Table 4-1. Responses to Comments

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1038	1	This letter and the attachments hereto are submitted on Solano Irrigation District ("District" or "SID") to the Revised Draft Sacramento/Delta Updates to the Bay-Delta Plan and new Chapter 13 (collectively "Draft Plan" or "Plan") released on or about December 12, 2025 by the State Water Resources Control Board ("SWRCB"). District incorporates its written comments submitted on or about January 19, 2024 and January 10, 2025 including the attachments and exhibits thereto, copies of which are submitted herewith. District also submits the Declaration of Paul R. Fuchslin, P.E., dated January 15, 2024 and the Supplemental Declaration of Paul R. Fuchslin, P.E., dated January 30, 2026, copies of which are submitted herewith. District also reserves the right to rely on the comments of any other party for the purpose of exhausting administrative remedies and preserving issues in this proceeding. As explained in greater detail herein, the proposed unimpaired flow and carryover storage requirements of the Plan will have devastating impacts on Solano County residents and water users. Those Plan terms will have a devastating impact on Solano County and will result in annual shortages of water and will routinely result in Solano Project allocations of less than fifty percent (50%), and in many instances zero percent (0%), for District and other Solano Project member units, including the cities of Fairfield, Suisun, Vacaville, Benicia, and Vallejo. The Plan also proposes to effectively transfer control of the Solano Project from District and the Bureau of Reclamation to the SWRCB and its staff.	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. Please see the response to comment 1038-3. The commenter is incorrect that regulatory requirements are akin to effectively "transfer[ing] control" of the District's operations and the commenter has provided no basis for this claim. The District maintains control of their operations and is free to operate as they wish in compliance with the applicable requirements. Please see Common Response 1.2, Water Quality Control Planning Process, for more information on the State Water Board's authorities. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for information on urban water supply impacts.
1038	2	Neither the SWRCB nor the State of California paid for the Solano Project, and the State of California may not use a water quality control plan to obtain control and deny those users of the Solano Project – a facility of the United States which was financed and constructed to serve Solano County and the residents, farms, and cities therein and which has a place of use that is limited to Solano County of the uses pledged to them by SWRCB orders and federal authorizations. The Solano Project was also financed and constructed by the United States to supply water to federal facilities at Travis Air Force Base and Mare Island shipyard and	Please see the responses to comments 1038-8 and 1038-9. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		to the surrounding communities that provide housing to the federal employees at these federal facilities. California may not adopt a water quality control plan that would undermine and deprive federal bases and facilities used in the defense of the United States which are located in Solano County vital for the nation's defense of reliable water supplies. Nor may the State of California adopt a water quality control plan that will vest the State with control over Lake Berryessa and which will deprive Solano County urban and agricultural water users of use of their Solano Project water. The Plan contains substantial flaws and must be retracted.	
1038	3	1. The Plan Will Have Devastating Water Supply Impacts. The Plan Fails to Account for the Impacts. The Plan and the Modelling Within the Plan Understate Adverse Impacts from the Plan. The devastating water supply impacts from the Plan are described in detail in the Declaration of Paul R. Fuchslin dated January 15, 2024 and the Supplemental Declaration of Paul R. Fuchslin dated January 30, 2026, both of which are submitted herewith. As explained through those declarations, the Plan will have significant adverse impacts throughout Solano County and on SID in particular. The adverse impacts include water shortages to urban and agricultural users in Solano County, as well as cities that rely on Solano Project water (i.e., Vacaville, Fairfield, Suisun), as well as significant water shortages for agricultural users within District's boundaries and elsewhere in Solano County. Attached as Exhibit 1 to the Supplemental Declaration of Paul Fuchslin submitted herewith is the "Summary Table of Scenarios for Years 2005-2024" summarizing the water supply impacts to the Solano Project from the Plan, specifically Tables A and B therein. The Summary Table of Scenarios depicts District's modelling results of the Plan and which are summarized as follows: • Table A demonstrates that the proposed 55% unimpaired flow standard through the Water Supply Adjustment will result in zero water available from the Solano Project in 10% of years, less than 50% of Solano Project water would be available in 25% of	The SacWAM results indicate that in the 55 with water supply adjustments scenario, the annual water supply to the Solano Irrigation District through the Putah South Canal is reduced by a maximum of 25% and on average 10% reduction in annual water supply. The impacts of this reduction in supply on agriculture is presented in Section 7.4, Agriculture and Forest Resources, and municipal uses in Section 7.20, Utilities and Service Systems. Water supply adjustments greatly reduce the impacts to users specifically on Putah Creek. Please see Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report for an analysis of the revised proposed Plan amendments. See also Common Response 1.3, Revised Proposed Plan Amendments. The commenter provides a table of information without thorough documentation of how it was produced which makes evaluating the analysis in this comment challenging. The commenter does not appear to incorporate the watershed-wide water supply adjustments as described in Section 13.3.3.2, Sacramento/Delta Tributary Inflows, of the 2025 partially recirculated draft Staff Report. More importantly however, the analysis provided by the commenter is flawed because it assumes historical operations of Lake Berryessa and historical deliveries to Solano Project users, therefore it does not appear to maintain a proper water balance, which results in grossly overestimating the impacts of the proposed project.

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		years (one in four years), and the average annual reduction in Solano Project water available for allocation would be 60,800 acre-feet from approximately 225,000 acre-feet, if the carryover storage limit is the lower limit of "Table 8" which is 500,000-700,000 acrefeet. "Table 8" is titled "Carryover (End-of-September) Storage Target Ranges (TAF)" and is on pages 54-55 of the December 2025 Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed ("Table 8"). (Fuchslin Supplemental Dec., Exhibits 1, 2.) • Table B demonstrates that that the proposed 55% unimpaired flow standard through the Water Supply Adjustment will result in zero water available from the Solano Project in 20% of years (one of every five years) if the carryover storage limit is the upper limit of "Table 8" (700-1,000TAF), less than 50% of Solano Project water would be available in 40% of years, and the average annual reduction of Solano Project water available for allocation would be 91,000 acre-feet. (Fuchslin Supplemental Dec., Exhibits 1, 3.) This modelling confirms that the water supply impacts from the Plan will be severe and that annual reductions in allocations will range from approximately 60,000 to 90,000 acre-feet.	
1038	4	The adverse impacts from the Plan are not limited to drought years. In some non-drought years such as "below normal" years, the Solano Project is subject to heightened minimum carryover storage requirements under the Plan which result in zero allocation from the Solano Project. Thus, some of the most severe water shortage impacts from the Plan appear to occur in non-drought years when the carryover storage and unimpaired flow requirements are higher and more draconian under the Plan than in drought years. For example, in 2016 which was a below-normal year rather than a drought year, the minimum storage requirements are pushed back up to a higher level (700TAF or 1MAF depending on lower limit of Table 8 or the upper limit of Table 8) and this results in zero allocation from the Solano Project.	Please see the response to comment 1038-3 for a response to commenter's assertions about reductions in water supply.
1038	5	The Plan will also cause severe groundwater overdraft conditions in Solano County due to the increased groundwater pumping and reduced groundwater recharge that will result	The Staff Report recognizes potentially significant impacts on groundwater supplies and potential lowering of the groundwater table from water users choosing to increase groundwater

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		from the Solano Project water shortages caused by the Plan. The Plan erroneously assumes that no additional groundwater pumping will occur by Solano Project water users when surface water is not available or is reduced due to the Plan. This is a ridiculous, inaccurate assumption, and the Plan fails to accurately account for and evaluate groundwater impacts from the increased groundwater pumping that will result from the Plan. There is no alternative source of surface water and Solano Project users will attempt to pump more groundwater as a result of the water shortages caused by the Plan. Groundwater is not a reliable, sustainable source of water supply and the Solano Project was constructed and developed to reverse the severe groundwater overdraft conditions that existed in Solano County prior to the Solano Project. The United States constructed and financed the Solano Project in order to remediate the groundwater overdraft conditions that threatened the viability of Solano County agriculture, housing, and of federal defense installations, and the Plan is inconsistent with the Project's federal purpose and intent. And even with the failure to accurately account for increased groundwater pumping, the Plan confirms that there will be significant reductions in groundwater levels and groundwater storage in Solano County due to the surface water shortages caused by the Plan which will result in less groundwater recharge.	pumping as a potential response to reduced surface water supplies (see Impact GW-b in Section 7.12.2.3, Impact Analysis and Section 13.7.12.2, Groundwater). The Staff Report explains that analyzing an increase in groundwater pumping is not a directive that farmers and ranchers should or would replace Sacramento/Delta reductions with groundwater pumping, especially in light of requirements to achieve sustainability in basins subject to SGMA. Section 7.12.2.4 Mitigation Measures and Section 13.7.12.2, Groundwater, includes a discussion on how implementation of SGMA may help mitigate the effects of the proposed Plan amendments by minimizing groundwater overdraft. In addition, public agencies have been on notice since 2012 regarding the State Water Board's intention to update the Bay-Delta Plan for the Sacramento/Delta. Such notifications should have informed groundwater sustainability agencies' planning efforts and management assumptions regarding the amount of surface water supplies, in excess of environmental needs, that may be available during the development of the GSP and for GSP implementation. The commenter also misinterprets the appendix modeling outputs by treating SacWAM's groundwater-pumping constraints and/or long-term cumulative groundwater-storage differences as findings of the groundwater impact analysis. The conclusions presented in the comment do not reflect the purpose, scope, or findings of the groundwater analysis in the Staff Report, nor do they represent any predictions or estimations of actual groundwater storage or use in a groundwater basin. The groundwater impact analysis is described in Sections 7.12.2 and 13.7.12.2, each titled Groundwater. For clarification on the appropriate groundwater impact analysis, SacWAM's consideration of groundwater, and information on SGMA's overlap with updates to the Sacramento/Delta Bay Delta Plan, please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act.
1038	6	Another example of the Plan's deficiencies is the year 1992 when Lake Berryessa reached approximately 420,000 acre-feet. The Plan did not exist; however, there were no fish kills for trout or other fish species living in the inter-dam reach which demonstrates that water temperatures were adequate for fish	The Bay-Delta Plan was first adopted by the State Water Board in 1978 and was subsequently updated in 1991, 1995, 2006, and 2018. The Bay-Delta Plan existed in 1992. Please see Section 1.2.3, Bay-Delta Water Quality Control Planning Background of Appendix B,, Scientific Basis Report in Support of New and

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		populations in Putah Creek without the Plan and without the Plan's unimpaired flow and carryover storage requirements. There are other years in which Lake Berryessa also reached comparably low levels. There were no carryover storage requirements or unimpaired flow mandates (the Plan did not exist), and fish populations in Putah Creek were unharmed by Solano Project operations. Currently, there are thriving trout and salmon populations in Putah Creek under the current operations of the Solano Project without the Plan and without the Plan's carryover storage and unimpaired flow requirements. These facts demonstrate and confirm that the Plan is unnecessary and lacks environmental and scientific merit.	Modified Requirements for Inflows from the Sacramento River and its Tributaries and Eastside Tributaries to the Delta, Delta Outflows, Cold Water Habitat, and Interior Delta Flows, of the 2023 draft Staff Report, for a description of the history of the Bay-Delta Plan since 1995. Please see Staff Report, Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a discussion of the purpose and goals of the Sacramento/Delta Update to the Bay-Delta Plan. The comment is focused on fish conditions that had occurred in 1992 and in the "inter-dam" reach between Monticello Dam and Putah Diversion Dam. While informative at a local scale, this "inter-dam" reach is not the primary focus of the Bay-Delta Plan Update, which is directed at the flows and ecosystem conditions downstream of the Putah Diversion Dam of Putah Creek. As such, conditions observed in the inter-dam reach alone are not sufficient to evaluate the need for, or effectiveness of, the Plan's flows requirements. Water temperature monitoring data paired with fish monitoring data can demonstrate whether water temperatures are suitable and promote survival of juvenile fish, spawning adults, and redds. The lack of a "fish kill" in the inter-dam reach of Putah Creek is not evidence that the Solano Project has no impact on fish populations or that conditions on Putah Creek are sufficient for maintaining a natural population of Chinook salmon or providing reasonable protecting fish and wildlife beneficial uses. Please see Section 3.4, Chinook Salmon (Oncorhynchus tshawytscha) and Central Valley Steelhead (Oncorhynchus mykiss), in the Staff Report for a description of the effects of flow on fish survival in Putah Creek. Please see Common Response 3.1, Fish Protection, for a discussion of the scientific basis reports and the description of effects of flows in Putah Creek. Please also see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the regulatory pathway implementation of the cold water habitat objective.
1038	7	The Plan is also inconsistent with the existing instream flow program for Putah Creek which has been implemented for over twenty-five years pursuant to the 2000 Agreement with Putah	Please see the response to comment 1038-24. Splitting Solano County between two regions does not result in

