Change Sheet #1 for Amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed and Final Staff Report/Substitute Environmental Document

This change sheet contains revisions made to the final draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan) that was released for public review and comment on August 19, 2026. The changes include revisions made in response to comments on the August 2026 final draft Bay-Delta Plan received by September 18, 2026, and additional minor typographical and editorial changes including changes to provide additional clarity. Changes to the Bay-Delta Plan title pages and the tables of contents are not noted below. In addition, as noted below, one footnote has been removed from the Bay-Delta Plan; this change sheet does not note the renumbering of all subsequent footnotes.

This change sheet also contains revisions made to the final *Staff Report/Substitute Environmental Document in Support of Potential Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary for the Sacramento River and Its Tributaries, Delta Eastside Tributaries, and Delta* (Staff Report), including minor revisions to Staff Report Appendix G2, *Final Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan*, after it was released on August 19, 2026. These changes include minor typographical corrections and clarifying edits. In addition, the changes to the Staff Report include responses to an additional comment letter that were inadvertently omitted from the final Staff Report. The responses to the comment letter are provided in Attachment A to this change sheet.

Proposed changes to the August 2026 final draft Bay-Delta Plan and final Staff Report are shown in <u>underline</u> and ~~strikeout~~ below. Minor and typographical edits (e.g., clarifying edits and corrections) are identified in a separate section. Within each section, the revisions are generally organized according to their order of appearance in the August 2026 final draft Bay-Delta Plan or final Staff Report. The revisions are generally identified by section number, as well as table or figure number, as applicable.

Changes to August 2026 Final Draft Bay-Delta Plan

Location	Change
Section 4.1, Introduction	The State Water Board will develop and adopt regulations 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. The State Water Board will make documents it receives and responds to in compliance with the Bay-Delta Plan publicly available on its website or file transfer protocol (FTP) site as appropriate.
Section 4.4, Implementation of Water Quality Objectives for Fish and Wildlife Beneficial Uses	Water quality objectives for the reasonable protection of fish and wildlife beneficial uses include LSJR flow objectives, Sacramento/Delta tributary inflow and cold water habitat objectives, Delta outflow objectives, interior Delta flow objectives, the San Joaquin River dissolved oxygen objective, San Joaquin River salinity objectives, objectives for brackish tidal marshes of Suisun Bay and Suisun Marsh salinity, and objectives for salmon protection and fish viability. This program of implementation describes actions to implement these objectives. ~~For~~The program of implementation for the narrative inflow objective for Sacramento/Delta ~~inflow and~~tributaries, narrative Sacramento/Delta cold water habitat objective~~s and~~, narrative Delta outflow objective, inflow-based Delta outflow objective~~, the program of implementation includes~~ and narrative objectives for salmon protection and fish viability are based on two approaches to ensure implementation. These approaches include either actions required (1) to achieve numeric flow ~~and reservoir storage~~ requirements, specified cold water habitat requirements, ~~and reservoir storage requirements~~ and related actions~~. An alternative to these requirements is provided through~~ or (2) to implement the voluntary agreement (VA) pathway (which also constitutes regulatory requirements), to allow for the Healthy Rivers and Landscapes (HRL) flow, habitat, and related commitments to be implemented for an eight-year period with the possibility of extension. Both of these approaches are supplemented by other complementary actions or measures to implement other objectives set forth in Table 3, and other measures in the

Location	Change
	watershed that state, federal, and local agencies and other entities must take to protect fish and wildlife.
Section 4.4.2.2, Narrative Inflow Objective for Sacramento/Delta Tributaries	The starting point for the inflow requirement for any water rights ~~obtained~~ approved on or before December 31, 2025, includes WSAs for the level of diversions ~~occurring~~ authorized under that right as of December 31, 2025. Unless supported by any necessary environmental and scientific documentation and incorporated (1) as part of a decision or order following a water rights proceeding concluding after OAL approval of the current Plan amendments or (2) as approved in the annual or periodic review process, WSAs do not apply to ~~new water supply projects;[5] however, as part of the annual or periodic review process, the Board could consider whether to apply WSAs to new water supply projects based on any necessary supporting environmental and scientific documentation.~~ water rights other than those identified in the prior sentence. ~~[5] New water supply projects are defined as (1) water rights obtained after December 31, 2025, including any permits issued after that date pursuant to applications filed by the State under Water Code section 10500, and (2) approved water right change petitions that would increase diversions from the Delta watershed and decrease Delta outflows compared to conditions existing as of December 31, 2025.~~
Section 4.4.2.3, Sacramento/Delta Cold Water Habitat Objective	The narrative cold water habitat objective is implemented through the requirements described below in this section (4.4.2.3) and the VA pathway requirements described in Section 4.4.9, implementation of actions outside of the Bay-Delta Plan, including actions required by Water Right Order 90-5 and other regulatory obligations (e.g., FERC hydropower licensing processes), as well as other complementary actions described in this program of implementation and other actions within the watershed.
Section 4.4.3, Methodology to Determine Water	In order to inform the above curtailments, the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right, including any needed operational rules for reservoir management (e.g., ramping rates) and

Location	**Change**
Unavailability and Implement the Bay-Delta Plan and Associated Water Right Curtailments	integration of adaptive implementation provisions. A draft version of this methodology will be developed through a public process within one year of approval of the current Plan amendments by OAL. The initial version of the methodology will then be finalized in coordination with the implementation regulation. The implementation methodology is intended to be integrated with the methodology to implement LSJR instream flows, to the extent possible. The Board may make modifications to this Plan through annual or periodic review to accommodate operational considerations during the development of the methodology.
Section 4.4.9, Implementation of Healthy Rivers and Landscapes Commitments Under the Voluntary Agreement (VA) Pathway	The holders of the HRL water rights are referred to throughout this section as HRL participants for ease of reference; however, the VA pathway is only applicable to the HRL water rights identified in Appendix B.1, as they exist ~~are being exercised~~ at the time of Plan adoption by the State Water Board.
Section 4.4.9, Implementation of Healthy Rivers and Landscapes Commitments Under the Voluntary Agreement (VA) Pathway	Substantive modifications, including inclusion of water rights larger than 100 acre-feet that were not previously identified, inclusion of new or expanded diversions beyond those authorized as of December 31, 2025 ~~water supply projects (as defined in footnote 5)~~, or inclusion of water rights on new tributaries, to the water right list in Appendix B.1 could be considered for approval by the board as part of the annual or periodic review process, along with any necessary supporting environmental and scientific documentation and any other documentation determined to be needed by the Executive Director.
Section 4.4.9, Implementation of Healthy Rivers and	~~The~~ HRL participants may submit a request ~~removal~~ to the Executive Director to remove their own or other HRL water rights from Appendix B.1. The Executive Director may require HRL participants to submit to the State Water Board documentation describing how the request

Location	**Change**
Landscapes Commitments Under the Voluntary Agreement (VA) Pathway	affects HRL commitments and associated accounting, if at all. If there is an effect on HRL commitments and associated accounting, the submittal must describe how the remaining HRL commitments will be fulfilled, consistent with Section 4.4.9.10, and other appropriate information. The request will be subject to a minimum 45-day public comment period. The Executive Director may approve, including with conditions, requested changes to HRL commitments and associated accounting in Appendix B.1, or recommend the State Water Board consider the provisions in Section 4.4.9.10. The Executive Director or State Water Board may approve requests for removal of HRL water rights from the water right list in Appendix B.1 as appropriate, including removal of rights associated with any commitments that will no longer be met. Upon removal of any HRL water rights or voluntary exit from the VA pathway ~~by the Executive Director of HRL water rights from Appendix B.1 after a minimum 45-day public review and comment period. Upon removal of any HRL water rights~~, the implementation provisions described in Sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 would apply to those water rights. The Plan provides flexibility with annual and periodic reviews intended to assess and report on progress on implementation of the Bay-Delta Plan in a public forum. In annual and periodic review, the State Water Board may act on various approvals or adjustments provided for in the program of implementation and may provide direction on any delegated approvals or adjustments provided in the program of implementation. In addition, decisions by the Executive Director under Sections 4.4.9.1 and 4.4.9.4 are subject to reconsideration pursuant to Water Code sections 1120-1124. While other Executive Director decisions may also be subject to reconsideration, the annual and periodic review process is the preferred process for dispute resolution and should be utilized to the extent possible.
Section 4.4.9.1, Protection of Base Flows	~~Increased~~Reductions in flow resulting from increased diversions ~~from new water supply projects (as defined in footnote 5)~~ that are subject to the inflow and inflow-based Delta outflow requirements in Sections 4.4.2.2 and 4.4.2.6 ~~will~~do not ~~be included in determination of~~ change the base flows to which the HRL flow commitments are required to be additive.

Location	Change
Section 4.4.9.1, Protection of Base Flows: Base Flow Balancing Provision for CVP and SWP Operations	This provision applies to substantive changes in CVP or SWP (collectively, Projects) operations resulting from a new Record of Decision (ROD) for the operation of the CVP or a new Incidental Take Permit (ITP) or ITP amendment for the operation of the SWP, or other operational changes that require or result from similar changes that result in a substantial reduction in Delta outflow, compared to the base flows upon which the HRL flows were assumed to be additive as analyzed in the 2026 Staff Report and 2023 Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements (recognizing that the 2024 ROD for the Long-Term Operation of the CVP and the 2024 ITP for the SWP each permit operational flexibility, and that this section does not apply to operational changes within this flexibility that do not result in a substantial reduction in the flows assumed in the 2026 Staff Report and 2023 Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements~~ are not addressed by this provision~~). Each such change is a Relevant Change. This provision does not apply in the absence of a Relevant Change. ~~In the event of such~~ As part of implementing a Relevant Change, the affected HRL parties shall submit a plan for a temporary change (interim plan), for Executive Director ~~approval with~~ determination of whether possible conditions or modifications are necessary, to provide a commensurate increase in HRL flow commitments to address any such reduction in Delta outflow caused by the Relevant Change. The interim plan shall be due within 30 days of the Relevant Change. For a Relevant Change that occurred prior to adoption of the Bay-Delta Plan update for the Sacramento River and its tributaries, Delta eastside tributaries, and Delta~~,~~: i. the plan, if not already submitted, shall be due within 30 days of Office of Administrative Law approval of that Bay-Delta Plan update~~.~~; ii. for an interim plan submitted before January 1, 2027, the Executive Director will make a decision within 30 days of OAL approval of that Bay-Delta Plan update, or otherwise within 60 days following submission of the plan; and,

