapter 13, the State Water Board references Article X, section 2 of the California Constitution, but only as an additional source of authority for its regulation of others, and not as a constraint on its own actions. (Ch. 13, p. 13-219.) The State Water Board's actions are subject to Article X, section 2. (City and County of San Francisco v. Regents of University of California (2019) 7 Cal.5th 536, 558 ["the California Constitution is the paramount authority to which even sovereignty of the state and its agencies must yield."].) "[G]overnment actors are bound by the self executing proscriptions of article X, section 2, and therefore can be held accountable in court or before the proper administrative agencies if they use water in a wasteful and unreasonable manner." (Los Angeles Waterkeeper v. State Water Resources Control Board (2023) 92 Cal.App.5th 230, 272.) "As the Supreme Court recognized soon after Article X, Section 2 was added, the rule limiting water use to that reasonably necessary 'appl[ies] to the use of all water, under whatever right the use may be enjoyed.' The rule of reasonableness is now 'the overriding principle governing the use of water in California.'" (Light v. State Water Resources Control Board (2014) 226 Cal.App.4th 1463, 1479 [quoting (Peabody v. City of Vallejo (1935) 2 Cal.2d 351, 367-368 and People ex rel. State Water Resources Control Bd. v. Forni (1976) 54 Cal.App.3d 743, 750.].) "All uses of water, including public trust uses, must [] conform to the standard of reasonable use." (National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 443.) How much benefit a use provides also matters for reasonableness. That a particular use of water provides some benefit does not establish that it is necessarily reasonable. Claiming that any benefit from a use is enough to satisfy Article X, section 2 "ignores rather than observes the constitutional mandate." (Joslin v. Marin Municipal Water Dist. (1967) 67 Cal.2d 132, 143.) Finally, what constitutes reasonable use is case-specific. "California courts have never defined ... what constitutes an unreasonable use of water, perhaps because the reasonableness of any particular use depends largely on the circumstances." (Light, 226 Cal.App.4th at 1479.) Article X, section 2's requirements to consider the reasonableness of a use of water before requiring that use	Constitution and the Board's consideration of other beneficial uses of water. See also final Staff Report Section 13.7.8, Economic Analysis and Other Considerations, for a discussion of the State Water Board's consideration of economic costs.

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		through legal authority was confirmed in the recent decision <i>Bring Back the Kern v. City of Bakersfield</i> (2025) 110 Cal.App.5th 322, review granted July 16, 2025. In that case a trial court mistakenly concluded that it need not consider the application of Article X, section 2 before ordering additional flow be released from a dam on the Kern River for the intended benefit of fish below the dam pursuant to Fish and Game Code section 5937. The Court of Appeal held “because of section 2, no judicial adjudication of competing water uses is complete until the court assesses whether the use is beneficial and reasonable. Since the reasonable-use requirement applies to all uses of water in the state – including in-stream public trust uses like the one envisioned by section 5937 – the trial court’s approach of applying only the terms of section 5937 without giving direct effect to the reasonableness provisions of section 2 as to the ‘underlying, substantive issue’” of this case was error.” (<i>Bring Back the Kern</i>, 110 Cal.App.5th at 613-14.) Likewise here, before reallocating water pursuant to the Porter-Cologne Act the State Water Board must consider whether that use is beneficial and reasonable under Article X, section 2. The Water Authority explained in its January 19, 2024 comments that the Draft Staff Report lacked the information and analysis necessary to determine what benefits the Proposed Plan Amendments are expected to provide and at what cost to other beneficial uses. Chapter 13 does not cure that deficiency. Under the Regulatory Pathway in the Revised Amendments a large volume of additional water will be required to remain instream and become unavailable for other beneficial uses, despite great uncertainty regarding how they will be implemented, the extent of benefits therefrom, and inadequate analysis of the impacts to other beneficial uses. Adopting numeric flow-based objectives and deferring to later on how to make wise use of that volume of water is a “ready, fire, aim” approach. It is an unreasonable use of water and hence violates Article X, section 2 of the California Constitution.	
1132	39	IV. The Analysis in Chapter 13 Demonstrates the VA Pathway Is Superior to the Regulatory Pathway A. The Benefits of Commitments Under the HRL Agreements Are	All elements of the revised proposed Plan amendments and all alternatives presented in the Staff Report are analyzed as required by CEQA, Porter-Cologne, and all other applicable requirements. As described in Staff Report Section 13.7.1.3,

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		Understated Chapter 13, Section 13.7 confines its analysis largely to “(1) changes in hydrology, and (2) changes in water supply.” (Ch. 13, p. 13-216.) Defining the scope of analysis so minimizes other material ecosystem components, most notably, large-scale habitat restoration that are central to the HRL Agreements. Further, the analytical framework shapes and ultimately limits the comparative conclusions drawn between the VA Pathway and the Regulatory Pathway. 1. Chapter 13 Relies on a “Flow Centric” Approach to Evaluating Aquatic Ecosystem Recovery that Ignores the Importance of Habitat Restoration The Revised Amendments are premised on the hypothesis that increased instream flows are the driving force that will stabilize and recover native fish in the Delta. Consistent with that premise, the analysis of potential biological benefits to aquatic species in Chapter 13, particularly Sections 13.5 and 13.7.6.2, focuses on hydrologic changes and assumes a direct correlation between increased Delta and tributary flows and enhanced species benefits. This flow-centric framework fails to meaningfully evaluate how large-scale habitat restoration, when implemented in conjunction with targeted flows, may produce equal or greater ecological benefits. By narrowing the lens to flow alone, Chapter 13 understates the ecosystem benefits reasonably expected under the HRL Agreements. The HRL Agreements reflect a more holistic approach to ecosystem function, recognizing the interaction between physical quality and availability of habitat suitable for various species and life stages in combination with enhanced instream flows. This flow-centric approach is problematic for all native fish species, but is particularly inappropriate for salmon. The “4 Hs of salmon management” are a widely used and broadly accepted framework for salmon recovery. (see Gore and Doerr 2000). The 4 H’s acknowledge that four major, human-related factors (Habitat, Hatcheries, Hydro and Harvest) must be addressed in a	Impact Conclusions That Do Not Change Under the Revised Proposed Plan Amendments, habitat restoration is analyzed in Section 7.21, Habitat Restoration and Other Ecosystem Projects. The benefit analyses also evaluate the benefits of habitat restoration, for example in the tributary and estuarine habitat analyses. The 20,000 acre commitment mentioned by the commenter is discussed on page 13-207 of the 2025 partially recirculated draft Staff Report. The commenter misinterprets the discussion on page 13-317 of the 2025 partially recirculated draft Staff Report. That text describes how the regulatory pathway would be implemented in an integrated fashion with habitat restoration and other non-flow measures. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway, including non-flow measures. Also see Chapter 4, Other Aquatic Ecosystem Stressors, of the Staff Report for a discussion of non-flow stressors.

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		coordinated manner to achieve salmon recovery. These factors have cumulative and synergistic effects across the life cycle and therefore must be considered together (TRT 2003). The State Water Board's approach to achieving salmon viability solely through the manipulation of flow is without precedent in the world of salmon recovery planning. The Regulatory Pathway cannot possibly achieve the State Water Board's salmon objectives because it fails to acknowledge and address critical non-flow factors represented by the other three Hs. Physical habitat enhancement is an important commitment of the HRL Agreements. In contrast, Chapter 13 acknowledges that the State Water Board cannot commit to implementing physical habitat enhancement projects under the Regulatory Pathway. (Ch. 13, p. 13-317.) Instead, such actions would need to be voluntary, funded by EcoRestore or other similar programs, or required by another resource agency. (Id.) Furthermore, the modeling of potential benefits of the VA Pathway omits any evaluation of the 20,000 acres of Sacramento River Flood Habitat that will be implemented under the HRL Agreements. As a result, the comparison of expected biological benefits presented between the VA Pathway and Regulatory Pathway relies on a "flow centric" approach that is biased in favor of the 55 w/WSA scenario. (Ch. 13, p. 13-21, n. 4.) A fair comparison requires evaluation of the full suite of commitments under each pathway, not solely hydrologic differences.	
1132	40	2. Temperature Modeling Applies Carryover Storage to the 55 w/WSA Scenario but Does Not Apply Otherwise Applicable Temperature Management Requirements to the VA Pathway Chapter 13's analysis of the Regulatory Pathway incorporates new carryover storage requirements intended to benefit salmonids. Specifically, the 55 w/ WSA scenario includes carryover storage targets that are designed to increase end-of-April and end-of-September reservoir storage relative to the Proposed Plan Amendments. (Ch. 13, Appendix H1, pp. H1a-14 – H1a15 [discussing the "Reservoir Buffer Pool"].) The elevated storage assumptions directly influence modeled temperature outcomes by preserving a larger cold-water pool. (See Ch. 13, p. 285 [stating that evaluation of downstream temperature is	In SacWAM, the top of buffer parameters were adjusted in the 55 w/WSAs scenario based on comments and based on updated temperature thresholds presented in Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures. As discussed in Appendix A1, Sacramento Water Allocation Model Methods and Results, of the Staff Report, the carryover storage targets presented in Appendix A1c, Preliminary Assessment of Effect of Reservoir Storage on Reservoir Release Temperature, and Appendix H1a1 do not directly translate to the end-of-September buffer pool level in SacWAM because the water in the buffer pool can still be released based on downstream demand priorities. The 2024 National Marine Fisheries Service (NMFS) Biological

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		correlated with carryover storage].) In contrast, the modeling approach for evaluating the VA Pathway did not incorporate carryover storage requirements that apply under the Shasta Drought Year Operations that are included in the 2024 Record of Decision on Long Term Operations of the CVP and SWP ("ROD on LTO").[Footnote 10: The baseline assumptions for modeling both the Regulatory Pathway and VA Pathway do not include the current operations requirements from the 2024 ROD on LTO (Ch. 13, pp. 13-43 – 13-44), and the modeling of Shasta end of September storage under the VA Pathway is nearly identical to the baseline (Ch. 13, p. 13-140 [Figure 13.4-55]). As a result, even though Chapter 13 does not contain any detailed descriptions of the modeling assumptions that were used for reservoir carryover requirements under the VA Pathway, it is clear that no changes were made to address Shasta Drought Year Operations from the 2024 ROD on LTO.] No comparable refinements were applied to the VA Pathway to reflect these updated operational constraints. Instead, the reservoir modeling for the VA Pathway largely reflects status quo operations, including end-of-September drawdown conditions consistent with baseline assumptions. This modeling inconsistency materially affects the temperature results. The 55 w/WSA scenario indicates more favorable temperature conditions because it assumes enhanced carryover storage, while the VA Pathway reflects less favorable temperature outcomes because it was not modeled with the carryover storage requirements that would in fact apply under the 2024 Shasta Drought Year Operations. (Ch. 13, pp. 13-283 – 13-303.) By incorporating updated storage protections into the Regulatory Pathway modeling but not into the VA Pathway modeling, Chapter 13 presents an uneven and analytically inconsistent comparison of temperature effects.	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 PA. 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 (LTO) documentation. Chapter 13, Revised Proposed Plan Amendments, contains additional information on the 2025 Record of Decision (ROD) and the Drought Protection Program as referred to in other comments. The 2024 NMFS BiOp was not included in the modeling, because of the uncertainty associated with how the operational components of the LTO would change. Chapter 13, Revised Proposed Plan Amendments, contains a discussion on how the 2024 LTO and associated BiOp could affect the project. The Shasta Reservoir Bin system for temperature management nor the Drought Protection Program are not directly modeled in SacWAM also due to the uncertainties in their governance and implementation. While SacWAM does not implement the bin system, the reservoir operations logic achieves similar outcomes as anticipated in the Drought Protection Program through the use of reservoir buffers. Additionally, the carryover storage targets in the 2024 LTO and associated NMFS BiOp are not being operated as explicit thresholds or requirements that could drive temperature benefits in future years. 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.
1132	41	3. Including the I:E Ratio in the Baseline Significantly Skews the Modeling Results to Understate the Benefits of the VA Scenario The baseline condition that is used to compare the effects of the VA Pathway applies the San Joaquin River Import:Export Ratio ("I:E Ratio") to constrain exports (Ch. 13, pp. 13-43 – 13-44).	For responses to comments that raise issues with the project baseline, please see Common Response 6.2, Baseline and No Project Alternative.

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		The decision to include the I:E Ratio in the baseline significantly skews the modeling of the VA Pathway to understate the benefits of the additional flows and export cuts in the VA scenario. For example, the modeling of the VA Pathway shows increases to South of Delta Exports (Ch. 13, p. 13-106) and reductions to Delta Outflow (Ch. 13, p. 13-115), despite significant foregone exports by the CVP and SWP, because the baseline modeling results incorporate changes associated with the I:E ratio. Instead, because the 2024 ROD on LTO removed the I:E Ratio, the appropriate approach for the State Water Board to take was to use a baseline that did not include the I:E Ratio in the baseline to demonstrate the changes associated with the VA Pathway, which would have clearly demonstrated the flow benefits of the VA Pathway.	
1132	42	B. Multiple Lines of Analysis in Chapter 13 Demonstrate Fewer and Less Than Significant Impacts Under the VA Pathway Even with an analytical framework that understates habitat-based ecological benefits, Chapter 13 repeatedly concludes that the VA Pathway results in fewer significant impacts, less reliance on speculative mitigation, reduced risks to agriculture and municipal systems, and fewer unknowns overall. The record does not support elevating a more disruptive, mitigation-dependent Regulatory Pathway over a demonstrably more balanced, implementable, and environmentally comprehensive VA Pathway.[Footnote 11: Despite that the VA Pathway analysis in Chapter 13 is inconsistent with the HRL commitments proposed in the HRL Agreements, it is nonetheless a more reasoned option than the Regulatory Pathway.] 1. The Regulatory Pathway Relies on Uncertain and Unfunded Mitigation Measures Across multiple impact areas, Chapter 13 concludes that impacts under the Regulatory Pathway may be potentially significant, whereas impacts under the VA Pathway are less than significant or no impact as analyzed. (See, e.g., Ch. 13, pp. 13-253 [impacts due to reduced access to divert water for agricultural use], 13-260 [no impact under VA Pathway associated with increased inundation of the Yolo and Sutter Bypasses], 13-278 [effects to	CEQA is primarily a procedural statute, with the purposes of analyzing and disclosing a project's adverse environmental impacts, providing for public input into that analysis, finding ways to reduce that impact where feasible, and ensuring that decision makers are informed about and accountable for those consequences. (Cal. Code Regs., tit. 14, § 15002, subd. (a).) As demonstrated by the comment, the Staff Report has met these requirements and discloses sufficient information to compare the impacts of the VA pathway and the regulatory pathway. The results of such a comparison do not remove the State Water Board's discretion to adopt the revised proposed Plan amendments. See also Section 13.7.23, Ability to Achieve Project Purpose and Goals, of the Staff Report for a discussion of the regulatory pathway and VA pathway's abilities to achieve the project's purpose and goals. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the Staff Report's approach to mitigation measures that are in the responsibility and jurisdiction of other agencies.

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		sensitive riparian and wetland habitat and other natural communities where agricultural and municipal discharges incidentally supplement flow]; 13-317 [effect of reduced Sacramento-Delta supply to agricultural use], 13-319 [changes in wastewater treatment plant effluent discharge volumes and timing], 13- 328 [effect of changes in hydropower]; 13-368 [effects on flood risk]; 13-389 [no impact under VA Pathway regarding need for new water or wastewater treatment facilities]; 13-386 [no impact under VA Pathway to potential need to build new or expand boat ramps of docks].) To address these potentially significant impacts under the Regulatory Pathway, Chapter 13 identifies mitigation measures to reduce or avoid the impacts. (See e.g., Ch. 13, pp. 13-253 [mitigation measure to ensure effectiveness of diversion intakes], 13-278 [mitigation measures to reduce impacts to wetlands], 13-317 [mitigation measures to avoid or reduce impacts on aquatic species].) However, Chapter 13 provides no commitment by the State Water Board to fund the design, permitting, construction, or long-term operation and maintenance of these proposed mitigation measures. Nor do the Revised Amendments include any enforceable requirement that private parties or agencies implement them. Absent committed funding and enforceable implementation mechanisms, it is uncertain whether, when, or how these mitigation measures would be realized. Meanwhile, potentially significant adverse impacts under the Regulatory Pathway would begin immediately upon implementation, well before many mitigation measures could be completed. In contrast, Chapter 13 concludes that numerous impacts under the VA Pathway are less than significant for the term of the VAs. (Ch. 13, pp. 13-253, 13-317, 13-318,.) Even when modeled in combination with the Regulatory Pathway for non-HRL water rights, impacts remain similar to those under the VA Pathway alone. As a result, the data in Chapter 13 demonstrates that the VA Pathway is the more predictable and implementable alternative because it does not rely on uncertain and unfunded mitigation to avoid potentially significant impacts.	

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1132	42.1	2. The VA Pathway Results in Less Impact to Agriculture As discussed in Chapter 13, the overall reduction in agricultural water supply under the VA Pathway would be less than under the starting point for the Regulatory Pathway. (Ch. 13, p. 13-245.) Chapter 13 further concludes that changes in hydrology under the Revised Amendments could have effects that range from less than significant under the VA Pathway, to potentially significant impacts under the Regulatory Pathway due to reduced access to divert water for agricultural use. (Ch. 13, p. 13-253.) Similarly, changes in hydrology could have effects that range from less than significant under the VA Pathway, to potentially significant under the Regulatory Pathway associated with increased inundation of the Sutter and Yolo Bypasses that could affect agricultural production and land conversion. (Id.) The effects of changes in Sacramento/Delta water supply to wildlife refuges and agriculture on water quality in managed wetlands likewise range from less than significant under the VA Pathway to potentially significant under the Regulatory Pathway. (Ch. 13, p. 13- 276.) These conclusions reflect a consistent pattern throughout Chapter 13 where the Regulatory Pathway triggers potentially significant impacts to agricultural operations and associated land uses, and the VA Pathway results in less than significant effects while it is in effect. The potentially significant impacts are directly tied to the magnitude, rigidity, and duration of increased flow requirements, which reduce diversion reliability, increase inundation frequency, and constrain operational flexibility for agricultural producers and refuge managers. By contrast, the VA Pathway's flow regime and adaptive implementation structure moderate these effects. The HRL Agreements' framework integrates targeted flow actions with habitat restoration commitments and incorporates collaborative implementation mechanisms that reduce abrupt operational shifts. This results in lower reductions in agricultural supply, fewer exceedances of significance thresholds, and reduced risk of land conversion or long-term operational disruption. Taken together, Chapter 13 demonstrates that the VA Pathway better	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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		balances ecosystem restoration objectives with agricultural sustainability	
1132	43	3. The VA Pathway Avoids or Minimizes Impacts to Utilities and Municipal Service Systems Chapter 13 further demonstrates that the VA Pathway avoids a range of potentially significant impacts to utilities and service systems that may arise under the Regulatory Pathway. (a) No Potential Exceedances of Wastewater Treatment Requirements During the Term of the VA Pathway Implementation of the Regulatory Pathway could alter the chemical composition of the existing water supply, assimilative capacity of streams, or could encourage the use of other water supply sources, creating the potential for exceedances of discharge requirements. (Ch. 13, p. 13- 387.) Further, changes in water supply could result in the use of other lower quality water supply sources (e.g., groundwater) to replace reduced Sacramento/Delta supply that could affect the quality of wastewater treatment plant (“WWTP”) influent and effluent. (Id.) Additionally, reduced Sacramento/Delta supply to municipal use and increased indoor water conservation could lead to a decrease in the volume of wastewater and increase the concentrations of chemical constituents in WWTP influent. (Id.) Chapter 13 acknowledges these impacts may remain potentially significant unless Mitigation Measure MM-UT-a is fully implemented and proven effective. (Ch. 13, p. 13-387.) As discussed above, this reliance on uncertain mitigation underscores the inherent risks of the Regulatory Pathway. In contrast, no such exceedance risks are identified for the term of the VA Pathway. (b) No Demonstrated Need for New or Expanded Treatment Facilities Under the VA Pathway The Regulatory Pathway could require construction to modify or expand existing treatment facilities to prevent or mitigate exceedances of drinking water standards and wastewater	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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		discharge water quality objectives. (Ch. 13, p. 13-389.) Drinking water treatment plant operators are required to continue to comply with drinking water standards, including modifying operations if necessary, to ensure that the water supply continues to meet drinking water standards. In some vulnerable areas, modification or expansion of the drinking water treatment facility or consolidation of domestic well owners with municipal water suppliers could be needed or hastened. (Id.) Reliance on Mitigation Measure MM-UT-b does not eliminate this uncertainty, as impacts remain potentially significant unless and until mitigation is fully implemented and effective. (Ch. 13, p. 13-389.) No comparable facility expansion needs are identified under the VA Pathway. (c) Minimal or No Reduction in Municipal Water Supply Under the VA Pathway Changes in water supply under the Regulatory Pathway could result in reduced Sacramento/Delta supply to municipal use. (Ch. 13, p. 13-390.) Regions that receive relatively small volumes of Sacramento/Delta supply for municipal use, such as the Delta eastside tributaries, Delta, San Joaquin Valley, and Central Coast regions show volume reductions under the Regulatory Pathway. (Ch. 13, p. 13-391.) In the Bay Area and Southern California regions, reductions in municipal supply would be greater than in other regions. (Id.) Moreover, Chapter 13 acknowledges significant uncertainty: “Because local responses to the [Revised Amendments] are unknown, the specific magnitude and locations of potential impacts cannot be specifically determined. Projecting the specific ways that all municipal users may respond to reduced surface supply would require undue speculation. However, it is likely that at least some municipalities may need to obtain new water supplies.” (Ch. 13, p. 13-394.) Changes in flow requirements could result in reductions in municipal supply to all regions under the starting point for the Regulatory Pathway, and minimal or no impact under the VA Pathway.	

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1132	44	(d) Reduced Impacts to Groundwater-Dependent Communities Under the VA Pathway Implementation of the Regulatory Pathway would result in reduced groundwater levels, which could affect water supplies for communities that rely on groundwater as their primary municipal water source, including economically disadvantaged communities. (Ch. 13, p. 13-395.) Because flows under the VA Pathway would be lower than under the Regulatory Pathway, the magnitude of this impact would be less during the term of the VA Pathway. (Ch. 13, p. 13-396.) As a result, the VA Pathway, which avoids the larger surface water reductions driving potential groundwater substitution, would reduce impacts to groundwater-dependent communities as compared to the Regulatory Pathway.	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.
1132	45	A. The Abundance Indices for Native Estuarine Species Relies on the Mistaken Assumption that Increased Flow Translates Directly to Species Abundance Chapter 13, Section 13.5 evaluates the beneficial environmental effects of the Regulatory Pathway and VA Pathway. Figure 13.5-4 (Section 13.5.3.2) and Figure 13.5-8 (Section 13.5.3.2) show the potential percent increase in abundance indices relative to baseline for four estuarine species under the Regulatory Pathway and VA Pathway, respectively. Both the Regulatory Pathway and VA Pathway show increases in abundance for all four species as compared to baseline. In evaluating the impacts from increases in Delta outflow on estuarine species, Chapter 13, p. 13-311 states that “abundance indices of native estuarine species are expected to increase under the 55 w/WSAs scenario in all water year types; see Section 13.5.” Further, Chapter 13, p. 13-313 states “[t]hese results indicate that the regulatory pathway would provide benefits to native fish species through changes in the position of X2.” These findings are based on the underlying assumption that an increase in outflow will translate directly into an increase in	Please see Common Response 3.1, Fish Protection, on use of best available science. As described in Common Response 3.1, recent literature suggests that the correlation between longfin smelt abundance indices and Delta outflow remains positive. See Section 3.2.2, Freshwater Flow and Estuarine Resources, of the Staff Report for a discussion of the mechanisms behind the flow-abundance relationships. As described in Section 13.5.2.4, Flow-Abundance Analysis, abundance indices of native estuarine species (Figures 13.5-4 and 13.5-8, in Section 13.5 Beneficial Environmental Effects) were evaluated based on the 2017 Scientific Basis Report and the Final Draft Scientific Basis Report Supplement. The flow-abundance relationships are statistically significant for many native species in the estuary based on several decades of data. Recent deviation of abundance trends in estuarine species does not undermine the strength of the statistical flow-abundance relationship and could be attributed to changes in species distribution responding to some localized and temporary environmental conditions. The continued decline of longfin smelt during recent years and the correlation between spring (January-June) X2 and fall abundance of longfin smelt has been

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		species abundance. As documented in the Water Authority's January 19, 2024 comments, this seems to be contradicted by the fact that over the past decade or more there have been a number of wet years with increased Delta inflow and outflow, and yet there was no corresponding increase in species abundance. (See Water Authority's January 19, 2024 comments on the Draft Staff Report, at pp. 65-71 [summarizing the current scientific data on flow abundance correlations for estuarine species.]) The alternative hypotheses assert that there are other limiting factors that are currently controlling population dynamics such as changes in trophic food resources, predation and competition by non-native species, the role of contaminants, changes in ocean productivity, and others that are not addressed simply by an increase in inflow or outflow.	recently reiterated by Kimmerer and Gross (2022), that included fall abundance data until the year 2020.
1132	45.1	B. Chapter 13 Does Not Demonstrate that the Narrative Objective for Delta Outflow Would Result in Benefits for Native Fish Chapter 13, section 13.3.2.3 describes the narrative Delta outflow objective. (Ch. 13, p. 13- 13.) The objective identifies “the relative magnitude, duration, timing, quality and spatial extent of flows” as relevant conditions and measures. These descriptors are relevant for a riverine environment, but most are not applicable to the Delta at large (especially not to the Western Delta where Delta outflow is typically measured). Except under flood conditions, the magnitude, duration, timing and spatial extent of flows in the Delta are driven by tides, not by river inflows (see Bever et al. 2016 for figures depicting this). Outflow is an expression of tidally-averaged flows—where the much greater influence of tides on flows experienced by organisms is mathematically removed. Of course, tidally-averaged flows, turbidity and salinity can be influenced by inflows (and exports). While salinity and turbidity can be important for aquatic organisms, tidally-averaged flow is an analytically derived metric that is not directly observable and not perceived by aquatic organisms. In a fully tidal environment, tidally-averaged flows can affect the gradual advective movement of neutrally buoyant particles or of aquatic organisms that lack the ability to orient and control their position in the water column. If tidally-average flows were the primary driver of	Delta outflow, regardless of how it's being measured or reported, has been shown as an important flow parameter affecting the estuary's ecosystem conditions and native fish populations. Section 13.3.2.3, Delta Outflow, provides further elaboration on the use of “Delta Outflow” as “In recognition that outflows are largely a product of inflows and that inflows from tributaries are necessary to provide both the quantities of needed outflows as well as functioning migratory corridors, the proposed inflow-based Delta outflow objective would link the inflow and outflow objectives.” Delta outflows described in the Bay-Delta Plan Update should be interpreted to represent an integrated, system-level metric encompassing the effects of freshwater inflows, interior Delta flows, water exports, tidal fluxes, and net freshwater outflows from the Delta. Delta outflow reflects the cumulative and interacting influences of multiple hydrodynamic and operational components within the estuarine system. Delta outflows and the related salinity-based metric, X2 location, have been widely used to characterize the distribution and habitat use of many native estuarine species in the Bay-Delta system. Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report identified statistically significant flow-abundance relationships for estuarine species, indicating that population indices for several

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		where fish go, Delta Smelt (or other low-salinity zone dependent species) could not have evolved in our estuary – their larvae would be gradually and inexorably advected into saline waters of the Bay. This issue has been addressed at length previously, including in Delta Science Program review series (e.g., Monismith, et al. 2014). As a result of this improved understanding, fish simulation models no longer treat tidally-averaged flows (in the tidal environment) as the primary driver of fish movement and distribution. The narrative objective for Delta Outflow should be revised to only identify conditions and measures that change appreciably in response to managed inflows, exports, and where scientific evidence supports a meaningful influence of these conditions on the viability of native fish. If “tidally-averaged flows” will be used to determine suitability of water quality conditions for “natural production of viable native fish populations”, that should be clearly stated and justified	estuarine species are correlated with changing Delta outflow and environmental conditions. Estuarine species in the Bay-Delta system did not evolve in response to a calculated metric such as the tidally filtered Delta outflow or Delta outflow index. Rather, they evolved and adapted to the environmental conditions shaped by dynamically varying Delta outflow and associated hydrodynamics. Because Delta outflow and related metrics, such as X2, integrate these underlying physical processes, their use as management parameters is a logical and scientifically grounded approach. 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.
1132	45.2	C. Chapter 13 Does Not Demonstrate that the Narrative Objective for Interior Delta Flows Would Result in Benefits for Native Fish Chapter 13, section 13.3.2.4 describes the narrative interior Delta flow objective. (Ch. 13, pp. 13-13 – 13-14.) The objective identifies “the relative magnitude, duration, timing, quality and spatial extent of flows” as relevant conditions and measures. These descriptors are relevant for a riverine environment, but most are not applicable to most of the interior Delta. With the exception of Georgiana Slough (and points downstream of the Delta Cross Chanel when the gates are open), the interior Delta is fully tidal. The magnitude, duration, timing and spatial extent of flow in the tidal Delta (including the interior Delta and Western Delta) do not change appreciably with inflows (within the range of managed inflows considered in the WQCP). Exports can influence the duration and magnitude of tides, but biologically meaningful changes only occur in the South Delta. The Bureau of Reclamation provides a detailed analysis of this zone of influence in Attachment I.3 to its 2024 Draft Environmental Impact Statement on LTO for the CVP and SWP	The magnitude, duration, timing and spatial extent of flow in the interior Delta are affected by diversions, reservoir operations, and exports regulated by the Bay-Delta Plan. Further, other regions of the interior Delta, e.g., Central and South Delta, could exhibit “magnitude, duration, timing, quality and spatial extent” of flows with different quality at different times (especially important times of the year, e.g., winter-spring months) of the year. During these months, combined with certain water management actions, the system could become riverine as well. Please refer to the response to comment 1132-45.1. 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.