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		Creek Council that settled the adjudication of Putah Creek in Putah Creek Council, et al. v. Solano Irrigation District, et al, commonly referred to as the "Putah Creek Accord." Attached as Exhibit 4 to the Supplemental Declaration of Paul R. Fuchslin, P.E., is a summary of measured inflow and outflow volumes of the Solano Project as it has operated pursuant to the 2000 Agreement of the Putah Creek Accord. This demonstrates that District and other Solano Project member units already allow significant flows down Putah Creek, without the Plan and its unimpaired flow and carryover storage requirements. But the Plan does not analyze, account for, or address the Putah Creek Accord, and the Plan's unimpaired flow and carryover storage requirements are inconsistent with the Putah Creek Accord and will interfere with its continued implementation by making it infeasible to provide for Accord flows under certain conditions, as more fully described in the January 15, 2024 Declaration of Paul R. Fuchslin, P.E. The Plan through Chapter 13 also significantly understates impacts to Solano Project water users and to Solano County by splitting the impacts between the "San Francisco Bay Area" and the "Sacramento/Delta" regions, both of which include Solano County and Solano Project water users.	an underestimation of the impacts but prevents impacts from being double counted. Appendix A1a of the Staff Report discusses how SacWAM outputs are mapped to one of seven study area geographic regions (Figure A1a-1), with "Locator Zones" overlaid (Figure A1a-2) based on SacWAM demand units, types of water supplies, and location. Details of the Locator Zones are included in Table A1a-1. Multiple counties are split between Locator Zones; including Solano, Santa Clara, San Benito, Tulare, and Kings Counties. This SacWAM methodology ensures all impacts are accounted for and are not counted twice. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for information on the level and scope of the analysis.
1038	8	2. The Plan Improperly Vests Control of the Solano Project with the SWRCB and Its Staff. Through the Plan the SWRCB is proposing to obtain effective control over the Solano Project and its operations. For example, the Plan contemplates temperature management plans that will be developed by the Executive Director and imposed on water right holders and reservoir owners and operators, including Lake Berryessa, and the Plan states that the temperature management plans will be submitted to the Executive Director annually for approval. (Plan, p. 53-54.) This annual "approval" process in which the Executive Director and the SWRCB may dictate Solano Project operations is antithetical to the water right system, federal supremacy, and to the orderly operation of the Solano Project which requires certainty and predictability in contract entitlements and water deliveries. Housing cannot be constructed and crops cannot be planted if water deliveries are	The commenter has not correctly described the process for temperature management plans, which would be developed by the reservoir owner and operator and would include process and procedure. The commenter has also incorrectly described the adaptive management provisions, which apply to the regulatory pathway and not the VA pathway (although there are adaptive management components of the VA pathway as well). Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway cold water habitat and inflow requirements and the VA pathway. The revised proposed Plan amendments will reduce Sacramento/Delta surface water supply (as discussed in Staff Report Section 13.4, Changes in Hydrology and Water Supply, and analyzed in Sections 13.7, Environmental Analysis, and 13.8, Economic Analysis and Other Considerations), but will not change variability or predictability of the hydrology in the

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		conditioned on the ongoing "approval" of the SWRCB and its staff, who without process and procedure, propose through the Plan to determine how the Solano Project- a facility of the United States- will be operated on an annual basis. The unacceptable level of control obtained by the SWRCB over the Solano Project is also evident throughout the Plan's provisions regarding the Healthy Rivers and Landscape Program. The SWRCB is proposing an "adaptive implementation" program with adjustments to the HRL program approved or a directed by the Executive Director on a one-year basis, with longer-term adjustments approved by the Executive Director of the State Water Board. This "adaptive implementation" program lacks the requisite certainty and predictability required for the Solano Project to operate in an orderly fashion. Moreover, the Plan authorizes the SWRCB to unilaterally terminate or modify voluntary agreements pursuant to the Healthy Rivers and Landscape Program, without a due process hearing, limits the duration of the Healthy Rivers Programs to eight years, and states that the VA pathway may be modified or terminated if HRL participants fail or are unable to implement HRL commitments, or the withdrawal of a party or parties from the VA pathway that materially affect the ability of any remaining. The control obtained by the SWRCB over the Solano Project through the HRL program, and the resulting uncertainty on Solano Project operations and water deliveries, is unlawful and will leave District and other Solano Project water users in perpetual uncertainty as to the availability and reliability of their Solano Project water supplies.	Sacramento/Delta region. High spatial and temporal variability, including the uncertainty of droughts, are inherent characteristics of the hydrology of the Central Valley and are not introduced by the revised proposed Plan amendments. With the complex, highly managed network of dams, reservoirs and canals, water and irrigation districts have successfully planned for their irrigation water needs and made investment decisions, as reflected in their agricultural water management plans. The State Water Board issued a Notice of Preparation in 2009 for updating the Bay-Delta Plan, starting with the Southern Delta salinity and San Joaquin River (SJR). In 2012, the State Water Board issued a Supplemental Notice of Preparation and Notice of Scoping Meeting for Environmental Documentation for its proposed Update and Implementation of the Bay-Delta Plan for the Sacramento/Delta (^SWRCB 2012). This Notice informed the public, including cities, towns, water districts, and other local public agencies, that the State Water Board would be updating Bay-Delta Plan objectives for the protection of fish and wildlife beneficial uses by improving instream flows for the Sacramento River, its tributaries and Delta eastside tributaries. Therefore, water suppliers have had more than 10 years to prepare for potential reductions in surface water supply under the revised proposed Plan amendments. Furthermore, the revised proposed Plan amendments include provisions for exceptions to curtailment for human health and safety and other related reasons. Please see Common Response 1.2, Water Quality Control Planning Process, for information on Board consideration of factors under Water Code section 13241. The 8-year term of the VA pathway was proposed by the VA parties. Also see the response to comment 1038-1 and see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology and State Water Board oversight.
1038	9	3. The Plan Will Cut Off the Water Supply of Federal Military Bases and the Housing of Employees of Federal Military Installations. The Plan is Inconsistent with the Purpose of the	As discussed in the Staff Report, activities that would have an impact on population and housing would be development or infrastructure projects that could induce substantial population

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		Solano Project of Providing Water to Federal Military Installations and Maintaining Ship Repair facilities on the West Coast and to Supplying Water to the Housing of Workers Engaged in those Activities. The water storage and availability of water for human and industrial consumption at Travis Air Force Base and the former federal property at Mare Island shipyard used for ship repair was critical to the purpose of the Solano Project in the l950's and remains so today. Established principles of law prevent California's actions that would deprive these sites of reliable water supplies. The Bureau of Reclamation and Department of Defense have legal grounds for defending the water supplies relied upon by each of these vital defense-related properties. Travis today is the operational base for 7,260 active military personnel. In addition, the approximate 3,770 civilians and 4,250 reservists who must have water to live in the surrounding areas and service the base which is described as the "Gateway to the Pacific." Travis today handles more cargo and passenger traffic through its aerial port than any other military air terminal in the United States. How exactly would Taiwan be defended if Travis has a curtailed water supply? Although Mare Island shipyard was decommissioned as a naval base in 1996, civilian operators immediately took over the three drydocks, cranes, and ship repair facilities. During WWII, the facility hosted up to 40,000 employees and workers in constructing and repairing ships and most of the facilities remain. Without continued water service for human consumption and workers' living accommodations in nearby Solano County communities, the announced plans to revitalize American shipping will fail because there are no facilities to provide for those activities. A court and perhaps the Senators of 49 other states will ask: How can California now ignore the commitments it made to and for the Solano Project? That the funding and construction of Monticello Dam authorized by Congress in 1949 was for the purpose of providing reliable water supplies to these Department of Defense facilities and the residents who would serve the facilities is cited in the Department of Interior Report and Findings dated February	growth in an area or activities that could result in displacement of substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere. Changes in hydrology and changes in water supply would not result in activities that would affect population and housing. The Solano Project is a federal project with the Bureau of Reclamation that stores water in Lake Berryessa for delivery to users throughout the region to meet the water demands of agriculture, municipalities, and military facilities within Solano County. The program of implementation provides flexibilities that can help minimize water supply impacts on these types of military facilities. The revised proposed Plan amendments include water supply adjustments for existing water right holders at the outset of plan implementation to reduce water supply impacts and allow more water to be stored in reservoirs, including substantial reductions to supply impacts on Putah Creek. Finally, plan provisions will allow the State Water Board to develop and implement qualified exceptions to curtailments associated with Bay-Delta Plan implementation for human health and safety needs. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on the factors to be considered in establishing water quality objectives, including municipal use and the need for developing housing.

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		1949 on the Project. Page 4, paragraph 21, of that Report states: "The municipal, military and industrial supply at point of delivery would total 34,000 ac ft which would take care of the municipal, industrial and military demands for about the next 30 years." This is more than 15% annually of the annual delivery yield of the Solano Project. "This would provide 34,000 acre-feet annually at point of delivery and would take care of the anticipated demands of the Army Air Transport Command base, Benicia Arsenal, Mare Island Navy Yard and the cities of Fairfield, Suisun, Benicia and Vallejo of about the next 30 years." This supply anticipated a reservoir with a capacity of 2,200,000 acre-feet when in fact the final reservoir capacity was only 1,600,000 or 32% smaller. (Page 5, para. 19.; page 31.) Page 19 of the Department of Interior report states that the City of Benecia and the Army Arsenal located in Benecia was utilizing barges to bring fresh water to the Arsenal in 1948. "The arsenal is forced to use brackish bay waters for firefighting, flushing and some industrial purposes. At present the water shortage has reached the stage where fresh water is supplied by barges to the city's system." Paragraph 18 on pages 8-19 states that the groundwater supplies of Fairfield and Suisun, where workers at Travis and Mare Island lived, was described as exhausted and "[n]earby the air Transport Command base (Travis) also is suffering from a deficient water supply. The air base has not been able to develop sufficient water from wells to meet its present needs as the groundwater situation is similar to that of the cities of Fairfield and Suisun." (Page 19.) The SWRCB Staff Report refuses to study the specific groundwater effects of its Plan conditions. The groundwater will again be over drafted and exhausted. Vallejo serving water to Mare Island was at a critical juncture. "...[T]he supply is not adequate and it has become necessary to purchase water from the East Bay Municipal Utility District. Vallejo must secure additional water or face an acute shortage by 1952 when the contract with the utility district expires. Renewal of the contract at that time is not possible because of the growing water needs in the East Bay area." (Page 19.) The letter of submittal to Congress by the Department of Interior	

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		which is the basis for funding the Solano Project states at page XIII: The crucial problems however are the present deficiency in firm water supply for the Mare Island Navy Yard, which receives its water from the city of Vallejo; Benecia Arsenal which is served by the city of Benicia and the Army's Air Transport Command base near Fairfield (Travis) which obtains a meager water supply from the inadequate and failing local groundwater resources. All three of these military bases are permanent establishments of great importance. The net effect of the SWRCB Plan is that the federal bases and the communities where their employees live would be without sufficient water under the Plan, and the federal purpose of the Solano Project would be converted from serving Solano County and the federal military bases and employees therein to serving a State of California fishery enhancement vision for the Sacramento-San Joaquin Delta. For example, under the Plan each worker at each of these bases who lives in an area served by the Solano Project would find their home in water years such as 1976, 1977, 1990-1993 without reliable water service of 47 gallons per person per day, but likely limited to approximately one-half those gallons per day for up to periods of one-half of the year of a drought. The SWRCB fails to explain how substitute supplies would be trucked and stored for these military defense areas' use or persons' use while the grand plan to revitalize environmental conditions for fish would occur during droughts.	
1038	10	4. The Plan's Unimpaired Flow and Carryover Storage Requirements Confirm that the "Plan" is Intended to Void Established Orders of the SWRCB Placing that Responsibility on the CVP and SWP. The Plan Attempts to Create a New, Unlawful Water Right and Priority for Environmental Purposes. The Solano Project place of use is land within Solano County and areas adjacent to Solano County. Decision 869 authorizing Lake Berryessa includes no purpose of use of permitting Solano Project appropriated water to be employed for the purpose of relieving water right duties of the CVP or SWP. There is no legal authority for excusing the junior priority of the CVP and SWP	Section 2.7, Existing and Future Water Rights in the Sacramento/Delta Watershed, of the 2023 draft Staff Report provides general information on California's water right system and existing water rights and claims in the Sacramento/Delta watershed. The 2023 draft Staff Report also identifies the Solano Project, Lake Berryessa, Putah Diversion Dam, and Putah South Canal in the existing hydrology and water-supply discussion. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including water supply adjustments under the regulatory pathway and tributary-specific water supply adjustments for Putah Creek.

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		projects from the senior priority assigned to the Solano Project water rights. It is the duty of the CVP, SWP and other junior water right holders to first provide water for Sacramento River and Delta flows required by the SWRCB before senior water right holders such as the Solano Project are required to bypass and release flows. The SWRCB itself conditioned the Bureau of Reclamations rights to appropriate and store Sacramento River water at Shasta Dam upon the CVP first meeting and recognizing the rights of prior appropriators and riparian right holders. Decision 990 term 22 subjects the United States to "rights initiated by applications for use within said watershed and Delta regardless of the date of filing said applications. (Decision 990, term 22.) The Solano Project is a senior water right to the CVP duties through Shasta Dam to make water available for fish and wildlife use in the Sacramento River and Delta. The Department of Water Resources' Oroville Dam and the State Water Project are subject to the same limitation and priority through Decision 1641 and Water Code section 11460. In granting authority to the SWP to utilize applications with priorities in the 1920's through state filings, the SWP remains subject to the priority of local users through the County of Origin Act found in section 10505 of the Water Code. The Plan ignores these legal priorities and does not discuss them as part of the "baseline" and then purports to announce that 55% (or 35%) of the unimpaired flow is to flow to the Delta and San Francisco Bay to relieve the CVP and SWP of their junior priority and specific Board orders regarding Delta releases does not comply with CEQA/SED requirements or the law. The baseline is not being properly described, nor the changes in environmental conditions likely because of the unimpaired flow Project. A project description must be clear and accurate to allow informed comparisons. (County of Amador v El Dorado County Water Agency (1999) 76 Cal.App.3d 931, 955; Santiago County Water District v County of Orange (1994) 118 Cal.App.3d 818, 829.) In Decision 869 regarding the specific flows in Putah Creek to be	Adopted in 1957, D-869 was subsequently amended by Water Right Orders 76-13, 79-14, 79-26, 81-11, and 84-7. The permits issued under D-869 contain standard reservation of jurisdiction and continuing authority language, including in Permit 10659 and Licenses 13876 and 13877. Among other things, that language provides that the quantity of water diverted under the right is subject to modification by the State Water Board, after notice and opportunity for hearing, if the State Water Board makes specified findings that modification is necessary to meet water quality objectives in water quality control plans established or modified pursuant to Division 7 of the Water Code. Proposed changes to the Bay-Delta Water Quality Control Plan are pursuant to Division 7 of the Water Code, including Article 3, section 13143, which states that state policy for water quality control shall be periodically reviewed and may be revised. This comment conflates the Plan amendments with the future implementation of those Plan amendments in a water right or water quality proceeding. These two processes are distinct. In the revised proposed Plan amendments, the State Water Board would establish water quality objectives and a program of implementation for achieving those objectives, including specific measures or recommendations for appropriate action by certain entities. Adoption of the revised proposed Plan amendments would not itself create a new water right, assign a new priority for environmental purposes, or amend or determine the terms of Decision 869, Decision 990, or D-1641, including the place of use, purpose of use, priority, or other terms of the Solano Project's water rights. The State Water Board would impose enforceable obligations to implement the water quality objectives in one or more future proceedings involving the exercise of the State Water Board's water right or water quality authority, as appropriate. Regarding the Protected Areas Statute, Water Code section 1215 applies to water suppliers exporting water for use outside a protected area pursuant to applications to appropriate surface water or groundwater filed or initiated after 1985 that are not subject to Water Code section 11460. Water Code section 1217,