Location	Change
	iii. the Executive Director's decision shall be treated as final for the purposes of judicial review notwithstanding the ability to seek reconsideration. For subsequent interim plans, ~~T~~the Executive Director will act within 60 days of receiving an interim plan. If the Executive Director does not act on an interim plan within 60 days of receipt, it will be deemed approved. ~~The Executive Director's decision may be subject to petitions for reconsideration to the State Water Board.~~ The interim plan shall document the magnitude and timing of any reduction in Delta outflow attributable to the Relevant Change and describe the source, volume, and timing of additional Delta outflows that will be provided to address reductions in outflows caused by the Relevant Change and if the timing or magnitude differs, the scientific and technical information demonstrating that the proposed outflows along with other measures are anticipated to provide ecological benefits comparable to what would have occurred absent the Relevant Change. If the Executive Director determines the plan does not adequately address the reduction in Delta outflow attributable to the Relevant Change and provide ecological benefits comparable to what would have occurred absent the Relevant Change, the Executive Director shall identify in writing the basis for the determination, and (i) Reclamation, DWR, or both, (ii) the affected HRL parties, and (iii) the State Water Board staff shall meet and confer regarding the determination and any appropriate next step. The Executive Director's decision may be subject to petitions for reconsideration to the State Water Board. The State Water Board may request an updated plan to address new information or changing conditions or the HRL parties may also submit a modified plan, for State Water Board determination~~approval~~, to account for new information or changing conditions.
Section 4.4.9.1, Protection of Base	As part of the periodic review process, and in addition to any interim plan submitted under this provision, HRL parties may submit proposals that take into account changes in project

Location	**Change**
Flows: Base Flow Balancing Provision for CVP and SWP Operations	operations, including changes from the requirements of the 2024 LTO ROD for the CVP and the 2024 ITP for the SWP, and may propose long-term changes to the Bay-Delta Plan in response to those changes
Section 4.4.9.2, HRL Flow Commitments	The Executive Director will provide notification to HRL participants and the public if any issues~~inconsistencies~~ are identified that must be resolved in order for a water right to be included in the list of rights that may be dedicated instream~~.~~ ~~Each year, t~~The specific water rights under which HRL flow commitments are to be provided for instream flow and Delta outflow purposes must be identified at least 90 days in advance of the planned use for an initial verification that ~~and must be provided from water rights under which~~ water is available at that priority of right at the time the water is provided, and consistent with the implementation methodology once that methodology is in effect. The State Water Board will notify the public and provide a 30-day comment period for comments on whether the dedication will injure other legal users of water~~, unreasonably affect fish and wildlife or other instream uses,~~ or increase the amount of water that would have otherwise been used under that right. The Executive Director will provide notification to HRL participants and the public if any issues~~inconsistencies~~ are identified that must be resolved in order for a specific water right to be dedicated instream. Resubmittal is not required after initial verification unless an HRL participant proposes to use different water rights to support its HRL flow commitments or change the timing of the flows.
Section 4.4.9.2, HRL Flow Commitments: Avoiding Redirected Impacts	The State Water Board intends that any implementation methodology will reflect the HRL participants' commitments, and that HRL participants, including the CVP and SWP, will not be expected to backstop the HRL commitments that are the responsibility of other HRL ~~parties~~participants, or ~~parties subject to~~ the unimpaired flow regulatory requirements described in Sections 4.4.2.2 and 4.4.2.6 that are the responsibility of other water right holders.

Location	Change
Section 4.4.9.2, HRL Flow Commitments: Cold Water Habitat	The narrative cold water habitat objective is implemented through the requirements described in Section 4.4.2.3, the VA pathway requirements described below, implementation of actions outside of the Bay-Delta Plan, including actions required by Water Right Order 90-5 and other regulatory obligations (e.g., FERC hydropower licensing processes), as well as other complementary actions described in this program of implementation and other actions within the watershed. The HRL commitments are required to be implemented in a manner to improve temperatures to the extent possible and avoid redirected impacts to water temperatures. As part of the annual and periodic review processes, the HRL participants will be required to report on measures they have undertaken to address temperature impairments in their stream systems in coordination with HRL implementation measures.
Section 4.4.9.3, Additive Flows Above Base Conditions: SWP and CVP Export Provisions	In order to utilize the VA pathway for the HRL water rights identified in Appendix B.1, the HRL participants responsible for providing SWP and CVP export contributions, including DWR and Reclamation, must reduce exports compared to what would have occurred under base conditions by 125 TAF in both dry and below normal water year types, and 175 TAF in above normal water year types, in order to provide additive Delta outflows above base conditions defined in Appendix B.1. All diverters in the Delta watershed, including the SWP and CVP must also bypass other HRL flow commitments to achieve the additive HRL Delta outflow commitments above base conditions, as well as other flows provided by non-HRL water rights, that are above base conditions, to meet Bay-Delta Plan regulatory requirements and other instream flow dedications as specified in accounting provisions included in Appendix B.1 and approved as part of the implementation methodology and associated regulation for the current update to the Bay-Delta Plan. If there are circumstances outside of the HRL participants' control under which the full quantity of HRL committed export reductions could not be provided while meeting minimum human health and safety needs for exports, and if HRL participants are able to demonstrate that exports were no more than 1,500 cfs during the period identified in the flexibility brackets for the

Location	Change
	export action, the export action will be deemed complete for the year. Any shortage will be documented in the annual report. Overall compliance with the export reduction commitment will be determined by verifying that the total export reduction over the initial eight year term of the VA pathway is at least equal to the sum of the required export reductions according to Table 9.
Section 4.4.9.3, Additive Flows Above Base Conditions: Water Purchases	ii. Permanent state water purchases of 65 TAF in critical, 108 TAF in dry, 9 TAF in below normal, 52 TAF in above normal, and 123 TAF in wet water year types. HRL participants are in the process of identifying purchases to fulfill this flow commitment. As those purchases are identified, Appendix B.1 will be updated with opportunity for public review and comment. Any volume of permanent state water purchases not available in a year must be fulfilled through increased flow volumes from other HRL sources, including additional market price water purchases consistent with applicable accounting provisions.
Section 4.4.9.3 Additive Flows Above Base Conditions, Table 12, Column: March	American River: 0~~33~~-66%
Section 4.4.9.3 Additive Flows Above Base Conditions, Table 12, Column: April	American River: 0~~33~~-66%
Section 4.4.9.3 Additive Flows Above Base Conditions,	American River: 0~~33~~-100%

Location	**Change**
Table 12, Column: May	
Section 4.4.9.3 Additive Flows Above Base Conditions, Table 12, Column: June	American River: 0-100%
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: June	Feather River: 0-100%
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: March	American River: 0~~33~~-66%
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: April	American River: 0~~33~~-66%
Section 4.4.9.3, Additive Flows Above Base Conditions,	American River: 0~~33~~-100%

Location	**Change**
Table 13, Column: May	
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: June	American River: 0-100%
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: March	CVP/SWP Export Reduction: 0-60~~30~~%
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: April	CVP/SWP Export Reduction: 30-100~~70~~%
Section 4.4.9.3, Additive Flows Above Base Conditions, Table 13, Column: May	CVP/SWP Export Reduction: ~~3~~0-70%

Location	**Change**
Section 4.4.9.4, Flow Accounting	The following specific accounting provisions apply to HRL flows made available through land fallowing: i. Identification of the specific fallowed parcels by ~~March 1~~April 8 of each year;
Section 4.4.9.5, HRL Non-Flow Habitat Restoration Commitments	HRL habitat restoration projects must be maintained to the extent feasible to achieve the intended habitat benefits ~~provide for no reduction in habitat quality~~ for ~~at minimum~~ the duration of the VA pathway, with the understanding that river systems are dynamic and assessments will be made on a case-by-case basis.
Section 4.4.9.10, Continuation, Modification, or Termination of the VA Pathway: Default Processes for Continuation, Modification, or Termination of the VA Pathway	In addition to the factors set forth in (i) through (xii) above, if the State Water Board staff's draft recommendation is to terminate the VA pathway, the ~~State Water Board~~ staff will include an addendum to the Scientific Basis Report Supplement that synthesizes the then-current scientific information concerning flows and habitat conditions for the protection of fish and wildlife beneficial uses.
Section 4.4.9.10, Continuation, Modification, or Termination of the VA Pathway: Possible Modification or Termination of the VA Pathway as Part	The State Water Board will use the default processes described above to consider extension, modification, or termination of the VA pathway at year eight unless, consistent with the State Water Board's periodic review obligations, there is a need to consider modification or termination of the VA pathway and associated components of the Bay-Delta Plan and its implementation at any time, including before year eight, due to: (1) the HRL participants' failure or inability to implement HRL commitments as described for the VA pathway in the Bay-Delta Plan; or (2) significant evidence that continuing implementation of the VA pathway will not provide reasonable protection of beneficial uses or will jeopardize the continued survival of

Location	Change
of Annual and Periodic Review Processes	native fishes. The Board may modify or terminate the Bay-Delta Plan's VA pathway through a Bay-Delta Plan amendment.

Other Minor and Typographical Edits to August 2026 Final Draft Plan

Location	Change
Section 1.2, Purpose and Application of the Water Quality Control Plan	A water quality control plan consists of: (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. Much of the implementation for this Plan relies upon the combined water rights and water quality authorities of the State Water Board. This Plan establishes water quality objectives for which implementation can be accomplished in part by assigning responsibility to water right holders and water users to mitigate for the effects on the designated beneficial uses of their diversions and use of water. Together, the beneficial uses and the water quality objectives established to reasonably protect the beneficial uses are called water quality standards under the terminology of the federal Clean Water Act. This Plan is complementary to the other water quality control plans adopted by the State and Regional Water Quality Control Boards (Regional Water Boards) and State policies for water quality control adopted by the State Water Board. This Plan provides reasonable protection for the Bay-Delta watershed's beneficial uses ~~that require~~ through control of salinity (caused by saltwater intrusion, municipal discharges, and agricultural drainage), instream flows and Delta outflows, and water project operations (limits on diversions and associated operations and management), as well as other measures. This Plan supersedes the regional water quality control plans to the extent of any conflict between this Plan and the regional water quality control plans. The other plans and policies establish water quality objectives and requirements for parameters, such as toxic

Location	Change
	chemicals, bacterial contamination, and other parameters, which have the potential to impair beneficial uses or cause nuisance. Most of the objectives in this Plan have historically been, and will continue to be, largely implemented by assigning responsibilities to water right holders because the parameters to be controlled are primarily impacted by flows and water diversions. Chapter 2, *Beneficial Uses*, identifies the beneficial uses that the Plan is designed to protect; Chapter 3, *Water Quality Objectives*, contains the objectives designed to reasonably protect the beneficial uses; and Chapter 4, *Program of Implementation*, contains the program of implementation that identifies responsible parties and actions required to achieve the objectives. The State Water Board will implement this Plan through water right or water quality actions, as necessary, including regulatory measures to protect water quality and flow and ~~recommendations to~~ actions by other entities. Where possible, implementation flexibility is provided to encourage creative collaboration and voluntary actions where appropriate.
Section 1.3, Legal Authority	One of the State Water Board's charges is to establish objectives to attain the goal of 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. Together these considerations ensure that the State's waters are put to the best possible use, and that the public interest is served.
Section 3.1, Introduction	This chapter establishes water quality objectives ~~related to water diversions and operations~~ that, in conjunction with the water quality objectives that are included in other State Water Board-adopted water quality control plans and in water quality control plans for the Central Valley and San Francisco Bay basins, when implemented, will: (1) provide for reasonable protection of municipal, industrial, and agricultural beneficial uses; (2) provide reasonable protection of fish and wildlife beneficial uses (and associated TBUs) at a level that stabilizes or enhances the conditions of aquatic resources; and (3) prevent nuisance.