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		titled “Delta Export Zone of Influence Analysis.” (available at https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=54721) The narrative objective for Interior Delta Flows should be revised to only identify conditions and measures that change appreciably in response to managed inflows (and exports) and where scientific evidence supports a meaningful influence of these conditions on the viability of native fish. The narrative objective for Interior Delta Flows should be revised to only identify conditions and measures that change appreciably in response to managed inflows or exports. If “tidally-averaged flows” (or one of its surrogates, like OMR flow) will be used to determine suitability of water quality conditions for “natural production of viable native fish populations,” that should be clearly stated and justified.	
1132	46	D. Chapter 13 Includes Statements About OMR Flow Effects on Juvenile Salmonids that Are Inconsistent with the Best Available Scientific Information Chapter 13, p. 303 states that: “First, net reverse flows draw fish, especially the weaker swimming larval and juvenile forms, within the influence of reverse flow effects into the interior Delta where fish can be subject to direct entrainment at the SWP and CVP export facilities or indirect mortality from poor habitat conditions in the interior Delta....Third, net reverse flows result in a confusing environment for migrating juvenile salmonids leaving the San Joaquin River basin that can result in predation and other impacts that result in or contribute to mortality.” Additionally, Chapter. 13, p. 306 states that: “More negative OMR flows increase risks of outmigrating juvenile salmonids straying into the interior Delta where they experience poor habitat conditions, including higher predation, and are more likely to be entrained into the SWP and CVP pumping facilities. Net negative flows in the San Joaquin River at Jersey Point (QWEST) could also potentially decrease the survival of fall-run Chinook salmon smolts migrating through the lower San Joaquin River in April and May. Positive QWEST and OMR flows less negative than - 5,000 during April and May have been found to be more	The Staff Report and environmental analysis of effects are based on best available science. The impact and conclusion in Chapter 13, Revised Proposed Plan Amendments, is based on science documenting the effects of interior Delta flows on survival of native fish species. Please refer to Section 3.2.4, Interior Delta Flows and Entrainment, of the Staff Report for additional detail on the scientific information documenting the effects of OMR flows on juvenile survival of native fish species. Please also see Common Response 3.1, Fish Protection, on use of best available science and updates to the literature, the flow benefit analyses, flow effects on entrainment, and entrainment effects on juvenile salmon survival.

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		protective of Chinook salmon populations than more negative flows” These statements are expressions of hypotheses regarding how exports (represented by OMR flows) might influence juvenile salmonids in the Delta. Analyses and modeling based on intensive acoustic tagging studies (since 2007) have to-date provided no empirical evidence to support these assertions (or their underlying hypotheses). These findings are evident from reviews of acoustic tagging studies (STWG 2024 and SST 2017), and have been consistently affirmed by salmon survival modeling tools that have been developed from acoustic tagging data, including ePTM, ecoPTM, STARS and DPM models. While adverse effects of negative OMR flows on survival of juvenile salmonids are not in evidence, acoustic tagging studies of juvenile salmon originating from the San Joaquin basin have shown that export-induced salvage is a primary means for fish to survive to reach the Western Delta (see STWG 2024). When considerable, long-term effort has been invested in collecting empirical evidence on a subject (i.e. factors influencing survival and routing of juvenile salmonids in the Delta), it is inappropriate for the State Water Board to overlook the absence of affirmative results regarding exports/OMR effects from acoustic tagging studies, but then relying on acoustic tagging study result to affirm the positive influence of river inflows-- either both findings are valid, are neither are. The clearest example of this bias is provided at Chapter 13, pp. 196 where the State Water Board incorporated Hance et al. (2021) finding of positive Sacramento River inflow effect, while ignoring the absence of an adverse export effect that was also reported in the same paper. Chapter 13 should be revised to provide consistent and unbiased assessment of evidence related to export/OMR effects on juvenile salmonids in the Delta.	
1132	46.1	E. The Regulatory Pathway Would Result in Increased Exports During Winter and Spring, Which Could Result in New Impacts to Native Fish in the Delta The Regulatory Pathway would generally result in reduced	The Staff Report appropriately analyzes and discloses changes in hydrology under the regulatory pathway that could result in changes to interior Delta flows which could affect native fish species residing in or migrating through the Delta. Impacts analyses are presented for changes in flows during December

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		exports and Old and Middle River (“OMR”) reverse flows during the low-flow summer months (July-December) and greater Delta inflows, outflows, and export rates during the winter months (January-June). (Ch. 13, pp. 310-313.) However, the winter and spring months are the most biologically active time period for native fish in the Delta, including juvenile salmonid downstream migration and Delta and longfin smelt reproduction. Exports of an equivalent volume of water during the summer months, as compared to during winter-spring export operations, would be expected to have a lower risk of adverse impacts to native fish. The potential impacts associated with shifting export operations from summer to winter-spring is not evaluated in Chapter 13.	through June, which is considered the primary period of concern for interior Delta flow conditions most strongly impacting the abundance and survival of salmonids and native estuarine fish species. Section 13.7.6.2, Aquatic Biological Resources, describes that generally increased Delta outflow requirements under the inflow-based Delta outflow requirements of the regulatory pathway would result in decreased exports at the Project export facilities and associated decreases in negative OMR flows compared to conditions without the inflow-based Delta outflow requirements. The higher the Delta outflow requirements, the greater the effect. Accordingly, while the starting point for the regulatory pathway (55 w/WSAs) still has the effect of lowering negative OMR flows compared to conditions without that requirement, the effect is lower due to the water supply adjustments that reduce Delta outflow requirements and associated limitations on diversions, including Project exports. And while the inflow-based Delta outflow requirements help to reduce negative OMR flows, combined with the elimination of the I:E constraints on the CVP (due to changes in regulatory conditions affecting CVP exports), overall increases in negative OMR flows would be expected along with the possibility for impacts to native fish species, including both listed and non-listed species. Increased exports and net reverse flows are disclosed as having several negative ecological consequence such as: drawing fish, especially the weaker swimming larval and juvenile forms, within the influence of reverse flow effects into the interior Delta where fish can be subject to direct entrainment at the SWP and CVP export facilities or indirect mortality from poor habitat conditions in the interior Delta; reducing spawning and rearing habitat for native species like Delta smelt; causing a confusing environment for migrating juvenile salmonids leaving the San Joaquin River basin that can result in predation and other impacts that result in or contribute to mortality; and altering the natural water quality gradients that native fish species rely upon for homing and other functions by drawing Sacramento River water across and into the interior Delta instead of out to the Bay

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			and ocean (see Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations).
1132	46.2	F. The Analysis in Chapter 13 Should Be Supplemented by More Rigorous Scientific Analysis The data that is used to compare the Regulatory Pathway and VA Pathway are largely based on results of the Sacramento Water Allocation Model (“SacWAM”) while other similar assessments of benefits and impacts of proposed future operations (e.g., Biological Assessments for Central Valley Project Operations Criteria and Plan) utilize a variety of hydrologic and biological simulation modeling tools as the analytic foundation for effects analyses (CalSim, PTM, DSM, unTRIM, Anderson winter-run egg mortality, and Martin egg mortality model). The scientific standard applied to the analyses and modeling for other proposed water projects in the Delta should also apply to the effects analysis presented in Section 13.7.	Please see Common Response 3.1, Fish Protection, for discussion on the use of the best available science and the adequacy of modeling to support the benefit analysis.
1132	46.3	G. The Analysis of Estuarine Habitat Relies on Incorrect Information and Should Be Corrected The Estuarine Habitat Analysis used to determine habitat suitability for juvenile longfin smelt relies on information from the Final Draft Scientific Basis Report Supplement, which assumes salinities of <12ppt are required. (Ch. 13, p. 13-195.) This is incorrect. The United States Fish and Wildlife Service’s (“USFWS”) most recent Species Status Assessment for the San Francisco Bay-Delta Distinct Population Segment of the Longfin Smelt states that: Based on otter trawl survey data, juvenile longfin smelt rapidly adapt to and inhabit increased salinities because about half the juveniles captured by the larval net came from the salinity range 8 to 24 ppt (Baxter et al. 1999, pp. 189–190), well seaward of X2. This increase in salinity distribution represents both seasonal increases in upper estuary salinity as outflow declines and downstream movement of some individuals (Baxter et al. 1999, p. 191). By their first summer of life, juvenile longfin smelt inhabit salinities up to and including marine water (i.e., 32–33	As explained in Section 5.3, Bay-Delta Two-Dimensional Hydrodynamic Analysis, of the Scientific Basis Report Supplement (Appendix G2 to the Staff Report), longfin smelt juvenile habitat analyses used the larval salinity tolerance range of 0 to 12 ppt as documented by Grimaldo et al. (2017). This salinity tolerance is most relevant in the winter and spring when longfin are spawning, because juvenile longfin have a much wider salinity tolerance (Baxter 1999; Merz et al. 2013). Kimmerer et al. (2009, 2013) showed that larval and juvenile longfin smelt were predominantly associated with the low-salinity habitats and most abundant at salinity around 2 ppt, and abundance declined rapidly at higher salinities. See Common Response 3.1, Fish Protection, on use of best available science, data sources and flow benefit analyses.

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		psu; Baxter et al. 1999, p. 191; Rosenfield and Baxter 2007, p. 1590; Kimmerer et al. 2009, p. 385). (USFWS (2024) Species Status Assessment for the San Francisco Bay-Delta Distinct Population Segment of the Longfin Smelt, at p. 21 available at https://iris.fws.gov/APPS/ServCat/DownloadFile/253023.) The Esutarine Habitat Analysis for longfin smelt in Chapter 13, Section 13.5.2.2 should be revised to be consistent with current understanding of life-stage specific habitat requirements (rather than assuming Delta Smelt standards apply equally well to longfin smelt).	
1132	47	H. The Framework For Evaluating Favorable Changes in Simulated Temperature Increases Relies on Oversimplifications that Favor the Regulatory Pathway The criteria used in the analysis of “favorable” and “unfavorable” temperature effects on salmonids in Section 13.7.6.2 relies on problematic oversimplifications of suitable temperature ranges that should be corrected through a validation approach and the presentation of data in annual increments, as opposed to a time period average. The analysis of “favorable” and “unfavorable” temperature effects on salmonids is based on in simulated temperature shifts of >5% lower than the base and >0.5 F lower for a favorable outcome and >5% higher and >0.5F higher than baseline index values for an unfavorable effect. (Ch. 13, pp. 13-287 – 13-288.) This framework for evaluating water temperature effects on a fish is an oversimplification. For example, assume a simulated temperature for a winter-run egg is 52F and the baseline index is 55F, that outcome would be identified as a favorable result. In fact, both of these temperatures would be considered suitable for egg incubation and the lower simulated temperature would not be expected to provide biologically meaningful favorable benefits. To validate the results of the water temperature analyses, independent modeling could be completed using the analytic tools applied to Shasta Reservoir temperature-dependent	The fish temperature assessment methodology allows the same general approach to be used for many different fish life stages and locations, unlike the Anderson and Martin egg mortality model. Water temperature effects on fish were assessed using a suite of water temperature indices as described in Appendix H1b, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers, and Section 7.6.2, Aquatic Biological Resources. The indices included values for egg survival and all life stages of winter-run Chinook salmon. The 56°F for winter-run egg survival used in the NMFS Winter-run Chinook salmon Life Cycle Model and Interactive Object-Oriented Simulation (IOS) winter-run lifecycle model was also used in this analysis. In addition, the Anderson and Martin water temperature value for winter-run Chinook salmon of 53.5°F was also used. This evaluation approach is sufficient for evaluating temperature impacts. The fish temperature assessment methodology, which is described in Appendix H1b, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers, and other locations in the Staff Report, differs from what is described by the commenter. The analysis starts with daily average temperature results for the entire water temperature simulation period (water years 1924 - 2021), then determines on a daily basis whether temperatures are above or below the index values and by how much. The index values are an indicator of temperature suitability and are the same for baseline and all scenarios. Frequency and magnitude of

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		mortality for winter-run Chinook eggs by simulating operations over a 20-year or longer period under the Regulatory Pathway and VA Pathway and then applying the Anderson and Martin egg mortality models to estimate differences in egg mortality using the same assumptions, criteria, and modeling methods as those currently provided to the State Water Board for actual Shasta Reservoir cold water management. The evaluation metric would then be the difference in egg mortality each year during the 20 +year simulation, where results for each flow alternative are reported directly, not just as a relative change among alternatives. As the example above illustrates, reporting only differences in temperature among alternatives masks biological relevant information (e.g., temperatures colder than necessary, temperatures that are colder but still not cold enough for salmon viability). A similar validation approach could be applied to each of the four species of Chinook salmon and their life stages as in Table 13.7.6.2.3. (Ch. 13, pp. 13-231 – 13-292.) Results presented in the comparison of the two alternatives in Table 13.7.6.2.3 appear to be averages over a period of time used in the model simulation. The use of average values in the comparison, however, obscures the annual variance. A more robust and scientifically defensible approach would be to assess and report the performance metric separately for each year and for each flow alternative so that temperature performance can be compared directly rather than relatively. These comments apply to the entire discussion of temperature effects presented in Section 13.7.6.2.	exceedance is then calculated for each month-water year type combination. It is only after this point that the scenario exceedances are compared to baseline results. The result of the example provided by the commenter would be no effect of non-baseline scenario because neither exceeded 53.5°F, 56°F, or 55.4°F 7DADM, the three index values used for winter-run eggs. As described in Section 13.7.6.2, Aquatic Biological Resources, the results presented in the section are summarized as the percent of month-water year type combinations with “favorable” and “unfavorable” effects, with results combined by life stage if more than one temperature index was used for an individual species or Chinook salmon run life stage. More detailed results are presented in Appendix H1b, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers, which shows results by life-stage index value, location, month, and water year type. The results in Appendix H1b, not those in the summary tables in Section 13.7.6.2, were used in 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. Because the goal of the assessment is to consider possible temperature effects relative to baseline conditions, it is appropriate for the temperature criteria for indicating possible favorable/ unfavorable effects to be based on a comparison to baseline results.
1132	48	I. Chapter 13 Should Be Revised to Include Clarifications Regarding the Correlation Between Interior Delta Flows and Salmonid Survival Chapter 13, section 13.5.2.3 states, “Two studies demonstrated a positive statistical relationship between flows in the interior Delta and survival of late fall-run and winter-run outmigrating	The flow thresholds identified in the Staff Report are based on the best available science. Please see Common Response 3.1, Fish Protection, on use of best available science and process for updates to literature and listing statuses of species in Chapters 3 and 4, frequency of flows and flow thresholds. The two studies referenced in Section 13.5.2.3, Flow Threshold

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		Chinook salmon.” (Ch. 13, p. 13-196.) However, both of the studies that are described subsequently (Hance, et al. 2021, Michel, et al. 2021) are relevant to the riverine portions of the Sacramento River, not the “interior Delta”. In fact, survival of juvenile salmon has been analyzed for tidal portions of the Delta, and beneficial effects of inflow (and adverse impacts of exports) have largely been absent. (Hance, et al. 2021, STWG 2024). While these results are not relevant to a flow threshold analysis (which by definition only considers evidence that flows improve survival), these kinds of findings should have been acknowledged and addressed in Chapter 13.	Analysis, and referenced in the comment are Perry et al. (2018) and Hance et al. (2022). Although both studies used flows in the Sacramento River at Freeport to estimate the through-Delta survival of Chinook salmon juvenile, they also evaluated the survival rates along multiple routes through the Delta, including the interior Delta. These routes included, in addition to the mainstem Sacramento River, Sutter and Steamboat Sloughs, Georgiana Slough, Delta Cross Channel to Mokelumne River, and other Interior Delta channels (Perry et al. 2018, Figure 1; Hance et al. 2022, Figure 1). Further, they showed that survival probabilities in these routes increased approaching the maxima as the Sacramento River flow at Freeport increased toward about 35,000 cfs (Perry et al. 2018, Figure 6; Hance et al. 2022, Figure 5).
1132	48.1	J. Chapter 13 Should Be Revised to Include Clarifications Regarding the Analysis of Spawning and Rearing Habitat The Spawning Habitat and Rearing Habitat analyses described in Section 13.5.3.1 only consider physical habitat changes (e.g., flows and velocities). (Ch. 13, 13-198 – 13-201.) The Board’s analysis should acknowledge that a primary benefit of spawning and rearing habitat enhancement is ecological, not just a consequence of flow. Habitat improvements provide food and cover for juvenile salmon, which improve survival. Increasing flows alone (short of inundating floodplains) provides neither of these benefits. The State Water Board should acknowledge these deficiencies in their analytical approach.	The commenter does not provide a suggestion for incorporating their suggested benefits within the quantitative analytical framework used for the benefit analyses. The spawning and rearing habitat analyses do assume that the habitat provides suitable cover. Please see the Scientific Basis Report Supplement (Staff Report Appendix G2) for a thorough discussion of the benefits of habitat actions.
1132	48.2	K. Chapter 13 Should Be Revised to Clarify that the Best Available Science Determined that the Fall X2 Action Is Not Effective The impacts analysis in Chapter 13, Section 13.7.6.2 states “These results indicate that the regulatory pathway would provide benefits to native fish species through changes in the position of X2.” However, the USFWS concluded in its 2024 Biological Opinion for long-term operations of the Central Valley Project and State Water Project that “with the current available information,” Fall X2 action does not provide measurable benefits to Delta Smelt. (U.S. Fish and Wildlife Service 2024 Biological Opinion, Reinitiation of Consultation on the Coordinated Long-Term Operation of the Central Valley Project	The quote provided in the comment “These results indicate that the regulatory pathway would provide benefits to native fish species through changes in the position of X2,” is on page 13-313 in Section 13.7.6.2, Aquatic Biological Resources, of the Staff Report and the quote refers to the effects of the regulatory pathway on January – June Delta outflows and the position of spring X2 not fall Delta outflow and fall X2 as the comment asserts. Please refer to Section 13.7.6.2, Aquatic Biological Resources, for additional information. Please see Common Response 3.1, Fish Protection for a discussion of the benefits of fall Delta outflow for Delta smelt and temperature effects of Delta outflow and benefits for Delta smelt.

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		and State Water Project, November 8, 2024, at p. 191.) Furthermore, in December 2025, the California Department of Fish and Wildlife amended the Department of Water Resources' incidental take permit for the State Water Project to reflect USFWS' conclusion for a one-year period, subject to certain conditions. The discussion of potential benefits to native fish species from changes to X2 should take these conclusions from the USFWS' 2024 Biological Opinion, and the base available science supporting those conclusions, into consideration.	
1132	48.3	L. There Is No Clear Scientific Rationale for Shifting the Unimpaired Flow Requirement in 10% Increments, as Opposed to Other Increments The 55 w/WSA approach that under the Regulatory Pathway includes shifting the unimpaired flow requirement in 10% increments, but there is no explanation in Chapter 13 for why 10% increments were selected as compared to a different increment (e.g., 5%). If there is any scientific justification for selecting this increment, then it should be described in Chapter 13. Alternatively, if there is no scientific justification for selecting this increment, then that should be stated in Chapter 13.	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.
1132	49	M. The Modeling Appendices Provide Limited Information on the Formulation and Application of Reservoir Buffer Pool Requirements that Were Used to Simulate the Numeric Carryover Storage Requirements Under the Regulatory Pathway Appendix H1A includes a very cursory description of the "reservoir buffer values" that were used to model carryover requirements under the Regulatory Pathway. (Ch. 13, Appendix H1A, pp. H1a-14 – H1a-15.) However, this discussion does not provide sufficient detail to understand how these values were formulated or how they were used in the modeling. Without information on the modeling results for carryover storage compare to those evaluated in the Draft Staff Report, or other information about how often these requirements were met, the Commenting Parties cannot evaluate: (1) if the use of these buffer pools is reasonable to operate to; or, (2) if the assumptions are feasible given the various reservoir facilities involved.	General information on reservoir buffers in SacWAM can be found in in the SacWAM Documentation (available on the State Water Boards Bay-Delta webpage). Reservoir operational logic can be found in Table 6-5 of the SacWAM Documentation. Additionally, 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.

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1132	49.1	N. Chapter 13 Contains Several Erroneous References to the “Sacramento River Settlement Contractors” When it Intends to Refer to the “San Joaquin River Exchange Contractors In discussing potential modeling limitations regarding shortages to CVPIA wildlife refuges under the Regulatory Pathway, Chapter 13 makes several mistaken references to the “Sacramento River Settlement Contractors” when it intends to refer to the “San Joaquin River Exchange Contractors.” We suggest a correction to this language below, followed by a citation that indicates the pages in Chapter 13 on which these mistaken references are located. 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 Sacramento River Settlement Contractors San Joaquin River Exchange 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. (Ch. 13, pp. 13-156, 13-172, 13-264, 13-266, 13-267, 13-268, 13-276, 13-281, 13-540.)	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 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.
1133	1	Please find attached the Sierra Club's letter to BAWSCA re: demand projections. These same concerns hold true for SFPUC and other agencies that pull water from the Bay Delta. I'm concerned that most of the agency arguments about how much they need to pull from our rivers are based on misleading, bad projections.	To ensure that impacts are adequately disclosed, the Staff Report presents a conservative estimate of impacts on supply reductions. 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.
1134	1	SSWA appreciates the opportunity to provide comments to the State Water Resources Control Board (“State Water Board”) in response to the Revised Draft Sacramento/Delta Bay-Delta Plan Updates (“Revised Amendments”) and Chapter 13 of the Draft Staff Report in support of the Proposed Amendments (“Chapter 13”). Because SSWA relies exclusively on water supplies from the Putah South Canal (“Solano Project”) to provide service to the City’s 30,000 residents [Footnote 2: Added as comment 1.1], we	The State Water Board is not a signatory to the VA proposal nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. The regulatory pathway includes significant flexibility to enable the required flows to be adaptively implemented to meet the needs of individual tributaries. The water supply adjustments would apply, upon initial implementation, to reduce water

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		commend the State Water Board for evaluating a VA Pathway that will result in significant ecosystem benefits without imposing severe, unmitigated water supply impacts. And while we understand the narrative being advanced—that the HRL Agreements represent a comprehensive package of flow and habitat restoration projects that improve the Bay-Delta—this is simply not so in practice, only theory. SSWA urges the State Water Board to adopt the VA Pathway, with corrections that are identified below to better match the commitments outlined in the HRL Agreements. [Footnote 3: Section 2.2 of the 2022 Memorandum of Understanding Advancing the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and other Related Actions (“2022 MOU”) states that the Voluntary Agreements (“VAs”) will consist of the Global Agreement, the Implementing Agreements, and Government Code section 11415.60 Agreements. The March 29, 2024 draft “Global Agreement to the Healthy Rivers and Landscapes Program in the Bay-Delta” (“Global Agreement”) identifies a “Healthy Rivers and Landscapes Program” which includes the Global Agreement, Supported Amendments to the Bay-Delta Plan, Implementation Agreements, Enforcement Agreements, and a Strategic Plan. This package of agreements constitute the HRL Agreements referenced herein.] The VA Pathway remains far superior than the Regulatory Pathway, the latter of which has proven to be fraught with difficulties of analysis, uncertainty of outcomes, delays and enormous complications of implementation across a massive watershed with tributaries that have vastly different characteristics. The one-size-fits-all approach in the Regulatory Pathway – bypassing a percentage of unimpaired flow regardless of season – represents a radical and abrupt reversal of existing policy that has been shown to be completely unworkable on certain watersheds. The new Tributary-Specific Water Supply Adjustments (“WSAs”) recognize that “rainfall dominated and municipal supply dominated tributaries,” including the Putah Creek watershed, cannot be operated to comply with a 55% unimpaired flow requirement, however, this new approach (i.e., the revised unimpaired flow requirements under Tributary Specific WSAs) remains equally unworkable.	supply impacts, reservoir storage, and associated temperature impacts. They do not ‘recognize that “rainfall dominated and municipal supply dominated tributaries,” including the Putah Creek watershed, cannot be operated to comply with a 55% unimpaired flow requirement.’ Instead, they provide a tailored tributary-specific flow requirement as requested by the commenter. Please see Common Response 1.3, Revised Proposed Plan Amendments, for further information about the inflow requirements in the regulatory pathway, including adaptive implementation measures and the water supply adjustments.