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		maintained by Lake Berryessa and its storage capacity, the SWRCB did not assign a portion of the water rights to the Bureau for use in the Delta or San Francisco Bay for water quality repulsion of salt water or instream water quality uses. Instead, the SWRCB states in term 19 of Decision 869, referring to the member entities of the Solano Project: … such public agencies on behalf of landowners and other water users ... have the permanent use of all water appropriated and beneficially used hereunder … which right shall be appurtenant to the land to which said water shall be applied …. Until the SWRCB holds a hearing and amends term 19 of Decision 869 (Solano Project), no authority to adopt any other purposes or place of use for Putah Creek water exists. The Plan and CEQA/SED study examining the significant impacts and alternatives to the proposal violates the rule of priority for yet another reason. The Protected Areas Statute enacted in 1984 prohibits any "applications" for water which would cause water (either surface or groundwater) to be taken or exported out of the Sacramento watershed. Of course, the Plan fails to mention that a change in purposes of use, place of use, and terms will be required in the permits and licenses for the Solano Project if the Plan is to be implemented in regard to stored water which would violate this statutory provision. (Water Code § 1215.6.) The apparent theory of the Plan is that unimpaired flows in some way "fall out" of the permits and licenses granted and their respective priority, and no new appropriation is being approved through the imposition of the Plan and its unimpaired flow requirements. This is counter to the law and an improper description of the baseline conditions required under CEQA or the Staff Report substitute since permits and licenses for direct diversions and storage have already been issued for the benefit of Solano Project Member Units. (see term 19 of Decision 869.)	subdivision (e), provides that nothing in that section shall be construed as a limitation on the authority of the State Water Board to establish water quality standards or to subject water right entitlements to terms and conditions for the protection of reasonable and beneficial uses consistent with Article X, section 2 of the California Constitution. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the revised proposed Plan amendments and water supply adjustments; Common Response 6.2, Baseline and No Project Alternative; and Common Response 7.1, General CEQA and Approach to the Analysis, regarding baseline and project description.
1038	11	5. The Proposed Water Supply Adjustments to Unimpaired Flow Requirements for Putah Creek, Mokelumne River, and the Calaveras River are Flawed and Unlawful. CEQA, as well as the water quality control planning process	Please see the response to comment 1038-8. The water supply adjustments reduce the required instream flows and would allow more water to be stored for enduring "multi-year droughts" so it is unclear why the commenter is objecting to their inclusion. The rationale for the water supply adjustments is

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		under the federal Clean Water Act and under the Porter Cologne Act, are specifically directed to be based on science and consideration of balancing of water uses. A water quality control plan is not to be an instrument ignoring or evading prior commitments of water supply and ongoing dependence upon those water supplies. If prior uses are to be denied reliable use in the future, that is to be at least disclosed and mitigated, if possible, but at least the damage quantified and explained. A "plan" without a description is not a "plan." In the Summer of 2025 and now again through the December 2025 version of the Plan, a new condition for unimpaired flow requirements appears in the SWRCB report based upon a Four River Index. As to Putah Creek, if storage is less than 90%, 55% unimpaired flow and 45% unimpaired flow requirements will not apply until more than 90% storage exists. The hydrologic effect is that the most valuable, necessary storage of Lake Berryessa for enduring multi-year droughts is taken by the Plan for another use purpose-instream flows and releases to San Francisco Bay, and in doing so the Plan subjects District and other Solano County water users to water supply shortages. In addition, a 35% unimpaired flow requirement applies until Lake Berryessa reaches 57% storage and is then reduced to zero when storage is reduced below 57%, which again deprives District and other Solano County water users of water service in multi-year droughts. There is no Sac Wam modelling to show how these conditions of the Plan - which deplete Lake Berryessa of its most important storage volumes prior to entering a multi-year droughts - will allow for water deliveries to existing Solano County homes and businesses, to Travis Air Force Base, to the Mare Island ship repair facilities, or to the agricultural water users throughout Solano County. Equally important, the Plan fails to explain or demonstrate how the Plan's sacrifice of stored water to create instream flows will benefit the fishery. The Solano Project was financed and paid for by District and other local interests, as well as by the United States, to provide reliable water supplies for consumption in Solano County, and the release requirements of both natural flows or stored waters to Putah Creek were specifically established by scientific studies and multiple evidentiary hearings at the SWRCB which concluded that much lower levels of water releases sufficed than	explained in Staff Report Section 13.3.3.2, Sacramento/Delta Tributary Inflows, as reducing water supply impacts and impacts to reservoir storage and associated temperature impacts. Please see Staff Report Section 13.4, Changes in Hydrology and Water Supply, for SacWAM results of the water supply adjustments and Sections 13.7, Environmental Analysis, and 13.8, Economic Analysis and Other Considerations, for the analyses of environmental impacts and economic effects, respectively. For example, see Sections 13.7.20, Utilities and Service Systems and 13.7.4, Agriculture and Forest Resources. A number of alternatives with differing amounts of increased instream flow, including a No Project Alternative, are analyzed in the Staff Report. Please see Staff Report Section 7.2, Description of Alternatives, for a description of the alternatives. The Staff Report also includes mitigation measures, as described in Section 13.7, Environmental Analysis. The four river index is an appropriate indicator of watershed-wide hydrological conditions to inform the watershed-wide water supply adjustments (WSAs). As acknowledged by the commenter, tributary-specific WSAs are included for Putah Creek that would be based on local storage conditions. Future modifications to these WSAs could be considered in periodic reviews. See Common Response 7.1, General CEQA and Approach to the Analysis, for information on the level and scope of the analysis. See the 2017 Scientific Basis Report (Appendix B to the Staff Report), Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and Common Response 3.1, Fish Protection, for information on the scientific basis for the flow requirements. See Common Response 1.2, Water Quality Control Planning Process, for information on Clean Water Act and Porter-Cologne Water Quality Control Act requirements. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for

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		what is proposed in the Plan. Now, the decision-makers in California, without any hydrologic basis or specific evidence of fishery benefits, wish to place these existing users in a position where their water supply will be interrupted and endangered for a new, imagined, more important public goal … unimpaired flows. The logic or hydrological basis for any Water Supply Adjustment is not explained in the Plan or in any appendix of the Plan, nor are alternatives provided (including the no action alternative). No CEQA study is provided to examine alternatives, to answer prior comments, or to examine mitigation measures or ways to reduce damages, such as notifying water users of the extensive periods water service will not be available. The intensive use of water from Putah Creek and Lake Berryessa by users in Solano County is already occurring. The Water Supply Adjustments added through the Plan materials released in December of 2025 are seemingly invented out of thin air and offered as an illusionary measure to reduce impacts because the risk of leaving existing users without water service is such an obvious, unacceptable risk of harm and in violation of CEQA and other authorities requiring accurate and complete description of projects and their impacts. The SWRCB wants to reduce the risk by proposing "reduced" 35% unimpaired flow requirements under some circumstances, and with zero releases when Lake Berryessa storage is below 58%, but those measures cannot recapture storage capacity already released in prior years under the Plan's unimpaired flow requirements. The Water Supply Adjustment does not eliminate the Plan's severe impacts or the need to consider the no action alternative for Putah Creek. The Declaration of Paul R. Fuchslin, P.E., and Supplemental Declaration of Paul R. Fuchslin, P.E., filed herewith explain the severe and widespread impacts from the Plan which include the termination of water service for multi-year periods. The Plan's reliance on the Four River Index is also inherently flawed. The Four River is driven largely by snow melt runoff from Sierra peaks, while the Solano Project watershed has negligible snow melt capacity or storage function and instead depends on rain events. The Plan's reliance on the clearly inapplicable Four River Index to dictate unimpaired flows on	a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Putah Creek shows the desperation of the SWRCB to achieve a token label of "unimpaired flows." The only hydrologic similarity between the Calaveras and Mokelumne Rivers and Putah Creek is that, in each case, the respective Projects' yield and their reliability through historic droughts has already been pledged and is currently relied upon by water users who are voters in large urban use areas. The SWRCB is attempting with a sleight of hand to confiscate the reliability of the Solano Project (and perhaps projects on the Mokelumne and Calaveras Rivers) from the users who paid for and rely on that reliability in order to repurpose these projects to "unimpaired flows." If "unimpaired flow" and more water for fish life is so important, an existing fully utilized Project for water deliveries can be condemned by California and its fair market value of replacement paid for. Simply pay the costs of curtailing water deliveries to Travis Air Force Base, Mare Island ship repair facilities, and to the existing homes and supporting businesses of the workers in Vallejo, Fairfield, Vacaville, and Dixon and describe the impacts. As to political promises of new homes being built in California for young people, the California leaders proposing these measures and "adjustments" should admit that there is no water for new homes if unimpaired flow requirements of 35%, 45% or 55% are adopted and candidly explain what their real project is and its consequences and where young couples desiring homes should go.	
1038	12	6. Unimpaired Flow is an Inherently Flawed Measurement and Methodology. Each Watershed is Different and Utilizing a Percentage of Unimpaired Flows as a Starting Point, Even with Adjustments through Water Supply Adjustments or Storage Exemption Amounts, Overlooks the Unique Investments, Characteristics, and Conditions of Each Watershed. Unimpaired flow requirements are illogical and infeasible. Each watershed has unique characteristics that preclude unimpaired flow standards and carryover storage mandates. Putah Creek provides an example of the problems and defects associated with the Plan. Example 1: The concept of 55% or a lesser percentage of	Please see the responses to comments 1038-1, 1038-8, and 1038-11. In Section 5.6.2, General Measures to Assist with Implementation of the Bay-Delta Plan, the Staff Report also acknowledges that not all tributaries have the same hydrology, fisheries, and water supply needs, and therefore implementation mechanisms in the revised proposed Plan amendments are intended to be flexible to encourage innovative solutions by various parties and to accommodate a variety of different watershed circumstances and needs. For example, the revised proposed Plan amendments allow water users to propose local cooperative solutions that could shape flows seasonally. However, the possible impacts to water supply were evaluated in Sections 13.4, Changes in Hydrology and Water Supply, and 13.7, Environmental Analysis, of the Staff Report. In addition, in

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		unimpaired flow is illogical and infeasible. On page 46 of the Amended Draft, it is stated: Except where specific exceptions apply, including for water supply adjustments (WSAs) and approved adaptive implementation provisions described below, inflows from Sacramento/Delta tributaries shall be maintained at 55 percent of unimpaired flow year-round on a seven-day running average to achieve the narrative inflow objective. Note that this is not a January to June cumulative release requirement. It is a seven-day running average release requirement. This means that no water could be stored in any reservoir for any useful period unless a Water Supply Adjustment is specified in another portion of the Plan or "approved adaptive implementation provisions" for reservoirs are adopted, even if those reservoirs are operating subject to existing SWRCB or Court approved orders of operation. The adoption of the Plan to declare and implement unimpaired flow requirements and carryover storage mandates as the ideal standard ignores the requirement to balance uses and the benefits of different uses, and to use science to carry out the required balancing. Adoption of a water quality control plan (Water Code § 13000) requires that the SWRCB consider and provide measures and procedures for balancing competing demands and needs for water. United States v State Water Resources Control Board (1986) 182 Cal.App.3rd 82 ("Racanelli".) When a water control plan amendment is adopted, each state agency and local agency must comply with that requirement. When the water quality control plan is adopted, each government entity is required by Water Code section 13146 to comply with that requirement and is required to declare in writing to the SWRCB its authority for not complying with the water quality control plan requirement. Any new home development or industry in Northern California can be certain of its water supply through drought periods if the SWRCB, after written notice, confirms the reliability of the supply. However the Plan is incompatible with such reliability, and the SWRCB's control over Solano Project operations through the Plan are incompatible with the certainty and predictability	response to public comments, the revised proposed Plan amendments include a tributary-specific water supply adjustment for Putah Creek, which would relax inflow requirements based on local storage conditions in Putah Creek. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of factors under Water Code section 13241 and the consideration of beneficial uses. The commenter has not provided support for their allegations of ignoring science. Please see Common Response 3.1, Fish Protection, for a discussion of the use of best available science. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		required for homes to be constructed, for crops to be planted, and for the Solano Project to function as water project. Example 2: The concept of 55% unimpaired flow continues. The language that follows on page 46 of the Plan recognizes the absurdity of the attempt to hold on to the idea that 55% of unimpaired flows is in some way a baseline, or principle, other than to grant SWRCB new authority to ignore legal principles upon which water use of the Solano Project and Putah Creek has been developed: For existing water rights with water rights obtained before adoption of the current version of this Plan, the starting point for the inflow requirement is reduced by 55 percent by the WSAs. This "quick fix" for the problem is illusionary because the SWRCB proposes as part of the Plan to impose a carryover storage requirement which prevents use of water stored by those users, who paid for the storage facilities and who have used them in the past to withstand droughts, that there are numerous rights granted by the SWRCB itself and the courts specifying storage or releases different than the 55% unimpaired flow, or some other amount specified in a WSA, emphasizes that science is not being employed to compare the benefits of 55% from all watersheds and 35% from some watersheds at certain times and failing to consider the benefit of some different contribution from some watersheds. Example 3: Ignoring science to salvage a defective unimpaired flow standard and forgoing use of existing SWRCB authority to curtail existing water right use in favor of a general unimpaired flow "plan" is inappropriate. Not every tributary that has reservoirs has a WSA and instead of studying and adopting "exceptions" based upon the runoff, snow melt, or rainfall characteristics of each watershed and what fish species might be present in a particular hydrologic condition, in the very next paragraph on page 46 of the Plan, the seven-day average release requirement of 55% is proposed to be reduced by a newly developed area-wide index. That index is referred to as a Sacramento River Valley Four River Index (1/3 of years that	

