

Appendix C: Summary of Public Comments

The table below summarizes the substantive technical, factual, or legal comments regarding the Water Unavailability Methodology that were received prior to the release of the July 23, 2021 version of the report that was incorporated by reference into the emergency regulation, as well as the section of the July 23, 2021 version of the Water Unavailability Methodology summary report that is responsive to each comment.

Commenter	Summary of Comments	Response Section
<i>Written Comments</i>		
Valley Aglands, Inc.	Notices of Water Unavailability (Notices) should be issued earlier to manage post-1914 priorities of right. If conditions are very dry, Notices should be issued to partially curtail all riparians as well.	1
Association of California Water Agencies	Notices should be very clear that they are not curtailment orders.	See June 15, 2021 Notices
Byron-Bethany Irrigation District	Methodology cannot support any curtailments. Some of the flaws from Order WR 2016-0015 still exist. Distinguish supply gages in Figure 5. Add Hydrologic Unit Code level 8 watersheds map. Do not make Delta return flows available to rights upstream. Treat Delta as its own supply and demand area with water always present. Legal Delta's return flows stay available locally. Add municipal return flows as additional supply. Do not omit mainstem reservoir releases in excess of full natural flow (FNF). Acknowledge residence time of water in the Delta (about 3 months). Use hydrodynamic models for Delta water availability instead of upstream FNF. Consider Delta water quality. Include return flows from rediversion of stored Project water. Attached 2016 Expert Report of Susan Paulsen.	1, 2.1.3, 2.2.8, 2.3.3

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California Farm Bureau Federation	Better describe actual curtailment process. How will the recent Temporary Urgency Change Petition from the Department of Water Resources' (DWR) State Water Project (SWP) and the U.S. Bureau of Reclamation's (Reclamation) Central Valley Project (CVP) (collectively Projects) affect this effort? Focus on improved functional data instead of poor reporting/measurement. Encourage voluntary agreements instead of curtailments.	3
Central Delta Water Agency	Tidal flow should be available natural flow supply (about 330,000 cubic feet per second or about 19.6 million acre-feet per month). Identify any rights within tidal influence zone. Natural tidal flows are of sufficient quality for beneficial use; the Projects are required to ensure this. Historically the Delta was less salty but development (deepening ship channels) have made it saltier. Acknowledge that Delta lowland diversions help the Projects by improving Delta water quality. Curtailing Delta lowland rights would not save any water due to weed growth and shallow groundwater. Account for water transfers (e.g., groundwater substitution or land following) and channel accretions/depletions. Do not curtail any water users in the Delta. Attached 1993 Delta Atlas Tidal Flows figure, 2014 testimony of Christopher Neudeck, 2014 South Delta sounding elevations map, 2010 Contra Costa Water District memo on historical Western Delta salinity, 1956 DWR Report on Delta Lowland water quality, 1993 Delta Atlas elevation map, 2014 GEI memo on Delta Wetlands curtailment, and 1993 Delta Atlas Legal Delta map.	1, 2.1.2, 2.2.8, 2.3.3
Cold Springs Water Company	Inadequate justification for curtailing any water rights in San Joaquin Watershed. Support users with no alternative water sources.	See June 15, 2021 Notices

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California Water Research	Consider diversions by Sacramento River Settlement Contractors under Reclamation's CVP permits (Reclamation's reports are unclear on relationship). Cross-check diversions greater than face value. Document assumptions on Settlement Contractor demand met by stored water versus natural flow. Ensure Reclamation is complying with reporting requirements for CVP. Attached data table estimating diversions by contractors with post-14 rights.	2.2.2, 2.2.6
East Bay Municipal Utility District	Methodology not real-time or appropriate for individual curtailments (i.e., demands based on 2018 which may not represent current conditions). More technical documentation of process needed. Better describe actual curtailment process. Why is the Mokelumne River subwatershed considered a lower subwatershed? Were adjustments made to include the entire watershed in FNF gages? Better explain treatment of riparian and pre-1914 users. Better explain calculations of pasted values.	2.1.3, 2.2, 2.2.4, 2.3.1, Technical Appendix A
Jennifer Spaletta (Delta and tributary water users)	Acknowledge that Delta channels below sea level always have water; the issue is quality not quantity. Use 2020 Demand data for permits and licenses and real-time data for largest diverters with telemetry (e.g., Projects). Support voluntary agreements (e.g., fallowing/forbearance). Attached 2016 Expert Report of Susan Paulsen.	1, 2.2, 2.3.3
Merced Irrigation District	Disagrees with treatment of Projects as most junior. Methodology too generous to SB88 violators. Make sure that abandoned flows are actually abandoned and not being delivered downstream. Do not enact emergency regulations and risk litigation. More information coming on proposed San Joaquin voluntary agreement.	2.2.6, 2.2.8