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1134	1.1	[Footnote 1: The City and SID are also both member agencies of Solano County Water Agency ("SCWA") and SSWA joins in SCWA's comments on the Revised Amendments and Chapter 13. [Footnote 2: As SSWA's prior comments on the 2023 Draft Staff Report and the 2024 proposed Plan amendments make clear, the City's sole water domestic source is obtained through diversions from Putah Creek that are stored in Lake Berryessa and delivered via the Putah South Canal. SSWA does not have the funding, facilities, or infrastructure to convey or treat water under its entitlement from the North Bay Aqueduct and it does not pump groundwater or plan to do so in the future. (SSWA 2020 Urban Water Management Plan, at pp. 50-53.)]	In the SacWAM analysis, every attempt was made to adhere to existing rules and contracts. Modeling for the Staff Report portrayed Suisun City with no water deliveries from the North Bay Aqueduct, only the Putah South Canal. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for information on the application of the SacWAM.
1134	2	Independent evaluations of the modeling assumptions in Chapter 13 have revealed that the 55 w/ WSA scenario would result in zero water deliveries to SSWA in 10% of years under the low carryover storage limit and in 20% of years under the upper carryover storage requirement (see infra, Section IV). SSWA's prior comments on the Bay-Delta Plan Update (January 17, 2024 and January 10, 2025) both state that independent analysis indicate that there will be dire impacts that are not evaluated. Additionally, SSWA staff and the City's elected officials have attended workshops and met with State Water Board members in an attempt to have the potential impacts to SSWA and, in turn, the City's 30,000 residents understood and evaluated (see infra, Section II). Despite these significant outreach efforts regarding potential impacts to SSWA's water supply from the Solano Project, the Revised Amendments continue to ignore any analysis of the water supply impacts to SSWA. [Footnote 4: SSWA's January 19, 2024 Comment Letter (pg. 2) states: "Draft Staff Report Section 7.20, Table 7.20-16 evaluates water supply impacts to Bay Area municipalities that rely on water from the Sacramento/Delta, however, this table omits any reference to SSWA or the City. (Draft Staff Report, pg. 7.20-38.)] (Chapter 13, pgs. 13-390 – 13-395.)	The commenter did not provide any information on the independent modeling effort referenced in their comment letter, therefore it is not possible to evaluate that independent model's methods or assumptions. While analysis of water supply changes specific to Suisun-Solano Water Authority (SSWA) involve a higher level of granularity than the analysis contained in the Staff Report, SacWAM does include detailed operational logic of the Solano Project, and SacWAM results show that this comment exaggerates water supply impacts on SSWA. SacWAM results show that in no years would SSWA receive zero water deliveries from the Putah South Canal and that the largest annual reduction is less than 1.75 TAF in the 55 WSA scenario. Impacts to municipal water suppliers are described in Section 13.7.20, Utilities and Service Systems, in the 2025 partially recirculated draft Staff Report. 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, and for a discussion of changes in urban water supply associated with the baseline, 55 w/WSA, and 55 scenarios. In response to public comments received, including from SSWA, the inflow requirements contained in the revised proposed Plan amendments were modified to include water supply adjustments for existing water right holders at the outset of plan implementation to reduce water supply impacts and allow more

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			water to be stored in reservoirs. Please refer to Common Response 1.3, Revised Proposed Plan Amendments, regarding the revised proposed Plan amendments' inflow objective and its associated water supply adjustments, both watershed wide and in specific tributaries, including Putah Creek. For further discussion of public participation throughout this process, please refer to Chapter 12, Public Participation.
1134	3	As is discussed in detail below, the State Water Board cannot rely on the information and analysis in Chapter 13 to adopt the Regulatory Pathway because it cannot satisfy its legal requirements under the California Environmental Quality Act ("CEQA"), the Porter-Cologne Act, or Article X, Section 2 of the California Constitution. The failure to evaluate impacts to the water provider for a community of 30,000 residents (and growing) that relies exclusively on surface water is just one example of the many major omissions and technical problems in how the Regulatory Pathway was studied in Chapter 13 (and the Draft Staff Report before it). These omissions do not reflect of lack of effort; State Water Board staff have compiled a massive administrative record and have been working on the Bay-Delta Plan update for over a decade. Rather, the significant omissions and technical problems in the analysis of the Regulatory Pathway make clear that the Regulatory Pathway is incapable of being carried out as stated and its objective would be implemented with the wrong tool. The Porter-Cologne Act is explicitly intended to govern water quality, whereas defining a specific volume of water as a "constituent of water quality" and limiting diversions to maintain a specific instream flow requirement is an exercise of authority more akin to a comprehensive water rights adjudication. In summary, the State Water Board could spend another decade refining its analysis of the Regulatory Pathway and still fail to satisfy relevant legal requirements because the findings that it must make to exercise its basin planning authority are not suited to usher in an overhaul of the existing water rights system.	The final Staff Report and the analyses conducted within fulfill the requirements of the California Environmental Quality Act (CEQA), the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), and Article X, Section 2 of the California Constitution. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of analysis. See also Common Response 1.2, Water Quality Control Planning Process, for a discussion of the Board's authorities and obligations under the Porter-Cologne Act and Article X, Section 2 of the California Constitution. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1134	4	The VA Pathway is Environmentally Superior and Should Be Corrected to Match the Commitments in the HRL Agreements SSWA commends the State Water Board for including a VA	The Board is not a signatory to the VA proposal and is not bound by its terms. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities, including the authority to require non-flow

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		Pathway and a Narrative Viability Objective in the Revised Amendments. The VA Pathway described in the Revised Amendments continues to be superior to the Regulatory Pathway under all key metrics, including species benefits, impacts to water users, implementation timeline, and feasibility. The primary concern is that the VA Pathway described in the Revised Amendments still materially deviates from the “Supported Amendments” [Footnote 5: The Supported Amendments are further described in Section 5 of the Global Agreement, and proposed text to include in the Bay-Delta Plan is included in Exhibit A to the Global Agreement. The Supported Amendments include a new narrative water quality objective to be included in Table 3 of the Bay-Delta Plan and changes to the program of implementation in Chapter 4 of the Bay-Delta Plan.] in ways that will create significant challenges during implementation. The Revised Amendments are inconsistent with the 2022 MOU because they continue to include a premature termination mechanism and new requirements for review and approval by the Executive Director. Furthermore, the VA Pathway fails to incorporate the Science Plan, which sets forth a comprehensive and scientifically supported monitoring plan to evaluate success of the VA Pathway. As a result, the Revised Amendments materially deviate from the Supported Amendments and are inconsistent with the 2022 MOU. The clear intent of the parties to the HRL Agreements, including the signatory agencies of the State of California, is that any VA Pathway ultimately included as a component of the Bay-Delta Plan fully conforms to the HRL Agreements. This principle is consistent with the idea that the HRL Agreements advance a framework, by agreement of the parties, requiring flow and habitat actions that the State Water Board could not otherwise legally mandate in the context of the Bay-Delta Plan Update. As a corollary, it is evident that the State Water Board cannot now unilaterally change or condition the terms of a program it would not otherwise have legal authority to adopt on its own initiative. Therefore, the improvements should be made to the Revised Amendments to ensure consistency with the Supported Amendments in the HRL Program.	measures. 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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1134	5	II. Chapter 13 Does Not Evaluate Potential Impacts to SSWA from the Regulatory Pathway Despite SSWA's Repeated Requests for More Analysis in Workshops and Meeting with State Water Board Members The State Water Board is legally required to “consider the recommendations of affected state and local agencies” when developing the Bay-Delta Plan (Water Code section 13240), but failed to address repeated requests by SSWA to evaluate the impacts that the Regulatory Pathway would have on SSWA. In addition to SSWA's prior comment letter, SSWA staff and elected officials from the City have attended the following workshops and meetings with the State Water Board in an attempt to meaningfully consult with the State Water Board: 1. April 25, 2024 Workshop (Participants: Alma Hernandez (Mayor), Alex Rabidoux (SCWA Assistant GM), Cary Keaten (SSWA/SID GM)) 2. April 26, 2024 Workshop (Participants: Princess Washington (SSWA Vice Chair), Justin Cole (City of Vacaville), Michael Hether (City of Fairfield)) 3. November 22, 2024 Workshop (Participants: Princess Washington (SSWA Vice Chair), Cary Keaten (SSWA/SID GM)) 4. December 12, 2024 Workshop (Participants: Alma Hernandez (Mayor), Mitch Mashburn, Wanda Williams, Alex Rabidoux (SCWA Assistant GM)) 5. August 1, 2025 Meeting (Participants: Alma Hernandez (Mayor), Princess Washington (SSWA Vice Chair), Alex Rabidoux (SCWA Assistant GM), Cary Keaten (SSWA/SID GM), Water Board Chair Joaquin Esquivel, Vice Chair Dorene D'Adamo, Executive Director Eric Oppenheimer) At these meetings, SSWA and City representatives have made clear to the State Water Board that the Regulatory Pathway would have unstudied, significant impacts to SSWA's water supply and the State Water Board's failure to address these	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the Porter-Cologne Water Quality Control Act. Please also see final Staff Report Section 13.7.20, Utilities and Service Systems, for a discussion of the potential impacts on utilities and service systems that may result from changes in water supply under the revised proposed Plan amendments. See also Common Response 6.1, Sacramento Water Allocation Model and Changes in hydrology and Water Supply, for a discussion on the scope, scale, and application of SacWAM, and Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the approach to the analyses conducted in the Staff Report. The State Water Board has satisfied its obligation to consult with state and local agencies throughout the water quality control planning process, as required under Water Code Section 13240. See Staff Report Section 13.2, Planning Process, for a description of the thorough and lengthy process through which the State Water Board has developed the Sacramento/Delta update to the Bay-Delta Plan. This process has involved numerous workshops, working meetings, and opportunities for state and local agencies to provide feedback, informing revisions made to the Plan amendments and its supporting analysis, e.g., those related to inclusion of tributary-wide water supply adjustments for Putah Creek.

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		concerns through detailed analysis is a violation of Porter Cologne.	
1134	6	III. Chapter 13 Omits Information on the Potential Impacts that the Regulatory Pathway Will Have on SSWA and Prevents the State Water Board from Satisfying its Legal Obligations under CEQA, Porter Cologne, and Article X Section 2 A. SSWA Incorporates its Prior Arguments Regarding CEQA and Porter Cologne Because Chapter 13 Does Not Cured the Informational Deficiencies from the Draft Staff Report SSWA's January 17, 2024 and January 10, 2025 comment letters make clear that the State Water Board will not be able to make required findings under CEQA or Porter Cologne due to its failure to evaluate the water supply impacts that the Regulatory Pathway would have on the SSWA. Because Chapter 13 does not contain any analysis of the potential water supply impacts the Regulatory Pathway would have on the SSWA, we incorporate these arguments from SSWA's prior comment letters herein by refence. B. Chapter 13 Does Not Provide the State Water Board with Sufficient Information to Weigh the Costs and Benefits of the Regulatory Pathway, as Required by Article X, Section 2 of the California Constitution In Chapter 13, the State Water Board references Article X, section 2 of the California Constitution, but only as an additional source of authority for its regulation of others, and not as a constraint on its own actions. (Ch. 13, p. 13-219.) The State Water Board's actions are subject to Article X, section 2. (City and County of San Francisco v. Regents of University of California (2019) 7 Cal.5th 536, 558 ["the California Constitution is the paramount authority to which even sovereignty of the state and its agencies must yield."].) "[G]overnment actors are bound by the self executing proscriptions of article X, section 2, and therefore can be held accountable in court or before the proper administrative agencies if they use water in a wasteful and unreasonable manner." (Los Angeles Waterkeeper v. State Water Resources Control Board (2023) 92 Cal.App.5th 230, 272.)	The Staff Report and the analyses conducted within fulfill the requirements of the California Environmental Quality Act (CEQA), the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), and Article X, Section 2 of the California Constitution. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of analysis. See also Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's authorities and obligations under the Porter-Cologne Act and Article X, Section 2 of the California Constitution. Please also see Staff Report Section 13.7.6, Biological Resources, for a discussion of the anticipated biological outcomes. Please also see Staff Report Section 13.7.8, Economic Analysis and Other Considerations, and Common Response 1.2, Water Quality Control Planning Process, for a discussion of the Board's consideration of economic costs and its consideration of other beneficial uses of water. To the extent this comment summarizes or incorporates previously submitted comments, please see the substantive responses to those comments.

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		Article X, section 2's requirements to consider the reasonableness of a use of water before requiring that use through legal authority was confirmed in the recent decision <i>Bring Back the Kern v. City of Bakersfield</i> (2025) 110 Cal.App.5th 322, review granted July 16, 2025. In that case a trial court mistakenly concluded that it need not consider the application of Article X, section 2 before ordering additional flow be released from a dam on the Kern River for the intended benefit of fish below the dam pursuant to Fish and Game Code section 5937. The Court of Appeal held "because of section 2, no judicial adjudication of competing water uses is complete until the court assesses whether the use is beneficial and reasonable. Since the reasonable-use requirement applies to all uses of water in the state – including in-stream public trust uses like the one envisioned by section 5937 – the trial court's approach of applying only the terms of section 5937 without giving direct effect to the reasonableness provisions of section 2 as to the "underlying, substantive issue" of this case was error." (<i>Bring Back the Kern</i>, 110 Cal.App.5th at 613-14.) Likewise here, before reallocating water pursuant to the Porter-Cologne Act the State Water Board must consider whether that use is beneficial and reasonable under Article X, section 2. Chapter 13 lacks the information and analysis necessary to determine what benefits the Revised Amendments are expected to provide and at what cost to other beneficial uses. The Regulatory Pathway will impose significant water supply impacts on SSWA, however, Chapter 13 does not even mention impacts on SSWA, much less include information sufficient to weigh the costs and benefits of depriving SSWA of water supplies (see, <i>infra</i>, Section IV). (See <i>Bring Back the Kern</i>, 110 Cal.App.5th at 613-14.) If that information were included in Chapter 13, it would make clear that depriving SSWA with significant water supplies without clearly anticipated biological outcomes is an unreasonable use of water that violates Article X, section 2 of the California Constitution.	
1134	7	IV. Independent Analysis of the Regulatory Pathway Demonstrates that It Will Have A Significant Impact on Water Deliveries to SSWA	Please see the response to comment 1134-2 regarding the independent modeling of impacts to SSWA and the associated results.

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		Independent modeling analysis of the data contained in Chapter 13 was conducted by SSWA staff [Footnote 6: The data and methodology relied upon by SSWA staff to conduct its independent analysis is available upon request.] and indicates that, had Chapter 13 evaluated the water supply impacts associated with the 55 w/ WSA scenario on SSWA, it would identify major water supply impacts to SSWA. As noted previously, SSWA's sole supply comes from the Solano Project. Figure 1, below, separately evaluates water supply impacts of the 55 w/ WSA scenario under the "high" (700 TAF – 1 MAF) and "low" (500 TAF – 700 TAF) carryover storage requirement identified in Table 8 of the Revised Amendments. The first three columns indicate the percentage of years when SSWA would receive a 0% allocation, less than 50%, and less than 100%, and the final two columns provide numeric totals for the changes in deliveries for all of the Solano Project members in aggregate. Said percentage reductions are valid for each participatory member unit of Solano Project, which SSWA is a part. As Figure 1 makes clear, the Regulatory Pathway will reduce deliveries to SSWA to less than 50% of its contractual entitlement up to 40% of years and to 0% of its contractual entitlement in up to 20% of years. Unless the State Water Board revises Chapter 13 to include a detailed evaluation of these water supply impacts, then it will not be able to satisfy its obligations under CEQA and the Porter Cologne Act for the reasons set forth in in Section III.A, supra.	
1134	8	V. The Narrative Inflow Objective Should Not Replace the Putah Creek Accord Which Already Provides 55% Unimpaired Flow in Many Year Types The Putah Creek Accord, which was a legal settlement in 2000 between SCWA, the public, and NGO entities regarding instream flow in Putah Creek, is a great example of balancing the beneficial uses of water (environmental, agricultural, municipal, recreational) for Putah Creek. For the last 35 years (1990-2025), the Putah Creek Accord has implemented the flow regime developed by technical experts including Dr. Peter Moyle at the University of California, Davis and based upon Fish and Game	The State Water Board is not a party to the 2000 Putah Creek Accord and is not bound by its terms or any other third-party agreements. Any changes to third-party agreements as a result of the updated Bay-Delta Plan are speculative and not a reasonably foreseeable effect of this project. The State Water Board is considering the proposed Plan amendments pursuant to its independent obligation and responsibility to protect the quality of the waters of the state to protect beneficial uses. This process is separate and distinct from any other program, plan, project, or proceedings within the State Water Board's jurisdiction, or that of any other state, federal, or local agency. Please see Common Response 1.1, General Comments, regarding consistency with

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		Code 5937. SSWA is not aware of any post-Accord concerns or documentation from the California Department of Fish & Wildlife ("DFW") that additional changes are needed to the Putah Creek Accord. There is extensive scientific literature and reports that indicate long-term recovery and stability of native fish populations in Putah Creek Figure 2 is a summary of measured inflow and outflow volumes over the period under the current operational procedures of the Solano Project and the 2000 Accord [Footnote 7: The data and methodology relied upon by SSWA staff to prepare Figure 2 is available upon request.]. As Figure 2 demonstrates, the existing flow regime under the Putah Creek Accord already provides an average of 51% of unimpaired flow in lower Putah Creek (below the Solano Project diversion). This long term average of unimpaired flow that is already being achieved is significantly higher than the 35% seasonal unimpaired flow requirement (or lower) that would apply to the Putah Creek watershed under the Tributary-Specific WSA in Table 5 of the Revised Amendments. As a result, the Regulatory Pathway would result in reduced instream flows in Putah Creek, in some years, as compared to the existing flow requirements and would create unnecessary requirements in carryover storage and excess flows in years when storage in Lake Berryessa is paramount to preserve long-term reliability. There is no scientific evidence to support the imposition of the Regulatory Pathway on Putah Creek.	other laws, policies, and agreements. Please see Common Response 3.1, Fish Protection, for a discussion of the flow-benefit analyses. Evidence cited in Common Response 3.1 substantiates the text in Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report describing that non-native species continue to dominate the lower reaches of Putah Creek and that additional flow would be expected to provide benefits to native fish species. The table provided by SSWA (as Figure 2) contains inflow and outflow volumes in Putah Creek during the years of 2005-2023, showing the 51% of unimpaired flow provided to the lower Putah Creek on average during the 19-year period. However, the average value is skewed by four years with exceptionally high percentages ranging from 82% to 245%, while in many other years they were less than 25%. Further, Chapter 2 of the Staff Report, Hydrology and Water Supply, shows that unimpaired flows approach zero in Putah Creek under unimpaired conditions from July through October in about 30 percent of the years (Table 2.2-22). In more than half of the years, current conditions are less than 14 percent of unimpaired flows from January through June. In addition, the flow requirements in the Bay-Delta Plan are minimum requirements and the regulatory pathway inflow requirements would not require a reduction in inflow to meet the required percent of unimpaired flow. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on the regulatory pathway inflow requirements.
1134	9	The VA Pathway – with changes to avoid material deviations from the commitments identified in the HRL Agreements – is a far superior alternative to the Regulatory Pathway and SSWA urges the State Water Board to adopt it with those changes. As set forth above, the Regulatory Pathway is not a viable option for regulating water use in the Putah Creek Watershed and would interfere with the 35-year record of success observed from implementation of the Putah Creek Accord. SSWA staff and its legal counsel are available to expand upon our concerns identified above and urge the State Water Board not to impose the Regulatory Pathway, or any version thereof, on Putah Creek.	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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1135	1	Pacific Gas and Electric Company (PG&E) appreciates this opportunity to comment on the State Water Resources Control Board (SWRCB) Division of Water Rights' (Division's) December 2025 Draft Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Draft Bay-Delta Plan). PG&E would like to thank the Division for its continued efforts to protect all beneficial uses of water in the Bay-Delta watershed through these updates. PG&E operates hydroelectric generation projects on nine tributaries to the Bay-Delta Watershed, producing an average of 8,800 GWh of carbon-free hydroelectric power annually. These projects are comprised of 200 water rights (including appropriative licenses/permits and riparian and pre-1914 claims of right), 54 reservoirs, and 55 powerhouses. Since its release, PG&E has reviewed the Draft Bay-Delta Plan and continues to attend workshops hosted by the Division. The purpose of this comment letter is to identify questions and concerns on the Draft Bay-Delta Plan that need additional clarification to better understand the ultimate impacts to PG&E as a water user. The comments and questions within this letter are intended to be constructive and assist the Division in developing the best possible updates to the Bay-Delta Plan that will ultimately serve and protect all beneficial uses and users of water in the Bay-Delta Watershed. The sections below are organized by topic and offer PG&E's understanding of the Draft Bay-Delta Plan, followed by comments and/or clarifying questions. Watershed-wide Water Supply Adjustment Section 4.4.2.2 of the Draft Bay-Delta Plan outlines that for water rights obtained before adoption of the current version of the Bay-Delta Plan, Water Supply Adjustments (WSA) will apply, reducing the required unimpaired flow percentage below 55% depending upon hydrologic conditions. The four river index is identified as the hydrologic indicator for determining any reduction to required unimpaired flow. The four river index is the sum of the unimpaired runoff of the Sacramento River at Bend Bridge, the Feather River at Lake Oroville, the Yuba River at	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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		Smartsville, and the American River at Folsom Lake. Comments: PG&E would also ask the Division to consider whether it is appropriate to use a watershed-wide hydrologic indicator, such as the four river index, versus watershed-specific hydrologic indicators and adjust the required percentage of unimpaired flow on a sub watershed level. Water supply and hydrologic conditions can vary significantly between the Upper Sacramento River Watershed and the American River Watershed in the same year. Therefore, using a watershed-wide hydrologic indicator may place undue strain on water users in sub-watersheds not fortunate enough to have the hydrologic conditions dictating the percent of unimpaired flow for their region.	
1135	2	Compliance Points for Numeric Inflow Requirements Section 4.4.2.2 of the Draft Bay-Delta Plan identifies “Initial compliance points where the numeric inflow requirements apply (Table 6) include the confluence of the Sacramento/Delta tributaries with the Sacramento River; at the confluence with the Legal Delta for the Consumnes, Calaveras, and Mokelumne Rivers; on the mainstem of the Sacramento River at the confluence with the Delta; and, at upstream locations on the Sacramento/Delta tributaries at the confluence of every major fork, branch, and tributary of the tributaries subject to the inflow requirements unless determined through the implementation process that they are not needed or appropriate.” Comments: The language cited above, specifically the reference to the confluence of every major fork, branch, and tributary of the tributaries subject to the inflow requirement is overly vague. Accordingly, it is hard to understand to what extent the unimpaired inflow requirements may impact PG&E’s operations of its reservoirs under the Draft Bay-Delta Plan once implemented. PG&E requests that a list of specific locations, including existing or proposed gauging stations where	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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		compliance points are going to be established, be included in the Draft Bay-Delta Plan.	
1135	3	Releases from Storage to Meet Inflow Requirements Section 4.4.2.2 of the Draft Bay-Delta Plan reads “Water that would otherwise be available under the water right’s priority of right that is bypassed or released from storage to meet the inflow requirements is not abandoned and is not available for diversion downstream by other water right holders and claimants.” Comments: In addition to general concerns over the feasibility of protecting bypassed water from diversion by downstream water users, PG&E requests clarification on the inclusion of the language “released from storage” in the above-cited section of the Draft Bay-Delta Plan. Section 4.4.3 of the Draft-Bay Delta Plan identifies water right curtailments as the mechanism for implementing the proposed narrative inflow objectives. Accordingly, curtailments can only cease a water user from making further diversions of water, not force a water user to release previously stored water. PG&E therefore seeks clarification on the inclusion of protecting water that has been released from storage for the purpose of meeting inflow requirements.	The reference to stored water is included because water users could propose local cooperative solutions that include flow shaping provisions that involve storing water and releasing it on an adaptive schedule to benefit fish and wildlife. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on local cooperative solutions.
1135	4	Adaptive Implementation Under the Adaptive Implementation sub-heading of Section 4.4.2.2 the Draft Bay-Delta Plan reads “Any decision to approve or direct adaptive implementation must be informed by best available scientific information, including monitoring and evaluation of the effectiveness of the measures in meeting the narrative objectives, and biological goals (section 4.5.2) when available.” Comments: The narrative objectives of the updates to the Bay-Delta Plan and biological goals identified in section 4.5.2 are all applicable to	Reservoirs and other facilities upstream of rim dams can contribute instream flows that benefit fish and wildlife in upstream reaches and provide benefits downstream of the rim dams and as Delta outflows and for this reason the narrative objectives are applicable upstream of rim dams. In addition, the reference to biological goals includes the language “when available” and the revised proposed Plan amendments include a provision to expand the biological goals to additional species that could be applicable upstream of rim reservoirs.