Location	**Change**
Section 3.4, Water Quality Objectives for Fish and Wildlife Beneficial Uses, Table 4, Chipps Island, Column: PMI	~~≤~~≥ 5500
Section 4.1, Introduction	The Bay-Delta Plan establishes ~~largely flow dependent~~ water quality objectives to protect beneficial uses of water in the Bay-Delta watershed~~ from~~, including flow-dependent objectives associated with water diversion activities, using the State Water Board's water rights and water quality authorities. This program of implementation focuses on ~~flow and water project operations~~measures within the State Water Board's water rights and water quality authorities and other measures necessary to achieve the Plan's narrative and numeric objectives. This program of implementation consists of measures to implement the Water Quality Objectives for Municipal and Industrial Beneficial Uses (Table 1 Objectives), Water Quality Objectives for Agricultural Beneficial Uses (Table 2 Objectives); and Water Quality Objectives for Fish and Wildlife Beneficial Uses (Table 3 Objectives). This program of implementation includes a new approach for implementation of the narrative objectives for fish viability, salmon protection, Delta outflow, inflow-based Delta outflow, and cold water habitat allowing multiple pathways to implement the objectives.
Section 4.4.2.5, Narrative Delta Outflow Objective	The narrative Delta outflow objective applies throughout the watershed and is to be implemented through the actions described in Sections 4.4.2.6 through 4.4.2.7 below, as well as other complementary actions described in this program of implementation.
Section 4.4.3.1, Human Health	4.4.3.1 Human Health and Safety and Other Appropriate Provisions

Location	Change
and Safety and Other Appropriate Provisions	
Section 4.4.3.2, Wildlife Refuge Provision	4.4.3.2 Wildlife Refuge Provision
Section 4.4.9.3, Additive Flows Above Base Conditions: Putah Creek (YCFCWCD)	If YCFCWCD can demonstrate no significant adverse water quality effects to Putah Creek based on the approved monitoring described below and as determined by the Executive Director of the State Water Board in coordination with Central Valley Regional Water ~~Quality Control~~ Board staff, the Putah Creek (YCFCWCD) HRL flow commitment may involve routing surface water from Cache Creek to lower Putah Creek and/or conducting groundwater recharge and later utilizing a portion of the banked groundwater from its recharge efforts to provide the HRL flow commitments to lower Putah Creek. If the aforementioned criteria are not met, or if required permits are not obtained to divert from Cache Creek, YCFCWCD will provide the remainder of a year's flow commitment via purchases or exchanges that will result in additive flows to lower Putah Creek. Prior to releasing any Cache Creek surface water or banked groundwater into Putah Creek, YCFCWCD will develop, in consultation with State Water Board and Central Valley Regional Water ~~Quality Control~~ Board staff, a monitoring plan to inform whether releases would result in adverse water quality effects in Putah Creek. The monitoring plan will be subject to approval by the Executive Director of the State Water Board, including any conditions of approval. Once approved, YCFCWCD will conduct monitoring in accordance with that approved plan. The monitoring must include provisions for monitoring of Cache Creek water quality and banked groundwater quality prior to diversion into Putah Creek, and Putah Creek water quality before releases of Cache Creek water or banked groundwater into Putah Creek and during and after releases of Cache Creek water into Putah Creek. If monitoring information indicates possible significant adverse effects to Putah Creek

Location	**Change**
	water quality, YCFCWCD will notify the State Water Board and Central Valley Regional Water Board immediately and cease releasing water into Putah Creek until the Executive Director of the State Water Board in coordination with Central Valley Regional Water Board staff determine that significant adverse effects to water quality in Putah Creek are no longer expected.
Section 4.4.9.10, Continuation, Modification, or Termination of the VA Pathway: Possible Modification or Termination of the VA Pathway as Part of Annual and Periodic Review Processes	In considering whether to modify or terminate the VA pathway under this section, the State Water Board will endeavor to preserve the VA pathway for those HRL participants who have met their commitments
Section 4.4.10.1, Trinity River	As part of the annual and periodic review processes, and more often if needed, the State Water Board will evaluate whether any additional actions are needed to address any redirected impacts to the Trinity River or to ensure that beneficial uses are protected on the Trinity River, in consultation with the North Coast Regional Water ~~Quality Control~~ Board.
Appendix A. Bay-Delta Monitoring and Evaluation	Appendix A can be found on the State Water Board's website.~~at: https://www.waterboards.ca.gov/bay_delta/bay_delta_plan/docs/aug2026-fnl-draft-sacdelta-bdplan-app-a~~

Location	Change
Program (BDMEP)	
Appendix B. Voluntary Agreement Pathway Accounting Protocols	Appendix B.1 (Flow Accounting) can be found on the State Water Board's website.~~at: https://www.waterboards.ca.gov/bay_delta/bay_delta_plan/docs/aug2026-fnl-draft-sacdelta-bdplan-app-b1~~ Appendix B.2 (Non-Flow Habitat Accounting) can be found on the State Water Board's website.~~at: https://www.waterboards.ca.gov/bay_delta/bay_delta_plan/docs/aug2026-fnl-draft-sacdelta-bdplan-app-b2~~

Changes to August 2026 Final Draft Bay-Delta Plan Appendix A, Bay-Delta Monitoring and Evaluation Program (BDMEP)

None.

Changes to August 2026 Final Draft Bay-Delta Plan Appendix B.1, Voluntary Agreement Pathway Accounting Protocols, Flow Accounting

Location	Change
Section B.1.4.1, Definition of Delta Reference Conditions	ii. 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the 2024 Long-Term Operations plan for the CVP and SWP in coordination with federal and state regulatory agencies. The 2024 LTO includes provisions for Delta operations, as well as upstream operations of the SWP and CVP that are all included in reference conditions, including Old and Middle River flow restrictions, fall X2 requirements, Suisun Marsh salinity control gate operations,

Location	Change
	temperature management, provisions for operations of the Sacramento and American Rivers, and other provisions. Export restrictions for longfin smelt that result in a less negative OMR requirement than other OMR actions in place would be excluded from the reference conditions and may result in increases to Delta outflow that would be included in the accounting of forgone export volumes. ~~In the event that there are substantive changes in CVP or SWP operations resulting from a new ROD for the operation of the CVP or a new Incidental Take Permit (ITP) or ITP amendment for the operation of the SWP, or other operational changes that result in a substantial reduction in Delta outflow compared to the base flows upon which the HRL flows were assumed to be additive as analyzed in the 2026 Staff Report and 2023 Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements, the provisions of Section 4.4.9.1 apply.~~ In the event of a Relevant Change in CVP or SWP operations as defined in Section 4.4.9.1, the additional provisions of Section 4.4.9.1 apply. As appropriate, this accounting document will be updated, as approved by the Executive Director through a public process with opportunity for public comment, to include provisions needed to account for the requirements of Section 4.4.9.1.
Section 1.5.3, Reference Conditions for Delta Exports	ii. 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the 2024 Long-Term Operations plan for the CVP and SWP in coordination with federal and state regulatory agencies. The 2024 LTO includes provisions for Delta operations, as well as upstream operations of the SWP and CVP that are all part of reference conditions, including OMR flow restrictions, Fall X2 requirements, Suisun Marsh salinity control gate operations, temperature management and other provisions for operations of the Sacramento and American Rivers, and other provisions. Export restrictions for longfin smelt that result in a less negative OMR requirement than other OMR actions in place would be excluded from

Location	Change
	the reference conditions and may result in increases to Delta outflow that would be included in the accounting of forgone export volumes. In the event ~~that there are substantive changes~~of a Relevant Change in CVP or SWP operations as defined in Section 4.4.9.1, ~~resulting from a new ROD for the operation of the CVP or a new ITP or ITP amendment for the operation of the SWP, or other operational changes that result in a substantial reduction in Delta outflow compared to the base flows upon which the HRL flows were assumed to be additive as analyzed in the 2026 Staff Report and 2023 Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements,~~the additional provisions of Section 4.4.9.1 apply. As appropriate, this accounting document will be updated, as approved by the Executive Director through a public process with opportunity for public comment, to include provisions needed to account for the requirements of Section 4.4.9.1.
Section B.1.6.1, Description of Water Purchase Program HRL Flow Commitments: Permanent State Water Purchases	HRL participants are in the process of identifying purchases to fulfill this flow commitment. As those purchases are identified, this appendix will be updated as appropriate to identify the specific sources and accounting methods for those commitments, after an opportunity for public review and comment. Any purchases not in place 90 days prior to each year's purchase commitment will be met with increased flow volumes from other HRL sources, including additional market price purchases.
Section B.1.7.1, Review and Approval Process	At least 90 days in advance of the time period water is planned to be provided to meet HRL flow commitments, HRL participants making water available through land fallowing must provide a prospective list of water rights under which fallowing will occur, and by ~~March 1~~April 8 must provide their fallowing plans for approval to the Deputy Director for Water Rights and DWR, Reclamation, or other applicable reservoir operators adjusting reservoir operations.
Section B.1.7.2, Use of Evapotranspiration	To provide a combined 150 thousand acre-feet (TAF) of additive Delta outflow above the reference conditions, Sacramento River and Feather River HRL participants will fallow up to