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		are wettest would support the release of 55% unimpaired flow; 1/3 of years that are in the "middle," the release requirement would be 45% unimpaired flow; and 1/3 of years that are the driest, the release requirement would be 35% unimpaired inflow) but which Index is restricted to taking the total annual runoff in those identified watersheds which are all snow melt watersheds and have little similarity to the rain character of the coastal range runoff applicable to Putah Creek.	
1038	13	A. The purported Index is arbitrary and capricious because there is better and more accurate data available. The restriction to the last 30 years (back to 1995 only) of quantitative flow records on those Four Rivers, of course, excludes the historic and record setting multi-year droughts of the 1930's (13-year drought cycle), the 1976-1977 (3-year drought cycle), and the 1991-1993 (3- year drought cycle). Most water planners need this data from earlier periods than the 30-year cut off to utilize and determine the reliability of water supplies. This "selection" is yet another example of the manipulation or fabrication of facts to adopt the Plan's unimpaired flow standard and which manipulation will artificially increase the amounts of waters released under the unimpaired flow standards, increase the frequency and severity of water shortages for urban consumers and agricultural users, and underestimate the shortages of water for irrigated agricultural use in historic drought cycles because the 55% will statistically apply more often because the Index overestimates the upper and middle one-third flows, resulting in fewer periods of zero unimpaired flow for the Solano Project. This unlawful scientific manipulation should be corrected. B. Bulletin 120 of DWR is developed for and utilized primarily for snow melt and operational decision making. The data has been collected for more than 50 years and runoff data collected for far longer on most tributaries, including Putah Creek, which has been USGS gaged since 1930. The 30-year compilation of Bulletin 120 used in the Four Streams Index was developed only in 2022 as a convenience when forecasting methods used by NOAA and DWR showed a	Bulletin 120 is a tool that is used to forecast more than just snowmelt runoff driven systems in California and includes components to account for overall runoff volumes. The Sacramento Valley Index is appropriately used in a planning process for basin-wide applications. The most recent 30 years of 4-River Index is being proposed to set the thresholds for the watershed-wide water supply adjustments because it represents recent historical hydrology that includes wet and dry periods. Water users may use longer hydrologic sequences for their long-term planning as needed. The revised proposed Plan amendments include a tributary-specific water supply adjustment for Putah Creek that takes into consideration the rainfall-dominated hydrology of the Putah Creek watershed. These adjustments would allow for more frequent and greater reductions in the required percent of unimpaired flow, including the removal of any new flow requirements during the driest conditions. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on the regulatory and VA pathways, and Common Response 3.1, Fish Protection, for information on the use of best available science and responses to comments requesting tributary-specific analyses.

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		difference of up to 25% and it was though that climate change was possibly affecting the use of data for forecasting purposes. There is no biological basis explained for setting unimpaired flow release requirements in a watershed that has no snow melt characteristics (Putah Creek) on an index of this nature developed from snow storage and runoff characteristics. Ignoring all of the scientific information gathered as to fish and other environmental conditions in Putah Creek, in the Sacramento River, and in Sacramento-San Joaquin Delta, the SWRCB is proposing an index that has little relevance other than a device to grant the SWRCB control of water use from Lake Berryessa without the limits of adopted water rights serving as a basis for the water users financing the costs of the Solano Project. The SWRCB should be embarrassed at this "authority grab" tactic and neglect of any examination of the water use needs of homeowners, agriculture, and defense-related installations such as Travis AFB from Putah Creek and Lake Berryessa. Before the construction of the Monticello Dam, Putah Creek dried up most every year. Today, the tributaries flowing into Lake Berryessa continue to dry up every year. Lower Putah Creek only has water because of Lake Berryessa and its dam.	
1038	14	C. Putah Creek should be separated from unimpaired flow mandates. The SWRCB prior orders and decisions promise no "new plan" without quasi-judicial hearings and announced and finalized water right order. The SWRCB adopted and has re-adopted specific water-release requirements upon Putah Creek by Board order in the exercise of its quasi-judicial powers. The SWRCB has promised through written orders that the SWRCB will hold evidentiary hearings for the Solano Project member units and Bureau of Reclamation regarding the flow release schedules if changes are to be proposed or considered. The SWRCB cannot adopt the Plan which conflicts with the SWRCB own release and storage orders in regard to Putah Creek when it has promised a due process evidentiary hearing and notice in its orders before adopting new standards.	Putah Creek is included within the Sacramento/Delta watershed addressed in the 2023 draft Staff Report. Section 2.2.9.2, Putah Creek, describes the Solano Project facilities, including Lake Berryessa, Monticello Dam, Putah Diversion Dam, and Putah South Canal, and identifies the Putah Creek Accord minimum instream flow requirements for lower Putah Creek below Putah Diversion Dam. The Staff Report's analysis accounts for existing regulated conditions on Putah Creek, including existing flow requirements associated with Lake Berryessa. Adoption of the revised proposed Plan amendments would update the Bay-Delta Plan's water quality objectives and program of implementation for the Sacramento/Delta watershed, but would not itself amend Decision 869, Water Right Order 84-7, or individual Solano Project water right permits or licenses. Future actions needed to implement adopted water

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		In Decision 869, adopted in 1957, the SWRCB granted the permits for the appropriation and use of water by the Solano Project beneficiaries from Putah Creek. Paragraph 13 of that Order provided for a 15-year testing and monitoring program to determine the proper amounts of releases and schedule of releases continuing jurisdiction of the SWRCB to determine those amounts. A series of interim orders, studies, and proceedings occurred in Water Right Order 81- 11 and then, again, in Order 84-7 Amending that Order adopted in 1984 and attached, the SWRCB adopted a specific Normal Year and Dry Year release schedule varying by month or period which states as follows: [table] The SWRCB, of course, retained continuing jurisdiction but in each instance, affirmed in paragraphs 20 and 21 of that 1984 Order: that only if further evidentiary hearings and quasi-judicial orders were issued, would changes in those flows be ordered. "No action will be taken pursuant to this paragraph (continuing authority provision) unless the Board determines, after notice to affected parties and opportunity for hearing…." (Emphasis added.) No such notice or evidentiary hearing has been provided by the SWRCB, yet the SWRCB is proceeding with the Plan which magnifies and alters the release schedule by tens of thousands of acre-feet of water per month during these separate periods and adopt limitations upon use of water when certain storage quantities are not present in Lake Berryessa. If it were contended by the SWRCB that it is not required to hold a specific noticed hearing and not required to present evidence in regard to the specific characteristics of the Putah Creek watershed in order to dedicate a substantial amount of water and storage capacity to goals of creating fishery and other flow conditions in the Sacramento River and Bay Delta (and torturing the concept of unimpaired flow), the language of paragraph 21 of the Board's own order is quite specific and contradicts that	quality objectives would be addressed, as necessary, through applicable State Water Board processes. Please see Common Response 1.2, Water Quality Control Planning Process, for additional discussion of the relationship between water quality control planning and water right administration. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. See also Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.

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		assertion. It states: The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon the water quality in the area involved and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (Emphasis added.) The SWRCB Order 84-7 binds the SWRCB itself to take no action until and unless there has been a specific hearing proceeding regarding Putah Creek. The "area involved" is the Putah Creek watershed and downstream. An easy (and logical) way is to exclude Putah Creek from the Plan until such time as the data and studies are ready for review and hearing. If it is contended that the adoption of a water quality control plan which purports to change or prejudge whether release standards for Solano Project operations should be modified is "just a plan" and not really binding, established court rulings are clear that such and argument is misguided and proceeding in that manner would violate established due process requirements. Due process requires that the Board members have not prejudged the facts and evidence and have not considered the evidence produced at a hearing, impartially, to comply with due process requirements. (Aetna Life Ins. Co. v Lavoie, 425 U.S. 813 (1986), 106 S.Ct 1580; 89 L. Ed 2d 823.) If the determining party (the SWRCB here) is either a quasi-judicial or administrative hearing body such as the SWRCB and that body has taken action or participated in actions which demonstrate a probability of or actual bias and prejudgment of the issues, procedural, and substantive due process requirements of the constitution are violated and denied and the	

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		action will be void. (In re Murchison, 349 U.S. 135 (1955), 75 S.Ct 623; 99 L. Ed 942; 7 Witkin Constitutional Law, § 709.) A decision maker body which has prejudged the issues despite the assurance of notice and a hearing before any alteration in requirements would occur in its own adopted order such as Order 84-7 quoted above would be disqualified under United States Supreme Court precedent from any action in providing greater releases of water, or new restrictions upon the water uses from the Solano Project or the amounts to be stored in the reservoirs. (Withrow v Larkin, 421 U.S. 35 (1975), 95 S.Ct. 456, 43 L. Ed.2d 712.) Due process is violated with if the deciding body has shown bias before a hearing and consideration of evidence in such a fashion. (Nasha LLC v Los Angeles (2004) 125 Cal.App.4th 470, 483.) Circumstances showing probable bias of decision-making Board by reason of prior actions are sufficient to violate due process requirements of a fair hearing. (Petrovich Dev. Co. LLC v Sacramento (2020) 48 Cal.App.5th 963, 974.)	
1038	15	Finally, California Code of Regulations title 23, section 784(c) is explicit that the use of water of Putah Creek and storage of a dam such as Lake Berryessa may not be taken by order or plan once construction has commenced without consent of each of the Solano Project member units. That regulation states: (b) Notwithstanding subsection (a) of this section, after a permit has been issued and construction has commenced or substantial financial commitment for construction has been undertaken by the permittee, the board will not require a release or bypass of water authorized to be appropriated by such permit unless the permittee agrees to such bypass or release or unless the board at the time the permit was issued expressly reserved jurisdiction to require such bypass or release. (Cal. Code Regs., tit. 23, § 784(c).) Permits A1308 relating to Cachuma Dam and 57 Attorney General Opinions Cal. Attorney General 577, 580 (1974) also confirm that adoption of water quality control plan regulations and a water quality control "plan" proceeding should be halted until the SWRCB has written to each member unit of the project	All water rights are subject to the common law principle, codified in California Constitution, article X, section 2, that prohibits "waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water." What constitutes a waste is relative, based on competing needs, and the determination may change as conditions change. The State Water Board's broad regulatory authority allows it to control and condition water use, consistent with public interest, including the regulation of water quality and prevention of waste in a regulation. Water Code section 275 directs the State Water Board to take all appropriate proceedings or actions to prevent waste or violations of the reasonable use standard. In addition, all water rights are subject to the public trust doctrine. In regulating water use, the state must consider the public trust and protect the public trust when feasible. Even after an appropriation has been approved, the public trust imposes a duty of continuing supervision. In applying the public trust doctrine, the State Water Board has the power to reconsider past water allocations even if the State Water Board considered public trust impacts in its original water allocation decision. Further, this commenter has omitted an important part of

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		and obtained their consent to use of storage space and to the release of water necessary to make the proposed unimpaired flow releases. Moreover, the Plan constitutes an illegal eminent domain proceeding and the SWRCB will be liable for the costs incurred by District and other water users. Code of Civil Procedure section 1036 states "in any inverse condemnation proceeding ... (an award that) … reimburses the plaintiff's reasonable costs…including attorney's fees … incurred because of that proceeding…." The SWRCB can avoid this possibility of damages and an award of attorney fees by excluding Putah Creek and Lake Berryessa from the terms of Plan until those specific studies and hearings are conducted by the SWRCB as promised and assured.	California Code of Regulations title 23, section 784 (b), which clarifies that subsection (b) does not apply to the State Water Board's continuing authority to regulate appropriations of water so as to conform with California Code of Regulations, title 23, section 780. Standard permit terms in California Code of Regulations, title 23, section 780 articulate the continuing authority of the Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste and unreasonable use. The term goes on to state that "continuing authority may be exercised by imposing specific requirements over and above those contained in the permit" and "no action will be taken pursuant to this paragraph unless" the board makes specific findings after notice and opportunity for hearing. (Cal. Code Regs., tit. 23, § 780, subd. (a) [italics added].) Similarly, subdivision (b) states that the permit may be modified after notice and opportunity for hearing, if necessary to meet water quality objectives in water quality control plans, and "[n]o action will be taken pursuant to this paragraph unless" the board makes certain findings after notice and opportunity for hearing. (Id., subd. (b) [italics added].) These standard permit terms and the conditions contained within apply to the permit terms themselves. If the State Water Board were to reopen the permit pursuant to these permit conditions, it would undoubtedly hold a hearing for the specific issues raised in the matter. But the standard permit terms and conditions cannot be read to constrain the State Water Board's regulatory authority that exists independent of the permit terms and conditions, including the authority to adopt regulations. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of compensable takings in the context of the water quality control planning process.
1038	16	Example 4: Ignoring water statistics and scientific knowledge regarding weather patterns is continued under the proposed Plan. The misguided view that "torturing" facts to maintain the concept that unimpaired flow of a certain percentage of flows should be contributed by all tributaries on a seven-day average basis is not workable (Example 1 above). Are all flood flows valuable to be preserved for environmental and species enhancements? If an atmospheric river strikes one watershed	Please see the response to comment 1038-12. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		and not another, does that fact that this "natural event" assures us of an advantage for environmental water uses to the extent of 55% of those runoff amounts justify prohibiting storage and later consumptive use? Doesn't the fact that cyclic weather patterns over successive years affect the reliability of water supplies needed for people and food production have to be considered in developing water quality and quantity plans? Imposing the "principle" of unimpaired flow standards and minimum carryover storage levels to assure the availability of water to release to the Sacramento River and Delta is the equivalent of religious fervor, and this is inappropriate for a proceeding that is to be based on balancing and science. It is just as logical to establish a standard that 85% of current human needs and 95% of the water needs for food production to maintain those populations should be assured through storage and direct diversion.	
1038	17	7. There is No Explanation of Why Turning Over Control of Use of Carryover Storage to Approval by the SWRCB is Reasonably Related to the Water Quality Control Plan. Further, the 13-Year Drought Cycle Experienced in the 1920's and 1930's in the Putah Creek and Other Coast Range Watersheds that Gave Rise to the Limit Upon Solano Member Unit Annual Water Delivery Contracts and the Drought Measures Agreement Between Those Member Units Demonstrates that Delegating to the SWRCB Whether Storage May be Utilized to Meet Solano Project Member Unit Contracts or for Releases for Environmental Purposes is Both Counter to Law and is Unrelated to Environmental Conditions. On pages 54-55 of the Plan's Staff Report released in December 2025, a restriction upon use of carryover storage is imposed if Lake Berryessa is in the range of 500,000 to 700,000 acre-feet in drought years, and 700,000-1,000,000 in non-drought years. The enclosed chart titled "Historical Lake Berryessa Storage Levels" shows that these carryover storage requirements are incompatible with Lake Berryessa operations and the water use needs of Solano Project member units. That attached chart shows that in the period of June 1990 until approximately February of 1995, the reservoir levels of Lake Berryessa were below 700,000. The Plan does not explain what substitute water	Please see the responses to comment 1038-1 and 1038-8. In addition, the revised proposed Plan amendments allow for the reservoir owner and operator to propose a carryover storage requirement to the State Water Board. Please see Common Response 4.1, Drought and Climate Change, regarding multi-year drought analysis. Also see Common Response 7.1, General CEQA and Approach to the Analysis, for information on the level and scope of the analysis. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the regulatory pathway.