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		reaches of the Bay-Delta watershed downstream of rim reservoirs. PG&E's reservoirs and hydro facilities are primarily located upstream of rim reservoirs and are effectively hydraulically disconnected from the Delta and cannot directly impact the biological goals outlined in section 4.5.2 nor the narrative inflow objectives. Therefore, it's unclear to PG&E how any proposed Adaptive Implementation measures will be evaluated by the Division.	
1135	5	Flow Shaping Within the Adaptive Implementation sub-section of Section 4.4.2.2 of the draft Bay-Delta Plan, Flow Shaping is identified as a mechanism of Adaptive Implementation. This mechanism provides water users the option to meet the unimpaired flow objective as a total volume of water on a seasonal basis. The section reads: "For each tributary, the numeric inflow requirements may be managed as a total volume of water on a water year basis and released on an adaptive schedule. Any shaping of the numeric inflow requirements must be for the benefit of native fish and wildlife, including for the purpose of providing: targeted pulse flows to cue migration, flows timed to respond to observed presence of native aquatic species, cold water releases to provide for temperature management, minimum flow levels to provide for fish passage, floodplain inundation flows to support juvenile salmonid rearing, and other functions. The total volume of water provided within a water year must be no lower than the volume of water that would be provided by tracking the applicable unimpaired flow percentage on a 7-day running average, including applicable WSAs. Comments: PG&E is a non-consumptive user of water for hydropower generation. In select systems, PG&E delivers water to a consumptive user following use for generation. In systems that do not have consumptive use associated, PG&E does not reduce the volume of water flowing to the Delta as a result of our operations. Therefore, these systems would seem to be	Water users may propose adaptive implementation measures through local cooperative solutions. Upstream water users could coordinate with downstream water users on flow shaping to provide benefits for fish and wildlife. The requirements and processes for local cooperative solutions are described in the revised proposed Plan amendments. 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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		candidates for Adaptive Implementation via Flow Shaping. However, these systems are typically buffered from anadromous reaches by rim reservoirs precluding any ability to utilize Flow Shaping for the purpose of providing the required benefits to native fish and wildlife. Therefore, it would seem that PG&E projects would generally be ineligible from utilizing flow shaping. PG&E proposes that, instead of benefit to native fish and wildlife being included as a required prerequisite to implement Flow Shaping, the requirement be reduced to not causing injury or harm to native fish and wildlife species. PG&E requests that further information be included on the process to implement Flow Shaping and other Adaptive Implementation measures. The Draft Bay-Delta Plan does not address how water users may progress under Adaptive Implementation, including requirements for petitions, providing lists of covered water rights or otherwise, and what approval process may be required. Therefore, additional information related to the implementation of Flow Shaping and Adaptive implementation is needed to provide water users with a better understanding of these alternatives.	
1135	6	Inter-Basin Diversions In all nine of the various tributaries that PG&E operates, inter-basin diversion of water exists to some extent. In some locations, it may only result in a minor change in the flow path, and in others it results in significant changes to the flow path of water. Some inter-basin diversions are made for the purpose of providing flow for anadromous fish while others are strictly for power generation or delivery to other water users. Comments: The Bay-Delta Plan does not address inter-basin diversion of water in any capacity. Inter-basin diversions for non-consumptive use reduce the flow of water in the origin stream and increase the flow of water in the terminal stream. In certain locations, these inter-basin diversions provide benefit to fish and wildlife species by supplementing the available flow and making it suitable for aquatic species when it otherwise would not be. Given the biological significance of inter-basin diversions for	All diversions will be curtailed in order of water right priority as determined by the implementation methodology. However, the revised proposed Plan amendments include the ability to develop local cooperative solutions for multiple tributaries, which should accommodate inter-basin transfers as long as the narrative objective is achieved on each individual tributary. 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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		stream systems like Butte Creek and Auburn Ravine, PG&E sees that it is appropriate to address inter-basin diversions in the Draft Bay-Delta Plan and how they will be treated relative to water right curtailments.	
1135	7	Analysis of Frequency and Extent of Curtailments Anticipated to Occur Under the Bay-Delta Plan After Implementation Section 4.4.3 of the Draft Bay-Delta Plan outlines the Divisions intent to develop a water unavailability methodology to advise implementation of water right curtailments to protect and achieve the narrative and numeric inflow objectives of the Bay-Delta Plan. Comments: PG&E requests that an analysis of the frequency and extent of curtailments anticipated to occur under the Bay-Delta Plan be performed and made publicly available prior to adoption by the SWRCB. The proposed use of curtailments may have significant impacts on water supply throughout the Sacramento River Watershed and Delta Eastside tributaries. An evaluation of how these curtailments would have been applied over a historic period would provide value to water users in planning for changes as a result of implementation of the updated Bay-Delta Plan.	As described within the revised proposed Plan amendments, the implementation methodology will be developed in a subsequent public 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.
1135	8	This letter is being provided in addition to our letters dated January 9, 2025 and January 18, 2024, (attached to this letter for ease of reference) in response to the release of the Division's October 2024 Draft Bay-Delta Plan and Draft Staff Report in Support of Sacramento/Delta Updates to the Bay-Delta Water Quality Control Plan. To date, PG&E has not seen or become aware of any responses to our previous comments or to the comments made by other water users and interested parties at that time. PG&E encourages the SWRCB to consider the significant impacts the Draft Bay-Delta Plan will have on the regulated community and continue to engage water users on mutually beneficial solutions. PG&E would welcome an opportunity to meet with Division Staff to better understand the Draft Bay-Delta Plan and	Responses to comments on the 2023 draft Staff Report are included in Volume 3 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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		further discuss our comments, as well as answer any questions staff may have. On behalf of PG&E, I would like to thank the SWRCB for the opportunity to provide the comments and questions contained in this letter and look forward to participating in the Bay-Delta Plan development process in the future.	
1136	1	My name is Joe Davis, Chairman of the Hoopa Valley Tribe (Tribe). I submit these comments on behalf of the Tribe regarding the revised draft Sacramento/Delta updates to the Bay-Delta Plan and associated staff reports. The Tribe has lived along and depended upon the Trinity River since time immemorial. The Trinity River is central to our culture, subsistence, economy, and spiritual practices. Any plan that affects Trinity River flows, water temperature, or reservoir operations directly affects the Tribe's survival and impacts our federally protected fishing and water rights. While the Tribe acknowledges the Board's recognition of Tribal Tradition and Culture (CUL) as a basin-wide beneficial use, the revised Bay-Delta Plan continues to fall far short of providing meaningful protection for Tribal beneficial uses or ensuring Tribal participation in decisions that will directly harm our River and our people.	Please see Common Response 1.5, Trinity River, for an expanded discussion of how the Sacramento/Delta updates to the Bay-Delta Plan relate to the Trinity River. New beneficial use designations, such as the designation of Tribal Tradition and Culture (CUL) as part of the Sacramento/Delta update to the Bay-Delta Plan, do not necessarily mean that additional water quality objectives, restrictions on waste discharges, or other new or different actions will be necessary. Tribal uses and activities encompassed within the CUL use may be directly supported by water quality objectives and control measures in place for previously designated beneficial uses such as Water Contact Recreation (REC-1) and Commercial and Sport Fishing (COMM). Although there are differences between recreational and commercial and sportfishing uses and tribal uses, a water quality objective designed for the protection of one beneficial use may be sufficiently protective of other beneficial uses. That said, there may be instances where REC-1, COMM and other beneficial uses may not be protective of tribal and cultural uses, or where REC-1 or COMM is not designated in a specific waterbody, resulting in the need to consider new water quality objectives or site-specific discharge requirements for the reasonable protection of CUL uses in the watershed. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses.
1136	2	Central Valley Project Improvement Act, Public Law 102-575 Title XXXIV (1992) The Hoopa Valley Tribe is the beneficiary of a specific and unique trust responsibility established by federal reclamation law in section 3406(b)(23). That statute mandated the restoration of the fishery resources of the Trinity River that the United States holds in trust for our tribe. Pursuant to that mandate our Tribe	Please refer to the response to comment 1136-1.

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		and the Secretary of the Interior developed and approved a plan to restore the Trinity River fish populations devastated by the construction and operation of the Trinity River Division. The plan followed Congress' mandate to restore the fishery to population levels that existed immediately prior to the contrition of the Trinity River Division. Public Law 98-546 (1984), as amended by Public Law 104-143 (1996). The Tribe and the Secretary signed the restoration agreement on sacred ground at Hoopa in December 2000. We consider it to be a modern treaty that must be accounted for by the State as it prepares its Bay-Delta Plan. In this regard, the federal law that authorized the Trinity River Division of the Central Valley Project established priorities for in-basin uses of water stored and developed by the Trinity River Division. In our view the Bay Delta Plan and associated staff reports do not protect and preserve our Tribe's rights under the Law of the Trinity River.	
1136	3	Voluntary Agreements and the Trinity River The Bay-Delta Plan's heavy reliance on Voluntary Agreements (VAs) is deeply concerning the Tribe. These agreements are non-binding, lack enforceable standards, and rely on outdated or unrealistic baselines rather than scientifically defensible model assumptions. The Plan provides no assurance that the VAs will protect Trinity River temperatures or cold-water storage necessary for salmon and associated aquatic resources survival. The Trinity River and Lower Klamath River are treated as sources of water for the VAs, yet the Plan fails to identify, analyze, or mitigate the impacts to these rivers. There are no enforceable remedies if adverse impacts occur. Annual reporting by the Bureau of Reclamation is not a substitute for regulatory protections, particularly when the Trinity River is already over-allocated and ecologically stressed. The Tribe is especially concerned that the Plan omits Tribal Tradition & Culture (CUL), Tribal Subsistence Fishing beneficial uses for the Trinity River, even though Trinity River water is relied upon to support Voluntary Agreements elsewhere. This omission directly undermines Tribal trust responsibilities and ignores the Tribe's cultural and subsistence dependence on Trinity River fisheries.	The revised proposed Plan amendments do not rely on any water from the Trinity River to implement either the VA or regulatory pathway. The Bay-Delta Plan is to be implemented by water right holders and diverters in the Bay-Delta watershed. As described in the revised proposed Plan amendments, the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right. Please see Common Response 1.5, Trinity River, for discussion on how additional evaluation and consideration of existing water quality problems on the Trinity River does not fit within the purposes and goals of the update to the Bay-Delta Plan.

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1136	4	Ongoing Federal Consultation and Uncertain Water Availability The Board's analysis and modeling assumptions are further undermined by the fact that the Trinity River Division of the Central Valley Project is currently under federal agency (BOR) reconsultation with the Hoopa Valley and Yurok Tribes as joint leads. The outcome of that consultation is uncertain and may result in operational or diversion requirements that differ significantly from current assumptions. Despite this uncertainty, the Bay-Delta Plan and associated modeling assume projected water availability from the Trinity River that may not be achievable once consultation is complete. The Plan does not explain how its flow assumptions will remain valid if consultation results in reduced exports, altered export timing, or other changes to Trinity Reservoir operations. Proceeding with a statewide water quality plan based on speculative and potentially inconsistent assumptions is unsound and risks further harm to the Trinity River and its fisheries.	Please refer to the response to comment 1136-3. Future changes to federal requirements on the Trinity River will not affect the assumptions and analysis in the Staff Report because the revised proposed Plan amendments do not rely on Trinity River diversions to implement the new requirements.
1136	5	Lack of Meaningful Tribal Engagement The Voluntary Agreement process has been exclusionary and inconsistent with the State Water Board's Racial Equity Resolution and Tribal trust responsibilities. Tribes, including the Hoopa Valley Tribe, have not been meaningfully included in VA negotiations that directly affect our waters. Decisions are being shaped through confidential negotiations among water users and agencies, while Tribes are left to comment after the fact. Listening sessions once per year, discretionary language such as "where appropriate," and future commitments to Tribal engagement do not constitute meaningful Tribal consultation. The Tribe has repeatedly raised concerns about temperature, and reservoir storage protections for the Trinity River, yet these concerns are not reflected in enforceable Plan requirements. The Board has an independent duty to protect Tribal beneficial uses, the public trust, and the State-designated Wild and Scenic	Please refer to the response to comment 1136-1. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for response to comments on tribal outreach and engagement, tribal comments on the VAs, and a discussion of the tribal outreach and engagement provisions within the revised proposed Plan amendments.

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		Trinity River. That duty cannot be delegated to Voluntary Agreements or deferred to future processes.	
1136	6	Conclusion Governor Newsome's Executive Order N-15-19 (June 18, 2019), "recognizes that the State historically sanctioned over a century of depredations and prejudicial policies against California Native Americans ... commends and honors California Native Americans for persisting, carrying on cultural and linguistic traditions, and stewarding and protecting this land that we now share ... and apologizes on behalf of the citizens of the State of California to all California Native Americans for the many instances of violence, maltreatment and neglect California inflicted on tribes. However, as currently proposed, the Bay-Delta Plan and Voluntary Agreements threaten to further deplete Trinity Reservoir Storage, degrade the ability to manage water temperatures released to the Trinity River, and undermine federally mandated Trinity River fishery restoration efforts. They rely on flawed modeling, uncertain assumptions, and processes that exclude Tribal governments from decisions affecting their homelands and rights. The Hoopa Valley Tribe urges the State Water Resources Control Board to reject the Voluntary Agreements as a component of the Bay-Delta Plan and instead adopt enforceable, science-based protections that ensure: • Adequate Trinity Reservoir storage and temperature protections • Explicit prohibition of redirected impacts to the Trinity River from Voluntary Agreements; • Full recognition and protection of Tribal beneficial uses; and • Meaningful, government-to-government Tribal consultation before decisions are finalized. The future of the Trinity River is inseparable from the future of the Hoopa Valley Tribe. The Board must ensure that its legacy is one of protection, restoration, and respect for Tribal rights - not	Please see the response to comment 1136-1. 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. Please see Staff Report Chapter 11, Tribal Engagement, Traditional Ecological Knowledge and Tribal Beneficial Uses, for a summary of outreach and engagement with tribes, and see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments on tribal outreach and engagement and a discussion of the tribal outreach and engagement provisions within the revised proposed Plan amendments.

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		further harm to a river and people who have already borne far too much.	
1137	1	I am speaking today to share my concerns about the proposed updates to the Bay-Delta Plan and Voluntary Agreements and how they are not backed by sound science and are harmful to Delta communities, Tribes, and environmental justice communities.	Please see Common Response 1.1, General Comments, for response to comments on the development of the VA pathway.
1137	2	As community members and panelists come together to oppose these harmful updates, I want to also highlight how disheartening it was to see the Board release these updates in December 2025, overlapping with the holidays. Impacted communities and environmental groups were forced to review more than 3,000 pages of highly technical documents under extremely limited time constraints, and when the same communities and groups that you all claim “have always had a seat or been invited to the table” requested additional time to review the updated plan, that request was quickly denied. Reviewing and understanding documents of this magnitude required significant time, expertise, and resources that many affected communities simply do not have. Not to mention the amount of time it takes to then share the updates with the general public. This process placed an unfair burden on communities that are already marginalized and under-resourced. Many of our members expressed their frustration with this unjust process, many frustrated with the limited time they were being allocated to respond to the documents. 33 business days for written comments and 3-minutes for verbal public comment was not enough. Alongside community members and Tribal partners, we continue to feel that California lacks a truly independent water regulator. Instead, we see a Board cut the public out of critical planning processes, while prioritizing special interest water districts over the people and ecosystems that depend on the Delta for survival.	The State Water Board received several requests to extend the public comment period and delay the associated public hearing on the December 2025 revised draft Sacramento/Delta updates to the Bay-Delta Plan and supporting Chapter 13, Revised Proposed Plan Amendments, of the draft Staff Report. The State Water Board had previously released a July 2025 revised draft Plan, and delayed the public comment period and hearing per the September 16, 2025 Rescinded Notice. The December 2025 revised draft Bay-Delta Plan was very similar to the July draft. In addition, Chapter 13 is largely consistent with analyses that have previously been provided to the public for review, including modeling results that were released in August 2025 and analyses included in the 2023 draft Staff Report. The State Water Board had also provided numerous opportunities through written public comment processes, public workshops and meetings, and other forums for public comment throughout the many year planning process for this update. The State Water Board provided a January 7, 2026 response to requests to extend the comment period and delay the hearing on the December 2025 revised draft Bay-Delta Plan and Chapter 13, Revised Proposed Plan Amendments, of the draft Staff Report. As described in the response letter, updating the Sacramento/Delta components of the Bay-Delta Plan is one of the State Water Board’s top priorities and the State Water Board has worked expeditiously to complete this update. Accordingly, while the Board is always interested in receiving productive public comments, the State Water Board was not prepared to further delay the process for receiving those comments by extending the December 2025 comment period or rescheduling the public hearing dates identified in the December 12, 2025 Notice. However, State Water Board staff are available to meet with interested parties to answer questions.

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			Please see Chapter 12, Public Participation, for a summary of public participation activities that have occurred for the Sacramento/Delta update to the Bay-Delta Plan. Please also see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses for information on tribal outreach and engagement.
1138	0.1	The City of Vallejo ("Vallejo" or "the City") Water Department respectfully submits these comments on the December 2025 update to the Water Quality Control Plan for the San Francisco Bay/ Sacramento-San Joaquin Delta Watershed ("Draft Plan"). Vallejo is a member agency of the Solano County Water Agency ("SCWA"), the Solano Water Authority ("SWA"), and the Lower Putah Creek Coordinating Committee ("LPCCC"). Vallejo is also a signatory to the SCWA regional comment letter and supports the regional issues and recommendations raised therein. These comments are intended to supplement the SCWA letter by highlighting Vallejo-specific municipal, equity, and implementation impacts that may affect our community. Vallejo provides municipal and domestic water service to approximately 140,000 customers, including roughly 46,000 residents in Disadvantaged Communities and 21,000 residents in Severely Disadvantaged Communities. As a Bay-Delta community, Vallejo shares the Board's commitment to the continued viability of environmental resources and recognizes the Board's intent to modernize the Bay-Delta regulatory framework after decades without comprehensive updates. Vallejo's comments are shared in support of implementation occurring in a manner that protects municipal and domestic beneficial uses and avoids foreseeable public health and equity impacts.	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.
1138	1	Vallejo Water Supply Context and Vulnerability The City relies entirely on surface water supplies, including the State Water Project, the Solano Project, and the City's water rights in the Cache Slough Complex ("CSC"), which pre-date the State Water Project. Vallejo does not have access to a meaningful local groundwater supply and therefore lacks a practical alternative source to absorb supply volatility or regulatory	The State Water Board is at the forefront of assisting economically disadvantaged communities (DACs) with obtaining clean, safe, and reliable water supplies. In doing so, the State Water Board is making its commitment to the human right to water through financial assistance, technical assistance, consolidations, and other means. The State Water Board is committed to providing technical assistance to agencies implementing water supply and water quality projects. Section

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		transitions. This reliance on surface water, combined with Vallejo's demographic profile and aging infrastructure, heightens the City's exposure to implementation uncertainty. For Vallejo, regulatory changes do not manifest as abstract planning challenges; they directly affect treatment plant operations, distribution system stability, fire flow reliability, and compliance with drinking water standards - all of which directly affect water service and the cost thereof. Implementation missteps would disproportionately impact our disadvantaged community that already faces economic and environmental burdens, with limited ability to absorb service disruptions or affordability shocks.	10.5.2, Technical Assistance, of the 2023 draft Staff Report discusses various technical and financial assistance programs available to public water systems serving public water systems serving DACs. 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. The program of implementation provides flexibility that help minimize water supply impacts. 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 information related to funding options available for municipal water providers, and for a discussion of the range of costs associated with alternative municipal water supplies and funding sources aimed at alleviating costs for municipalities.
1138	2	Healthy Rivers & Landscapes (HRL) Program Accessibility and Transition Risk Vallejo appreciates the incorporation of the Healthy Rivers & Landscapes ("HRL") program into the Bay-Delta Plan and recognizes the Board's continued support for voluntary, collaborative approaches. However, the City has concerns regarding the accessibility of entry into the HRL program for individual municipal agencies and the implications for suppliers and water right holders that may not be positioned to independently participate in these alternative implementation pathways. Because the Draft Plan contemplates parallel regulatory and voluntary pathways, clarity regarding entry, exit, and transition mechanisms is critical for municipal water planning. For surface-water-dependent agencies such as Vallejo, abrupt changes in pathway status could result in rapid shifts in regulatory obligations with limited notice. The absence of defined transition protocols creates uncertainty that cannot be reasonably	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on new HRL proposals and the process for continuation, modification, or termination of the VA pathway.

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		managed at the local level. This concern is particularly acute where municipal water rights are not eligible for HRL participation and would remain subject to the regulatory pathway.	
1138	3	Unimpaired Flow Applicability to Non-HRL Water Rights Vallejo notes that not all of the City's water rights are eligible for participation in the Healthy Rivers & Landscapes program. Vallejo's License 7848, which is diverted through the CSC and conveyed via the North Bay Aqueduct ("NBA") represents approximately half of the City's total water supply and is not included within the HRL framework. As a result, this water right would remain fully subject to the regulatory pathway, including the 55 percent unimpaired flow regime, regardless of Vallejo's participation in voluntary programs. The City's technical review indicates that the modeling supporting the Draft Plan does not clearly isolate License 7848 as a distinct municipal supply with unique operational constraints, nor does it adequately evaluate the system-wide implications of reductions affecting this right. For a fully surface-water-dependent municipal supplier, reductions to License 7848 could result in significant supply impacts, with direct consequences for treatment operations, distribution reliability, and public health protection. Absent clear coordination, transition protocols, and operational safeguards, this split treatment of Vallejo's water rights introduces substantial uncertainty and risk to the City's ability to provide safe and affordable drinking water.	Please see the response to comment 1138-2. Also see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of the analysis presented in the Staff Report and Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the SacWAM scope, scale, and application.
1138	4	Consultation and Record Completeness While the Draft Plan establishes a high-level framework, Vallejo also requests that the Board ensure robust and well-documented consultation with affected local agencies and water diverters as implementation details are developed. Municipal suppliers need clear engagement on how implementation will occur in practice, including pathway participation, transition procedures, and operational safeguards. Strengthening this consultation record is particularly important for surface-water-dependent systems that cannot self-mitigate abrupt regulatory or supply changes.	The State Water Board encourages interested parties to remain engaged in the process to implement the Bay-Delta Plan. The State Water Board will provide Plan implementation information through its Bay-Delta Plan email subscription list and will maintain its website with up-to-date information and contacts. 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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1138	5	Limitations of Supporting Modeling for Municipal Implementation Decisions To better understand potential implementation impacts to its water supplies, Vallejo retained a consulting firm to review the modeling supporting the Draft Plan, including the Sacramento Water Allocation Model ("SacWAM"). Vallejo recognizes that SacWAM is intended as a comparative planning tool rather than a precise predictor of individual agency outcomes. Nevertheless, based on this review, the City has significant concerns regarding the current limitations of the modeling as it relates to informing implementation decisions for surface-water-dependent municipal suppliers. First, modeling does not consistently represent contractual and water-right realities applicable to municipal systems. In several instances, entities are depicted as having access to supplies or contractual arrangements that do not reflect actual operational conditions, and distinct supply types with materially different constraints are combined for analytical purposes. For example, Travis Air Force Base ("AFB") receives water through a contractual arrangement between the AFB and the City of Vallejo, with diversions occurring under Vallejo's total authorized diversion. In the current modeling, changes to Travis AFB's State Water Project supply utilization appear to be treated independently, rather than as part of Vallejo's aggregate diversion and delivery obligations. As a result, modeled impacts to Travis AFB do not align with the operational reality that Vallejo's contractual delivery responsibilities would not change in the manner reflected by SacWAM. Second, key operational assumptions embedded in the modeling do not reflect how municipal water systems manage supplies in practice. These include assumptions regarding the prioritization of stored versus nonstored supplies and the treatment of annual supply volumes as uniformly available throughout the year, which obscures seasonal, conveyance, and regulatory constraints that are critical to operational reliability. For example, SacWAM does not model State Water Project Article 56 carryover water, which is a critical component of Vallejo's SWP supply portfolio. In addition, the model commingles Vallejo's SWP contract	SacWAM includes a detailed representation of diversions from the North Bay Aqueduct and Putah South Canal, which provides more than a sufficient level of accuracy in identifying changes in water supply that may occur due to implementation of the proposed Plan amendments given the scope and scale of the analysis. 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. See Section 8.35.1 of the SacWAM Documentation (available on the State Water Board's Bay-Delta webpage) for information about how water conveyances through the North Bay Aqueduct are represented in SacWAM. Article 56 is not included in SacWAM. Rather, the model assumes that contractors take Table A allocated water to meet their demand. If more Table A supplies are available than needed to meet demands, the water remains in storage and is available for allocation in the following year. This modeling assumption is valid for the scale of the analysis conducted in the Staff Report because Article 56 deliveries are relatively small and the water is still being delivered in subsequent years, though it is not labeled as Article 56 water. As discussed in Section 13.3.5, Implementation Methodology, of the Staff Report, the State Water Board will 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 informed by an implementation methodology. This methodology would be developed and improved upon through a public process involving additional technical analyses. In addition, the State Water Board would develop appropriate provisions to address human health and safety needs and other possible reasons for short- and long-term exceptions to curtailments.