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Northern California Water Association	<p>Curtailments based on waste and unreasonable use are not effective. Better align water availability with actual and projected water supplies (see MBK comments at workshop). Real-time system like Term 91 works well. Sacramento water rights should not be curtailed for users south of North Delta Water Agency, reconsider Legal Delta proration (see Order WR 89-8). The State Water Resources Control Board's (State Water Board or Board) January 1978 Report has good recommendations. Fully utilize complaint process. Use online alert system to lift curtailments. Support voluntary agreements (flow agreements exist on nearly all Sacramento tributaries).</p>	2.1, 2.3.3
Tim O'Laughlin	<p>Do not include Stanislaus River water as available downstream (adjudicated). Include New Melones releases as abandoned downstream of Vernalis. Reclamation's planned New Melones releases for Delta outflow are illegal. Most of Reclamation's Project diversions are San Joaquin River water. Decide if the Delta is a "pool" or not. Curtailing diversions in the Delta does not save water. Are flows to meet X-2 protected? Is tidal flow available for appropriation? Do Central and South Delta have a right to stored water? See comment letter for additional questions.</p>	1, 2.2.6, 2.3.3
Santa Clara Valley Water District	<p>Consider impacts on transfers and exchanges. Enforce SB88 requirements. Balance human water needs with environment.</p>	2.1.2

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San Joaquin Tributaries Authority	Supply forecasts of FNF are insufficient to support curtailments, and DWR's Bulletin 120 (B-120) has been inaccurate in 2021. Evaluate supply on a daily basis. Better explain how past data is used in forecasts. Disclose all CalSim 3 results and better validate San Joaquin River return flows. Abandoned flows in headwater subwatersheds not included. Demand estimates based on past data are inaccurate. Disaggregate statement demand into riparian and pre-1914 demands. Account for reductions in demand due to drought. Better explain headwater subwatershed disconnection. Contractor demands double-counted. Do not include rediversions of rim dam releases. Regulations and curtailments of riparian and pre-1914 users are outside the Board's jurisdiction without adjudication. Assuming flow connectivity may be incorrect. Only enforce priority system through complaints.	1, 2.1.4, 2.1.6, 2.2, 2.2.4, 2.2.6, 2.2.8, 2.3.2, 4.1.2
State Water Contractors	Use smaller timestep than monthly. Validate demand data using land use information. Rely on real-time water use data. Supports voluntary agreements. Critiques arguments of Delta water users.	2.1.4, 2.2, 4.1.2
Jeanne Zolezzi (Banta-Carbona Irrigation District, Patterson Irrigation District, West Stanislaus Irrigation District)	Methodology has not improved since 2015 and is insufficient to curtail individual users. Use updated (lower) demand data for this year. Remove riparian demands if no natural flow available. Use finer time scale than monthly. California Data Exchange Center station data inaccurate. Summer San Joaquin Project demand is too high. Include San Joaquin River accretions. New Melones releases are abandoned after Vernalis. Curtailments not necessary on San Joaquin River. The State Water Board has no duty to protect the Projects.	1, 2.2, 2.2.6, 2.2.8, 2.3.2

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<i>Verbal Comment</i>		
Mark Van Camp (MBK Engineers)	Appreciates the inclusion of abandoned water at a subwatershed scale. Appreciates the approach of erring on the side of conservative demand estimates and liberal supply estimates so curtailments are not premature. Compare B-120 and California Nevada River Forecast Center forecasts for Sacramento River watershed locations. Reconsider the apportionment of Delta demands between watersheds.	2.1.4, 2.3.3
<i>Late Comment</i>		
Environmental Law Foundation	Consider public trust needs before making allocation decisions. Revise demand estimates to include demands for instream flow. Create a separate public trust process to ensure that there are sufficient flows for fish survival during the drought. Apply methodology to all users including pre-1914 users.	2.2.4, 3.2