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		supplies would be provided to Solano County without Lake Berryessa during such periods. Nor does the Plan explain how the carryover storage requirements would be relaxed… other than the SWRCB will have authority to operate and dictate the storage of Lake Berryessa but without adherence to any given standard. The fact that the reservoir levels for approximately six months out of this five-year period were below the lowest level of the carryover limit (500,000 to 700,000 acre-feet) proposed by the Plan is not analyzed by the Plan. Nor does the Plan explain how Solano County homes, farms, businesses, and citizens would have water during such periods. Through the Plan the SWRCB will draw down storage of Lake Berryessa for years through unimpaired flow requirements, and then when drought cycles occur, the carryover storage limits will inhibit water deliveries, and this will occur after the unimpaired flow requirements have dictated that water that could have been stored instead be released for instream flow purposes. The Plan does not explain how Solano County will have water during such periods. For example, will the SWRCB enforce the Plan's conditions and prohibit all use by Solano Member Units because the "magic limit" of carryover storage of at least 500,000 acre-feet is exceeded? Or, alternatively, would the SWRCB declare an "emergency" (because of the SWRCB implemented unimpaired flow requirements in prior wet years)? But for the unimpaired flow requirements, water would have been retained in storage to anticipate the multi-year drought cycles that are ordinary in California and which have repeatedly occurred. The sole purpose of the Plan seems to be to put the SWRCB in control of operations of Lake Berryessa and able to ignore all prior water rights decisions by prior SWRCB administrations. And obtaining an exemption from the requirements of CEQA/SED from the Legislature as pointed out in our previous comments (January 19, 2024, pages 10 and 14) will not save the Plan from being set aside as violating the SWRCB's prior decisions and orders.	
1038	18	8. The Plan Proposes to Suspend Any Unimpaired Flow Release Requirement if Lake Berryessa Storage is Less than 884,000 Acre-Feet but Fails to Explain How the Requirement to Maintain at Least 500,000 to 700,000 of Reservoir Storage for Carryover	Please see the responses to comments 1038-1 and 1038-8. The commenter has provided no basis for the claim that "homeowners will be required to vacate their homes." The revised proposed Plan amendments include provisions for

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		Purposes Would be Suspended or Released. The SWRCB's objective of using the Plan to gain control of the Solano Project and other water projects is evident throughout the Plan. The Plan's destructive, ill-considered unimpaired flow release requirements and carryover storage requirements are aimed at allowing the SWRCB to act as the owners and operators of the Solano Project and other water projects without a specific operating plan and or a pledge to utilize the resources for those citizens who paid for them. This is apparent from the requirement to maintain carryover storage of at least 700,000 acre-feet on September 1 of each year. If stored water cannot be used without SWRCB permission, homeowners will be required to vacate their homes and crops will not be irrigated. There is no scientific basis for this carryover storage requirements. And if the SWRCB wants control of 500,000 to 700,000 acre-feet of storage, how much will be available for Solano Project users' use and how much will be released down Putah Creek and into the Sacramento River? The Plan is unclear and misleading, and it violates the CEQA requirement that it must be described clearly. (County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.3d 931, 935.) Lake Berryessa has a total storage capacity of 1,602,000 acre-feet if one disregards the deal pool storage amounts which cannot be evacuated or used. A recent study of Lake Berryessa, using bathymetric methods, calculated the storage at 50,000 acre-feet less, or 1,551,000 acre-feet again not calculating dead storage or undeliverable water. In Table 5 on page 47 of the Plan released in December 2025, the SWRCB proposes to use the required 55% unimpaired flow release January to June 30 to 35% if the storage is on the first day of any month less than .9 times 1,551,000 acre-feet or 1,395,000 acre-feet. Now, the Plan is further altered to declare if on the first day of the month, January to June, the reservoir was less than .57 of 1,551,000 acre-feet or 884,000 acre-feet, the unimpaired flow release would be zero instead of the 55%, 45%, or the 35% standard. The Staff Report and Appendix do not explain how that measure would avoid water shortages to existing users if the subsequent years are drought years.	exceptions to curtailment for human health and safety and possible reasons. Staff Report Section 13.7, Environmental Analysis, includes an analysis of the environmental impacts of the revised proposed Plan amendments, including to municipal water supplies and agriculture. See Staff Report Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures, for the basis for the carryover storage ranges. However, the revised proposed Plan amendments allow for the reservoir owner and operator to propose a carryover storage requirement to the State Water Board. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for information on implementation of the cold water habitat objective. Water right holders and reservoir owner/operators are required to operate in accordance with all applicable requirements. The Bay-Delta Plan does not currently and is not proposed to include defined water allocations for each individual water right. The Project is described in sufficient detail and analyzed as required by applicable laws. See Common Response 7.1, General CEQA and Approach to the Analysis, for information on the project description and the level and scope of the analysis. The water supply adjustments (WSAs) are intended to reduce water supply impacts at the outset of implementation but are not anticipated to remove all such impacts. Some reductions in water supply are anticipated and are disclosed in the Staff Report. To meet the storage and flow requirements, the modeling results for the 55 w/WSAs scenario in the Staff Report results in a maximum reduction from Putah South canal deliveries of roughly 25 percent compared to baseline which occurs in roughly 25 percent of modeled years. There is a delivery reduction between 15 and 20 percent from baseline deliveries in another 25 percent of years. In the remaining 50 percent of years, there is no reduction in deliveries from Putah south canal. The maximum reduction appears to occur most often in below normal water year types when the relaxation to the flow requirements may not have triggered. These reductions are dispersed throughout the time period, not all occurring in sequence and thus there are periods of recovery between periods of intermittent delivery reductions. Considering the lower magnitude in delivery reductions and the dispersed nature

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		However, the Plan requires that carryover storage be maintained in Lake Berryessa. If the reservoir level is between 500,000 and 700,000 acre-feet in a drought cycle, regardless of the new Four River Index, the unimpaired flow release requirement becomes zero under the unimpaired flow standard. Presumably, the Decision 84-7 releases would continue. Whether intentional or inadvertent, the SWRCB adds new criteria and conditions, but does not really address the effect of the changes that result in the Project or the environmental effects on the reliability of the water supply for the citizens of Solano County. Adding releases at the 55% level and then further releases at 35% of unimpaired inflow until the reservoir declines to the range of 500,000 to 700,000 acre-feet and then directing that storage may not be further invaded by use of Solano County residents or farmers unless apparently approved by the SWRCB and its executive officer, actually makes water supply for either consumer use or the environment less reliable. The problem is that homeowners and businesses including agriculture have disciplined themselves because of the 13-year drought cycle that occurred on Putah Creek in the 1920's and 1930's in the operating criteria for the Solano Project to divert and use no more than approximately 225,000 acre-feet per year for consumption and delivery losses annually. In 1992, without unimpaired flow release requirements, the reservoir had to be lowered to a level below 500,000 acre-feet of 412,000 acre-feet and was below 500,000 acre-feet of storage for more than approximately six months to meet those needs despite all conservation and emergency measures. The Plan would make the conditions occur more often and be more devastating. All water deliveries would be required to be halted to homes, businesses, and farms for at least six months. The unimpaired flow application of 55% and then 35% means these reservoir level limits on use and constraints will occur more often, sooner, and for longer sustained periods. There is no explanation as to why the SWRCB and its executive officer can do a better job determining the amounts of storage to release for use among the Solano Project Member Units and their residents' use during drought cycles when less than 500,000 acre-feet is stored. The maximum amounts to be delivered are already set at 220,000 acre-feet per year and the Solano Project Member Units	of the reductions, it is likely member agencies could work cooperatively together to reduce the impacts to any one City. There are also health and safety provisions in the revised proposed Plan amendments to reduce impacts from extreme conditions. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for information on urban water supply impacts. It is unclear if the commenter is correctly interpreting the regulatory pathway requirements. For example, the requirement from the water supply adjustments would replace the requirement for 55 percent of unimpaired flow and would not be additive to that requirement. See Common Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway. Staff Report Section 13.4.3.2, Reservoir Storage and Elevation, discusses the expected effects of the 55 w/WSAs scenario on reservoir storage. The modeling results show a minor (5 percent) reduction in end-of-April storage for Lake Berryessa for all year types, but a 1 percent increase in critical years. In addition, there is an expected 4 percent reduction and 5 percent increase for end-of-September storage in all years and critical years, respectively. See the 2017 Scientific Basis Report (Appendix B to the Staff Report), Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and Common Response 3.1, Fish Protection, for information on the scientific basis for the flow requirements. The basis for the cold water habitat objective is further described in Staff Report Section 5.4.3, Cold Water Habitat. As a complementary measure to the inflow objective to protect salmonids and other native species in the tributaries, the revised proposed Plan amendments include a new cold water habitat objective for the Sacramento/Delta tributaries. The proposed objective is intended to ensure that there are no redirected impacts on cold water habitat from the new inflow and Delta outflow objectives and to address other existing and potential future temperature management concerns on the tributaries for salmonids and other native species.

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		have already entered into a "Drought Measures Agreement" to reduce those amounts as various storage levels decline. Experience with the drought cycles in 1976-77 and 1991-93 already demonstrate that the local interests have implemented plans and procedures down to a level of 400,000 acre-feet and below. All that is changing is that the SWRCB is being granted new authority and power to implement new release requirements without water right limits. That has little to do with fish or environmental protection in drought conditions.	
1038	19	9. The SWRCB Staff Report Completed in 2023 Was Designated as the Substitute for a CEQA-Compliant EIR to Describe the Environmental Impacts, Alternatives, and Mitigation Measures of the Plan. The Plan does not accurately describe the "project" or its impacts. To supplement or provide an additional environmental study of the altered project, the project studied must accurately describe the project proposed and its impacts. The Plan fails to meet the CEQA requirements because it does not accurately describe the project now proposed for Putah Creek. The initial Staff Report claimed to describe the project and its impacts by incorporating SWRCB staff conclusions as to what the Sac Wham model applied to the hydrology of Putah Creek demonstrated. However, the Sac Wham model does not correctly portray the hydrological effects and environmental impacts from the originally proposed 55% unimpaired flow requirement of the Plan or the Plan's reservoir carryover storage requirements. The Plan includes modified 55% to 45% to 35% unimpaired flow adjustments and altered reservoir storage requirements, including no unimpaired flow requirements below 884,000 acre-feet of storage at Lake Berryessa, but the Plan omits an accurate analysis and description of the Plan or of the changes in water operations of the Solano Project and the resulting environmental impacts. The die is cast that the SWRCB wishes to gamble with the local users' water for undescribed and undefined fishery benefits and uses. If the Sac Wham model is relied on to describe the project, the description of the project will be vague and inaccurate. The Staff Report of the Plan could have modeled the effects on Putah Creek storage and use in the 13-year drought,	SacWAM is used to analyze the potential reductions in water supply that would result from the adoption of flow requirements. The project description, by contrast, explains the substance of those requirements. Multi-year droughts are included in the SacWAM period of simulation, including the drought periods cited by the commenter, and therefore are included in the analyses presented in the draft Staff Report. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply regarding the adequacy of the model, carryover storage targets and SacWAM reservoir buffer pools, and 7.1, General CEQA and Approach to the Analysis, regarding the adequacy of the project description throughout the update process. The Staff Report describes water suppliers' and users' potential response to flow requirements at a high level and does not attempt to predict operational changes at individual facilities. Potential water management actions in each relevant geographic region are discussed in Section 6.6.2, Regional Use of Other Water Management Actions. The discussion is not intended to comprehensively describe every ongoing effort in every region; rather, it is intended to provide some basic general information about how different regions may respond to reduced Sacramento/Delta surface supply. Use of other water management actions in any particular geographic area depends on many factors, such as groundwater overdraft conditions, proximity to municipal recycled wastewater or desalination facilities, availability of water transfers, and other factors. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the scope of the environmental analysis.