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		supplies with water diverted under License 7848, despite the fact that these supplies are governed by different rules and operational criteria and are managed distinctly by the City. Finally, modeling relies on baseline conditions and future determinations that introduce compounding uncertainty. Simplification of legal and regulatory constraints, exclusion of climate change considerations, and reliance on unresolved implementation elements make it difficult to translate modeled outputs into actionable municipal planning insights. For example, SacWAM assigns priority of water use among Vallejo's supplies based on generalized assumptions that do not reflect actual operational practice. Under the model, Vallejo's supplies are prioritized in the following order: 1. Solano Project supplies 2. State Water Project supplies 3. Alternative water supplies However, this framework does not account for key elements of Vallejo's supply management, including: 1. State Water Project Article 56 carryover water, and 2. State Water Project Article 21 water available to Vallejo. In practice, Vallejo prioritizes and manages its water supplies using an internally developed Decision Support Matrix designed to maximize beneficial use, operational reliability, and regulatory compliance specific to Vallejo, an approach that is not reflected, nor accounted for, in the current modeling structure. Collectively, these characteristics do not negate the Board's broader policy objectives, but they do constrain the model's usefulness for evaluating near-term implementation impacts on municipal water systems serving disadvantaged communities. Vallejo is not requesting that adoption be delayed achieving modeling perfection; rather, the City requests that implementation decisions affecting municipal supplies be	

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		conditioned on transparent assumptions, consultative verification, and operational safeguards. Accordingly, while the modeling may be sufficient to support adoption of a high-level policy framework, it does not provide a reliable foundation for implementation decisions that could materially affect municipal water supply reliability without additional safeguards and consultation.	
1138	6	Lessons Learned from Drought Implementation Vallejo encourages the Board to consider recent experience during the 2021-2023 drought period as an important implementation precedent. During that period, North Bay Aqueduct users were asked to curtail water use on extremely short timelines, creating immediate operational and planning challenges. Rapid, unplanned changes in source water required utilities to reassess treatment operations, reconfigure supply management strategies, and evaluate distribution system constraints under compressed timeframes. For Vallejo, these conditions resulted in significant operational stress, increased coordination demands across multiple facilities and distribution systems, and heightened regulatory and compliance risk as the City worked to maintain continuous service while navigating overlapping water-rights and drinking-water requirements. While Bay-Delta Plan implementation differs fundamentally from emergency drought response, reliance on untested or emergency-based methodologies risks repeating known implementation challenges under a permanent regulatory framework.	The development of the implementation methodology would occur after adoption of the Plan amendments through a public process with opportunities for water users and other interested members of the public to provide input. 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.
1138	7	Municipal and Household Level Implications Because Vallejo is fully surface-water dependent and serves a substantial population of disadvantaged and severely disadvantaged communities, implementation uncertainty would most directly manifest as reduced available supply and increased operational and financial pressure, rather than immediate service failure. To maintain continuous service and system stability, Vallejo would likely be required to rely more heavily on constrained supplies, operate facilities less efficiently, and	Tables D-17 and D-19 in Appendix D, Supplemental Municipal Supply Analysis Information, of the Staff Report provide details of the analysis of municipal water economic effects that are summarized in Section 8.5, Municipal Water Supply Economic Effects, of the report. It includes consideration of the potential annual reductions in supply and annual costs for the City of Vallejo, represented as U_VLLJO_PU, to replace reduced surface water supply. 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.

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		absorb regulatory or compliance costs to avoid service interruptions. While Vallejo cannot yet quantify the full magnitude of individual impacts under each implementation scenario, the risk pathways are foreseeable based on system constraints and recent experience during the 2021-2023 drought curtailments. In response to potential supply diminishment, Vallejo has evaluated options for developing alternative diversion locations or reactivating existing facilities. Preliminary feasibility studies indicate that such measures could require capital investments on the order of \$60 million to \$100 million, with corresponding implications for rates and long-term affordability. Protecting municipal and domestic beneficial uses therefore requires not only maintaining water quality and reliability but also avoiding implementation outcomes that shift disproportionate financial and regulatory burdens onto municipal customers, particularly those least able to absorb them.	The program of implementation provides flexibilities that can help minimize water supply impacts. 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 information related to funding options available for municipal water providers, and for a discussion of the range of costs associated with alternative municipal water supplies and funding sources aimed at alleviating costs for municipalities.
1138	7.1	Economic Development and Community Services Implications In addition to household-level effects, sustained reductions in reliable municipal water supply have direct implications for economic development and essential community services. Municipal water availability is a foundational input for housing production, commercial investment, public facilities, and employment growth. Uncertainty regarding long-term supply reliability can constrain planned development, delay or downsize housing and infrastructure projects, and increase financing risk for both public and private investment. For communities such as Vallejo, where economic revitalization and housing production remain critical policy objectives, implementation outcomes that diminish available supply or introduce prolonged uncertainty may limit the City's ability to support responsible growth and economic opportunity.	As discussed in the 2023 draft Staff Report, activities that would have an impact on population and housing would be development or infrastructure projects that could induce substantial population growth in an area or activities that could result in displacement of substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere. Changes in hydrology and changes in water supply would not result in activities that would affect population and housing. In addition, 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 1.2, Water Quality Control Planning Process, for a discussion on the factors to be considered

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			in establishing water quality objectives, including municipal use and the need for developing housing.
1138	8	Requested Implementation Safeguards Consistent with the Board's intent to adopt an adaptive, modern regulatory framework, Vallejo respectfully requests that the Board direct staff to incorporate the following implementation safeguards: 1. Defined transition protocols governing movement between regulatory and voluntary pathways (including HRL participation), with reasonable notice, ramp-down protections, and clearly articulated criteria for modification or termination. 2. Explicit evaluation and mitigation of regulatory pathway impacts for water rights and diversions not included in the voluntary program participation, including unimpaired flow impacts to municipal supplies such as Vallejo's License 7848. 3. Structured consultation requirements with affected municipal agencies prior to implementation actions that could materially affect water-supply reliability or drinking-water protection. 4. Explicit recognition of surface-water-dependent municipal systems as a distinct class of water users with heightened exposure to implementation volatility. 5. Development, testing, and refinement of implementation and curtailment methodologies prior to their use as enforceable regulatory tools affecting municipal supplies. 6. A documented municipal implementation workplan, including timelines, engagement milestones, and coordination across relevant State Water Board divisions. 7. A standardized approach to evaluating municipal and customer-level public-health and affordability impacts prior to implementation actions that materially affect municipal supply reliability.	The provisions for continuation, modification, or termination of the VA pathway already identify procedures for the transition. The environmental impacts of the revised proposed Plan amendments, including the regulatory pathway, were evaluated in Staff Report Section 13.7, Environmental Analysis. The revised proposed Plan amendments include provisions for exceptions to curtailment for human health and safety and other possible reasons and for regular opportunities for municipal engagement through annual and periodic review and other public comment opportunities. 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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		These measures would not delay adoption of the Draft Plan but would materially reduce the risk of unintended consequences as the Plan moves into implementation.	
1138	9	Conclusion Vallejo supports the Board's effort to modernize the Bay-Delta regulatory framework and acknowledges the necessity of moving forward after decades without comprehensive updates. At the same time, adoption of an adaptive plan must be accompanied by implementation safeguards that protect municipal and domestic water supplies and the communities that depend on them. Vallejo appreciates the Board's consideration of these comments and looks forward to continued engagement as the Plan transitions from adoption to 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.
1139	1	A fundamental obligation of the State Water Resources Control Board (State Board) in adopting the Bay Delta Water Quality Control Plan (Plan) is to understand the impact of the Plan on the Public Interest and various beneficial uses of water. Section 1.3 of the Plan states the following: "One of the State Water Board's charges is to ensure that the State's waters are put to the best possible use, and that the public interest is served. In making decision, the State Water Board must keep three major goals in mind, to: develop water resources in an orderly manner; prevent the waste and unreasonable use of water; and protect the environment." (emphasis added). Similarly, Section 2.1 of the plan lists "Municipal and Domestic Supply (MUN)" as one of the beneficial uses "protected by this plan...." The public interest necessitates protecting municipal and domestic water supplies in the context of all other public interests and beneficial uses of water. As the Mayor for the City of Vacaville, I am greatly concerned about the impacts to my community from the Plan. The Plan's final outcomes could have lasting water supply and economic consequences. Vacaville supports a diverse community and an	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the consideration of beneficial uses. The economic and environmental analysis is provided in Chapter 7, Environmental Analysis, Chapter 8, Economic Analysis and Other Considerations, and Chapter 13, Revised Proposed Plan Amendments, of the Staff Report.

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		array of prominent businesses - both of which are critically important to the City's and greater Solano County's prosperity. The City's water supplies are a fundamental component of our community and any diminution in the reliability of our water supplies weakens our people and our industries. As such, the City is a strong supporter of the Healthy Rivers & Landscapes (HRL) program as the Solano Project program embraces the 25-year old Putah Creek Accord and ensures that we are balancing water supply, environmental flows, agriculture, and recreation. Moreover, the program provides clarity on the availability of Solano Project supplies for the City of Vacaville in the future. Similarly, the HRL program may help us better predict the reliability of our State Water Project supplies. In short, the HRL Program is the only logical pathway to protect these two sources of water that the City serves to our community. But other parts of the Plan, including implementation of the Unimpaired Inflow for some of Vacaville's water supplies that are outside the HRL program, would be economically crippling. Loss of water supplies would increase unemployment, weaken water-dependent businesses, increase poverty rates, and exacerbate the homelessness crisis. Loss of water supply reliability would likely lead to a building moratorium, eliminate new affordable housing, and create a business exodus from our community. None of these outcomes are tolerable.	
1139	2	I implore the State Board to thoughtfully consider the consequences to all public interests that would be impacted by the Plan's adoption. Vacaville's detailed review of the Plan, and all supporting materials, indicates that the State Board Members possess significant inaccurate information in deliberating on the Plan. As an elected official, I encourage the State Board Members to engage the staff and the public to ensure that the Plan is fair and just based upon all the information available. Thank you for encouraging Vacaville's engagement in the Bay-Delta Plan process.	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.
1140	1	(slide 1)The Dec. 2025 Bay-Delta Plan's stated goal is to help sustainably manage the region's freshwater resources for	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		'beneficial use' and protect the associated ecosystem and wildlife it supports. A significant number of elements of the current plan (esp. the "VAs") exhibit crucial flaws that must be remedied in order to realistically achieve this second goal.	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.
1140	2	(slides 2-4) The Current Delta Plan Fails to Account for the Expected Impact of Multiple Upcoming Projects PROJECT 1: The Delta Conveyance Project The Delta Conveyance Project is expected to draw up to 6,000 cubic feet of water per second from the Sacramento River. Diverting that much fresh water away from the Delta will have a massive negative impact, and risks Delta ecosystem recovery. It is important to note that similar projects have been repeatedly rejected by the majority of California voters whenever the issue appeared on a ballot, or died even before a vote due to massive public opposition. It is thus alarming that the Governor, working with powerful water districts and Big Agriculture, has completely cut voters... the taxpayers... out of any say in funding this project, though it is the TAXPAYERS who will in fact pay for it. PROJECT 2: The Sites Reservoir Project The Sites Reservoir project is expected to divert an additional 2,000 cubic feet of water per second from the Sacramento River. The combined impact of these two projects will dramatically decrease the amount of freshwater flowing into the delta, yet the State Water Resources Control Board literally prevents even any mention of these projects in Bay-Delta hearings, and pretends their silence means the projects are not worth consideration. The Delta Conveyance Project has been planned out in detail and geotechnical/engineering field work on it is in progress right now, while the Sites Reservoir Project has just recently (Jan. 27, 2026) been approved by the Federal Government. Would it not be prudent to include these two potential huge water diversions into a MODEL of Sacramento River inflows into	The Delta Conveyance Project and Sites Reservoir are discussed in Section 7.23.1.2, Cumulative Project List, and Section 13.7.21.1, Cumulative Impact Analysis, of the Staff Report and are identified in the cumulative impact analysis. Please refer to Common Response 1.3, Revised Proposed Plan Amendments, regarding comments on other water supply projects. Please also refer to Common Response 7.23, Cumulative Impact Analysis, for responses to comments related to the consideration and analysis of cumulative impacts associated with the Delta Conveyance Project and Sites Reservoir.

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		the Delta to examine the effects of the reduced Delta flows? The “flow modeling” in the Dec. 2025 Bay-Delta Plan for the Sacramento River contributions to the Delta would be inaccurate (at best) or irrelevant (at worst) if these “hypothetical” projects are built. The “facts” used to justify the Bay-Delta Plan (whether “VAs” are included or not) would no longer be true, and the Plan rendered invalid and once again open to litigation.	
1140	3	(slides 5-10) Why all this concern? The Delta is on the Brink. It is in ecological peril, and it’s not getting better. Evidence of ongoing ecological collapse. Log plots (as shown on the previous slide) can be visually deceiving. Here is the same data for Longfin smelt shown on an more intuitively understandable arithmetic scale plot. It more clearly shows the complete collapse of the population. It’s not just the Delta that is in peril. The rivers that feed into the Delta have suffered extensive water diversions and massive ecosystem decay as well. Historical records from the 1800s and early 1900s show salmon in great abundance in many tributaries of the Sacramento and San Joaquin Rivers. No more. And it’s not just fish that are threatened. So what can be done to reverse this ecosystem collapse? One important action cannot be overstated. Freshwater flows must be restored not just to protect salmon, but to stabilize and recover the entire ECOSYSTEM of interdependent species. Without restored flows, the continued decline of ecosystem health is predictable and its collapse inevitable.	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 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.
1140	4	(slides 11-12) The Current Delta Plan Will Result in Deadly Salinity Levels for Vulnerable Fish As fresh water is withdrawn from the Sacramento River (decreasing flow into the Delta), an advancing salinity front will encroach further into the Bay-Delta, which will have severe consequences for a wide variety of vulnerable aquatic life within it. Note how both the range and abundance of the smelt are reduced as the salt gradient steepens and drives deeper into the Delta. Delta inflows and outflows are important, and both should be specified to levels that together create an ecologically tolerable Bay-Delta salinity gradient more like that seen in 1983 (vs that seen in 2007). Under conditions of low flow through the Delta, Pesticides, Organophosphate, Fertilizer products and Toxic Metals will concentrate in the Bay-Delta.	Please see Staff Report Chapter 13, Revised Proposed Plan Amendments, Section 13.5, Beneficial Environmental Effects, for the expected benefits of the regulatory and VA pathways. Please see Chapter 4, Other Aquatic Ecosystem Stressors, for a discussion of contaminants, and salinity intrusion, which appears under the climate change section. Please see 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.

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1140	5	(slides 13-15) The Current Delta Plan Fails to Limit Agricultural Pollutants to Safe Levels Recent studies indicate we must do more to mandate upgrades to our water treatment plants and limits on the amount of fertilizers entering delta watersheds, or risk toxic algal blooms: Both nitrogen and phosphorous play critical roles in regulating plant and microbial growth in the Delta and Bay. If not limited, excess pollution can result in harmful algal blooms that are deadly to wildlife. These contaminants have consequences. Effects of Harmful Algal Blooms Harmful algal bloom (HABs) killed tens of thousands of fish in the SF Bay-Delta in August of 2022 alone. Experts blamed concentrations of nutrients (from wastewater and Ag runoff) and increased water temp. We need to decrease the nutrient loads and increase the freshwater imports to the Delta (and flow through the Bay) in order to limit the occurrence of HABs.	The Staff Report Section 13.3.9.2, Harmful Algal Blooms, describes HABs provisions of the revised proposed Plan amendments, including monitoring requirements to track status and trends and efforts to identify possible HAB management and mitigation measures. Please see Common Response 4.1, Harmful Algal Blooms, regarding water quality standards for cyanotoxins.
1140	6	(slides 16-20) The increasing export of water for delivery south of the Delta over the past 60 years has progressively robbed the Delta of this critical resource. The entire Delta ecosystem has undergone massive degradation as a consequence. So... the Delta needs more water. What inflow levels for rivers feeding into the Delta are needed for Delta recovery? The Sacramento River at Freeport a good place to examine inflows, since the Sacramento River is the major contributor of water flowing into the Delta. Note that the “Current Conditions” are those that have decimated the salmon populations and severely degraded the Bay-Delta ecosystem. “Current Conditions” thus are a very “low bar”. What % of unimpaired Sacramento River flow should be entering the Delta? Many flow estimates were developed and modeled. Those suggested by the State Water Resources Control Board’s own staff were in the range of 60%-75% unimpaired flow. Continued compromises brought the inflow recommendation down to 55% of unimpaired flow, with an “45-65%adaptive range”. There were no agreements that flow could ever be dropped below 45%. The environmental community thought that compromise might work. Then, in Dec. 2025, in a last minute “revision”, WSAs (Water Supply Adjustments) were introduced that permitted flows to be reduced FAR below the “45%” level. At that point became clear	Please see Staff Report Section 13.5, Beneficial Environmental Effects, for the expected benefits of the 55 w/WSAs scenario. Also see Common Response 1.1, General Comments, for information on the Delta Flow Criteria Report.

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		to the environmental community that the “55% of unimpaired flow with 45-65% adaptive range” concept was functionally gutted and abandoned. The “55% of unimpaired flow” condition is gutted. Flows can be reduced to 35% of unimpaired flow in the “driest 1/3rd of years.”	
1140	7	(slides 21-22) The “WSA’s” so compromise the Regulatory Pathway under the “55 w/WSAs Scenarios” that flows are reduced to “VA” levels. And even worse, as mentioned previously the new proposals allow flows to be reduced FAR below the 45% level... to 35%, 30% and even down to 0% to serve some tributaries and reservoirs. More consequences of the “Water Supply Adjustments” (WSA’s). So... when rivers are at their lowest and need water the MOST, they are denied ALL 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.
1140	8	(slide 23) Under the new Dec. 2025 Bay-Delta Plan, the “55% of unimpaired flow” and “45-65% adaptive range” have become only “suggestions” rather than an enforced range... a “bait and switch”... a sham.	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway inflow requirements and the implementation methodology. 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
1140	9	(slide 23) 6.0 mg/L dissolved oxygen? If so, state units here. What is the scientific rationale for setting this to 6.0? References?	The requirement of maintaining the dissolved oxygen higher than 6.0 mg/L for the San Joaquin River between Turner Cut and Stockton during September 1 through November 30 was established to facilitate the upstream migration of adult Chinook salmon and steelhead to the tributaries of the San Joaquin River (Newcomb et al. 2010).
1140	10	(slide 24) Back Room Bay-Delta Voluntary Agreement Scheme is Inequitable, Exclusionary, Inadequate and Lacks a Scientific Foundation	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.
1140	11	(slide 25) Other problems with the Dec. 2025 Bay-Delta Plan. The Sacramento River/Delta Tributary flows shown in Table 3 (below) are a small fraction (1/3rd to 10th) of the Ecological Flow Thresholds shown in Table 13.5-1 (at left). These values are specified (good), but where is it shown they will be adequate so support fish populations? That proof should	Please refer to Chapter 13, Revised Proposed Plan Amendments, Section 13.3.3, Regulatory Pathway, for a description of the narrative flow objectives and numeric flow requirements that define the regulatory pathway. Under the regulatory pathway, all water right holders in the watershed, except those with a de minimis effect on flows (i.e., diversions of 10 acre-feet per year [AF/yr] or less), other approved exceptions or those water rights

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		be included in the VA documents. MMA- Minimum Monthly Average. Neither DRA nor 7DRA are present in the Table of Abbreviations on pages vi and vii of the this July 2025 Bay Delta Plan Draft. My guess is that it is a 7 day average of flow rates, but I can't be sure. Flows proposed for the Delta are nowhere near the “Ecological Flow Thresholds” necessary to sustain fish populations. So what are the variables that will be used to monitor and maintain water quality? Salinity? Total dissolved solids? Cyanobacterial toxin levels? Pesticide and heavy metal levels? Phosphate and nitrate levels? Where is it shown that 4500 cfs of outflow is sufficient to maintain the Delta ecosystem and life within it? What proof for flows of 400 cfs or 3500 cfs or 3000 cfs (as listed below)? Note that essentially ALL the flows shown in Table 3 of the 2026 Bay-Delta Plan are well BELOW the “Ecological Flow Thresholds” shown in Table 13.5-1. The flows shown in Table 3 are INADEQUATE.	covered under the VA pathway, would be subject to the numeric inflow and inflow-based Delta outflow requirements. Section 13.3.4, Voluntary Agreement Pathway, for a description of the narrative objectives and numeric flow requirements that define the VA pathway. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a description of the HRL flow commitments in the VA pathway, which are intended to be additive to base flows which include numeric flow requirements in Revised Water Right Decision 1641 which are the same as the numeric flow requirements Table 3 of the Bay-Delta Plan (except for the LSJR flows), other regulatory requirements, and other non-regulatory flows that would be present absent the HRL flow commitments. Please see Common Response 1.1, General Comments, for information on the Delta Flow Criteria Report and Common Response 3.1, Fish Protection for more information on the species-specific flow thresholds and the additions to the thresholds table. MMA and #DRA, which would cover 7DRA (7-day running average) is listed in the Plan on page viii of acronym definitions. Net Delta Outflow Index would be described in both units for minimum monthly average and 7-day running average. There are different requirements in cubic feet per second based on the minimum monthly average or the 7-day average. The numeric flow values listed in Table 3 are not the same as the “Ecological Flow Thresholds” discussed in Chapter 13, Revised Proposed Plan Amendments, of the Staff Report, to help determine the benefits of each proposed pathway from increasing flow. Other values in the Table already have been established in the plan that cover other water quality concerns such as salinity or dissolved oxygen. In conjunction, the Regional Water Quality Boards have TMDLs they implement programs for to manage water quality. The Ecological flow thresholds listed in Table 13.5-1 (see Section 13.5.2.3, Flow Threshold Analysis) represent relatively flows that would enhance various ecological processes, including salmon migration and habitat expansion, to benefit the native aquatic species. However, due to the consideration of other beneficial uses in the watershed, they

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			might not always be achievable. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on the reasonable protection of fish and wildlife and consideration of beneficial uses.
1140	12	(slide 26) The “VAs” would substitute “habitat” for water in the rivers. While building “fish habitat” can be very beneficial, that will NEVER substitute for a flow of water high enough to support the ecosystem and the life with it. Water is the critical limiting resource here. That said, even their “habitat building” program shows design flaws. The question is, are the “non-flow, habitat restoration” measures well designed and implemented, effective, or even what is actually needed to restore ecosystem functionality? Water is the critical resource, but it is also the Type, Diversity, Abundance and Placement of vegetation that creates a functional and robust food web. The amount of acreage created is less important than the QUALITY of the acreage.	Please see Common Response 3.1, Fish Protection, for a discussion of habitat benefit analyses and use of best available science. Please see draft Staff Report Chapter 13, Revised Proposed Plan Amendments, Section 13.5, Beneficial Environmental Effects, for the expected benefits of the regulatory pathway (55 w/WSAs) and VA pathway. The HRL proposals are also committed to restoring different types of habitat as described in this section. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including monitoring for habitat restoration.
1140	13	(slides 27-28) It is also difficult to see how the VA/HRL parties would accurately assess flows throughout the watersheds. If government agencies like those above “have little data on how water is moving through our streams”, how could the VA/HRL parties know? The VA’s suggest that they will create “suitable habitat” for spawning salmon, but in order to create and maintain such habitat they will need to know the flow rates and stream levels on a continuous basis so that satisfactory river flow rates and levels can be maintained. This will be almost impossible if the watersheds are not adequately gaged. Unfortunately, they are not. As this DWR data indicates, the vast majority of streams and smaller tributary rivers in the watershed lack adequate gages. So when the VAs say they can accurately measure and monitor water use, it’s difficult to believe.	Flow accounting and habitat accounting provisions are included in Appendix B.1 and Appendix B.2, respectively, of the revised proposed Plan amendments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
1140	14	(slides 28-32) The other problem? Our “water diversion bookkeeping” stinks. Water diverters ARE supposed to be able to accurately measure and report the amount of water they divert. However, they don’t have to if they file an Alternative Compliance Plan (ACP). The “loophole”. So all these diverters filed an ACP. Note that most of the big diverters using the ACP are in 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. The Water Measurement Regulation (California Code of

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		Central Valley. So not only are many rivers and streams in the State not properly gauged, even water users diverting massive amounts of water don't have to accurately report how much they divert, since they can be granted APCs by the State Water Board. The Dec. 2025 Bay-Delta Plan the "VAs" would preserve this "status quo". But the problems don't end here either.	Regulations, title 23, division 3, chapter 2.8) requires all diverters with water rights to divert more than 10 acre-feet per year to accurately measure their diversions. Diverters who have more effective or efficient means of measuring their diversions than what is described elsewhere in the regulation and diverters who are otherwise unable to meet all requirements of the regulation may submit an alternative compliance plan proposing an alternative methodology for measuring their diversions. Diverters pursuing alternative compliance are generally not excused from measuring altogether, and they must fulfill requirements to the extent practicable. Additionally, the State Water Board does not grant alternative compliance plans; diverters submit their plans to the Board, and the Board may review, approve, reject, or require changes to submitted plans as appropriate.
1140	15	(slide 33) "Narrative" is "unit"? Salmon runs used to be measured in the millions. Why pick a time period spanning a massive decline as the "average production period"? Since they once numbered a million returning salmon per year, why not pick 50%.. or even only 25%... of that? At the very least, don't pick a period of massive decline. Of the data shown below, a better "production period" would be the 10 years from 1967 to 1977 (see bars above Fig. 3.4-3 and 3.4-6).	"Narrative" is used to indicate narrative water quality objectives. Please see Common Response 1.2, Water Quality Control Planning Process, regarding narrative and numeric water quality objectives. The time period of 1976-1991 was derived from the Central Valley Project Improvement Act.
1140	16	(slide 34) Note that the "VAs" still do not require adequate temperature controls on water released into the rivers used by migratory fish like salmon, steelhead, sturgeon etc, but such temperature control is critical for survivability and normal fish development.	The revised proposed Plan amendments would require the VA pathway to be implemented in a manner to improve temperatures to the extent possible and avoid redirected impacts to water temperatures. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.
1140	17	(slide 35) And who will PAY for this VA/HRL program? All the taxpayers of California will pay for the majority of it, and... supposedly... the Federal government. So much for "beneficiary pays". The VAs will govern flows and be in effect for 8 years, and only then will any "full accounting and evaluation" of the program take place. Note that the current Trump administration has not committed to providing the \$740 million in Federal funds, and likely will never do so. In addition to the many flaws inherent in the VAs, the multi-billion dollar indebtedness	The State Water Board is not providing compensation for the VA pathway. Concerns regarding compensation should be directed to the VA parties. If the VA flow, habitat, science, and other commitments are not provided, the Board could modify or terminate the VA pathway.