Location	Change
of Applied Water: ETAW for Sacramento and Feather River	23,256 acres and 11,628 acres of agricultural lands, respectively. The maximum acreage of land to be fallowed is based on providing a combined total flow commitment of 150 TAF from the Sacramento and Feather Rivers divided by a rice crop ETAW and decomposition rate of 4.3 acre-ft/acre. Requests to adjust this rice crop ETAW and decomposition rate, may be approved, after the initial eight-year term of the VA pathway, by the Executive Director after opportunity for public review and comment. Any requests must be accompanied by supporting technical justification and coordinated with DWR and Reclamation.
Section B.1.9.3, Definition of Reference Conditions	ii. 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the 2024 Long-Term Operations Plan for the CVP and SWP in coordination with federal and state regulatory agencies. Reclamation manages Shasta Dam as part of the coordinated operations of the CVP and SWP for flood control, downstream requirements, CVP exports at Delta facilities, and in-basin obligations. In the event ~~that there are substantive changes~~ of a Relevant Change in CVP or SWP operations as defined in Section 4.4.9.1,~~resulting from a new ROD for the operation of the CVP or a new ITP or ITP amendment for the operation of the SWP, or other operational changes that result in a substantial reduction in Delta outflow compared to the base flows upon which the HRL flows were assumed to be additive as analyzed in the 2026 Staff Report and 2023 Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements,~~ the additional provisions of Section 4.4.9.1 apply. As appropriate, this accounting document will be updated, as approved by the Executive Director through a public process with opportunity for public comment, to include provisions needed to account for the requirements of Section 4.4.9.1.
Section B.1.10.3, Definition of	iii. 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) –

Location	Change
Reference Conditions	Reclamation and DWR formulated the 2024 Long-Term Operations Plan for the CVP and SWP in coordination with federal and state regulatory agencies. Reference conditions for the American River include American River flows and Folsom Reservoir storage conditions as they would occur prior to implementation of the VA pathway to meet provisions of the 2024 LTO, which include operations for water temperature management and spring pulse flows. In the event ~~that there are substantive changes~~of a Relevant Change in CVP or SWP operations as defined in Section 4.4.9.1,~~resulting from a new ROD for the operation of the CVP or a new ITP or ITP amendment for the operation of the SWP, or other operational changes that result in a substantial reduction in Delta outflow compared to the base flows upon which the HRL flows were assumed to be additive as analyzed in the 2026 Staff Report and 2023 Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements,~~ the additional provisions of Section 4.4.9.1 apply. As appropriate, this accounting document will be updated, as approved by the Executive Director through a public process with opportunity for public comment, to include provisions needed to account for the requirements of Section 4.4.9.1.
Section B.1.11.1, Introduction	This section describes the accounting procedures that the Feather River HRL participants identified in Table B.1 12 will be required to follow in order to utilize the VA pathway identified in the Bay-Delta Plan. Water rights on the Feather River that are not included in Table B.1 12 or otherwise included in the lists of HRL water rights will be subject to the regulatory pathway described in the Bay-Delta Plan. The accounting procedures described in this appendix are in addition to requirements included in Section 4.4.9 of the Bay-Delta Plan. DWR will act as the responsible party for conducting and reporting on the accounting procedures on behalf of all Feather River HRL participants. DWR will coordinate with other Feather River HRL participants and report on reservoir operations, land fallowing, and groundwater substitution actions

Location	Change
	completed to replenish the deficit in Oroville Complex storage created from releasing~~and reporting with other Feather River HRL participants to provide and document the~~ HRL flows.
Section B.1.11.2, Description of Feather River HRL Flow Commitments	In each applicable year, the DWR and Feather River HRL participants will annually provide a total of 60,000 AF of net additive inflows and contributions to Delta outflows from the Feather River, consistent with the default plan and flexibility brackets described in Bay-Delta Plan Section 4.4.9, above reference conditions described in this appendix. Flows are to be provided in dry, below normal, and above normal water year types as determined by Section B.1.3. DWR will bypass or release ~~this~~ water from storage from the Oroville Complex to provide net additive Feather River flows and will bypass this volume as net-additive Delta outflow as described in Section B.1.4. Feather River HRL participants will replenish the deficit in Oroville Complex storage created from releasing HRL flows by conducting a combination of reservoir reoperations, land fallowing, and groundwater substitution actions. The replenishment of HRL flows will be made available through the following: i. A combination of fallowing of agricultural lands and groundwater substitution in the Feather River Service Area to provide 50,000 AF of water. No less than 38,000 AF will be provided through land fallowing. The remainder will be met through groundwater substitution. ii. Reservoir reoperations upstream of or associated with the Oroville Complex~~Reservoir on the South Fork of the Feather River~~ to provide up to 10,000 AF of water (for a total commitment of 60,000 AF) to replenish the deficit within the Oroville Complex created to provide HRL flows.~~with limitations on reservoir refill to periods when Oroville is full or in flood-control operation, when the Delta is in excess, and when surface water is available under the water right conducting the refill at the time it is being diverted to storage. The refill limitations are intended to protect Project water supplies.~~ The additive flow from reservoir reoperation as part of the Feather River HRL commitment is expected to result in a change in timing of flows, with increased flows at certain

Location	Change
	times and decreased flows at other times caused by reservoir reoperation that will vary based on storage and refill conditions and may contribute varying amounts to Delta outflow on a seasonal or interannual basis. If 10,000 AF of ~~upstream~~ reservoir reoperations are not available due to hydrological conditions, Feather River HRL participants~~DWR~~ will secure additional supplies made available through land fallowing or groundwater substitution to ensure the full 10,000 AF of additive flows above reference conditions are provided.
Section B.1.11.3, Definition of Reference Conditions	vii. ~~Upstream~~Reoperated Reservoirs – Reference conditions for the Feather River include operations of reservoirs located upstream of or associated with the Oroville Complex~~Reservoir~~ that are reoperated to ~~provide~~replenish Oroville Complex deficits created from releasing HRL flows as they would occur prior to implementation of the VA pathway.
Section B.1.11.4, Accounting of Reference Conditions and HRL Flow Commitment	During the term of the VA pathway, DWR~~Feather River HRL participants~~ must coordinate implementation and monitoring decisions as outlined in Section B.1.3. State Water Board staff must be invited to participate in this coordination. i. Reference and HRL Flow Accounting and Tracking – Annually, starting by February 1 and weekly thereafter up to and during the time period in which Feather River HRL flows may be provided, ~~Feather River HRL participants must coordinate with other HRL participants and~~DWR must document through the public website tracking system as identified in Section B.1.3 the information listed below for the following components: (1) forecasted and observed reference conditions, (2) planned HRL flow commitments for the coming month and season, and (3) completed HRL flow commitments to date.

Location	Change
Section B.1.11.4, Accounting of Reference Conditions and HRL Flow Commitment	(g) Whether DWR~~Feather River HRL participants~~ will adhere to the default HRL flow schedule or provide flows on a different schedule consistent with the flexibility brackets identified in Bay-Delta Plan Section 4.4.9.
Section B.1.11.4, Accounting of Reference Conditions and HRL Flow Commitment	(j) Reference conditions for applicable ~~upstream~~ flow and reservoir conditions associated with up to 10,000 AF of HRL flows derived from ~~upstream reservoirs~~reservoir reoperations.
Section B.1.11.4, Accounting of Reference Conditions and HRL Flow Commitment	ii. Additive Flow Accounting During Flood Control – Feather River HRL flows must be net additive from January through June. If any HRL flow releases occur prior to or during flood control operations, DWR~~Feather River HRL participants~~ must demonstrate a reduction in end of June Oroville storage equal to the HRL additive flow (i.e., 60,000 AF) minus the volume accrued through June from land fallowing, groundwater substitution, and ~~upstream~~ reservoir reoperation.
Section B.1.11.5, Verification of Additive Flow	To demonstrate that Feather River HRL flows are net additive flows being provided above reference conditions over the January through June time period as required by Bay-Delta Plan Section 4.4.9, Feather River HRL participants must demonstrate the following: i. Water Right Verification – DWR~~Feather River HRL participants~~ must provide water right accounting to ensure that all water bypassed or released from storage to comply with Bay-Delta Plan Section 4.4.9 was made available under valid water rights where surface water is available under that right at the time it is being provided consistent with Section 4.4.9 of the Bay-Delta Plan (i.e., the water right is not subject to curtailment). To the extent that DWR~~Feather River HRL participants~~ bypasses or

Location	Change
	releases water from storage in advance of fallowing taking place under another water right, both sets of rights must be identified at least 90 days in advance of the land fallowing, or the bypass or release, whichever occurs first. Water right accounting must be provided to document both DWR's bypasses of inflows, or releases of previously stored water, and reductions in use by other parties under valid un-curtailed surface water rights or groundwater rights using fallowing or groundwater substitution to repay DWR.
Section B.1.11.5, Verification of Additive Flow	ii. Land Fallowing and Groundwater Substitution – To account for additive flows made available by land fallowing and groundwater substitution respectively, DWR~~Feather River HRL participants~~ must meet the requirements of Sections B.1.7 and B.1.8.
Section B.1.11.5, Verification of Additive Flow	iii. Feather River Reservoir Reoperation and Refill Accounting – HRL participants on the Feather River plan to rely on reservoir reoperations upstream of or associated with the Oroville Complex to account for up to 10,000 AF of the Feather River HRL flows in excess of what would be released annually under reference operations. DWR~~Feather River HRL participants~~ must conduct, and report through the public website tracking system described in Section B.1.3, refill accounting at each reservoir being reoperated. This accounting must identify periods and volumes of refill and a daily time series of reference and observed inflows, outflows, and storage that starts when ~~HRL participants begin to provide~~ the reservoir reoperation portion of the Feather River HRL flow commitment begins, and ends when the storage deficit compared to reference conditions has been refilled.
Section B.1.11.6, Reporting Requirements	Annually by March 1, DWR~~Feather River HRL participants~~ must report the following to summarize reference conditions and HRL flows that occurred over the previous year:

Location	Change
	i. Statements of whether or not HRL flow commitments were met and on what schedule, if and how flexibility brackets were used, and, if HRL flow commitments were not met, how much of the HRL flow commitment was not provided each month. ii. Summary of how monthly operations changed compared to reference conditions from October through September to bypass net additive flows and refill reservoirs (if refilled), and if flood control operations or spill occurred. iii. Summary of the volumes of ~~HRL~~ water provided by water right using land fallowing, groundwater substitution, and reservoir reoperations.

Other Minor and Typographical Edits to Appendix B.1 of August 2026 Final Draft Plan

Location	Change
Section B.1.2, Definitions	Reference Conditions (including reference flows, operations, and reservoir conditions) – The flows, reservoir operations, other water supply and flood management operations, and other conditions to which HRL flow commitments are additive. Except in the case of some specified reservoir reoperations HRL flow commitments, reference conditions include pre-HRL conditions, including regulatory requirements, water diversions, flood control operations, and other conditions such that HRL flows are provided in addition to regulatory requirements and other flows that are in the system incidentally that have been analyzed as part of the base conditions for the VA pathway supporting the current update to the Bay-Delta Plan. <u>Reductions in flow resulting from increased diversions that are subject to the inflow and inflow-based Delta outflow requirements in Sections 4.4.2.2 and 4.4.2.6 do not change the base flows to which the HRL flow commitments are required to be additive.</u> This is also referred to as “base conditions” or “base flows” in Bay-Delta Plan Section 4.4.9.