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		the difference in 1976-77, the difference in 1991-93, the difference in 2014 and 2015, but does not. The impacts of the Plan are not described, nor is the "carryover" storage requirement adequately described, and altogether the Plan violates CEQA. A "project description" must be accurate and consistent for the CEQA process to comply with the law. The SWRCB lacks a coherent project description or a description of the effects upon existing water users. Putah Creek must be excluded from the Plan and its unimpaired flow requirements until the required CEQA analysis is completed. County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 193, required a clear description of the Project and its impacts. The project can change during the consideration of the project, but the project description that is changed must be altered to provide a "full and meaningful disclosure of the scope, purpose, and effect of a consistently described project…" in order to comply with CEQA. (River Valley Presentation Project v. Metropolitan Transit Development Board (1995) 37 Cal.App.4th 154, 168.) Here, the SWRCB has not amended its Staff Report to encompass a new and accurate project description of the Plan in the form of describing the impacts of the changes in water supplies or a description of the water supply effects on existing users or new homeowners who may seek to occupy homes served with Solano Project water. In Central Delta Agency v. SWRCB (2004) 124 Cal.App.4th 245, the Court held that CEQA required the study or staff report to identify the environmental impacts and their significance upon the users of water proposed to be appropriated. Identifying the potential environmental impacts and their significance of depriving current users of water service in future conditions would logically similarly be required to be disclosed and considered in the Staff Report. (Santiago Water District v. County of Orange (1981) 118 Cal.App.3d 818, 829-830 (project description which omits effects of water demand changes is "segmenting" or "piecemealing" project description and a violation of CEQA).) The SWRCB attempts to satisfy CEQA through the Plan documents, including the substitute environmental documents	The hydrological effects and environmental impacts of the revised proposed Plan amendments are addressed and analyzed in Section 13.7.12, Hydrology and Water Quality, of the Staff Report. Written responses to all comments on the 2023 draft Staff Report are included in the final Staff Report.

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		and staff report, are inadequate. The SWRCB has failed to respond to all comments in writing (Pub. Resources Code § 21080.5; Gallego v. Cal. State Board of Forestry (1978) 76 Cal.App.3d 945, 952-953), and the SWRCB must demonstrate that its description of the Plan is clear and understandable so that comments can be made and alternatives can be considered. The Plan and the Plan's unimpaired flow and reservoir storage requirements (the regulatory requirements) are not adequately analyzed, described, balanced, or considered in the Plan documents. The appropriate course of action is to not adopt or apply the Plan to the Solano Project and Putah Creek, and the SWRCB must present a new substitute environmental document before proceeding with any version of the Plan. 10. Conclusion. Solano Irrigation District respectfully requests that the SWRCB retract and rescind the Plan.	
1038	20	SID is a member unit of the Solano Water Agency and serves approximately 46,000 acres of agricultural land within the District's boundaries with surface and groundwater. In addition, the District serves water from its entitlement from the Solano Project to residences in the City of Suisun City and in rural subdivisions and homesites throughout the District's boundaries. The District also delivers to the cities of Fairfield and Vacaville amounts of water allocated to SID pursuant to agreements relating to urban area uses of those waters due to the conversion of agricultural use lands to urban uses. That water is also relied upon by the residence of those cities for their use. 2. SID operates and manages the recharge and sustainability of groundwater resources, including recharge of portions of the Putah Creek Fan which underlies the District and which supplies the City of Dixon with substitute water and some direct recharge water. A portion of the Putah Creek Fan does not underlie the surface water service area of the District. That area includes areas adjacent to the Putah Creek channel located in Solano County and areas to the east of Dixon, which additional areas rely on groundwater as an exclusive source of irrigation 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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		for overlying farming operations. The groundwater resources within the Putah Creek Fan area and adjacent areas are managed and supplied by SID principally through substituted recharge (providing surface water deliveries to overlying farmlands so that lands receiving surface water overlying the groundwater basin do not pump their share of the natural yield of the groundwater basin) and through lesser amounts of direct recharge which enters the groundwater basin and migrates toward the areas lying outside the surface water delivery boundaries of the District. 3. SID's service of domestic water for residential and commercial needs to areas is relied upon and there is no feasible existing substitute for SID's service at this time if it is interrupted. The Suisun Solano Water Agency (SSWA) service area (approximately 8,600+ residential connections in Suisun City) and SID also serves numerous other domestic and commercial users throughout Solano County, including industrial and commercial users through agreements with the cities of Fairfield and Vacaville would be required to stop substantial consumption of water. With the approximate 141,000 acre-feet available annually to SID, I estimate approximately 13% is delivered and used for urban, industrial, or commercial consumption. Each of the contracts to provide water to Fairfield and Vacaville provide that the amounts of water supplied will be proportionately reduced by the amounts that regulatory requirements like this Plan reduce the amounts of water available.	
1038	21	4. In the course of my duties with SID, I have studied records regarding past surface water use from the Solano Project supplies and groundwater use within the District and in the areas of the Putah Creek Fan aquifers. I have been asked to provide my observations and professional opinions concerning the proposed water quality control plan proposal of the State Water Resources Control Board ("SWRCB"). Declaration of January 15, 2024 5. I previously prepared a declaration dated January 15, 2024 which documents and describes the Solano Project, District and the impacts from the SWRCB's proposed Bay Delta Water Quality	Please see the response to comment 1038-3.

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		Control Plan update. 6. Since submitting that January 15, 2024 declaration, I have reviewed the Revised Draft Sacramento/Delta Updates to the Bay-Delta Plan and the new Chapter 13 ("Draft Plan" or "Plan") released on or about December 12, 2025 by the SWRCB. In order to assess the modifications and changes of the Plan materials released on December 12, 2025, I performed additional modeling, the results of which I describe hereafter through this Supplemental Declaration. 7. My declaration of January 15, 2024 and the statements, conclusions, and opinions therein, continue to be accurate. The modifications and changes to the Plan which were contained in the materials released on December 12, 2025 do alter some of the figures contained in my January 15, 2024 declaration, and the modeling described hereafter addresses those changes; however, the changes do not alter the opinions, assertions, and observations contained in my earlier declaration. Supplemental Modelling and Conclusions 8. Attached as Exhibit 1 is a true and correct copy a document I created titled, "Summary Tables A and B for Years 2005-2024" which summarizes the water supply impacts of the Plan to the Solano Project. The most significant and relevant "Tables" listed in Exhibit 1 are Tables A and B which depict the Plan's impacts through the regulatory pathway and which demonstrate the following: - Table A demonstrates that the proposed 55% unimpaired flow standard through the Water Supply Adjustment will result in zero water available from the Solano Project in 10% of years; less than 50% of Solano Project water would be available in 25% of years (one in four years); and the average annual reduction in Solano Project water available for allocation would be 60,800 acre-feet if the carryover storage limit is the lower limit of "Table 8" which is titled "Carryover (End-of-September) Storage Target Ranges (TAF)" on pages 54-55 of the December 2025 Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed ("Table 8"), which	

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		is 500,000-700,000 acre feet. - Table B demonstrates that that the proposed 55% unimpaired flow standard through the Water Supply Adjustment will result in zero water available from the Solano Project in 20% of years (one of every five years) if the carryover storage limit is the upper limit of Table 8 which is 700,000-1,000,000 acre feet; less than 50% of Solano Project water would be available in 40% of years; and the average annual reduction of Solano Project water available for allocation would be 91,000 acre-feet. 9. Attached as Exhibit 2 is a true and correct copy of Table A which reflect my modelling results of a 55% unimpaired flow standard through the Water Supply Adjustment and the lower limits of the carryover storage requirements of Table 8 which is 500,000-700,000 acre-feet. The contents and findings reflected in Table A are generally described in paragraph 8 above. 10. Attached as Exhibit 3 is a true and correct copy of Table B which contains my modelling results of a 55% unimpaired flow standard through the Water Supply Adjustment and the upper limits of the carryover storage requirements of Table 8 which is 700,000-1,000,000 acre feet. The contents and findings of Table B are generally described in paragraph 8 above. 11. Attached as Exhibit 4 is a true and correct copy of Table F which is a summary of measured inflow and outflow volumes of the Solano Project as it has operated pursuant to the 2000 Agreement with Putah Creek Council in Putah Creek Council, et al. v. Solano Irrigation District, et al, commonly referred to as the Putah Creek Accord. Table F also includes additional flow contributions considered under the HRL Pathway. This Table demonstrates that District and other Solano Project member units already allow significant flows down Putah Creek, without the Plan and its unimpaired flow and carryover storage requirements.	
1038	22	12. In my professional opinion, and based on my professional expertise and experience, the Plan will have significant adverse impacts throughout Solano County and on SID and users of water from SID's supplies in particular. I describe the adverse	Please refer to Comment Letter 247 to review responses to the comments incorporated by reference. To the extent that this comment summarizes or introduces other comments, please see the substantive responses to those comments.

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		impacts in greater detail in my January 19, 2024 declaration, but they include water shortages to urban and agricultural users in Solano County, as well as cities that rely on Solano Project water (i.e., Vacaville, Fairfield, Suisun), as well as significant water shortages for agricultural users within District's boundaries and elsewhere in Solano County.	Environmental impacts that may occur through implementation of the revised proposed Plan amendments and associated with agriculture and municipal water use along with appropriate mitigation measures can be found in Section 7.4, Agriculture and Forest Resources, Section 7.20, Utilities and Service Systems, Section 13.7.4, Agriculture and Forest Resources, and Section 13.7.20, Utilities and Service Systems. Flexibilities provided in the program of implementation can help minimize water supply effects on water users. The tributary-specific water supply adjustments would allow for additional adjustments on rainfall-dominated and municipal supply-dominated tributaries, including Putah Creek and the Mokelumne and Calaveras Rivers, that would allow for more frequent reductions in the required flow levels within this range, as well as no new flow requirements during the driest conditions. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for details regarding the reduction in water supply impacts due to water supply adjustments and refinements to carryover storage targets.
1038	23	13. The Plan will also cause severe groundwater overdraft conditions in Solano County due to the increased groundwater pumping and reduced groundwater recharge that will result from the Solano Project water shortages caused by the Plan, as is more fully described in my January 15,2024 declaration.	Please see the response to comment 1038-5.
1038	24	14. The Plan is incompatible with the Drought Measures Agreement entered into by the Solano Project member units, and to drought operations pursuant to that agreement, as more fully described in my January 15, 2024 declaration. The Plan is also incompatible with the 2000 agreement between Putah Creek Council and District and other Solano Project member units in the aforementioned Putah Creek Council, et al. v. Solano Irrigation District, et al., matter, which agreement, often referred to as the Putah Creek Accord, has provided for instream flows in Putah Creek for over 25 years, as more as more fully described in my January 15, 2024 declaration.	Please see Common Response 1.1, General Comments, for a discussion on how the Bay-Delta Plan update may interact with agreements between other agencies. Note that the Board is not a party and is not bound by private agreements and stipulations. To implement the Bay-Delta Plan, the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right. 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. Additionally, existing flow requirements such as those included in the Putah Creek Accord are included in the SacWAM modeling for all of the scenarios.

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1038	25	15. A significant issue I identified in the Plan is that in some non-drought years such as "below normal" years, the Solano Project is subject to heightened minimum carryover storage requirements as part of the proposed plan which result in zero allocation from the Solano Project. Thus, some of the most severe water shortage impacts from the Plan appear to occur in non-drought years when the carryover storage requirements are higher and more draconian under the Plan than in drought years. For example, in 2016 which was a below-normal-year rather than a drought year, the minimum storage requirements are pushed back up to a higher level (700TAF or 1MAF depending on lower limit of Table 8 or the upper limit of Table 8) and results in zero allocation from the Solano Project. 16. Another example of the Plan's deficiencies is the year 1992 when Lake Berryessa reached approximately 420,000 acre-feet. The Plan did not exist; however, to my knowledge, there were no adverse impacts to trout living in the inter-dam reach which demonstrates that water temperatures were adequate for fish populations in Putah Creek without the Plan and without the Plan's unimpaired flow and carryover storage requirements. Currently, there are thriving trout, and due to the Putah Creek Accord-salmon populations, in Putah Creek under the current operations of the Solano Project without the Plan and without the Plan's carryover storage and unimpaired flow requirements. These facts demonstrate and confirm that the Plan elements regarding unimpaired flow and storage use are unnecessary and lack environmental and scientific merit.	Please see the response to comment 1038-3 for a response to commenter's assertions about reductions in water supply. Stream temperature data is not available for 1992 however, available historical stream temperature and reservoir storage relationships were evaluated and presented in Appendix H1a1 of the 2025 partially recirculated draft Staff Report. This evaluation concluded carryover storage of 700 TAF would ensure sufficiently cool water (temperature indicators below 65 °F) for the resident rainbow trout below Monticello Dam (Figure H1a1-21). Carryover storage of 1,000 TAF would provide suitable temperatures for resident rainbow trout for a greater distance below the dam and potentially could provide suitable conditions for fall-run Chinook spawning below the Solano Irrigation Dam as early as September in some years (56 °F, Figure H1a1-21).
1039	1	I don't support the Healthy Rivers and Landscapes updates to December 2025 revised draft Sacramento/Delta Bay Delta Plan. The proposal takes too much water out of the delta and threatens fish already in severe decline. The proposal also doesn't address the toxic algae blooms in the delta waters. Please protect the delta's ecosystem.	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.
1040	1	My daughter and her husband and children live in Mariposa and the grandkids play sports in the valley so I am often driving through California's farmlands and by the rivers. We have had many events and celebrations by the Merced River. Also, I buy food grown or raised in California.	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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		We need to take care of our lands and waters. If there was enough water in our rivers we wouldn't have lost 90 percent of the salmon.	
1040	2	The State Water Board should reject the proposed VAs because they would maintain the failed status quo — massive diversions and water exports are driving species to extinction, causing toxic algae blooms, destroying the fishing industry and impacting tribal and cultural uses of 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.
1040	3	The Board should proceed expeditiously with adoption and implementation of the Bay Delta Water Quality Control Plan, including strong new science-based protections that require increased flows of at least 55% in Central Valley rivers in most years.	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.
1040	4	There is no scientific analysis in the Draft Report to show that the VAs will come anywhere close to protecting fish and wildlife beneficial uses or public trust resources – or will change the status quo much at all. The VAs lack viable enforcement mechanisms. There is no clear accountability if water users fail to meet flow, habitat, pollution or temperature goals critical to salmon survival and the protection of drinking water. Habitat restoration (the main focus of the VAs) is important, but without sufficient flows, it will fail to restore our aquatic ecosystems. For example, floodplain rearing habitat for baby fish could be restored, but without the right amount and timing of water to inundate it, it would be unusable. I support a resilient and sustainable future for our California land and waters.	Please see the Scientific Basis Report Supplement (Staff Report Appendix G2) for an evaluation of the benefits of the Voluntary Agreements and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
1041	1	While we appreciate the progress reflected in the revised Bay-Delta Plan, including that the Plan now designates Tribal Tradition & Culture (CUL) as a beneficial use basin-wide, we are deeply concerned that the proposed updates still do not provide the level of protection needed for the Trinity and Klamath River Watershed.	Please see Common Response 1.5, Trinity River, on the consideration of the Trinity River watershed and for discussion on how additional evaluation and consideration of existing water quality problems on the Trinity River does not fit within the purposes and goals of the update to the Bay-Delta Plan.