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		incurred by the State of California (ie. the taxpayers) for this program bypasses any vote by the people of California.	
1140	18	(slides 36-40) All the problems with the Dec. 2025 Bay-Delta Plan and the associated “VAs” (HRL requirements) just discussed are real and hugely important, but there remains another huge “water problem” that is never discussed... yet must be. Unquenchable and unsustainable WATER DEMAND. Fundamental Problem: Our “water allocations” are irrational and our “water demands” are unsustainable. WHY do we have this massive water demand? The damming and diversion of the rivers and the massive export of water from the Delta allowed the continual expansion of irrigated land in the Central Valley over the last century. The water demand is now unsustainable. The water demand by agriculture in the 1920’s is FAR less than that demand in the 2020’s. One example. A June 24, 2021 study by the Pacific Policy Institute ranked the 10 most water-demanding crops in California. Almonds and Pistachios ranked the SECOND highest at 4.49 acre feet of water per acre of crop. Yet the land area used to grow almonds and pistachios increased by 51% between 2010 to 2020 (from 267,000 acres to 403,000 acres), even as the threat of persistent drought across the State became more irrefutable. That water demand CANNOT be sustained, nor can it be permitted to continue. Despite the unsustainable water demand, nut orchards (which require water throughout the year) continued to expand, driven by their “high profitability”. Field crop lands dropped correspondingly.	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.
1140	19	(slides 41-42) Where will the majority of this Delta exported water go? The Central Valley south of the Delta. A large portion of the Central Valley is so arid it resembles a desert, with a precipitation profile similar to that of Death Valley. The demand for water to grow luxury crops in such an arid region of the state is not only illogical, it is unsustainable. Agriculture uses 70-80% of the water, but what is that water used for? High water-demand luxury crops are a huge part of that “water need”. All throughout the Central Valley, almonds, pistachios and walnuts take up at least 40% (often much more) of the planted area.	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.
1140	20	(slides 43-45) Water demand just for nuts in Kern County For 2023, a total of 370,430 acres was planted with almonds,	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

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		pistachios or walnuts (209,000 + 161,000 + 430), which equals 67.4% (370,430/549,638) of all bearing crop land in Kern County. If non-bearing land is included, for 2023 a total of 385,414 acres were planted with almonds, pistachios or walnuts (209,000 + 3,480 + 161,000 + 11,500 + 430 + 4) = 67.9 % of all crop land (bearing and non-bearing) in Kern County. Values for 2022 were essentially identical. For 2022, a total of 381,500 acres was planted with almonds, pistachios or walnuts (223,000 + 158,000 + 500) = 67.4% of all bearing crop land in Kern County. If non-bearing land is included, for 2022 at total of 395,364 acres were planted with almonds, pistachios or walnuts (223,000 + 4,050 + 158,000 + 9,700 + 500 + 114) = 67.7 % of all crop land (bearing and non-bearing) in Kern County. Why does this matter? Crops like nuts require a LOT of water. The water demand for those crops is massive and unsustainable. Estimates for the amount of water needed to grow nuts averages about 3.5 acre-ft of water per acre of nuts. Conservatively then, an acre of almonds, pistachios or walnuts, requires (on average) about 3.5 acre-ft of water. Kern County alone grew 370,480 acres of almonds, pistachios and walnuts in 2023, so their nut crop required 370,840 acres x 3.5 acre-ft of water/acre = 1,296,505 acre-feet of water. That's a LOT of water. That number sounds incomprehensible, so let's visualize it. All of San Francisco occupies 46.9 square miles, and since 1 sq. mi. = 640 acres, all of San Francisco occupies 46.9 x 640 = 30,016 acres. If we applied that 1,296,505 acre-ft of water to San Francisco... 1,296,505 acre-ft of water/30,016 acres = 43.19 ft of water. In other words, every acre of San Francisco... ALL of San Francisco... would be inundated under 43.19 feet of water. What about Sacramento? Sacramento covers 100.70 square miles, which equals 64,448 acres (100.7 sq. mi. x 640 acres/sq. mi.). If all the 1,296,505 acre-ft of water used just to grow nuts in Kern County was applied to Sacramento, all of Sacramento would be inundated under 20.11 feet of water (1,296,505 acre-ft of water/64,448 acres = 20.11 ft. of water). The amount of water used just to grow nuts in one single county in the Central Valley is ridiculously massive, and unsustainable.	raise specific economic effects of the project. See Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.

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		The “Voluntary Agreements”, even under the best of circumstances, would maintain the “status quo”... and the continued collapse of the Delta and the river ecosystems that support it. More realistically, they would allow even MORE water to be withheld from the Delta and even MORE water exported. The fragile riverine and Bay-Delta ecosystems can NOT sustain such exports. The “VAs” MUST be rejected.	
1140	21	(slide 46) Alternative, sustainable solutions are possible. The overwhelming majority of scientific studies examining the Bay-Delta agree that continued large diversions of water from the Sacramento River and Bay-Delta are not sustainable. This means that if we want to responsibly maintain our natural resources, water recycling, purification, and reuse are our best and most sustainable ways forward. In addition to encouraging water conservation across the state, I strongly urge the California Water Board to do everything in its power to fully invest in water reclamation. We must use all means at our disposal to encourage the state to: • Develop a state-wide system of water purification plants, turning undrinkable water into purified drinking water. • Develop efficient grey-water and storm water capture infrastructure across the entire state. • Develop more environmentally responsible ways to utilize or dispose of brine to minimize the harm done by desalinization plants dumping concentrated brine back into the Delta and ocean. Climate change is an ever-increasing threat to the citizens of our great state. Melting glaciers, shrinking reservoirs, and drying riverbeds will only grow worse, and California will feel these effects even more thanks to the long-term drought now affecting our region. We need to purify and reuse water, not continually divert it from our rivers and Delta, driving the environmental destruction of both.	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 Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and the 2017 Scientific Basis Report a review and summary of the best available science on flow needs for the protection of fish and wildlife beneficial uses and provides life history information for several threatened and endangered fish species in the Bay-Delta watershed. Please refer to the 2023 Final Draft Scientific Basis Report Supplement for a review of the scientific information regarding the effects of flow and non-flow actions associated with the proposed HRL. Please see the description of the use of best available science in implementing the Bay-Delta Plan in Appendix A, Bay-Delta Monitoring and Evaluation Program (BDMEP) of the revised proposed Plan amendments, Section A.3.4, Best Available Science. A description of other water management actions by water users who may experience reductions in Sacramento/Delta supplies under the Bay-Delta Plan, such as increased use of recycled water and conservation measures, is provided in Section 6.6, Other Water Management Actions of the Staff Report.
1140	22	(slide 47) Concluding Remarks. * If the Delta and the watersheds that support it are to survive as functional ecosystems, the “Voluntary Agreements” (aka “the HRL proposals”) must be	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

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		rejected. * As painful as it will be, to prevent continuing collapse of the Bay-Delta ecosystem we must adopt the higher flows recommended by the State Water Resource Department's own Staff Study... 55% of unimpaired flow with 45-65% adaptive range", WITHOUT "adjustments" to lower flows below that range. * 70-80% of the water exported south of the Delta is used for agriculture. There is not enough water... our most precious natural resource... to squander it on growing luxury crops in the extremely arid Central Valley. A resource of ALL the people in the State should not be so massively exploited to benefit the few. Over the long term, Agribusiness must reevaluate what crops can be feasibly grown in those very arid regions. * We are at a critical decision point. Our current sources of fresh water are unstable and declining. We must shift our financial resources away from water diversion and towards water reclamation, purification and reuse. * It starts with adopting the "55% unimpaired flow and 45-65% adaptive range" conditions NOW, and building water reuse infrastructure up from this point on. We have only one Delta, and only one Planet. Help us save what is left.	raise specific economic effects of the project. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife and consideration of beneficial uses.
1141	1	Hello! I am Kathryn Hug, a California resident who is concerned about the future, about moving forward in a time when protecting the Bay-Delta watershed cannot be compromised. The State Water Board knows that the revised Bay Delta Plan's Voluntary Agreements are a step backward, not forward. I urge the Board not to succumb to the pressure of politis but rather to make decisions that will ensure sufficient flows. All of us must think beyond personal and corporate profit to a sustainable future. 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.
1142	1	This letter and the attachments hereto are submitted on behalf of Los Molinos Mutual Water Company ("LMMWC") and Stanford Vina Ranch Irrigation Company ("SVRIC") (collectively "Companies") to the Revised Draft Sacramento/Delta Updates to	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's water quality planning authorities and the relationship between water quality control planning and water right administration. See also

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		the Bay-Delta Plan and new Chapter 13 (“Draft Plan” or “Plan”) released on or about December 12, 2025, by the State Water Resources Control Board (“SWRCB”). LMMWC and SVRIC hereby join in the comments submitted by Northern California Water Association and the Sacramento Valley Water Users. 1. LMMWC and SVRIC Possess Senior Water Rights on Mill, Deer, and Antelope Creeks. The Plan is Inconsistent with the Priority System of California Water Law. The Plan proposes to implement unimpaired flow requirements in contravention of the priority system and the seniority of SVRIC and LMMWC’s water rights. (December 2025 Draft, section 4.4.3, (Methodology to Determine Water Unavailability and Implement the Bay-Delta Plan and Associated Water Right Curtailments); December 2025 Draft, WQCP section 4.4.2.2. (Narrative Inflow Objective for Sacramento/Delta Tributaries).) Section 4.4.2.2. states: The inflow objective applies throughout the Sacramento/Delta watershed, including on upstream tributaries, on the Sacramento/Delta tributaries that support or contribute to the protection of anadromous fish species, including the following rivers and streams... Antelope Creek...Deer Creek...Mill Creek....All water rights not covered under the VA pathway on the tributaries identified above are subject to the numeric inflow requirements, except those determined to have a de minimis effect on inflows. The Plan violates the water right priority system by implementing the Plan’s unimpaired flow requirements on SVRIC and LMMWC, but not junior water right holders elsewhere in the Sacramento River watershed who were included in the HRL program. SVRIC and LMMWC possess adjudicated, senior riparian, and pre-1914 water rights that pre-date statehood and which have been exercised continuously since the 1850’s. Implementing the Plan’s unimpaired flow requirements and other provisions by prohibiting and curtailing diversions from senior water right holders such as LMMWC and SVRIC on Mill, Antelope, and Deer Creeks but allowing junior water right holders who participate in the HRL program to continue their	Common Response 1.3, Revised Proposed Plan Amendments, regarding the VA pathway, regulatory pathway, HRL commitments, and water supply adjustments. The revised proposed Plan amendments would establish water quality objectives and a program of implementation. The VA pathway would constitute regulatory requirements for HRL water rights included in the pathway, and the regulatory pathway would apply to water rights not included in the VA pathway and to HRL water rights if the VA pathway is discontinued. The Plan specifies that numeric inflow requirements for Sacramento/Delta tributaries would be implemented in accordance with water right priorities. Adoption of the revised proposed Plan amendments would not itself determine, quantify, adjudicate, or alter individual water rights or water right priorities of Los Molinos Mutual Water Company, Stanford Vina Ranch Irrigation Company, HRL parties, or other water right holders, or amend individual water right permits, licenses, decisions, orders, decrees, or other determinations. Any enforceable obligations needed to implement adopted objectives would be addressed, as appropriate, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures.

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		diversions violates the rule of priority. The priority system “has long been the central principle in California water law.” (City of Barstow v. Mojave Water Agency (2000) 23 Cal.4th 1224, 1243.) “California operates under a ‘dual’ or hybrid system of water rights which recognizes both doctrines of riparian rights and appropriative rights.” (United States v. State Water Resources Control Bd., supra, 182 Cal.App.3d 82, 101.) “[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.” (Id. at 101-102.) Between appropriators, “the rule of priority is ‘first in time, first in right’ [where] [t]he senior appropriator is entitled to fulfill his [or her] needs before a junior appropriator is entitled to use any water.” (Id. at 102.) “Every effort...must be made to respect and enforce the rule of priority.” (El Dorado Irr. Dist. v. State Water Resources Control Bd., (2006) 142 Cal.App.4th 937, 966.) The preservation of water right priority should be the “first concern” of the State Water Board in the exercise of its powers. (El Dorado, supra, 142 Cal.App.4th at 961, quoting Meridian, Ltd v. San Francisco (1939) 13 Cal.2d 424, 450.) The priority of different water rights must also be considered in an evidentiary hearing before a diversion can be subjected to an unimpaired flow requirement. (see Santa Barbara Channel Keeper v. City of San Buenaventura, supra, 19 Cal.App.5th 1176 at 1191-1192.) The Watershed of Origin and County of Origin Acts, in addition to the Superior Court adjudications for Mill and Deer Creeks, are clear that the priority of use of water shall remain available to local watershed users and that the CVP, SWP, and other developers of water will not be provided with priority senior to or over and above the local watershed users. SVRIC and LMMWC did not protest the water rights applications of the Central Valley Project facilities at Lake Shasta and other junior water rights because the priority system ensured that LMMWC and SVRIC and other senior water right holders would not be curtailed before junior water right holders. The Plan turns the priority system on its head by imposing unimpaired flow curtailments on SVRIC and LMMWC - some of the most senior water right holders in California – while excusing and absolving HRL participants	

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		from the same curtailments and requirements. This is inequitable and unlawful. As proposed, the Plan will impose curtailments on LMMWC, SVRIC, and other Mill, Antelope, and Deer Creek water right holders despite the fact that their water rights are senior to nearly all other rights in the Sacramento River watershed, many of which will not be subject to curtailment and restrictions due to their inclusion in the HRL program. This is inconsistent with the water right priority system. Deer Creek, Mill Creek, and the lands within LMMWC and SVRIC lands are former Mexican Land Grant lands patented under the Act of March 3, 1851 and the General Land Office, U.S. Department of Interior, and issued Patent Nos. CACAAA002833 and CACAAA001106. Imposing curtailments on the senior water rights of SVRIC, LMMWC, and other senior Mill, Antelope and Deer Creek water right holders to implement the Plan's flow requirements, while excusing junior water right holders on the Sacramento River who participate in the HRL program from curtailments, violates the rule of priority.	
1142	2	2. The Plan is Inconsistent with Equal Protection and Anti-Discrimination Requirements. The Equal Protection Clause of the United States Constitution prohibits water restrictions, regulations, and requirements that are discriminatory in nature and/or which have a discriminatory impact. For example, in <i>Dilevon Lo, et al. v. County of Siskiyou, et al.</i>, United States District Court, Eastern District of California, Case No. 2:21-cv-0099 and <i>Ger Chong Ze Chang, et al. v. County of Siskiyou, et al.</i>, United States District Court, Eastern District of California, Case No. 2:22-at-00807, the United States District Court enjoined and struck down ordinances that restricted water use and cut off water deliveries due to discriminatory impacts. The United States Attorney General has also issued "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination" clarifying the application of federal antidiscrimination laws to programs or initiatives that involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion ("DEI") programs. Entities receiving federal	See also Common Response 10.1, Economically Disadvantaged Communities, for a discussion of the State Water Board's racial equity resolution and action plan and how the State Water Board has considered environmental justice and racial equity throughout the Bay-Delta Plan amendment process, and Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a discussion of tribal engagement and outreach throughout the water quality control planning process as well as tribal concerns regarding the VAs. See also Common Response 1.3, Revised Proposed Plan Amendments, for a discussion of new HRL proposals and water rights under the VA pathway. 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

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		funds such as the SWRCB are obligated to ensure that their programs and activities comply with federal law and do not discriminate. The SWRCB, through its “Racial Equity Action Plan,” has undertaken “Action 20” of prioritizing instream flows to achieve DEI objectives for “BIPOC” and the SWRCB has appointed a point of contact “to serve as a coordinator on Bay-Delta tribal and BIPOC engagement.” The Bay-Delta Plan is inconsistent with the Equal Protection Clause and with Federal “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination.” Adopting the Plan and its unimpaired flow requirements to advance racial equity and DEI objectives is a violation of Equal Protection requirements and the “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination.” Moreover, imposing the Plan’s restrictions and unimpaired flow requirements on SVRIC, LMMWC, and their senior water rights while exempting HRL participants who possess junior water rights is inequitable and discriminatory. SVRIC and LMMWC and their residents, landowners, and shareholders will be left without water due to the unimpaired flow requirements while junior water right holders elsewhere in the Sacramento River watershed who participate in the HRL program will be allowed to continue diverting. SVRIC and LMMWC have attempted to participate in the HRL program, but the State of California has inexplicably refused to allow them to join the HRL program, and the Plan does not allow for onboarding into the HRL program. SVRIC and LMMWC are relatively small water users, and they lack alternative water supplies and rely on their water rights to Mill, Deer, and Antelope Creek to meet the water supply needs of their landowners and of the nearby communities of Vina and Los Molinos. Stanford Vina also includes the New Clairvaux monastery that operates and is partially sustained by its vineyard and prune and walnut orchards. The Plan will have a devastating effect on SVRIC and LMMWC by depriving them, their shareholders, and their communities of their water supply during critical irrigation periods while exempting HRL participants from the Plan’s unimpaired flow requirements, many of whom are large water users with water rights that are junior to LMMWC and SVRIC. Subjecting SVRIC and LMMWC to the Plan’s unimpaired flow requirements and prohibiting them	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. In addition, Plan provisions provide for adaptive implementation and the opportunity for local cooperative solutions under the regulatory pathway.

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		from exercising their senior water rights while simultaneously exempting HRL participants- many of whom are large diverters with junior rights- from the unimpaired flow requirements is discriminatory, inequitable, and unlawful.	
1142	3	3. Mill, Deer, and Antelope Creeks Are Unrelated to Conditions in the Delta. Instream flows on Mill, Deer, and Antelope Creeks have no rational relationship to the Plan's stated objective of protecting and enhancing water quality in the San Francisco Bay and Sacramento San Joaquin Delta. Mill, Deer, and Antelope Creeks are small, remote creeks in Northern California that lack reservoirs. Imposing unimpaired flow requirements and the Plan's other provisions on Mill, Deer, and Antelope Creeks will not impact water quality in the Bay-Delta as these Creeks are too small and are too far away from the Bay-Delta. But imposing the Plan's unimpaired flow requirements and other provisions on Mill, Deer, and Antelope Creeks will have a devastating impact on SVRIC and LMMWC, as well as other water users and the local communities of Vina and Los Molinos that rely on diversions from Mill, Deer, and Antelope Creek for their water supply. Water users on Mill, Deer, and Antelope Creeks, including SVRIC and LMMWC and their shareholders, depend on diversion from these Creeks to sustain their crops, livestock, and livelihoods, and their diversions are necessary to preserve the sustainability of the underlying aquifer. There is no feasible alternative water supply to Mill, Deer, and Antelope Creeks, and the Plan will have a devastating impact on SVRIC and LMMWC without any corresponding benefit to the Bay-Delta.	As described in Staff Report Section 5.4.2.2, Basis for New Inflow Objective, inflows are needed to protect native fish and wildlife species that inhabit the Sacramento/Delta tributaries throughout the year as juveniles or adults. Inflows are needed to provide, for example, continuity of flows from tributaries to the Delta and to protect anadromous (primarily Chinook salmon and steelhead) and other fish and wildlife species that inhabit the Bay-Delta and its tributaries throughout the year as juveniles or adults. Inflows are needed to provide suitable habitat conditions for migration and rearing of anadromous fish species like salmonids, with runs that inhabit the Delta and its tributaries all year. Those flows also are needed to contribute to Delta outflows to support migrating, spawning, and rearing estuarine species. Preservation of higher flows already being provided in some less impaired tributaries also is needed to maintain existing protective conditions where existing flows provide important functions to ensure that those flows are not reduced. The inflow objective applies throughout the entire Sacramento/Delta watershed, including upstream tributaries that support or contribute to the protection of anadromous fish species. This includes Mill, Deer, and Antelope Creeks, which are historical habitats for anadromous species. Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report describes how Mill, Deer, and Antelope Creeks provide important habitat for salmonids. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the reason for the regulatory pathway requirements.
1142	4	4. The State Refuses to Cooperate with Water Users on Voluntary Agreements and Channel Restoration Measures. LMMWC and SVRIC are not participants in the HRL program despite having attempted for years to participate and to negotiate a voluntary agreement with California Department and Fish and Wildlife and other resource agencies. For years, water users have repeatedly sought voluntary agreements for Mill	Please refer to Common Response 1.3, Revised Proposed Plan Amendments, for information on new HRL proposals. While the return of more than 500 adult Central Valley spring-run Chinook salmon to Mill Creek and Deer Creek in 2021 is encouraging, the observation from a single year does not indicate the voluntary measures implemented during the year alone are sufficient to support long-term population viability. A

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		Creek and Deer Creek, including proposals for implementing the multi-benefit channel restoration projects and fishery protection proposals that include compensation for water transferred to instream use. Water users have even submitted terms sheets, copies of which are submitted again herewith. These proposals were rejected, and DFW and the SWRCB have repeatedly declined to engage in meaningful cooperation with water users while repeatedly invoking “green tape” barriers to physical solutions and measures. In August of 2014, Stanford Vina submitted a comprehensive plan put together by Fishbio to DFW and the SWRCB for targeted modifications to specific riffles in Deer Creek which would enhance fish passage with minimum instream flows. In response, DFW submitted a “green tape” comment letter citing a litany of potential environmental impacts, and neither DFW nor the SWRCB took any action to work with water users to modify critical riffles to enhance fish passage. On February 26, 2018, Stanford Vina sent a letter requesting DFW assistance in the development and implementation of the multi-benefit channel restoration project. In response, DFW declined to consider such work an “emergency” because “a seasonal decline in stream flow as well as variable annual precipitation are not generally considered to be sudden or unexpected occurrences, but rather regular hydrologic fluctuations that should be planned for well in advance.” Stanford Vina sent another request to implement a multi-benefit channel restoration project on February 21, 2020, and again on March 11, 2021. Stanford Vina did not receive a response. And on March 16, 2021, Los Molinos also sent a letter requesting DFW, SWRCB, and NMFS’ assistance in the development and implementation of the multi-benefit channel restoration project on Mill Creek. On April 2, 2021, Stanford Vina and Los Molinos again sent requests for assistance from DFW and the SWRCB in undertaking channel restoration efforts to improve fish passage conditions on Mill and Deer Creeks. In response, on April 7, 2021, DFW personnel stated it is “not feasible” to undertake such a project and listed numerous approvals and prerequisites to implementation of such a restoration project, including CEQA,	single year of adult escapement, particularly for salmon populations with complex multi-year life cycles, is not by itself an adequate indicator of sustainable population conditions and the observed returns cannot be attributed solely to voluntary measures implemented during 2021. This is evidenced by the precipitous decline in adult spring-run Chinook salmon returns in subsequent years despite favorable flow conditions (Mill Creek: 34 and 18 fish in 2023 and 2024, respectively; Deer Creek: 23 and 33 fish in 2023 and 2024, respectively [Azat and Killam 2025]). Increased flows would improve protections for salmonid species, including Chinook salmon and steelhead, across multiple seasons and hydrologic conditions. In Mill Creek and Deer Creek during the 2021 drought, voluntary flow measures remained well below the flows considered adequate to support successful adult Chinook salmon passage, particularly during the latter portion of the migration period (late spring).

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		NEPA, Incidental Take Permit, Lake and Streambed Alteration Agreement, and multiple other regulatory requirements. On April 19, 2021, at the request of Stanford Vina and Los Molinos, representatives of DFW and other agencies as well as water users from Deer and Mill Creek met onsite to discuss the need for the multi-benefit channel modification project to enhance fish passage. In our view, there was consensus that this project is essential to balance the water needs of the fishery and other beneficial uses of water-by-water users on Deer and Mill Creeks. On April 21, 2021, Governor Newsom issued a drought proclamation that included directives on state agencies, including DFW and State Water Board to “Accelerate funding of water supply enhancement, water conservation, or species conservation projects.” (Emergency Proclamation, ¶ 4(a).) DFW was specifically directed to, “Evaluate and take actions to protect terrestrial and aquatic species and, wherever possible, work with water users and other parties on voluntary measures to protect species.” (Id. ¶ 9(a).) Pursuant to these directives, Los Molinos and Stanford Vina on May 5, 2021, requested funding and assistance pursuant to Governor Newsom’s Drought Proclamation for the design and implementation of the multi-benefit channel restoration project on Mill Creek and Deer Creek, including assistance in pursuing and securing all regulatory and other approvals necessary for timely implementation of the restoration project. Neither Stanford Vina nor Los Molinos received a meaningful response to their requests. On May 5, 2021, representatives of the State Water Board, DFW, and NMFS invited Stanford Vina and Los Molinos to a discussion regarding 2021 water conditions and fish passage in Deer Creek and Mill Creek. In response, Stanford Vina and Los Molinos provided term sheets in which they proposed to make water available for compensation and to work with regulatory agencies to implement multi-benefit channel restoration projects. Both proposals were rejected, and in response the SWRCB, DFW, and NMFS asserted that they do not have authority to authorize	

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		channel restoration. This is yet another example of your agencies invoking “green tape” to avoid working with water users on voluntary solutions and agreements. Altogether, water users on Mill Creek and Deer Creek have repeatedly attempted to reach a voluntary agreement in recent years. No such agreement has been reached because DFW and other fishery agencies do not want a voluntary agreement. Despite having been unable to obtain a voluntary agreement or permission to participate in the HRL program, since 2014 Stanford Vina and Los Molinos have each year, including 2021, engaged in “voluntary measures” to ensure fishery protection. In 2021, these actions include: (a) providing and adjusting base flows in the Creeks based on real time conditions, including considering agricultural water demands and fishery needs; (b) coordinating and implementing multiple pulse flows; (c) enhanced monitoring of fish screens and ladders; (d) coordinating with CDFW staff on the presence (or lack of presence) of listed species once agricultural demands increased; and (e) on Mill Creek implementing existing conjunctive use and instream flow agreements to provide greater instream flow. These voluntary measures resulted in over 500 returning adult spring run salmon on each Creek in 2021- a critical drought year, without any unimpaired flow or minimum instream flow requirements. This is an incredible achievement and success given critical drought conditions, as evidenced by significant fishery issues on other tributaries in 2021.	
1142	5	5. The Plan Will Have a Devastating Impact on Water Users. The Plan will leave landowners without irrigation water to sustain their crops and livestock during critical irrigation periods. As a result, crops will be stressed, herds will be culled, and lands will be fallowed. There is no reservoir on Mill, Antelope, or Deer Creek to store water. There is no alternative source of water for the landowners and communities that rely on surface water diversions from Mill, Deer, and Antelope Creeks. Most of the lands within Stanford Vina and Los Molinos consist of small-scale orchard, livestock, and pasture operations. Stanford Vina also includes a monastery that operates and is	Potential effects from the Plan amendments on water supply are evaluated extensively throughout the Staff Report, and potential water supply impacts are disclosed in terms of changes to volumes of available water supply, and related outcomes in the plan and study areas, including but not limited to agriculture and the economy. Given the inherent uncertainties involved in evaluating potential water supply impacts, the Staff Report uses reasonable and conservative approaches that are likely to provide a worse-case scenario for potential impacts which may be reduced or avoided through the mitigation measures discussed in the report. See Common Response 6.3, Water Supply and Other Water Management Actions, for more

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		partially sustained by its vineyard and prune and walnut orchards. The Plan will have a devastating effect on water users by depriving them of their water supply during critical irrigation periods. The use of surface water from Mill, Antelope, and Deer Creek also provides a groundwater recharge benefit to the subbasin and promotes groundwater sustainability within Tehama County. By confiscating the surface water from Deer, Antelope, and Mill Creek water right holders, the State will be harming groundwater sustainability within the underlying aquifer as well as the individuals that rely on the water to sustain their crops, livestock, and livelihoods.	discussion of water supply and other water management actions. Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for information on groundwater recharge and SGMA considerations.
1142	6	6. The Plan Violates the Mill and Deer Creek Water Right Adjudications and Subvert the Separation of Powers Between the Executive and Judiciary and Adjudication. Like thousands of California water rights, Deer Creek and Mill Creek water rights were adjudicated and are subject to Superior Court Judgments and “[t]he decree[s] [entered by the court] is conclusive as to the rights of all existing claimants upon the stream system lawfully embraced in the determination.” (Water Code § 2773.) The SWRCB has not petitioned to amend the adjudications before imposing the instream flow requirements in contravention of them, despite res judicata, the finality of court judgments, and case law providing jurisdiction to quantify and affirm riparian and pre-1914 rights only to the courts. (Young v. SWRCB (2013) 219 Cal App 4th 397, 404 (“No one disputes that the Water Board does not have jurisdiction to regulate riparian and pre-1914 appropriative rights [Citations]”); Millview v. SWRCB (2014) 229 Cal.App.4th 879, 893-4.) The SWRCB - an agency of the Executive Branch - may not amend and contravene Judicial Branch judgments through the Plan. Nor may the SWRCB quantify, subvert, or amend riparian or pre-1914 water rights of Deer Creek or Mill Creek water users. Only the courts have jurisdiction over disputes and enforcing water rights between and among pre-1914 and riparian rights holders. The SWRCB does not have jurisdiction to “curtail” pre-1914 water rights pursuant to the Plan. (Young v. SWRCB (2013) 219 Cal App 4th 397, 404; Millview v. SWRCB (2014) 229 Cal.App.4th 879, 893-4; California Farm Bureau Federation v. State Water	The Staff Report describes existing adjudications and other water-right conditions for Deer Creek and Mill Creek as part of the baseline conditions evaluated in the Staff Report. Adoption of the revised proposed Plan amendments would establish water quality objectives and a program of implementation; it would not itself amend the Mill Creek or Deer Creek adjudications, determine or quantify individual water rights, or alter individual riparian or pre-1914 water rights. Any actions needed to implement adopted objectives for specific water rights would be addressed through applicable future State Water Board water right or water quality processes, 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.