Location	**Change**
Section B.1.3, Planning, Tracking, and Reporting	Public Website Tracking System – The HRL participants must develop and implement a machine-readable, user-friendly tracking and reporting system for reference conditions and HRL additive flows that is posted in near real-time on a publicly accessible website. The system must include tracking of the following, updated on a weekly basis at a minimum: (a) Continuous historical and forecasted accounting that tracks daily, ~~weekly,~~ monthly, and seasonal reference conditions/flows and HRL flows;
Section B.1.4.3, Verification of Increased Delta Outflow: Figure B.1-1	*Figure B.1-1, Flowchart of Delta accounting for tributary HRL flows and water quality, has been replaced with a new version that reflects the following clarifying edit:* HRL Contributions in [CFS] from upstream tributaries get combined at Freeport and Vernalis. Lag times are accounted for and flows are averaged over the month.
Section B.1.4.4, Planning and Reporting Requirements	i. Flow Schedule Reporting – DWR and Reclamation are required to provide to the State Water Board monthly and seasonal flow schedule projections for Delta outflow, forgone exports, and reference operations for the Delta. The information shall be provided by February 1 and monthly thereafter until all VA flows included in Delta and water quality regulatory offsets have been protected through the Delta.
Section B.1.5.4, Verification of Additive Delta Outflow	i. An initial estimate of reference Delta outflow is determined that would be expected, based on best available information, to produce water quality throughout the Delta that meets D-1641 water quality requirements with the tributary offsets calculated in Section B.1.4 (offset D-1641 ~~objectives~~requirements).
Section B.1.5.4, Verification of Additive Delta Outflow	vi. If the EC + ~~ECoffset~~ECincrement for each location is less than the offset D-1641 requirements, then return to step (i) and decrease the reference Delta outflow. If the EC + ~~ECoffset~~ECincrement is greater than the offset D-1641 requirement for any location, then return to step (i) with a larger reference Delta outflow.

Location	Change
Section B.1.5.4, Verification of Additive Delta Outflow	vii. Repeat steps (i)–(vi) until the minimum reference Delta outflow that satisfies the condition for each compliance location where observed EC + ~~ECoffset~~ECincrement is less than the offset D-1641 requirement. This is the minimum reference Delta outflow that meets water quality requirements.
Section B.1.8.1, Review and Approval Process	(c) Reference groundwater pumping from identified wells should be determined by averaging the most recent three years of groundwater pumping in non-groundwater substitution years and non-curtailment years. The Deputy Director for Water Rights may request additional information and may adjust the three-year period if necessary. If an outstanding issue makes the three year average unreasonable, the participating agency may propose an alternative and seek agreement with the Deputy Director for Water Rights and Reclamation or DWR as appropriate. If a year is determined to be unrepresentative, HRL participants may request that it be removed from the three-~~six-~~ year average.
Section B.1.13.2 Description of Mokelumne River HRL Flow Commitments	The Mokelumne River HRL flows will be provided by reservoir reoperations without reservoir refill limitation or water supply demand reductions. Providing the Mokelumne River HRL flows is expected to result in a change in timing of flows and may increase flows at certain times but effects on net overall additive flows over time are not clear. For this reason, initially only the purchased volumes discussed below will be accounted for as contributing to increases in Delta outflows ~~above reference conditions (base flows)~~. Mokelumne HRL participants will increase the 1998 Joint Settlement Agreement (JSA) minimum instream flow requirement at Camanche Reservoir release (described further below) by 10,000, 20,000, and 45,000 AF in dry, below normal, and normal and above JSA water year types respectively, except in years when the March 1 median forecast of end-of-September total combined Pardee and Camanche storage is less than 350,000 AF when these increased flows do not apply. Based on their modeling, Mokelumne River HRL parties indicate that they expect these changes to result in long-term average increases to Delta inflow and associated Delta

Location	Change
	outflows above base conditions in critically dry, dry, and below normal Sacramento Valley Index years. While this HRL flow commitment is an increase to the JSA minimum instream flow requirement, this increased minimum instream flow requirement is often met from concurrent releases for flood control operations and thus ~~will not always result in increased flows compared to reference conditions and~~ will not always provide net additive Delta inflow. Mokelumne HRL flow releases from Camanche Reservoir will occur consistent with the default plan and flexibility brackets described in Bay-Delta Plan Section 4.4.9.
Section B.1.13.4, Accounting of Reference Conditions and HRL Flow Commitment	(d) Estimate of releases for stream losses and diversions ~~downstream of~~between Camanche Reservoir and ~~carriage water needed to make up for losses and riparian diversions~~Woodbridge Irrigation District's diversion dam that would have been made in reference conditions and those actually made (if different than reference).
Section B.1.13.5, Verification of Additive Flow	ii. Additive Mokelumne River Flow – HRL participants on the Mokelumne River plan to rely on reservoir reoperation to provide Mokelumne River HRL flows. Mokelumne River HRL participants will release or bypass sufficient flows to meet the increased minimum flow requirement below Camanche on the Mokelumne River. To verify the increased minimum flow requirement at Camanche Dam is met, Mokelumne HRL participants must subtract the estimated stream losses and diversions between Camanche ~~Reservoir~~Dam and Woodbridge Irrigation District's diversion dam from the observed flows at Camanche dam measured at USGS gage #11323500 and verify this is greater than or equal to the increased minimum instream flow requirement.
Section B.1.16.4, Accounting of Reference	(b) Time series of minimum bypass flow requirements and daily observed and reference flows at Combie South Power House flow meter (BR 339), Bear River at Rollins gage (USGS gage #11422500~~114422500~~), and at USGS gage #11424000 (Bear River near Wheatland).

Location	Change
Conditions and HRL Flow Commitment	
Section B.1.16.4, Accounting of Reference Conditions and HRL Flow Commitment	ii. Measurement of Flow Commitments – The NID HRL flow commitment must be measured at the Combie South Power House flow meter (BR 339), Bear River at Rollins gage (USGS gage #11422500~~114422500~~), and at Bear River near Wheatland (BRW) to verify that HRL flows are additive to reference conditions at each compliance location. In the event that the gages are offline, NID HRL participants must notify the State Water Board with an estimate of time for gages to be brought back online.
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A000882A – ~~Appropriative~~ Licensed
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A001060 – ~~Appropriative~~ Licensed
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A004355B – ~~Appropriative~~ Licensed
Table B.1-10 Sacramento River	A012087 – ~~Appropriative~~ Licensed

Location	**Change**
HRL Water Rights: Water Right Type	
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A013001 – ~~Appropriative~~ Licensed
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A013002 – ~~Appropriative~~ Licensed
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A015452 – ~~Appropriative~~ Licensed
Table B.1-10 Sacramento River HRL Water Rights: Water Right Type	A025616 – ~~Appropriative~~ Permitted
Table B.1-12 Feather River HRL Water Rights: Primary Owner	A013676 – South Feather Water and Power Agency and North Yuba Water District ~~Yuba Water Agency~~
Table B.1-12 Feather River HRL Water	A013956 – South Feather Water and Power Agency and North Yuba Water District ~~Yuba Water Agency~~

Location	**Change**
Rights: Primary Owner	
Table B.1-12 Feather River HRL Water Rights: Primary Owner	A014112 – South Feather Water and Power Agency and North Yuba Water District ~~Yuba Water Agency~~
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A005648F – ~~Licensed~~ Permitted
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A011977 – ~~Permitted~~ Licensed
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A012539 – ~~Permitted~~ Licensed
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A012842 – ~~Licensed~~ Permitted
Table B.1-13 Mokelumne River	A013156 – ~~Licensed~~ Permitted

Location	**Change**
HRL Water Rights: Water Right Type	
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A014724 – ~~Permitted~~ Licensed
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A015201 – ~~Licensed~~ Permitted
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A025049 – ~~Permitted~~ Licensed
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A025056 – ~~Licensed~~ Permitted
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A025952 – ~~Permitted~~ Licensed

Location	**Change**
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A026711 – ~~Permitted~~ Licensed
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A026736 – ~~Licensed~~ Permitted
Table B.1-13 Mokelumne River HRL Water Rights: Water Right Type	A026739 – ~~Licensed~~ Permitted
Table B.1-15 Yuba River HRL Water Rights: Water Right Type	A015204 – ~~Licensed~~ Permitted
Table B.1-15 Yuba River HRL Water Rights: Water Right Type	A015574 – ~~Licensed~~ Permitted
Table B.1-15 Yuba River HRL Water Rights: Water Right Type	A023795 – ~~Licensed~~ Permitted

Location	Change
Table B.1-15 Yuba River HRL Water Rights: Water Right Type	A026074 – ~~Licensed~~ Permitted
Table B.1-15 Yuba River HRL Water Rights: Water Right Type	A027302 – ~~Licensed~~ Permitted

Changes to August 2026 Final Draft Bay-Delta Plan Appendix B.2, Voluntary Agreement Pathway Accounting Protocols, Non-Flow Accounting

None.

Changes to Final Staff Report

Location	Change
Volume 1, Section 1.1	Comments on the Staff Report and revised draft Bay-Delta Plan informed development of this final Staff Report and the final draft Bay-Delta Plan. This final Staff Report informs the State Water Board's consideration of adoption of the Sacramento/Delta updates to the Bay-Delta Plan. Some changes were made to the Plan amendments after the release of this final Staff Report that do not materially affect the analyses in this Staff Report.
Volume 3, Chapter 3, Indices of Commenters, Index 4	[Add row:] 591, Melinda, Terry, Manager, North Delta Water Agency

Location	Change
Volume 3, Chapter 4, Table 4	[Add responses to Comment Letter 591 provided in Attachment A]

Other Minor and Typographical Edits to Final Staff Report

Location	Change
Volume 1, Section 7.21, Habitat Restoration and Other Ecosystem Projects	The magnitude of construction impacts depends on the extent and duration of land disturbance ~~to existing habitat and species and the extent of temporary and permanent habitat loss~~. ~~Transportation~~ Utilities and service systems ~~traffic~~ impacts associated with common construction activities would be potentially significant and can be avoided or reduced by implementation of Mitigation Measure 7.21 MM-UT-a,f,g: A (CMM-UT-a,f,g).
Volume 2, Appendix G2, Table 5-7, River: Feather, Column: VA Habitat Source	○ A total of 300 acres was expected to be inundated at 4,000 cfs with the following suitability: minimum (~~80~~13% of total inundated acres [~~240~~40 acres] suitable at 4,000 cfs), and maximum/target (80% of total inundated acres [240 acres] suitable at 25,000 cfs) flows.
Volume 2, Appendix H1c, Table H1c.1-1, River: Feather River, Column: VA Habitat Source	○ A total of 300 acres was expected to be inundated at 4,000 cfs with the following suitability: minimum (~~80~~13% of total inundated acres [~~240~~40 acres] suitable at 4,000 cfs), and maximum/target (80% of total inundated acres [240 acres] suitable at 25,000 cfs) flows.
Volume 3, Chapter 4, Table 4.1, Letter No. 1056, Comment No.	Please see the response to comment 1056-~~3~~2.