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		Trinity River Division of the Central Valley Project The Trinity River Watershed plays a critical role in California's water system through - ecological health, and the cultural and economic well-being of Northern California communities. Decades of water diversions associated with the Central Valley Project have significantly altered natural flow patterns, channel processes, sediment transport, and water temperatures, contributing to long-term declines in salmon and steelhead populations. These impacts are well documented and have been the subject of federal restoration mandates, scientific evaluation, and Tribal advocacy. The Trinity River is directly connected to statewide water management decisions through its role as a water source for the Sacramento River Basin. Increasing demands associated with the San Francisco Bay-Delta place additional pressure on this already impacted river system. Without firm protections for diverted Trinity River water, efforts to address Bay-Delta flow and water quality challenges risk relying disproportionately on exports from the Trinity Watershed rather than reducing system-wide impacts or improving local watershed resilience. Reductions in Trinity River flows do not occur in isolation. Trinity contributes a substantial portion of cold, clean water to the lower Klamath River at their confluence near Weitchpec, particularly during late summer and early fall when mainstem Klamath conditions are most stressful for migrating fish. Increased diversions will raise water temperatures, decrease dilution capacity, and contribute to conditions that increase disease and reduce salmon id survival in both the Trinity and lower Klamath Rivers. As climate change intensifies so does drought frequency and hydrologic variability, the margin for error in managing Trinity River flows and Lake storage continues to shrink. Decisions that allow Trinity Watershed water to be used as a balancing source for overallocations and mismanagement, risk undoing decades of progress and shifting environmental consequences onto Tribes and Communities that have already borne disproportionate impacts for the past 60 plus years.	

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1041	2	Trinity River Hatchery Trapping Summary Current fishery monitoring data further underscores the importance of protecting Trinity River flows and limiting reliance on Trinity River diversions to address out of basin water demands. The California Department of Fish and Wildlife, Hoopa Valley Tribe, Yurok Tribe and the Trinity River Hatchery conduct spawning of Chinook, Coho and Steelhead along with ongoing adult salmon id trapping and monitoring to document run timing, species composition, and hatchery contribution. According to the 2025-2026 Trinity River Hatchery trapping summary, through Julian week 4 (January 28, 2026). Approximately 430 adult Steelhead were processed at the hatchery during Julian weeks 1 through 4, with roughly 90 percent of these fish identified as adipose-fin clipped, indicating hatchery origin. In addition, approximately 58 steelhead half-pounders were processed during this same period, nearly all of which were also of hatchery origin; no Chinook salmon or Coho salmon were recorded during this period. The Trinity River is seeing some of the lowest numbers on record, and see a fourth closed salmon season in our future.	Please see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.
1041	3	Potential Effects of Voluntary Agreements on The Trinity River Watershed Voluntary Agreements (VAs) are intended to provide an alternative to regulatory flow requirements by allowing water users and agencies to commit to a combination of flow contributions, habitat actions, and funding to support fish and ecosystem objectives in the Bay-Delta. While these agreements are primarily framed around the Sacramento and San Joaquin river systems, their implementation has potential implications for the Trinity River watershed due to its role within the Central Valley Project. Reductions in Trinity River flows during late summer and early fall, whether driven by water export pressure, Bay-Delta operational flexibility, or future Voluntary Agreement implementation-can negatively affect these life-history stages. Diminished Trinity River inflows above Trinity Dam may also	Please see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.

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		reduce the availability of cold, clean water available during late summer and early fall, increasing temperature stress and disease risk for juvenile and adult salmon ids migrating through the Klamath and Trinity mainstem. The Trinity River Division of the Central Valley Project already exports a significant portion of Trinity River water to the Sacramento River Basin. If Voluntary Agreements are used to meet Bay-Delta flow or water quality objectives without clear accounting and enforceable limits, there is a risk that Trinity River water could be increasingly relied upon as a flexible source to satisfy out of basin commitments. Without explicit protection, this could result in pressure to maintain or increase exports during biologically sensitive periods, reducing flows available to support the Trinity and Klamath River Watershed.	
1041	4	Reduced Certainty Compared to Regulatory Standards Unlike water quality control plans with enforceable flow requirements, Voluntary Agreements depend on negotiated commitments that may vary year to year based on hydrology, funding, and operational decisions. For the Trinity River watershed, this introduces uncertainty. Restoration flows established under the Trinity River Record of Decision were designed to meet specific geomorphic and biological objectives. Any weakening of flow reliability, particularly during dry or critically dry years could undermine those restoration goals.	The revised proposed Plan amendments do contain a provision to ensure that implementation of the Bay-Delta Plan, including the VA pathway, does not result in redirected impacts on native fish and wildlife resources in the Trinity River watershed, including temperature and instream flow impacts. Please also see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.
1041	5	Implications for Fisheries and Restoration Investments The Trinity River has been the focus of decades of federally mandated restoration, supported by flow releases, gravel augmentation, channel rehabilitation, and long-term monitoring. Reductions in in stream flow reliability-especially during winter rearing, spring out-migration, or late-summer temperature stress periods-could diminish the biological effectiveness of these investments. Because the Trinity provides critical cold-water inputs to the lower Klamath River, these impacts may extend beyond the watershed and affect downstream fisheries. A central concern with Voluntary Agreements is that they may redistribute water management impacts rather than reduce	Please see the response to comment 1041-4. Please also see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.

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		them at a system scale. If Bay-Delta objectives are met in part by relying on existing Trinity River exports, the ecological burden may be shifted northward to a watershed that has already experienced substantial historic impacts. The Voluntary Agreements are another raid on Trinity River water largely for the benefit of subsidized corporate agriculture. The proposal should be withdrawn and redone with specific, enforceable flow, water temperature and Trinity Lake cold water carryover storage protections for the Trinity River to ensure that there is always adequate water to ensure a thriving Trinity River that meets the fishery restoration goals of federal law as embodied in Public Law 104-154 (see https://www.congress.gov/104/statute/STATUTE-110/STATUTE-110-Pg1338.pdf) "Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate folly, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration;" The exports and flows envisioned under these proposed V As will not protect the Trinity River fishery resources and water rights as required by law and will not provide sufficient flows to ensure the Bay-Delta estuary ecosystem survives.	
1041	6	Lack of Protection for Trinity and Lower Klamath Rivers There is nothing reassuring in the latest version of the plan to provide guarantees that the Voluntary Agreements will protect the Trinity River from adverse flow and temperature conditions. The December 2025 Update still does not define the likely impacts to the Trinity River, gives no definition of what impacts would be, nor does it contain mitigation or remedies when and if they occur. The Plan also fails to include the Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB) or Subsistence Fishing (SUB) beneficial uses of the Trinity and Lower Klamath Rivers (North Coast Basin), which are a source of water for implementing the VAs.	Adherence to the Plan provision is a compliance issue. In addition, the State Water Board may schedule and conduct a separate proceeding to consider water quality protections on the Trinity, including flow and temperature requirements and cold water habitat protections. This action may occur upon petition from parties or on its own motion. Please also see Common Response 1.5, Trinity River, on the consideration of the Trinity River watershed and for discussion on how additional evaluation and consideration of existing water quality problems on the Trinity River does not fit within the purposes and goals of the update to the Bay-Delta Plan.

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		The Board only requires the Bureau of Reclamation to report annually on indirect impacts to the Trinity River. The December 2025 Update still does not define the likely impacts to the Trinity River, gives no definition of what impacts would be, nor recommends mitigatory remedies when and if they occur. The July 2025 plan also states, "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." In short, the fox would continue to guard the henhouse. There is no analysis or balancing by the SWRCB given their state duty to protect the values of the State of California Wild & Scenic Trinity River nor is there any balancing of uses as required under Section 5937 of the California Fish and Game Code ..	
1041	7	Tribal Trust and Legal Considerations The Trinity River watershed is subject to federal trust responsibilities to Tribal Nations and to specific statutory and legal obligations governing fisheries restoration. Any Voluntary Agreement framework that influences Trinity River operations without clear safeguards raises concerns about consistency with those obligations and complicates accountability for meeting Tribal, ecological, and restoration commitments.	Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a discussion of tribal reserved water rights. Please also see Common Response 1.5, Trinity River, for an overview of the Trinity River watershed including a discussion on tribal reserved water rights in the watershed.
1041	8	Need for Explicit Trinity River Protections For Voluntary Agreements to avoid unintended consequences in the Trinity River watershed, they would need to include explicit provisions that: • Adopt enforceable Trinity Reservoir cold water carryover storage requirements. • Update and enforce temperature objectives below Lewiston Dam. • Explicitly prohibit redirected impacts to the Trinity River from Voluntary Agreements. • Revise reservoir priority rankings to include Trinity Reservoir as high priority.	Please refer to the response to comment 1041-6.

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		• Include Trinity River and Lower Klamath River CUL, TSUB and SUB in Plan objectives.	
1041	9	Plain Language Summary In light of these considerations, it is imperative that future considerations of the Bay-Delta Plan incorporate robust, transparent mechanisms to safeguard the ecological health and cultural integrity of the Trinity and Klamath River watersheds. Specifically, any new agreements or updates should prioritize the integration of Tribal perspectives, ensure accountability for restoration objectives, and establish clear thresholds for protective water flows and temperatures. This approach will help prevent further degradation of fisheries, honor federal and state legal mandates, and support the long-term resilience of these vital river systems and the communities that depend on them.	Please refer to the response to comment 1041-6.
1041	10	Final Summary By Centering Tribal voices and implementing strong, measurable protections, the Bay-Delta Plan can fulfill its responsibility to preserve ecological balance and cultural heritage. Ensuring transparency and accountability in future agreements is essential for the continued health of the Trinity and Klamath Rivers and the prosperity of all who rely on their waters. Please don't let the extinction of California salmon and the communities that depend on salmon be your legacy!	Please refer to Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1042	1	My impression of the newly revised draft of the Sacramento/Delta Bay plan is that it still does not adequately ensure that enough flow is maintained to support the aquatic life of the delta and the native fish of the Bay's tributaries. More water does not need to be diverted south to support ever thirsty agriculture and urban growth compared to the need to support such threatened species as our chinook salmon, sturgeon, and smelt that have previously thrived in these waters for millennia.	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.
1043	1	After listening to the comments made by Wade Crowfoot and Chair Joaquin, regarding the intent to make these changes quickly, I was prompted to report that this update should have	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		happened 25 years ago. Can we instead make changes in due time, and insure the changes are proper, fair and utilize the best available science? It is in sheer high hopes that I write this. The Governor has asked you to include his "Voluntary Agreements" into the Plan, and you are all appointed by this same Governor, so it doesn't make sense to think my comments will stop you. I urge you to think long and hard, however. Your decision here will be remembered by history. The VA's are not rooted in science, they are simply agreed upon amounts decided by backroom negotiation. The decision you make can be the final nails in the Delta's coffin, and you all can be pointed to as the executioners. I find it off-putting that members of this board, Mr. Crowfoot and others think it is ok that there's "experimenting" included in the Plan. "Let's give the VA's a chance to work". What nonsense. The Delta has had 100+years of studies and research. There's no need to experiment at this late stage. Experimenting at this stage is reckless. Smelt are all but extinct, salmon are in steep decline and now sturgeon numbers are plummeting. It is time not to experiment, but to act with authority. "Give the VA's a chance", if that's what we are doing now, let's give my aunt Tilly's witch coven a chance, too. My magic 8 ball will answer questions. I'm being ludicrous but no more than Mr. Crowfoot touting the "VA's" as "inclusive". Backroom negotiating with the old guard included no one else The man from the Sport fishing Alliance made a point I'd like to expand upon. The water contractors are too often spoken of as your "partners". Please understand, they are NOT partners. In no way should you think of them as such. You are their Regulating Body. Their JOB is	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		to find loopholes and workarounds to your regulations. If you do this, if you include these "VA's" in your update, you must do so with this in mind. You must make sure there are no loopholes. Why, oh why would anyone believe you are going to timely monitor closely the results of these "VA's", when this very update is 25 years late? It shows a need to form a "compliance team" that will inspect each contractor for their adherence to their agreement. This team should also inspect all water transactions and insure there is no water unaccounted for. No more Dennis Falaschi maneuvers. Any habitat restoration agreement progress needs to be monitored	
1043	2	No one that I heard speak at the meetings mentioned that the flows you are considering the new restriction levels for also dilute effluent discharged by the many sewage treatment plants discharging both treated and in the cases of accidents, untreated sewage into the Delta. Elk Grove s newest plant alone discharges 125,000,000 gallons of Sacramento effluent daily. As modern as even this plant is, no one is lining up to grab a glass of their treated sewage. There are still pollutants in effluent, no matter how advanced the processes have become. The salinity, oxygen levels, hormones and medications ingested prior to treatment get through and get discharged into the Delta. Effects on fish are not known well enough. Originally the SWP was voted upon and was passed because it was for only "excess water", unneeded by Northern California. While NorCal is willing to share the water, we are not willing to convert the SF Bay into a mix of saltwater and effluent.	As discussed in Staff Report Section 7.12.1, Surface Water, higher flows can dilute pollutants that originate from point sources and other discharges of waste. To the extent that the changes in hydrology result in increased or decreased flows, the dilution effect may increase or decrease. These potential effects are considered in the impact assessment.
1043	3	I am a NorCal native, and I live in my houseboat in the Delta. I can barely get my boat in and out of the marina when the pumps	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		are running in Byron, the current becomes so strong. There are harbor seals living in West Sacramento, way way too far inland. There is too much water being taken NOW, let alone what the flows you have proposed will leave us with. The DWR has installed "emergency" rock barriers when dry years have happened at least twice in recent years, with no environmental review. It has been shown that in any case where the water might be curtailed, the curtailment will always favor the SWP.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1043	4	The VA's include habitat restoration plans. Please revise these agreements to only include new plans, and not plans that are required by any other agreements. Habitat restoration is good but it is useless without proper flows. The Board quoted 75% unimpaired flows to be what is needed to insure future ecosystems are protected in 2006. Now your Plan proposes 55% in the wettest years. Dry year 35% is absolutely too little.	Please see Common Response 1.1, General Comments, for information on the Delta Flow Criteria Report and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway habitat commitments.
1043	5	SoCal needs to source water locally. Research grants and scholarships for water education need to be prioritized. Stormwater capture, and water conservation need to be implemented. Most of all, water profits need to be regulated. Water transactions need to be monitored, and water right sales should be stopped altogether. Water should not be a profitable commodity, any more than air is. This Board needs to step up enforcement of regulations. Water theft is a known problem. This needs to become a priority as we move into a new age of too many residents, aging infrastructure and unscrupulous actors.	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.
1043	6	I ask that you omit the "Voluntary Agreements" from the Bay Delta Plan. Unbiased science is the only proper way to determine flows. Governor Newsome has had 7 years to get involved with the Delta. It was a Brown priority.	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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		Only now, as he has decided to run for President, has he jumped into the water mess. Campaigns aren't cheap, and folks like Stu Resnick are donors he is concerned with. Please do not give in to the greed driven pressures of water contractors and a Governor in the last days of his term. Do what is right. You'll sleep better and you'll know in years to come you made the right choice Exclude the "Voluntary Agreements" from the Bay Delta Plan.	
1044	1	Our members depend on the legendary abundance of the Sacramento River to support our families and communities. Sacramento fall-run Chinook are the primary contributor to ocean fisheries throughout California and much of southern Oregon. Without healthy stocks of fall-run Chinook, our ocean fisheries are completely closed, as we have seen over the past three years. The commercial harvest of salmon represents a significant cultural and economic contribution to California. The California salmon fishery was, until recent years, one of the most productive of all the State's fisheries, as noted in an economic study by Southwick Associates [Footnote 1: See Southwick Associates (2012), Economics Report on the impact on California's economy from salmon fisheries. Available at: https://ifrfish.org/wp-content/uploads/2023/01/Southwick-Report-CA-Salmon-Values-2012.pdf. We incorporate the information in this study by reference into this testimony, but also include this document as Exhibit IFR-1. These numbers are in 2012 dollars, and thus would be greater today when accounting for inflation. 2 See our prior written comments dated January 10, 2025, and September 1, 2025, submitted for the Record.]. That study estimated that the 2006 California salmon fishery (both commercial and recreational) generated nearly $1.4 billion in economic activity. Furthermore, "if historic salmon harvests could be reached once again, the impacts would increase significantly" to $5.7 billion annually to the economy [2006 USD], supporting up to 94,227 jobs. This is why investing	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.Please also see Common Response 8.1, Economic Analysis and Other Considerations, for more discussion about the economic impacts of the Bay-Delta Plan and revised Chapter 8, Economic Analysis and Other Considerations, of the Staff Report for more information on other economic effects that could occur as a result of the proposed Sacramento/Delta updates to the Bay-Delta Plan, including effects on commercial and recreational fisheries. Please also see the fisheries economic effects discussion in Staff Report Chapter 13, Revised Proposed Plan Amendments, which provides supplemental economic information relevant to recreational and commercial fisheries and discusses fisheries economic effects under the revised proposed Plan amendments. The letter from Southwick Associates referenced in this comment incorporates data from the National Marine Fisheries Service's (NMFS) Fisheries Economics of the United States annual reports from 2021 and 2022 (National Marine Fisheries Service 2024b, 2024c). Those reports were considered and referenced in the new Section 8.6, Fisheries Economic Analysis, of the revised Staff Report. Please also see Common Response 3.1, Fish Protection, for more discussion on the use of the best available science for the protection of fish, other potential environmental stressors, and the benefits of flow and habitat to fish species.