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		Resources Control Bd. (Farm Bureau) (2011) 51 Cal.4th 421, 429.)	
1142	7	7. The Proposed Plan Violates Constitutional Rights to Due Process Under the California and United States Constitutions. The proposed Plan deprives Mill, Antelope, and Deer Creek water right holders of the opportunity to request an evidentiary hearing to challenge the determinations of the SWRCB within the Plan which will directly interfere with their use and diversion of water. The SWRCB is proposing a bill of attainder style proceeding in which the unelected SWRCB Members will determine that the use and diversion of water by seventeen (17) Deer Creek water right holders, eight (8) Mill Creek water right holders, and two (2) Antelope Creek water right holders is prohibited when it conflicts with the Plan's unimpaired flow requirements and the SWRCB will apply that determination through a sentencing-type proceeding to the targeted water users without ever holding an evidentiary hearing on the findings within the Plan. An evidentiary hearing would uphold constitutional due process requirements while reducing the risk of factual and legal errors. At no point in the process are water right holders afforded an evidentiary hearing to challenge the determination and findings within the Plan with cross-examination, as required by the United States and California Constitutions. This scheme is simply incompatible with due process and the real property nature of California water rights. (U.S. v. Gerlach Live Stock Co. (1950) 339 U.S. 725, 727-30, 752-56; Dugan v. Rank (1963) 372 U.S. 609, 623-626; United States v. SWRCB (1986) 182 Cal.App.3d 82, 101.) The SWRCB may not declare unreasonable or impose a new condition on water rights without an opportunity for an evidentiary hearing. (United States v. SWRCB (1986) 182 Cal.App.3d 82, 101; Dugan v. Rank ("Dugan") (1963) 372 U.S. 609, 623-26; Casitas Mun. Water. Dist. v. United States (2008) 543 F.3d 1276, 1288-97.) California water rights, which are vested real property rights protected by the United States and California Constitutions. "As such, they cannot be infringed by others or taken by government action without due process and just compensation." (United States v. SWRCB (1986) 182	Water rights in California differ from more traditional property rights in that they are usufructuary, non-possessory rights of use inherently subject to the overriding limitations and restrictions set forth by California's constitutional prohibition of waste and unreasonable use (Cal. Const. Art. X, Sec. 2) and public trust doctrine. Please see Common Response 1.2, Water Quality Control Planning Process, for more information about water rights, due process, and compensable taking of private property. As explained in Staff Report Section 5.2.3, Regulations and Adjudicative Proceedings, the State Water Board conducts both quasi-legislative and quasi-judicial administrative proceedings, and different rules apply depending on the type of action pending before the State Water Board. In the past, the State Water Board has conducted adjudicative water right hearings to implement the Bay-Delta Plan, but it is not required to implement water quality objectives through such a mechanism. The State Water Board possesses legal authority to adopt regulations declaring that a particular use of water under given circumstances is unreasonable without the requirement to conduct a hearing as to any individual water right. (Stanford Vina Ranch Irrigation Co. v. State (2020) 50 Cal.App.5th 976, 1004 [citing Light v. SWRC State Water Resources Control Bd. (2014) 226 Cal.App.4th 1463, 1484-85] ["Stanford Vina"].) The State Water Board may implement the Bay-Delta Plan's water quality objectives by adopting regulations, conducting adjudicative proceedings, or both. The State Water Board will also continue, as necessary and appropriate, to use its Clean Water Act section 401 water quality certification authority, waste discharge requirements, and other water quality and water rights actions to implement objectives in this plan. As described in Staff Report Section 13.3.5, Implementation Methodology, the State Water Board would develop an implementation methodology through a public process to inform any curtailments to implement the Bay-Delta Plan's flow requirements and the water right priority system.

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		Cal.App.3d 82, 101 [citations omitted].) The SWRCB must provide an opportunity for an evidentiary hearing with cross-examination for water right holders on Mill and Deer Creek to challenge the determinations and findings of the SWRCB in the Plan. The Plan is a compensable physical taking of real property that requires compensation. It is well established that interference with the use and diversion of water pursuant to its water rights constitutes a compensable physical taking of private property. (Dugan v. Rank, 372 U.S. at 623-26 (Supreme Court treated Friant Dam's interference with downstream water rights as a physical taking requiring compensation); U.S. v. Gerlach Live Stock Co., supra, 399 U.S. at 754 (Supreme Court analyzed Friant Dam interference with downstream San Joaquin River water rights as a physical taking of private property requiring compensation); See also International Paper v. United States (1931) 282 U.S. 399, 407.) Fishery or environmental restrictions on use of water that interfere with California water rights and diversions, even if only for periods of time, constitute compensable physical takings of private property for a public purposes and use. (Casitas Mun. Water. Dist. v. United States (2008) 543 F.3d 1276, 1288-97 (Casitas 1); Tulare, supra, 49 Fed. Cl. at 318-21; Klamath Irrigation v. United States (2016) 129 Fed.Cl. 722; Casitas Mun. Water Dist. v. U.S. (2009) 556 F.3d 1329 (Casitas 2); Casitas Mun. Water. Dist. v. United States (2011) 102 Fed.Cl. 443, 458-461 (Casitas 3).) Here the SWRCB is physically and permanently confiscating water for a public purpose, project, and use – fishery interests – and in doing so the SWRCB is committing a physical taking of real property. Compensation is required. Even if the Plan and its requirements are construed as legislative rather than adjudicatory, compensation is still required. (First English Evangelical Lutheran Church of Glendale v. Los Angeles (1987) 482 U.S. 304 [General regulation deemed physical taking]; Stop the Beach Renourishment, Inc. v. Florida Dept. of Environmental Protection (2010) 560 U.S. 702, 713-714 [“The Takings Clause...is concerned simply with the act, and not with the governmental actor...”]; Webb’s Fabulous Pharmacies v.	

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		Beckwith, 449 U.S. 155 at 164 (1980) (Taking Clause prohibits Legislatures and Courts from taking property “simply by recharacterizing” it as public.) The SWRCB is taking the property of water users for a preferred public use and project - instream fishery enhancement. Styling of the taking of property as legislative does not excuse compensation requirements. 8. Conclusion SVRIC and LMMWC respectfully request that the SWRCB retract the Plan.	
1143	1	My concern for the frightening decline of California salmonids and the even more alarming collapse of the Delta ecosystem we are witnessing, prompted me to attempt to educate myself on the matters currently before you. Alas, I was only partially successful in that effort in the week and a half I gave it, due to the sheer volume of materials to review and the complexity of all things Bay-Delta. I imagine that all you who have earnestly engaged with the Bay-Delta planning process over the years have been keeping your neural networks in a sharp state of ever-evolving growth. So, given that volume and complexity, as noted in my oral comments, I thought the peer review might shed some light for me. But the combination of the absence of the peer review among the documents shared on the Staff Report in Support of Sacramento/Delta Updates to the Bay-Delta Plan page (with 2025 Limited Recirculation of Draft Staff Report), along with language on page 13-5 (pdf p 29) under 13.2.3 Scientific Basis Report Supplement, led me to believe that the peer review was yet to be published. I only learned otherwise during the Jan. 28 hearing. A hyperlink right on page 13-5, or alternatively just including it on the above-linked page, would certainly have helped me, though I’m guessing that omission was a simple oversight. As it was, not knowing the specific title of the peer review and knowing that your website contains copious documents, a simple search did not seem an effective way to find it. I appreciate that, in response to my oral comments, Alyssa	Peer review for the Final Draft Scientific Basis Report Supplement has been publicly available on the State Water Board’s “Sacramento/Delta Update to the Bay-Delta Plan” webpage since March 2024. In addition, substantive content from that report is provided in Section 13.5, Beneficial Environmental Effects. 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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		Aucelluzzo kindly emailed me two links where the peer review could be found but by that point I was out of review time. I did download it, but since I have other pressing tasks on my agenda, I doubt I'll be reviewing it any time soon. Given the somewhat equivocal statements about the peer review during the Jan. 28 hearing, along with Ms. Pierre's take on it Jan. 29, I'm not sure it would help me form confident conclusions anyway.	
1143	2	Perhaps I'm unclear on this, but my review gave me the impression that the Voluntary Agreements are not subject to refinement in response to the scientific peer review, while I understand that Staff may (still?) be refining other text in response. If that is truly the case, the point of peer review seems to be lost with regard to the VAs. Or should I just accept Ms. Pierre's assertion that the peer reviewers "approved" the VA approach with no caveats? Unable to reach a confident opinion analytically, I'm going with my gut — those literally visceral sensations in response to stimuli that often propel me to act. My gut is horrified by the lowest percentages of flows proposed in this planning effort. But I actually have a condition under which such low percentages of surface flows might be acceptable — if the missing volumes were to be made up by SGMA-related reductions in groundwater pumping that allowed greater cold baseflows into the system. More on that follows.	The peer reviewer responses were received in February 2024 and the first draft Bay-Delta Plan for the Sacramento/Delta update was released in October 2024. Subsequent revised drafts of the Bay-Delta Plan were released in July and December, 2025. The peer reviewer comments were therefore available and considered during development of the drafts of the Bay-Delta Plan amendments. Please refer to 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.
1143	3	CEQA issue — Flood-MAR : 13.7. Environmental Analysis does not evaluate the impacts of Flood-MAR (Managed Aquifer Recharge) on the winter/ wet season peak flows indicated in the functional flows approach noted, with citations, in Appendix G2. Final Draft Scientific Basis Report Supplement (2023 Draft Staff Report), p 2-5 (pdf p 39), first paragraph under 2.1.1.4 Habitat Connectivity. Perhaps the significance of the ecologically functional flows approach may be lost on some folks but, having viewed that language in Appendix G2, that's certainly what comes to my mind when I read the emphasized words in the following excerpt from, for example, the narrative inflow objective (from 13.3.2.1 Sacramento River/Delta Tributary Inflows), along with other narrative objectives):	Groundwater recharge projects are evaluated under Other Watershed Actions that diverters may take in response to reduced Sacramento/Delta surface water supply. (See discussion in Section 6.6.1.1, Groundwater Storage and Recovery, Section Impacts and mitigation measures are identified in applicable discussions in Staff Report Section 7.3, Aesthetics, through Section 7.20, Utilities and Service Systems). For example, Section 7.12.1, Surface Water, discusses how recharge using surface water diversions would likely occur during wet years when extra water is present; however, substantial reductions in flow could degrade water quality by limiting the dilution effect of existing flows and exacerbating existing water quality impairments. A mitigation measure specifies that in processing water right applications that involve groundwater storage, the State Water

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		Maintain water quality conditions including inflow conditions from the Sacramento River/Delta tributaries, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include the relative magnitude, duration, timing , quality and spatial extent of flows as they would naturally occur. ...	Board will ensure that enough flow remains instream to protect water quality.
1143	4	Some points from my perspective on Flood-MAR seem appropriate here, as I'm guessing the Water Board has mostly heard the ballyhoo from Flood-MAR proponents, along with pressure from our current Governor on this. Clearly, the concept of Flood-MAR has captivated a sector of Californians, spawning its own little industry and apparently minting several PhDs. I understand why the Board wishes to accommodate these enthusiasts, who have painted a very optimistic picture of Flood-MAR, but the Board should know that this is absolutely not the only option for recharge, nor is it the best. I submit that this crowd, especially DWR, to whom I've directly commented, has refused to even consider the "nature-based" approach to recharge that I attempted to bring to their attention far too many times for their refusal to hear me to be merely coincidence. I summarized that approach and the document I've been working to publish on that approach in my Nov. 7, 2025 written comments to the Board re the Draft TVA Scientific Basis Report, incorporated here by reference. This Flood-MAR band wagon has essentially zero comprehension of how vast areas of California watershed/ catchment functions have been degraded through historical human land uses and how restoration of those catchment functions would restore natural recharge capabilities. So they simply dismiss the possibility, despite the clear need for action on many fronts, given our state's pressing water needs. I compiled a 2018 blog post, with graphics, on DWR's (2017) Water Available For Replenishment (WAFR) report and some of my input to it, Great Job on WAFR! Now Add R2G , but I only included the following excerpt from their report in my 2021 Rainfall to Groundwater Executive Summary (no longer visible on my website menu):	Please see the response to comment 1143-3.

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		Replenishment can be accomplished when surface water moves through the topsoil and subsurface, or through injection of water directly into the aquifer through wells. Natural replenishment occurs from precipitation falling on the land surface, from infiltration of water stored in lakes and streams, and from groundwater underflow into the basin. Natural replenishment occurs largely without intentional actions by man. (DWR 2017 WAFR Appendix D, page 4). I generally agree with most of that statement, but I must point out that while natural replenishment may currently occur without intentional actions by “man”, humans can enhance natural replenishment/ recharge, again, by restoring watershed/ catchment functions where they have been historically degraded.	
1143	5	The Flood-MAR strategy hails from a strictly physics-based, mechanistic, overly simplistic, “plumbing” perspective that dominates California water resources thinking. It ignores the biological complexity (or lack thereof) on existing watersheds/ catchments and how that affects infiltration, preferential flows to groundwater and detention storage. On that last point, see Retention vs Detention Storage for a quick synopsis. As noted in my oral comments, if you do a Google search for < detention storage > that page is among the top results, though when I did it just now, I find the AI overview emphasizing the gray infrastructure approach. In any case, that illustrates how far off the public “radar” the nature-based approach to detention storage remains, despite my ongoing efforts to elucidate that option. One example of that “plumbing” perspective is a quote from “Recharging Depleted Aquifers No Easy Task, But It’s Key to California’s Water Supply Future”, by Gary Pitzer in Western Water, October 10, 2019. The piece summarizes and contextualizes a Sept. 10, 2019 groundwater recharge symposium presented by the University of California, Berkeley’s Center for Law, Energy & the Environment. “ ‘Recharge is just engineering,’ Tom Cech, co-director of the One World One Water Center at Metropolitan State University of Denver, said at the symposium. ‘It’s finding the pipes and a	Please see the response to comment 1143-3.

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		location.’ ” This blatant plumbing perspective fails to account for the fact that we do not live in a world comprised of only physical laws — we live in a biologically/ ecologically complex world that defies mathematical description and we desperately need to maintain that life-sustaining complexity for the sustainability of our own species. Given my extensive background in the pertinent scientific literature, I can only say that I’m glad that chap, at least, was not from California.	
1143	6	Some clear-headed cautions regarding over-expectations of Flood-MAR and MAR in general are offered in “Navigating the growing prospects and growing pains of managed aquifer recharge” (Owen et al., 2025) . Excerpts: Challenges to MAR, if not addressed, create risks of overestimating the future extent of, and benefits from, MAR, and those overestimations could reduce motivation to pursue other water-management strategies. Meanwhile, in places where MAR deployment is growing rapidly, other reasons for concern are emerging. Most importantly, absent timely policy action, the greatest beneficiaries of MAR projects may be entities that already hold wealth and power, thereby exacerbating inequality in access to critical water resources. ... Two additional problems are emerging. One is MAR overpromising. A clear example comes from California, where state law compels local groundwater managers to produce and implement plans for achieving sustainable groundwater management ... [citation]. Many of those sustainability plans rely on undeveloped or aspirational MAR projects to augment existing supplies (Escriva-Bou et al. n.d.; Ulibarri et al. 2021) [Footnote 1: Escrive-Bou, A., E. Hanak, S. Cole, and J. Medellin-Azuara. n.d. The Future of Agriculture in the San Joaquin Valley, Technical Appendix, Ulibarri, N., N. Escobedo Garcia, R.L. Nelson, A.E. Cravens, and R.J. McCarty. 2021. Assessing the feasibility of managed aquifer recharge in California. Water Resources Research 57:e2020WR029292. https://doi.org/10.1029/2020WR029292], and they often do so instead of contemplating stronger restrictions on groundwater extraction. This phenomenon is not new. In multiple western states, problems—and sometimes adverse court decisions—have	Please see the response to comment 1143-3.

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		arisen where development projects counted on inchoate MAR projects as key sources of supply (Court of Appeal 2007; Owen 2021) [Footnote 2: Court of Appeal, 3rd District of California. 2007. Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, Owen, D. 2021. Law, land use, and groundwater recharge. Stanford Law Review 73: 1163–1219.]. The second problem is that in areas where MAR is growing rapidly, that growth risks exacerbating the traditional inequities of water allocation. In the American West, as in many other places, water historically flowed to wealth and power, and water rights and governance systems then reified those traditional patterns of distribution (James 2023; Owen 2024) [Footnote 3: James, I. 2023. “A foundation of racism”: California’s antiquated water rights system faces new scrutiny. Los Angeles Times . https://www.latimes.com/environment/story/2023-03-06/is-californias-antiquated-water-rights-system-racist (accessed February 12, 2025), Owen, D. 2013. Taking groundwater. Washington University Law Review 91: 253–307]. Much of the recent expansion of MAR involves new appropriations by the old power structures, with water for recharge often benefiting large landowners, or landowner-controlled water districts, that already have old surface-water rights (California Department of Water Resources 2023a) [Footnote 4: California Department of Water Resources. 2023a. California Water Plan Update 2023]. Once those landowners have invested money in recharge projects and laid claim to additional water, access to and distribution of excess water for MAR could be much harder to change (Ulibarri et al. 2021; Dillon et al. 2022) [Footnote 5: Dillon, P.J., A. Allen, A. William, Y. Zheng, and J. Vanderzalm. 2022. Managed Aquifer Recharge: Overview and Governance, IAH Special Publication. International Association of Hydrogeologists. https://recharge.iah.org/files/2022/06/MAR-overview-and-governance-IAH-Special-Publication-18June2022.pdf]	
1143	7	Legal Frameworks ... A well-designed legal regime also would include protections against misuse of MAR projects. For example, water introduced into the subsurface may take months or even years to reach an	Please see the response to comment 1143-3.

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		aquifer, with some potential loss along the way, and recharged water tends to migrate and can leave the region of intended storage. ... Overpromising Even as a combination of physical, economic, and legal issues makes many MAR projects difficult to pursue, overpromising is likely to persist. The reason is straightforward: in many situations, the alternatives to pursuing MAR projects are unpopular or even painful (California Department of Water Resources 2023b) [Footnote 6: California Department of Water Resources. 2023b. Groundwater Demand Management, in: California Groundwater Projects Tool Project . p. 33]. Indeed, part of what makes MAR so attractive is that it appears to offer the possibility of lowering or even eliminating the need to restrict groundwater extractions . [emphasis added] ... The challenges of MAR implementation are also likely to result in inconsistencies between projected and actual MAR-project benefits. The public and some water managers may assume that adding MAR projects will result in less oversight of other water uses. MAR, in other words, might seem to promise an alternative to heightened regulatory attention. But MAR projects are unlikely to succeed, or to demonstrate their value, without careful monitoring of recharge, aquifer storage, and groundwater extractions, which means MAR implementation will often need to be coupled with greater requirements for monitoring and reporting (Casanova et al. 2016; Ulibarri et al. 2021; Doremus and Job 2022; Peterson et al. 2024) [Footnote 7 Casanova, J., N. Devau, and M. Pettenati. 2016. Managed aquifer recharge: An overview of issues and options. In Integrated Groundwater Management: Concepts, Approaches and Challenges. 413–434. Springer Nature. https://link.springer.com/book/10.1007/978-3-319-23576-9. Doremus, L., and C. Job. 2022. Key elements of a state regulatory framework for managed aquifer recharge. Groundwater 60: 591–601. https://doi.org/10.1111/gwat.13242 Peterson, C., E. Hanak, Z.J. Morales, S. Cole, and K.	

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		Greenspan.2024. Replenishing Groundwater in the San Joaquin Valley : 2024 Update. Public Policy Institute of California 38.]. (Owen et al., 2025)	
1143	8	A reminder seems appropriate that even in Central Valley alluvial aquifers, the subsurface is far from homogeneous, with confining, less permeable zones interbedded with more permeable layers such that applied surface water seldom moves directly downward to reach the aquifer depths where groundwater is being pumped from. A nice visual impression of this problem appears in “Uncovering the gaps in managed aquifer recharge for sustainable groundwater management: A focus on hillslopes and mountains” (Meles et al., 2024) as “Fig. 1. Resistivity cross sections (a, b) of two Ag-MAR sites in California” [Footnote 8: https://doi.org/10.1016/j.jhydrol.2024.131615]. Much as I appreciate that figure and had hoped for (much) more insightful alternative solution(s) from that paper, their proposed actions for hillslopes and mountains, 1.) naively assume that Caltrans and county road agencies have not already competently dealt with road runoff [besides that, road runoff for recharge? Yum!], and 2.) the rest of their approach screams of ignorance with regard to natural/ native California vegetation that clothes those hillslopes/ mountains and utter hubris as a result. {But bravo for brainstorming.} I understand that some of the legal problems omitted from my excerpts but cited by Owen and colleagues (2025) may have been superseded after the papers they cited were published, according to an Oct 21, 2023 blog post by Chris Shutes, California Sportfishing Protection Alliance, titled, “ Groundwater Gold Rush ”, a record of which I found while looking for a different record. There Mr. Shutes states,	Please see the response to comment 1143-3.
1143	9	The Newsom administration is leading the charge to keep the rules for diversion of surface water to groundwater as weak as possible. This is consistent with the Newsom administration’s general view that the solution to the state’s overallocation and overappropriation of water is to capture more water. ... On March 10, 2023, Governor Newsom issued Executive Order N-4-23. Taking the State Water Board’s Guideline a step further, Order N-4-23 suspended until 2024 the need for a water right permit, a streambed alteration permit, and environmental review under CEQA for diversions of surface water to	Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, regarding groundwater recharge for a discussion on Executive Order N-4-23 and SB 122 provisions.

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		groundwater recharge during “flood” conditions. It weakened the definition of flood conditions to allow almost any government agency to declare such conditions, with very vague limitations. It also allowed temporary diversions with only rudimentary fish screens. Finally, it provided little assurance that water diverted to agricultural fields would not pollute the underlying groundwater. Governor Newsom’s pretext for these measures was the “ongoing drought emergency,” regardless of the fact that 2023 was well on its way to becoming one of the wettest water years in recent history. The drought pretext didn’t last long. In July 2023, a budget trailer bill signed by the Governor made these changes permanent until 2029. (The trailer bill did somewhat strengthen requirements for fish screens and protection of groundwater water quality). ... That’s as much as I know about current legal limitations on this activity that has apparently been impinging on the possibility for ecologically functional peak wet season flows through the present. It raises the question in my mind of whether the ecologically functional flows described in the various Bay-Delta narrative objectives are even legally feasible — ? Will the Bay-Delta Plan, assuming implementation beginning Jan. 1, 2027, supersede whatever was in that budget trailer bill that made those changes permanent until 2029??? Apparently we may be haunted by Governor Newsom’s dominator approach to water resources for some time after he is gone. Interestingly, I have used that same “groundwater gold rush” analogy, applied differently, to the apparent rush to drill new wells in the San Joaquin Valley in advance of SGMA implementation, documented in news stories about well-drillers’ months-long backlogs of anxious customers. Over these and several other contexts, the Gold Rush mentality does seem emblematic of our state and how the quest for “gold” in its many forms has run roughshod over our state’s environment — a key historical impetus for the catchment degradation I’ve documented in “California Opportunities to Increase Natural Recharge, Baseflows and Detention Storage Hide in Plain Sight”, my work-in-progress, as summarized in my Nov. 7, 2026 comments re Draft TVA Scientific Basis Report.	