Location	**Change**
3, Column: Response	
Volume 3, Chapter 2, Common Response 1.2, Water Quality Control Planning Process, Enforcement Authority	Section 313 of the Clean Water Act provides: “Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government ... shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges.

Attachment A: Responses to North Delta Water Agency Comments on 2023 Draft Staff Report

This attachment provides responses to North Delta Water Agency's (NDWA) written comments on the 2023 draft Staff Report, dated January 19, 2024.

Table 4-1. Responses to Comments

Letter No.	Comment No.	Comment	Response
591	1	NDWA previously commented on the 2017 Draft Scientific Basis Report, 2018 Framework, 2023 Draft Scientific Basis Report Supplement, and the Framework for the proposed Bay-Delta Plan Update, and incorporates those comments herein by reference. The Agency's comments are intended to facilitate the State's compliance with the *Contract for the Assurance of a Dependable Water Supply of Suitable Quality* (1981 Contract) and to ensure that any significant adverse impacts to water users and Delta channels associated with changes contemplated in—or implemented pursuant to—the Draft Staff Report are properly described, analyzed, and mitigated in accordance with applicable law.	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 party to the 1981 Contract between NDWA and DWR and is not bound by the terms of that agreement. Please see the response to comment 591-7.
591	2	BACKGROUND A. North Delta Water Agency NDWA was formed by a special act of the Legislature in 1973. (North Delta Water Agency Act, Chapter 283, Statutes of 1973). The Agency's boundaries encompass approximately 300,000 acres, representing nearly half of the legal Delta. This includes all of that portion of the Sacramento-San Joaquin Delta, as defined in Water Code Section 12220, situated within Sacramento, Yolo and Solano Counties, and New Hope Tract, Canal Ranch, and Staten Island in northeastern San Joaquin County. Beginning over 170 years ago, farmers within the area now comprising NDWA began reclaiming lands from flooding, appropriating water to beneficial use, and establishing vibrant agricultural communities. The U.S. Bureau of Reclamation (Reclamation) began constructing the Central Valley Project (CVP) in the late 1930s, damming the major tributaries on the Sacramento River and holding back substantial quantities of the Delta water supply. As it did with landowners along the Sacramento River, Reclamation conducted extensive studies and negotiations to ensure a sufficient supply for water right holders in the northern Delta. Discussions with Delta landowners were protracted, however, due to the complex issues of both 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.

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		quantity and quality, and the issues only intensified with the subsequent construction of the State Water Project (SWP) by the California Department of Water Resources (DWR). Before the CVP and SWP began withholding much of the Sacramento River system's high winter flows, the Delta channels served as seasonal storage, holding sufficient fresh water to sustain water quality in the North Delta throughout and often beyond the irrigation season. The Projects altered the regimen of unregulated flows in the Delta and its channels, resulting in fluctuations to the quality and elevation of water therein. (See 1981 Contract, Recital (d).) Now, the Delta functions more like a flowing stream and, as a result, relatively minor decreases outflow can have a serious impact on North Delta water quality. NDWA was formed to represent northern Delta interests in negotiating a contract with both Reclamation and DWR in order to mitigate the water rights impacts of the Projects. [Footnote 1: Section 4.1 of the Agency Act states: "The general purposes of the agency shall be to negotiate, enter into, executed, amend, administer, perform and enforce one or more agreements with the United States and with the State of California . . . To protect the water supply of the lands within the agency against intrusion of ocean salinity; and … To assure the lands within the agency of a dependable supply of water of suitable quality sufficient to meet present and future needs."] From 1974 to 1979, NDWA, Reclamation and DWR determined the outflow necessary to meet water quality standards for irrigated agriculture and generally reviewed the paramount water rights of landowners within Agency boundaries.	
591	3	B. The 1981 Contract On February 28, 1981, DWR and NDWA executed the 1981 Contract, a copy of which is enclosed, to address the changes to Delta flows caused by the Projects. The 1981 Contract embodies a guarantee by the State of California that, on an ongoing basis, it will ensure that suitable water will be available in the northern Delta for agriculture and other beneficial uses. The 1981 Contract requires DWR to operate the State Water Project to provide water qualities of at least equal or better of the	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please see the response to comment 591-7.

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		standards adopted by the State Water Board from time to time and to meet specified year-round water quality criteria at seven monitoring locations while providing enough water to satisfy all reasonable and beneficial uses of water within NDWA's boundaries, while also providing protection from adverse changes to natural flow direction and water surface elevations caused by the State's export of water. (1981 Contract, Art. 2, 3, and 6.) The 1981 Contract further provides that DWR shall furnish such water as may be required within the Agency to the extent not otherwise available under the water rights of individual water users and the "diversions and uses" of water within NDWA "shall not be disturbed or challenged by the State so long as this contract is in full force and effect." (Id., Art. 8(a)(i).) The provisions of these articles are further supported by a Memorandum of Understanding, dated May 26, 1998 (1998 MOU), that confirms the joint position of NDWA and DWR that any obligation imposed upon the use of water within NDWA to assist in achieving the objectives of the 1995 Delta Water Quality Control Plan is within the scope of the 1981 Contract. A copy of the 1998 MOU is also enclosed. NDWA and DWR's joint position was endorsed in findings by the State Water Board in Water Right Decision 1641 (D-1641). D-1641 assigns responsibility for any obligation of the 1995 Bay-Delta Plan within NDWA to DWR, so long as the 1981 Contract and 1998 MOU are in effect. In return for the assurances provided, NDWA makes an annual payment to DWR. (*Id.* Art. 10.) Although the two signatories are public agencies, the 1981 Contract also extends to individual landowners who, under the terms of the Contract, have executed subcontracts guaranteeing that their lands will receive all the benefits and protections of the 1981 Contract. (*Id.* Art. 18.) Many of these subcontracts have been signed and recorded, enabling the subcontractors to enforce the terms of the 1981 Contract. NDWA has a clear statutory mandate under its Agency Act to protect local water supply from salinity intrusion and assure that the lands within the North Delta continue to receive a dependable supply of water of suitable quality, sufficient to meet	

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		present and future water needs. For this reason, NDWA has maintained during the various Delta planning processes that any projects, programs, and actions pursued in the name of coequal goals codified in the Delta Reform Act of 2009 must, at a minimum: (1) be based on the best available science; (2) be consistent with the State's contractual obligations under the 1981 Contract; and (3) be undertaken in compliance with all applicable state and federal law. It is with this background that the Agency submits these comments on the Draft Staff Report.	
591	4	SUMMARY OF KEY CONCERNS A. As an informational document under the California Environmental Quality Act (CEQA), the Draft Staff Report fails to adequately describe the potential impacts from implementation of the Bay-Delta Plan on water quality and beneficial uses of water in the Delta, particularly the extent to which changes might occur as a result of climate change. B. The Draft Staff Report does not include sufficient analysis regarding the effects on Delta water quality conditions in relation to the year-round salinity criteria contained in the 1981 Contract. The 1981 Contract water quality criteria should be considered along with obligations under the Delta Protection Act (Wat. Code, §§ 12201-12204) and area of origin laws (Wat. Code, §§ 11460-11465) as baseline conditions before the State Water Board implements the proposed Bay-Delta Plan Update. C. The inflow-based outflow objective does not sufficiently account for beneficial uses within the Delta. The Draft Staff Report consolidates water supply impacts in the Delta, making it challenging to discern the specific local impacts on in-Delta water users. The SacWAM modeling utilized for the Draft Staff Report shows little to no reduction to water use within the Delta. However, narrative description indicates in-Delta water users' diversions may be reduced. The lack of an implementation plan does not allow NDWA to adequately review and evaluate impacts. An assumption that NDWA water users' diversions will be subject to reduction based on insufficient Delta inflows or outflows runs counter to the express guarantees of the 1981	Please see the responses to comments 591-5 through 591-9.

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		Contract (1981 Contract Art. 8) and prior determinations of the State Water Board.	
591	5	NDWA COMMENTS A. The Draft Staff Report Does Not Adequately Detail the Potential Impacts From Implementation of the Proposed Bay-Delta Plan Update on Delta Water Quality and Supply The Draft Staff Report is intended to serve as the State Water Board's Substitute Environmental Document for the Bay-Delta Plan Update for the Sacramento River watershed and the Delta, a certified regulatory program under CEQA. (Draft Staff Report, pp. 7.1-2 to 7.1-3; Cal. Code Regs., tit. 23, § 3777(a)-(b).) A Substitute Environmental Document is the "functional equivalent" of an environmental impact report (EIR), and it is subject to the same substantive standards applicable to EIRs. (Envtl. Prot. Info. Ctr. v. Johnson (1985) 170 Cal.App.3d 604, 618 [finding certified regulatory programs are not exempt under CEQA]; CEQA Guidelines § 15250.) Under CEQA, an EIR serves as an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (Santiago County Water Dist. v. County of Orange (1981) 118 Cal.App.3d 818, 822). An EIR must "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (No Oil, Inc., v. City of Los Angeles (1974) 13 Cal.3d 68, 86; State CEQA Guidelines, § 15003(d).) When a project will result in potentially significant environmental impacts, an EIR must propose and describe mitigation measures to minimize or avoid those effects. (East Sacramento Partnership for a Livable City v. City of Sacramento (2016) 5 Cal. App. 5th 281, 303, citing Pub. Resources Code, §§ 21002.1(a), 21100(b)(3); State CEQA Guidelines, 14 C.C.R. § 15126.4(a)(1).) To serve that purpose here, the Draft Staff Report must provide the necessary detail in its project description to allow the public and decision-makers to make informed decisions about the potential impacts. (See San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 672 [EIR was fundamentally flawed due to a curtailed and shifting project description].)	The analysis in the Staff Report is sufficiently detailed for the purposes of CEQA. The analysis is necessarily broad to cover a wide range of compliance actions. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for adequacy of the project description and scope of the analysis. The Plan amendments are not a physical infrastructure project like those referenced in the case law cited by the commenter; impacts to local hydrology will depend on future conditions and a combination of compliance actions and include significant uncertainty. The Staff Report includes a sufficient disclosure of surface water impacts for the purposes of the analysis in Section 7.12, Hydrology and Water Quality, and Section 13.4.4, Changes in Surface Water Supply. For changes in water supply, please see Chapter 6, Changes in Hydrology and Water Supply, Section 7.4, Agricultural and Forest Resources, and Section 7.20, Utilities and Service Systems. Also see Appendix A2, Delta Simulation Model II (DSM2) Methods and Results, for modeling related to water quality, elevation, and velocity in the Delta. Additionally, please see Common Response 7.24, Alternatives Analysis, on consideration of alternatives.

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		To satisfy CEQA, the Draft Staff Report must include a complete analysis of the reasonably foreseeable impacts to water supply and quality, water diversion infrastructure, and water channels and embankments in the Delta to inform the public. (Cal. Code, Regs., tit. 23, § 3777(b)(1); see also Save Our Capitol! v. Dept. of General Services (2023) 87 Cal.App.5th 655, 673 [an "accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR."].) In other words, the Draft Staff Report must provide an adequate, stable project description that informs the public of the proposed program's potential environmental impacts. As presented, the Draft Staff Report fails to meet those requirements, as it does not sufficiently describe the proposed alternatives with enough detail for NDWA or the public to understand how those alternatives will affect Delta water quality, surface water elevations and velocities, in-Delta diversions, and individual water rights.	
591	6	Climate change analysis has become an integral aspect of future planning in California, exemplified by Governor Newsom's Executive Order N-10-19 signed in 2019, which aims to develop a "water resilience portfolio" to create a more climate-resilient future for the state. Scientific literature on anticipated climate conditions in California indicates potential increases in sea levels, salinity intrusion, and shifts in the seasonal timing of runoff, potentially impacting water supply and quality in the Delta. The long-term effects of reduced snowpack levels may lead to the utilization of stored water from upstream reservoirs, including Oroville, to meet projected demands under changing climate conditions is expected to rise, further exacerbated by the implementation of unimpaired flows. These climate change-induced impacts can be significant and are not analyzed in the Draft Staff Report. In conjunction with not modeling or analyzing climate change, the Draft Staff Report fails to address potential impacts of the proposed Bay-Delta Plan changes on Delta water supply and water quality in the event of multi-year droughts. The Draft Staff Report presents results aggregated by water year types, which	Please see Common Response 4.2, Drought and Climate Change, for responses to comments that raise issues with the analysis of climate change and multi-year droughts in the Staff Report. The draft Staff Report does identify potential water quality impacts in the Delta as a result of the proposed Plan amendments. Section 7.12.1, Surface Water, contains an impact analysis for water quality metrics in the Delta including salinity, water temperature, mercury, and harmful algal blooms (HABs). As stated in that section, the proposed Plan amendments could result in potentially significant impacts to water temperature and HAB formation in the Delta in the summer and fall months. Please also see the response to comment 591-5.

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		masks the potential impacts that multi-year droughts can have on water supply management. Multi-year drought analysis is a vital component of water planning in California, as highlighted by former Governor Brown's Executive Order B-17-2014. The declaration of a state of emergency due to severe drought conditions underscores the importance of long-term, comprehensive water management. The Draft Staff Report does not assess the performance of the proposed Bay-Delta Plan measures during extended drought conditions. Assessing the impact of multi-year droughts is especially important for NDWA, as that information is needed to identify vulnerabilities and risks to the beneficial in-Delta water uses that NDWA is statutorily obligated to protect. This includes issues such as reduced available stored water for beneficial uses and increased salinity intrusion in the Delta, which are both correlated with long-term drought. Considering that the implementation of unimpaired flow requirements would require bypassing reservoir inflows that are otherwise stored, the upstream storage in reservoirs of the CVP and SWP could be reduced. This situation would impact DWR's ability to maintain the 1981 Contract's year-round salinity criteria (1981 Contract Art. 2) and to furnish such water not otherwise available under individual water rights (1981 Contract Art. 8), especially during prolonged drought years. It can be anticipated that these droughts could become more erratic and severe under future climate change, a factor that is not assessed in the Draft Staff Report. The Draft Staff Report and its modeling currently suggest implementation of the Bay-Delta Plan under the proposed alternatives will not result in water quality impacts in the Delta. If that projection changes, NDWA expects that the Draft Staff Report will be revised so that all potential impacts to in-Delta resources are identified and evaluated, including implementation projects and the cumulative impacts of all proposed projects on in-Delta hydrology under each alternative. Any direct or indirect changes that will affect existing Delta water quality, water surface elevations, local diversions, or flow velocities that can erode levees should be fully considered and	

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		analyzed so that affected agencies and water users, including NDWA, reclamation districts in the vicinity, and the public are properly informed.	
591	7	B. Implementation of the Bay-Delta Plan Update Must be Consistent with the Analysis in the Draft Staff Report and the Requirements Under the 1981 Contract, Area of Origin Protection, and the Delta Protection Act. In 1995, the State Water Board adopted an update to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta ("1995 Plan"). In conjunction therewith and as required by the 1995 Plan's water quality standards, the State Water Board initiated a water right proceeding to allocate relative flow contribution responsibilities among water right holders, culminating in D-1641 [Footnote 2: Originally issued December 29, 1999, revised on March 15, 2000.]. Holders of post-1914 appropriative water rights within the North Delta were put on notice that their water rights were subject to potential curtailment to help meet the new water quality objectives of the 1995 Bay-Delta Plan. During the D-1641 proceeding, DWR and the Agency entered into the 1998 MOU, which provides in relevant part: DWR agrees that any obligation to curtail or modify diversions in order to assist in achieving any flow or salinity objective of the 1995 Plan imposed upon the use of water within the Agency is entirely within the scope of the existing obligation of DWR under the 1981 Contract to provide water from the State Water Project supply, subject to the limitations of reasonable and beneficial use. During the term of this Memorandum of Understanding, no party shall assert, before the State Board or any court, that any other party must reduce or eliminate any of its direct diversions, diversions to storage or rediversion of stored water, or release any previously stored water so long as the other party's method of use and method of diversion are reasonable under Article X, Section 2 or the California Constitution. (1998 MOU, para. 1)	The State Water Board is not a party to the 1981 Contract between NDWA and DWR and is not bound by the terms of that agreement. This commenter seems to be requesting assurances that the Board will recognize the 1981 water quality contract between NDWA and DWR when implementing the Sac/Delta update to the Bay-Delta Plan. The Board has committed to developing its implementation methodology through a transparent public process with meaningful public participation opportunities. These comments should be raised during that process, which is the appropriate forum for such comments. Further, requirements established through D-1641 to implement the 1995 Bay-Delta Plan are still in effect, including those referenced by this commenter. Requirements established in the Sac/Delta Plan amendments are in addition to those established in D-1641; DWR and Reclamation remain responsible for meeting those existing requirements. In addition, the 1998 MOU referenced by the commenter states "This Memorandum of Understanding shall be effective only for the purposes of the currently pending SWRCB water right hearings to allocate the obligation to implement the 1995 Plan's water quality objectives, and for no other purpose." Thus, the MOU is not applicable to new additive obligations imposed by the Sacramento/Delta update to the Bay-Delta Plan. The State Water Board has long signaled that other entities outside of the Projects may be required to help meet water quality objectives and there is no ongoing obligation in either D-1485 or D-1641 to assign all future responsibility for updated objectives solely to the Projects. The obligations of the Projects in D-1641 are not changed by the Sacramento/Delta update to the Bay-Delta Plan. Please see Common Response 1.1, General Comments, for a response to comments regarding consistency with other laws, policies, and agreements. Please see Common Response 1.2, Water Quality Control Planning Process, for discussion related to the Delta Protection Act, Article X, Section 2 of the California Constitution.

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		The parties further agreed "that the payments made by Agency to DWR pursuant to the 1981 Contract constitute full and adequate consideration for the obligation of DWR described in paragraph 1 of this Memorandum of Understanding." As a result, any responsibility assigned to water users within the Agency to implement flow and salinity objectives contemplated in the 1995 Bay-Delta Plan was "backstopped" by DWR. The State Water Board acknowledged then that DWR's responsibility for any obligation of the Agency or its constituents to meet flow objectives arose from the terms and conditions of the 1981 Contract. (D-1641, at pp. 64-65.) In approving the 1998 MOU, the State Water Board formally found that DWR would "provide the backstop for any water assigned to the parties within the NDWA as specified in the 1998 MOU. This decision assigns responsibility for any obligations of the NDWA to the DWR consistent with the MOU." (D-1641 at p. 66). The State Water Board's findings and determinations were upheld by the trial and appellate courts that subsequently reviewed D-1641. It is critically important that the current Bay-Delta Plan recognizes and incorporates the assurances of the 1981 Contract. The criteria set forth in the 1981 Contract should also be incorporated into the environmental baseline from which the Draft Staff Report analyzes the potential impacts of the proposed changes and updates to the Bay-Delta Plan. Modeling and analysis for the contemplated alternatives should address the potential effects in the North Delta and identify how the proposed implementation pathways and impact mitigation measures will assure adequate water supply reliability, availability, and quality for all North Delta water users. If the modeling indicates that there may be impacts to surface water quality, supply, or Delta hydrology and hydraulics, the program of implementation under the Draft Staff Report must include conditions that enable DWR to continue to meet its contractual obligations under the 1981 Contract. A 2006 opinion by Justice Robie of the Third Appellate District in *State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 674 held that the export of water from the Delta by	The Bay-Delta Plan does not conflict with Area of Origin protections. While the Delta Protection Act does require the Projects to provide Delta water users with adequate supply, Delta water users remain subject to other regulatory requirements (see, e.g., *Phelps v. State Water Resources Control Bd.* (2007) 157 Cal.App.4th 89 [upholding the ability of the Board to apply Term 91, which precludes the ability of downstream users to divert stored water released by the Projects to comply with water quality objectives and specifically finding that such action was not precluded by the Area of Origin statutes]; *El Dorado Irrigation District v. State Water Resources Control Bd.* (2006) 142 Cal.App.4th 937 [imposing a condition to protect the diversion of water while federal and state water agencies were releasing water to meet water quality objectives did not contravene the county of origin and area of origin statutes]), and to the extent that Delta water users divert natural flows that contribute to the degradation of water quality in the Delta, the Board has not only a legitimate interest but the legal authority to curtail such diversions. These authorities include Article 10, section 2 of the California Constitution, the Public Trust Doctrine, and Water Code sections 100, 100.5, 104, 105, 275, and 1058. (See also *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463 [the Board had the authority to enact regulations to preclude the unreasonable use of water and evidence sufficient to support the regulation was reasonably necessary to prevent unwarranted salmon mortality]). The assumptions used for the SacWAM baseline include regulatory requirements and other conditions as they have largely been implemented for the majority of the Sacramento/Delta Bay-Delta Plan update process, including the responsibilities of DWR and Reclamation to meet the requirements of D-1641, as described above. This responsibility is implemented in SacWAM using the WEAP platform's priority structure, by assigning a higher priority to the diversion requirements associated with Delta channel depletions than that assigned to flow requirements representing D-1641 requirements, while assigning lower priorities to Project demands for storage or direct diversion. Thus, the diversions