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1143	10	What I was unsuccessful in finding when I found my record of Mr. Schutes' post, was notes from a Sustainable Conservation webinar on Flood-MAR/ Ag-MAR that I attended virtually in 2023 or 2024 (?). I do recall responses to two of my questions at that time. One question was whether the Flood-MAR efforts discussed (as I recall, at least one was on Westlands Irrigation District), had succeeded in recharging to the vertical elevation from which groundwater is pumped. I recall an uncertain answer. My other question concerned an Ag-MAR situation where flood waters were applied to orchard soils. Noting that traditional percolation ponds require periodic maintenance to remove the fine sediments that accumulate over time, impeding infiltration, I asked what measures were in place to avoid similar impacts to the agricultural lands. The consultant clearly had not thought that problem through and hastily offered some kind of filtration mechanism. But in the case of Flood-MAR, the idea is to get the water out onto the land as quickly as possible, so the notion of some sort of forebay to catch fines seems unrealistic and the notion of a filtration system would doubtless add significantly to the cost of the process. Have Flood-MAR proponents shared such concerns with farmers unaware of how the process might impact the quality of their soils???	Please see the response to comment 1143-3.
1143	11	Beyond CEQA to plan issues : The fact that there is no CEQA evaluation of the inherent conflict between the Flood-MAR strategy and achieving the peak wet season flows component of the ecologically functional flows approach leads me to suspect that the functional flows meaning behind those emphasized words in the narrative objectives has not been fully integrated into this plan and that public commenters who insist on not just narrative objectives but numerical figures to back up those objectives up are indeed correct in their assessment. Two references cited re functional flows in the aforementioned section 2.1.1.4 Habitat Connectivity, Appendix G2 (Grantham et al., 2022; Yarnell et al., 2020) were expanded upon in a highly recommended article that includes consideration of baseflows (from groundwater) (Yarnell et al., 2022) and Public Policy Institute of California (PPIC) published a relatively brief report	Please see the response to comment 1143-3.

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		(Grantham et al., 2020) [Footnote 9: https://www.ppic.org/wp-content/uploads/making-the-most-of-water-for-the-environment-a-functional-flows-approach-for-californias-rivers.pdf] that makes the functional flows approach accessible to a broader audience. In fact, if the Bay-Delta Plan is serious about aiming for functional flows [yes or no?], I suggest not only citing that report, but seeking permission to use some of the figures from that report in the Bay-Delta Plan, to help get all concerned parties on the same page about it — particularly their Figures 1 through 4. For an even briefer take, see PPIC’s “Fact Sheet: California’s Rivers and Streams” (Mount et al., 2026) [Footnote 10: https://www.ppic.org/publication/californias-rivers-and-streams/], which includes the especially pertinent diagram used as Figure 4 in the 2020 PPIC report, labeled there as, “Improving ecosystem health will require restoring some natural fluctuations in flow”.	
1143	12	It is doubtless helpful to refer to that figure (see footnote 10 below for quickest access) when, ideally, re- considering the notion of “surplus surface water” as referred to on pages 13-320 (pdf p 352) and 13-375 (pdf p 406), specifically, respectively, “The State Water Board will continue efforts to encourage and promote environmentally sound recharge projects that use surplus surface water” and, “The State Water Board will continue efforts to encourage and promote environmentally sound groundwater storage and recovery (recharge) projects that use surplus surface water.” [again, CEQA Issue] I gather that “surplus surface water” is standard terminology in the Water Board’s lexicon. In the context of the greater Bay-Delta watershed, where the majority of flows are constrained by the existing rim dams, I submit that the notion of “surplus surface water” is a wholly anthropocentric concept that belies the “coequal goals”. Hey, given existing conditions, the ecosystem would happily accept all that so-called “surplus”, with which it coevolved. Again, refer to that Figure linked in footnote 10, as a conceptual reminder of what the unaltered system would do.	Please see the response to comment 1143-3.
1143	13	I am well aware that there remain many Californians who view failure to capture flood flows for human uses as “wasteful”, but those folks just need to be educated on at least some of the	Please see the response to comment 1143-3.

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		pertinent complexities, including our human dependence on ecosystem integrity — not catered to as a means of growing political support. There may indeed be some weather events — on the scale of 1862, for example — when historically high flows might be captured without impacting ecosystems, but to date those instances are historically rare, so is building gray infrastructure to capture them truly cost-effective? I'm also well aware of projections for "hydroclimate whiplash" with accelerating climate change, but it's worth reminding ourselves that these are speculative projections, based on models that have their own sets of problematic issues. More on modeling issues follows, but I will share that in my work-in-progress, I've encountered quite a few complaints about certain aspects of Earth System Models that are typically used in climate change modeling.	
1143	14	CEQA re New Water Rights (?) : Under 13.3.3.2 Sacramento/Delta Tributary Inflows , p 13-15 (pdf p 39), I note the following statement: As part of processing applications for new water rights, the State Water Board would determine whether, and to what extent, water supply adjustments apply to water rights issued after December 31, 2025, consistent with the provision to protect the flow base under the VA pathway applicable to new water supply projects described below. In admittedly utter ignorance of the Board's process for new water rights proposed for the Bay-Delta watershed, I'm concerned that, similarly to Flood-MAR, proposed new water rights based on the tacit or stated assumption of extreme flows due to projected hydroclimate whiplash will also be viewed as "surplus surface water", despite the Plan's seeming narrative aspiration to ecologically functional flows. So it seems appropriate to either describe and analyze the potential impacts (including cumulative) of new water rights based on speculative future high flows on the ecologically functional flows criteria in the narrative inflow objective, the narrative interior Delta flows objective (13.3.2.4), and the narrative fish viability objective (13.3.2.6), along with narratives in 9.3.2 and App. G1 (1.2), or make some statement in the Plan distinguishing what truly	"Surplus surface water" is described in the context of groundwater storage and recovery projects, which often involve the diversion and underground storage of surface flows that are in excess of existing instream and senior water right demands. As discussed in Section 6.6, Other Water Management Actions, of the 2023 draft Staff Report, groundwater storage and recovery projects can be an effective approach in long-term water supply planning, so long as it does not impair surface water beneficial uses. Other water management actions such as groundwater storage and recovery are described in Section 6.6 and Section 7.1, Introduction, Project Description, and Approach to Environmental Analysis, of the Staff Report and evaluated in the environmental analyses in Section 7.3, Aesthetics through Section 7.20, Utilities and Service Systems. Other water management actions affect the overall analysis in two ways. First, environmental impacts and economic effects from reduced Sacramento/Delta surface water supplies likely would be less given these efforts. Second, other water management actions may result in their own environmental impacts that must be disclosed and analyzed. The identification of impacts associated with new water supply projects should not be confused with Water Board approval of

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		constitutes “surplus surface water” in the context of sincere application of the ecologically functional flows approach described in those narratives.	any specific project. To the contrary, mitigation measures provide for State Water Board oversight and consideration of multiple factors before approval of any project. For example, consideration of whether to approve a new water right application to appropriate water by permit with the State Water Board is a discretionary action that requires a determination that unappropriated water is available, a review of potential impacts on public trust resources, and a determination that the appropriation of water is in the public interest. Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit for an activity that may result in any discharge to waters of the United States to obtain certification from the state that the project will comply with the applicable water quality requirements, including water quality standards promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs that certifications will prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with any other appropriate requirements of state law, which includes the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.). (Section 7.22, New or Modified Facilities.) In addition, the revised proposed Plan amendments direct the State Water Board to consider imposing requirements on new water supply projects to ensure that future authorizations for the diversion and use of water are consistent with and support the salmon protection, fish viability, inflow, inflow-based Delta outflow, and interior outflow objectives of the Bay Delta Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the protection of base flows applicable to new water supply projects.
1143	15	Water Temperature and Its Modeling Most of my comments submitted Nov. 7, 2025 re the Draft TVA Scientific Basis Report, especially with respect to water temperature, are equally applicable here, so I will repeat some and incorporate by reference, the others in this letter. The water temperature assumptions used in Chapter 13, Appendix H1b and applicable parts of the 2023 Draft Staff Report, like Appendix A6,	As described in Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, multiple approaches could be used to meet the cold water habitat objective which could include enhanced use of cold groundwater influxes and fish passage improvements to upper reaches.

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		became outdated as of 2021. Those assumptions might have seemed fine in 2017, but by 2023 they did not reflect the most current applicable science. I'm referring to the following, which was part of my Nov 7th comment letter, so I'm pasting that part in here. It certainly bears reemphasis. Adapting from my post, Catchment Restoration for Biodiversity, Climate Change Resilience : Catchment restoration as advocated here promises to augment cold groundwater influxes to tributaries and mainstems coursing through the hotter inland regions of northern and central California — specifically the issue brought up in “Classifying California’s stream thermal regimes for cold-water conservation” (Willis et al., 2021a) , which could hardly have provided more crucial information for our times. Excerpt from the abstract: ... Several salient findings emerge from this study. Groundwater-dominated streams are a ubiquitous, but as yet, poorly explored class of thermal regimes. Further, flow regulation below dams imposes serial discontinuities, including artificial thermal regimes on downstream ecosystems. Finally, and contrary to what is often assumed, California reservoirs do not contain sufficient cold-water storage to replicate desirable, reach-scale thermal regimes. ... (Willis et al., 2021a) See also the authors’ blog post, “Dammed hot: California’s regulated streams fail cold-water ecosystems” (Willis et al., 2021b) and the UCD Climate News brief, “Dams ineffective for cold-water conservation: Study of California streams reveals fish give dams the cold shoulder” (Kerlin, 2021) .	
1143	16	I do appreciate Board Member Maguire’s Jan. 28 hearing questioning of staff regarding model uncertainties. That is definitely an important issue to be raised before the public. Staff member Matthew Holland’s response acknowledging significant model uncertainty, pointing to climate change, was less than satisfactory to me. The problem here extends far beyond model	The commenter mis-quotes Board Member Maguire’s question and Dr. Holland’s response. There is no mention of “pointing to climate change” in the question or Dr. Holland’s response. The HEC-5Q water temperature models used for the Staff Report were developed and calibrated to existing conditions, including

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		uncertainties, to erroneous modeling assumptions . I must say that I was mesmerized scrolling through the model results tables in Appendices A6 and H1b. As Mr. Holland noted, the value in these model results is mostly comparative and the results cumulatively lead the observer to a decided overall impression. But, again, as Ann Willis and colleagues (2021) showed, the assumption that surface water releases from these reservoirs, with the exception of Shasta, can provide sufficient cold water to significantly ameliorate temperature issues in downstream reaches, is incorrect. 1.) These model results tell us nothing about how far downstream from the dam outlet cold water releases will maintain cool stream temperatures — part of the analyses compiled by Willis and colleagues (2021). 2.) The models completely ignore the fact that in the real world , at least under the natural condition — pre-dams and groundwater overdraft, baseflows from naturally cold groundwater would dominate the low-flow seasons. This is inherent in the definition of baseflows (used in accepted hydrologic terminology). So the notion that those temps are all about surface waters is specious. These model results offer the public a concerningly misleading view of the situation, arising partly from failure to keep up with the pertinent scientific literature (by UC authors, no less, and with a blog post and press release to help draw attention to the work), along with the surface water bias, despite that we have long known of the interconnection of groundwater (GW) and surface water (SW), eg., “Ground water and surface water: A single source” (Winter et al., 1998) . More on mathematical models and their use in decision-making in general follows.	existing surface water – ground water interactions. The models do not assume historical surface water – ground water interactions from the distant past. Assumption of existing baseline conditions is appropriate because environmental impacts are determined based on comparisons to baseline conditions. As acknowledged in Section 7.6.2 and 13.7.6.2, Aquatic Biological Resources, most waterways in the Central Valley downstream of reservoirs have existing temperature management concerns at certain times under baseline conditions. The temperature model results presented in Section H1b.5, Temperature Modeling for the Baseline and Flow Scenarios, show water temperature results for multiple locations at varying distances downstream of dams, which indicates how far downstream from the dam outlet cold water releases would be maintained. The fish assessment considers whether the downstream temperatures are maintained below index levels as presented in in Section H1b.6, Fish Assessment, and Section 13.7.6.2, Aquatic Biological Resources.
1143	17	Where the model assumptions are based on a faulty, scientifically disproven premise, the water supply adjustments (WSAs) based on this premise are also deeply flawed. So, if it's any consolation, surface water diverters might relax about supposed cold water storage and carryover storage based on that faulty premise.	Please see responses to comments 1143-15 and 1143-16 regarding water temperature modeling assumptions and measures for implementing the cold water habitat objective. Please also see Staff Report Section 13.3.3, Regulatory Pathway, for a description of the water supply adjustments.

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		As pointed out in my comments re the Draft TVA Scientific Basis Report, the solution to this problem lies in allowing more cold groundwater to reach the system — i.e., reducing GW withdrawals in accordance with SGMA. I'm aware that SGMA is mostly implemented by DWR, but the water temperature aspect of water quality being the Board's purview has long had me wondering how this problem may be resolved. I'm guessing the Board and Staff may have a better understanding of such a potential resolution than I do.	
1143	18	Along with the Water Board's primary focus on SW, there is the "out of sight, out of mind" issue that GW depletions have long been ignored. Even language in some scientific papers suggests that since GW overdraft has been ongoing for most, if not all, of our respective lives — long before SGMA, the quantity of GW extraction and its depletion of interconnected surface waters has been at least conceptually, severely underestimated. I imagine we are all familiar with USGS' famous photo, "Location of maximum land subsidence in U.S. Levels at 1925 and 1977" (Water Science School n.d.) https://www.usgs.gov/media/images/location-maximum-land-subsidence-us-levels-1925-and-1977 More recently, there is the January 31, 2017 image, "Land Subsidence near El Nido, CA" (California Water Science Center 2017) https://www.usgs.gov/media/images/land-subsidence-near-el-nido-ca OK, so those examples are from the San Joaquin R. basin; what about the Sacramento R. basin? Having nearly no information on that myself, I was struck by the Jan. 30 the hearing comments by Mr. Jim Brobeck, who stated that GW pumping there has been ongoing since at least the 1940s and that conjunctive use needs serious reconsideration due to its impacts on GW. The Water Resources Research paper, "Post-drought groundwater storage recovery in California's Central Valley" (Alam et al., 2022) , employing NASA's Gravity Recovery and Climate Experiment (GRACE), states, in the abstract, that, "Median aquifer storage recovery was 34% and 19% of the overdraft during the 2010–2011 and 2017–2019 post-drought	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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		years, respectively” — indicating no improvement and only declines thus far. From the abstract to the Nature Communications piece, “Groundwater depletion in California’s Central Valley accelerates during megadrought” (Liu et al., 2022) : Here we use nearly two decades of observations from NASA’s GRACE satellite missions and show that the rate of groundwater depletion in the Central Valley has been accelerating since 2003 (1.86 km³ /yr, 1961–2021; 2.41 km³ /yr, 2003–2021; 8.58 km³ /yr, 2019–2021), a period of megadrought in southwestern North America. Results suggest the need for expedited implementation of groundwater management in the Central Valley to ensure its availability during the increasingly intense droughts of the future. (Liu et al., 2022)	
1143	19	With regard to GW pumping impacts on SW, we desperately need DWR’s forthcoming SGMA document(s), Depletion of Interconnected Surface Waters . As you may know, this is a work-in-progress and it definitely faces some huge challenges in terms of GW-SW modeling. I had read somewhere that DWR was expecting completion of another draft in January this year, but that has not happened to date. I am seriously hoping that the delay may be because they are considering the following apparent good news. I recently learned of what sounds like a promising modeling approach addressed in, “Lagged streamflow depletion due to pumping-induced stream drying: Incorporation into analytical streamflow depletion estimation methods” (Zipper et al., 2026) . I’ve not yet had a chance to review it and I’m not a mathematical modeller, but I sure have reviewed and critiqued a number of such models (and have generated many conceptual graphic models over the years). That brand new paper is definitely on my agenda following submission of these comments. My understanding is that the approach offers an efficient (comparatively less costly) means of reconciling the problem(s).	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.
1143	20	Heads up that the Feb. 10, 10 am California Environmental Flows (CEF) Workgroup meeting hosted by the Water Board (that I will	Under SGMA, depletion of interconnected surface waters that affect surface water beneficial uses is an undesirable result.

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		attend virtually) includes the following presentations: “Addressing Streamflow Depletion due to Groundwater Pumping – Management Recommendations and Emerging Modeling Approaches”, presented by: Nick Murphy (TNC and coauthor on Zipper et al., 2026) and David Dralle (USFS); along with “Using CEFF [CEF Framework] to inform sustainable management criteria in groundwater fed streams in the Napa Valley Subbasin”, presented by: Christian Braudrick (Stillwater Sciences). Be there or be square. (Or view the recording.) I do hope that approach will facilitate getting at this thorny problem for all our benefits, especially those pertaining to cold flows for fishes . Again, I view reduction of groundwater extraction as the key way to reduce some of the pressure on surface water diverters. If surface water diverters are made to understand that connection, perhaps some (those not also pumping GW) may exert political pressure on the respective GSAs to expedite their pumping reductions. After all, their legalized water rights came first, correct?	Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for more information pertaining to SGMA implementation timelines and interaction with the Bay-Delta Plan update. Also see Common Response 1.2, Water Quality Control Planning Process, for more information on water rights and the State Water Board’s authority in implementing the Bay-Delta Water Quality Control Plan.
1143	21	I could hardly agree more with Chair Esquivel’s statement at the beginning of the Jan 28 hearing about the need to move forward. From my vantage, the need for timely action almost supersedes other concerns. So my comments are definitely not intended to attempt to throw a monkeywrench into the process, but rather to help ensure real resolutions to the Bay-Delta problems, in contrast with existing Plan directives derived from faulty water temperature modeling. I have some hope that the “adaptive” approach explicitly tied to certain aspects of the plan, may be similarly applied to Plan document(s) as a whole, in order to quickly accommodate new information as it arises, especially issues related to Depletion of Interconnected Surface Waters and water temperature modeling. I am on the Regional Water Authority’s (RWA) email list and so received their Jan. 22, 2026 message titled, “We banked on collaboration—and it's paying off”, by Jim Peifer, Executive Director. I was definitely intrigued by his statement there that, “Over the last couple of decades, groundwater banking has	Please see the response to comment 1143-16 regarding temperature modeling.

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		contributed to a net increase of 14,000 acre-feet of additional baseflow every year to the lower American River". I did not feel I had time to follow the links to the full article on Maven's Notebook, but not knowing specifically how they achieved those increased baseflows, my question is, do those baseflows reflect the cool temperatures afforded by natural recharge?	
1143	22	Again, incorporating by reference my comments re Draft TVA Scientific Basis Report, I excerpted there some of the work by UC Merced's Melissa Thaw and colleagues (Thaw et al., 2025) that are particularly applicable to the north Delta watershed, including some of their citations that I included in my footnotes. Those and other references I've reviewed all lead to the conclusion that the timing of infiltration is key in terms of achieving the cold water temperatures we seek from true baseflows. I included those comments partly re the proposed Tuolumne R. infiltration galleries. I did see infiltration galleries mentioned at least once in Chapter 13, but had no time to follow up on that, so please consider this issue with reference to wherever infiltration galleries may pop up within the Plan. In my TVA comments I emphasized the cold water issue, but that's not the only reason that infiltration galleries are a poor substitute for increasing naturally recharged baseflows. Another key reason is that natural baseflows contribute key nutrients to the hyporheic zone that are important for freshwater ecosystems. The engineering mindset really needs to come to grips with the fact that the gray infrastructure approach is no substitute for the infinitely wise workings of Mother Nature.	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.
1143	23	Miscellaneous Chapter 13/Staff Issues "Baseflow", "base flow" : As in my comments re Draft TVA Scientific Basis Report, I remain concerned about the misuse of the baseflow term being applied to SW. I thought I had seen that at least once in Chapter 13, but I don't find that in my notes now. I thought I heard it used that way at least once during the hearings, but failed to note that also. But a reminder about that cannot hurt, I think. My thought is that where applicable, substituting something like "basic flows", better yet, "basic surface water flows" may serve the purpose. I do hope all concerned understand the need to be clear on this, considering that comprehension of GW-SW interactions is	The commenter suggests revisions that would not alter the Staff Report's analysis or conclusions. The suggested revisions to the Staff Report are not warranted. Chapter 13, Revised Proposed Plan Amendments, describes base flows in the context of HRL flow commitments. As discussed in Section 13.3.4.4, Flow Accounting, base flows include flows required by D-1641, other regulatory requirements, and other non-regulatory flows that would be present absent the HRL flows.

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		certainly in the future of Bay-Delta and all California water resource planning and regulation.	
1143	24	25% Doubling: I appreciate that Dr. Pearse, on Jan. 28, noted that he didn't understand what "25% doubling" meant. I had the same problem. I'm unsure where this may be explained, but I do believe some clarification is needed, perhaps in multiple locations.	The VA parties proposed that, during the initial 8-year term of the VAs, they would contribute to achieving 25% of the doubling goal population numbers for Chinook salmon. To evaluate possible expected achievement toward this goal, the Scientific Basis Report Supplement (Staff Report Appendix G2), calculates the area of habitat that would be needed to support 25% of the doubling goal population in each VA tributary and evaluates the VA habitat commitments relative to that goal.
1143	25	Tenuous Status of FERC Relicensing (?) : I read the following article, linked on Maven's Notebook: "FERC opens inquiry on "blanket" authorisations for post-licensing activities at US hydropower plants" • Water Power Mag Nov 24, 2025. https://www.waterpowermagazine.com/news/ferc-opens-inquiry-on-blanket-authorisations-for-post-licensing-activities-at-us-hydropower-plants/?cf-view&cf-closed I know that the relicensing issue figures into many Bay-Delta Plan concerns and by now, I'm guessing the 60-day window for comments on the Federal Register announcement may be past. So I just want to bring to your attention that this may be yet another moving target engendered by the current federal administration, along with other federal moves so capably summarized by Ms. Chicazola (sp?), Save California Salmon, during one of their Jan. 30 th panels.	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.
1143	26	Escape From Model Land Some Board Members and Staff may have already read this book but I just completed my reading in early January of Erica Thompson's, Escape From Model Land: How Mathematical Models Can Lead Us Astray And What We Can Do About it (Thompson, 2022) and I can hardly recommend it more highly to y'all. This book should be especially helpful to those who must base decisions on models, as well as modelers and those whose use models to simply help form opinions. I mostly fall into that latter cadre, myself. I observe that the Board often functions in the capacity of educating the public and I believe this book will be especially helpful in that context — helping the public to understand the best use of models, as well as their limitations.	Section 6.1.1, Presentation of Results, provides context to readers regarding the appropriate use of model 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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		My brief summation is that not only is this book highly enlightening, Thompson is often a hoot, as well. I recall one part that got a bit “thick” for me, but it was mostly easy to comprehend.	
1143	27	Since I believe I have covered all my pertinent points with some time to spare — even for a sunshine break (partly to help rejuvenate my vision after gazing at my MacBook screen for so long) — I will share some excerpts. From the jacket: As statistician Erica Thompson warns us in <i>Escape From Model Land</i>, it’s time we get real about mathematical models. Drawing on examples like the 2008 financial crash, the pandemic and much more, Thompson lays bare the danger of relying naively on models to tell us what to do. She demonstrates how models reflect their creators’ biases, perspectives, and expectations as much as they reflect science or the world itself. That doesn’t make models useless, but, as Thompson argues, it does mean we must develop a keener understanding of their limits to use them well. Among Thompson’s overarching messages throughout the book is the importance of diversity, equity and inclusion (DEI), though in other words. She is safely in the UK, so unlikely to suffer retribution for that stance. From the book: Mathematical modeling is a hobby pursued most enthusiastically by the Western, Educated, Industrialized, Rich, Democratic nations: WEIRD, for short. (p 111) Nigerian writer Chimamanda Ngozi Adichie points out “the danger of the single story”: if you have only one story then you are at risk of your thinking becoming trapped in a stereotype. A single model is a single story about the world, although it might be written in equations instead of flowery prose. Adichie says: “It is impossible to talk about the single story without talking about power ... How they are told, who tells them, when they’re told, how many stories are told are really dependent on power”. (p 36)	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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		Note that none of this necessarily involves collecting more data, buying a larger computer or using whiz-bang statistical methods. It's about representation, taking other views seriously and building trust. Maybe one day that could go viral. (p 200) Visualization usually means tracking single model runs over time, which gives the impression that the main scientific use of the model is for prediction — an impression that, as we have seen in the previous chapters, is quite wrong. The use of models is much more nuanced and complex than simple prediction. (p 197) Paul Wilmott and Emanuel Derman included in their Modeller's Hippocratic Oath the following: "I will remember that I didn't make the world, and it doesn't satisfy my equations". (p 132) I have argued that the adequacy of a model for its intended purpose is as much to do with how it functions as an aid to thinking, as with its raw predictive capability. (p 211) The psychological aid of having a framework for thinking, and the way that models help to form narratives around different scenarios, mean that even without predictive accuracy there can still be benefits in modelling — but we do have to tread carefully. (p 75)	
1143	28	This last one may especially resonate with Board Member Firestone, who, I believe, was articulating a similar point in her comments at the very end of the July 30th hearing. US President Eisenhower, who as commander of the Allied Forces oversaw the invasion of Europe in the Second World War, said that "plans are useless, but planning is indispensable", meaning that the exact details of a plan are always liable to change in light of new information, but the process of planning, coming up with a plan and thinking about possible strategies and failure modes, is useful even if the plan itself is not followed. If we use our mathematical models to avoid having to plan ourselves and instead rely solely on their output, then we have a	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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		plan (which may be useless) but we didn't accrue the "indispensable" benefits of the planning process. This is another reason why explainability, a concept we met earlier, is important for models. ... (p 89)	
1143	29	Finally, I wish to point you to the satellite image on my previously linked blog post, Catchment Restoration for Biodiversity, Climate Change Resilience — first image on that page, the light-colored zones represent the vast areas of degraded catchment functions that could be restored to increase natural recharge in the Bay-Delta watershed and beyond.	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.