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		the CVP and SWP is subject to the area of origin assurances of the Watershed Protection Statute (*Id*. at 754-755.) Water Code Section 11460 provides: In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein. (*Id*.) Justice Robie held that the State Water Board may not reduce an area of origin users' water right for the purpose of supplying water for use outside of that area of origin, absent a legal basis that trumps the Act. (*Id*. at p. 758.) Recital (g) of the 1981 Contract also confirms the joint position of DWR and NDWA that Part 4.5 of Division 6 of the California Water Code affords a first priority to the provision of salinity control and maintenance of an adequate water supply in the Delta, and relegates to lesser priority all exports of water to other areas for any purpose. The Delta Protection Act expressly incorporates protection for areas of origin contained in the County of Origin Law and the Central Valley Project Act, and extends similar protections to the Sacramento-San Joaquin Delta. (Wat. Code, §§ 12201-12204). Accordingly, any Delta solution the State Water Board adopts that reallocates flow obligations relative to the state and federal water projects must include guarantees that the lands within NDWA will continue to receive the benefits of the 1981 Contract and other applicable law, including, without limitation, the Delta Protection Act and the area of origin laws. The final Staff Report should therefore: (a) include a comprehensive description of the 1981 Contract, including but not limited to its year-round water quality criteria; and (b) incorporate the requirements of 1981 Contract as part of the existing baseline, prior to the adoption of	within NDWA are met before D-1641 requirements, and it is unnecessary to include an explicit representation of the 1981 contract. The baseline assumptions of the SacWAM model are appropriate for the purposes of the analysis. Please see Common Response 6.2, Baseline and No Project Alternative, for more information on the baseline.

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		new Delta outflow criteria that would either overlook or adversely affect the water right priorities of in-Delta water users.	
591	8	C. The Draft Staff Report's Inflow-Based Outflow Objective Must Account for Beneficial In-Delta Water Use The concept of an inflow-based outflow objective is theoretical and lacks clarity in terms of implementation, as it does not accurately account for in-Delta water uses. This ambiguity not only reflects the challenges and complexities that will come with implementing the proposed changes, but also impacts the ability of in-Delta water users to understand and assess how the inflow-based outflow objective will be put into practice and to what extent their water rights will be impinged. The Draft Staff Report anticipates that in-Delta water users' "diversions may be reduced depending on the specific circumstances of those diversions, including their water right priorities, the degree to which the diversions contribute to net depletions, and the hydrological conditions," in order to meet the proposed inflow-based Delta outflow objective. (Draft Staff Report, at p. 6-8; see also at p. 5-31 ["Water users downstream of the tributaries, except for de minimis water users, also would bear responsibility for achieving the inflow-based outflow objectives through limits on their diversions, including Project diversions and other in-Delta diversions."].) Despite this narrative assumption that in-Delta water users will contribute flows in addition to the contributions by diverters on the tributary river systems under the various considered alternatives, the SacWAM modeling results show little to no reductions. The modeling does not reflect the narrative description or recognize DWR's obligation to be a "backstop" for NDWA water users in accordance with 1981 Contract Art. 2. The Draft Staff Report identifies an outflow objective based on required Delta inflow, adjusted for "natural losses and gains/floodplain inundation." (Id., at p. 5-29.) The description of the proposed inflow-based outflow objective reflects an outflow objective that only makes "adjustments for downstream natural depletions and accretions." (Id. at pp. 5-28 to 5-29, emphasis in original; see also id. at p. 5-31 [providing for deduction of	Please see the response to comment 591-7 regarding the 1998 MOU. As stated in the Staff Report, in-Delta water users are considered to be "water users downstream of the tributaries" and would share responsibility for meeting the inflow-based Delta outflow objective. Implementation of the inflow-based Delta outflow objective could be achieved through a Voluntary Implementation Plan (now referred to as local cooperative solutions), or through a default implementation pathway and methodology, which would involve curtailments according to water right priority. In implementing curtailments, the Board will consider and accommodate as appropriate relevant court decrees, settlement agreements, and other arrangements that affect water diversion and use to the extent consistent with the water right priority system. Note that the Board is not a party and is not bound by private agreements and stipulations. A draft of the methodology will be developed through a public process within one year of approval of the Plan amendments by OAL. Within two years of approval of the current Plan amendments by OAL, the State Water Board will adopt implementation regulations consistent with the above that will identify specific curtailment procedures and requirements. The initial version of the methodology will then be finalized in coordination with the implementation regulation. Section 6.4.5, Sacramento/Delta Supply to the Delta, presents changes in surface water supply that may occur as a result of the Plan amendments. As stated in the Staff Report, significant reductions in Delta diversions 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. However, 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 this analysis as a share of total agricultural water supply (Table 6.4-1) and overall cumulative changes in water supply. If Delta water supply is reduced to help meet outflow requirements, there would be an increase in SWP and CVP reservoir storage or an increase in

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		depletions from required Delta outflows only for net depletions "when excluding the effects of diversions"].) By only accounting for natural depletions within the Delta, the inflow-based outflow objective effectively denies in-Delta users any assurance of water availability if only minimum inflows—and therefore outflows—are present in a given year. The inflow-based outflow objective is at odds with the described framework that should account for in-Delta beneficial water uses. Appendix A.1. describes that water use in the Delta is "estimated by including Delta net channel depletions for the heart of the Delta." (Draft Staff Report, Appx. A.1., at p. A1-5.) The net channel depletions used in SacWAM are, in turn, based on the Delta Channel Depletions model results produced by DWR. (Id.) Under that model, "Delta net channel depletions are the sum of consumptive uses from agricultural diversions, natural riparian evapotranspiration, and seepage to groundwater. Delta channel depletions are difficult to measure for various reasons, including inadequate measuring of agricultural diversions, return flows, and seepage, but are estimated to be as high as 1.3 million acre-feet (MAF) annually." (Id. at p. 6-8, emphasis added.) However, the Draft Staff Report states "many uncertainties" regarding in-Delta water use still exist, and therefore it does not quantify or analyze the changes, nor does it evaluate the impacts to those unquantified uses, under any of the proposed alternative scenarios.	water supply to other regions. Section 9.5.4.3, Sacramento/Delta Supply to Sacramento River Watershed, Delta, and Delta Eastside Tributaries Regions (Sacramento/Delta watershed), presents changes in surface water supply that may occur as a result of the VAs. 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. 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. The flow requirements will be implemented in order of water right priority. Thus, in-Delta water users would be able to divert when water is available at their priority of right. The inflow-based Delta outflow objective does account for in-Delta water use. As the commenter points out, the Delta diversions are included in the Delta net channel depletion estimates assumed in SacWAM. Additionally, Appendix A7.2.4 Delta Depletions, describes the assumptions to account for the natural depletions in the calculation of unimpaired Delta outflow which is a component in the SacWAM estimate of the inflow-based Delta outflow requirement.
591	9	The Draft Staff Report also overlooks the effect of water supply cost increases in the Delta due to reductions in available inflows by broadly looking to the overall water supply costs across the state: To the degree that reductions in these depletions occur due to the proposed Plan amendments, they would result in lower water supply costs in other regions and higher costs in the Delta,	The discussion of water supply cost cited by the commenter comes from a section discussing SacWAM modeling assumptions and refer to cost as the reduction in depletions and not directly as an economic impact, which is discussed in detail in Chapter 8, Economic Analysis and Other Considerations. The Staff Report has an extensive analysis of water supply effects. The discussion of water supply costs inside and outside the Delta is relevant for users who source water supply from several

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		but they would not result in additional overall water supply costs. These effects are evaluated qualitatively in the Staff Report due to the above-referenced data limitations. As part of the proposed Plan amendments, the State Water Board would develop and refine depletion estimates for the purpose of implementing the proposed Plan amendments. (Id., at p. 6-8, emphasis added.) The Draft Staff Report improperly defers analysis of the scope of anticipated curtailments, reduced water availability, and higher water supply costs for in-Delta water users. Further, the conclusion that overall water supply costs would not increase because higher costs in the Delta would be offset by lower water supply costs in unidentified "other regions" lacks any factual support. The State Water Board should assume as a "baseline" condition that California will continue to provide flows that meet water quality and supply criteria required in the North Delta for reasonable and beneficial uses while the 1981 Contract remains in full force and effect.	regions. The statement that higher water supply costs in the Delta would not result in additional overall water supply costs is a correct assumption, as reduced Delta depletions would result in more water available to diverters elsewhere in the watershed. Changes in water supply in the Delta and other regions in the Sacramento/Delta are discussed in detail in Sections 7.20 and 13.7.20, Utilities and Service Systems, and Section 7.4, Agriculture and Forest Resources, of the Staff Report. Water supply economic effects in the Delta and other regions are discussed in detail in the Staff Report Sections 8.4 and 13.8.2, each titled Agricultural Water Supply Economic Effects, and Sections 8.5 and 13.8.3, each titled Municipal Water Supply Economic Effects. Please see the responses to comments 591-7 and 591-8.
591	10	CONCLUSION AND CLOSING REMARKS The Agency appreciates the opportunity to provide comments on the Draft Staff Report and hopes the State Water Board will endeavor to ensure that any alternative and implementation pathway it selects will avoid and mitigate potential impacts water quality and water supply in the North Delta. To comply with CEQA, NDWA urges the State Water Board to revise the Draft Staff Report and conduct more comprehensive and robust analysis and modeling of in-Delta uses and the relevant impacts under all proposed alternatives prior to certifying the Substitute Environmental Document. The Draft Staff Report must be revised to include the details necessary for the public to comprehend the locations, severity, duration, and seasonal differences of all potential impacts to Delta water quality and elevation, and the State's compliance with the NDWA 1981 Contract. With coordination and sufficiently protective measures in place, the Agency is hopeful that it can support the State Water Board's approval and implementation of the new Bay-Delta Plan Update for the Delta and Sacramento River watershed.	Please see the responses to comments 591-5 through 591-9.