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		and securing water for that salmon recovery effort will be of great economic benefit to California's future economy.	
1044	2	Scope of Comments PCFFA and IFR submit these comments on the December 2025 Revised Draft Sacramento/Delta Updates to the Bay-Delta Water Quality Control Plan, hereafter referred to as "Draft Plan," and on Chapter 13 of the Draft Staff Report only, consistent with the scope of this limited recirculation. We understand the State Water Resources Control Board (State Board) is not taking final action at the upcoming hearing; however the Administrative Record developed here will shape the final Plan and Staff Report and will influence future State Water Board decisions, including water quality and water right proceedings that rely on the Bay Delta Plan framework. We have previously submitted comments on the October 2024 version of the Bay Delta Plan [Footnote 2: See our prior written comments dated January 10, 2025, and September 1, 2025, submitted for the Record.]. The Bay Delta Plan adopted under the State Water Board's water quality planning authority must identify beneficial uses of water, establish water quality objectives to reasonably protect those uses, and include a program of implementation to achieve those objectives. In updating the Draft Plan, the Board is required to exercise its discretion consistent with the Public Trust Doctrine and the factors set forth in Water Code Section 13241, including economic considerations and the need to balance competing uses of water. Commercial fishing is a protected beneficial use of water (COMM), and the Bay Delta Plan's structure for defining and protecting water quality metrics, including instream flows and temperatures, has downstream legal and practical consequences for that use. Salmon harvests depend not only on successful spawning and in-river survival, but on sufficient flows and temperatures to support juvenile outmigration and ocean entry. The entire salmon life cycle must be considered: the ability to harvest salmon depends on whether fish successfully migrate	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan. Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, provides a review and summary of the best available science on flow needs for the protection of fish and wildlife beneficial uses. Chapter 3 includes an analysis of the benefits of the 35 through 75 flow scenarios and other components of the proposed Plan amendments described in Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta. Chapter 9, Proposed Voluntary Agreements, includes an analysis of the benefits of the HRL commitments. Section 13.5, Beneficial Environmental Effects, contains benefit analyses for the revised proposed Plan amendments. In particular, Section 13.5 provides analysis that includes scenarios representative of the regulatory pathway and the VA pathway. See also Section 8.6 of the final Staff Report, Fisheries Economic Analysis, for an analysis of economic impacts on commercial and recreational fishing. See also Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's consideration of beneficial uses and public trust resources during the water quality control planning process.

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		downstream, enter the ocean, and return in sufficient numbers to support fisheries. A framework that measures limited success in ways that do not reliably produce fish available to fisheries fails to reasonably protect this beneficial use. The Board's obligations to reasonably protect fish and wildlife beneficial uses must also extend to maintaining viable commercial fisheries. For salmon, that protection simply cannot be limited only to purely biological viability nor mere avoidance of extinction. Salmon populations must also be protected in numbers that support our commercial fisheries. Recovery and viability standards that are disconnected from those outcomes do not reasonably protect the beneficial use.	
1044	3	Chapter 13 Impact on Commercial Salmon Fisheries Chapter 13 of the draft Staff Report explicitly frames the revised proposed Plan amendments around Public Trust considerations and Water Code Section 13241 balancing. As a result, the choices reflected in the revised Draft Plan must be evaluated against whether they support outcomes that sustain protected beneficial uses, including commercial salmon fisheries, across all water year types. Metrics or objectives that only describe biological conditions but do not translate into ecosystems which support the full life-cycle of salmonid species risk undermining the Board's mandate as well as the whole California salmon fishing economy. In short, the State Board must draft and approve a Bay Delta Plan that allows for successful spawning of salmon, successful outmigration of juveniles to the ocean in harvestable numbers, and the subsequent successful return of those adult fish to their spawning grounds.	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the reasonable protection of fish and wildlife beneficial uses and consideration of other beneficial uses. Please also see Common Response 3.1, Fish Protection, regarding consideration of life cycle modeling studies. See also the response to comment 1044-2.
1044	4	What True Salmon Recovery Must Mean As it should, the Draft Plan retains a quantified narrative Chinook salmon production doubling objective in Table 3. Water Quality Objectives for Fish and Wildlife Beneficial Uses: "Water quality conditions shall be maintained, together with other measures in the watershed, sufficient to achieve a doubling	The salmon protection objective remains unchanged in the revised proposed Plan amendments. The addition of new objectives does not alter the existing salmon protection objective. As described in Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, the underlying fundamental purpose of the project is to establish water quality objectives, a program of implementation, and monitoring and special study measures for the reasonable

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		of natural production of Chinook salmon from the average production of 1967–1991, consistent with the provisions of State and federal law." (Ibid., pg. 21 [PDF pg. 32]): This salmon production doubling goal is not only embedded in federal law (CVPIA Sec. 3406(b)(1)), but in long-standing state policy including earlier versions of this Draft Plan, and has been SWRCB policy since 1995. There are also detailed plans for how this goal can be achieved that already exist [Footnote 3: Final Restoration Plan for the Anadromous Fish Restoration Program: A Plan to Increase Natural Production of Anadromous Fish in the Central Valley of California, Prepared for the Secretary of Interior by the USFWS (January 9, 2001). Available online at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/swrcb_99.pdf. Table 1 on page 7 sets the doubling production goal at 990,000 Chinook (all races) as naturally spawned adult fish in the ocean]. However, Chapter 13 (See Staff Report Sec. 13.3.2.1, Sacramento River/Delta Tributary Inflows) has now been revised to be year-round, and "the proposed narrative inflow objective has been revised from the proposed Plan amendment" as follows: "Maintain water quality conditions including inflow conditions from the Sacramento River/Delta tributaries, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include the relative magnitude, duration, timing, quality and spatial extent of flows as they would naturally occur." (emphasis added) But merely maintaining population "biological viability" is a far lower threshold than achieving the Chinook salmon doubling narrative objective retained elsewhere in the Draft Plan. As currently written, these two different standards create a massive internal inconsistency. A framework that achieves only "biological viability" could technically satisfy the revised viability standards while still utterly failing to achieve recovery outcomes sufficient to support commercial, recreational, or Tribal fisheries.	protection of fish and wildlife beneficial uses in the Sacramento/Delta. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife and consideration of beneficial uses and Common Response 1.3, Revised Proposed Plan Amendments, for information on the water quality objectives for fish and wildlife.

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		This inconsistency appears repeatedly throughout Chapter 13. Similar "viability-only" framing also appears in the narrative standards for Delta outflow and interior Delta flows. The distinction between biological viability and true recovery is critical. Under the Endangered Species Act (ESA), recovery is defined only in terms of ensuring that a species is sufficiently abundant and distributed to avoid extinction and thus qualifies for ESA delisting. That standard, however, represents the lowest possible threshold for species conservation and does not define "recovery" in the common-sense terms of abundance levels sufficient to support fisheries. For salmon fisheries, true recovery must mean the sustained production of a reasonable harvestable surplus of fish. If true "recovery" is to be a meaningful objective, that harvestable surplus must be defined and reflected in the Plan's standards and implementation framework. Metrics that stop only at "biological persistence" or "viability" may satisfy minimum or ESA conservation thresholds while still utterly failing to produce fish available for harvest. Failing to support ecosystems that produce a harvestable surplus of salmon neglects the Water Board's legal responsibility to consider as well as to protect commercial fishing as a valuable beneficial use of state water resources. In short, unless the Chinook salmon "doubling objective" is explicitly integrated into the Plan's water quality standards, implementation pathways, and enforcement guidelines, the Plan risks defining success in ways that allow mere "biological viability" to substitute for outcomes that reasonably protect the economically valuable commercial fishing beneficial use, and which puts high quality seafood on America's tables!	
1044	5	Implementation Pathways and Fisheries Outcomes The revised Draft Plan amendments establish two implementation pathways: 1. A Voluntary Agreement (VA) pathway tied to what has been renamed the Healthy Rivers and Landscapes (HRL)	The benefits of the revised proposed Plan amendments are documented in Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations; Section 13.5, Beneficial Environmental Effects; Appendix B, Scientific Basis Report in Support of New and Modified Requirements for Inflows from the Sacramento River and its Tributaries and Eastside Tributaries to the Delta, Delta Inflows, Cold Water Habitat, and Interior Delta

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		commitments, that would apply to participating water rights holders, and 2. A regulatory pathway that would apply to non-participating water rights holders and to Voluntary Agreement participants if the voluntary pathway is discontinued. Regardless of the mechanisms used to implement the Bay Delta Plan, the Plan must be constructed with clear, measurable, and enforceable water quality objectives. While we appreciate the efforts of the water user community to develop Voluntary Agreement mitigation measures that would benefit California's rivers, wholesale substitution of enforceable water quality objectives with VAs would be impossible to manage, monitor, or enforce. State regulated and mandated minimum instream flows remain necessary to help recover California's salmon fisheries. Yet it is clear that in-stream salmon would have more water available to them in-river even under the adjusted 55% w/WSAs scenario than with the VA's scenario alone. For instance, the State Board Staff's own analysis of Chapter 13 clearly shows that in Critical Years, the combined VAs would divert about 665 thousand acre-feet (TAF) more water from Shasta Lake than even under the currently proposed flexible baseline of 55% w/WSAs of unimpaired flow (UIF) water volumes [Footnote 3: See Partially Recirculated Draft (Dec. 2025) – Staff Report at Table 13.4-95: Average Carryover Storage and Percent Differences from Baseline in Rim Reservoirs in the 55/WSAs Scenario for Critical Years (pg. 13-122 [PDF pg. 146]), versus Table 13.4-99: Average Carryover Storage and Percent Differences from Baseline in Rim Reservoirs in the VA Scenario for Critical Years, (pg. 13-135 [PDF PG. 159]). On average, according to modeling done by Friends of the River and others, the amount of January-June Delta inflow and Delta outflow from the Sacramento Basin that would be required under the proposed 2022 Voluntary Agreements is 1.1 million acre-feet less than the amount of Delta inflow that would be required if the State Water Board adopted a water quality objective requiring 55 percent of unimpaired flow.]. Shasta Lake carryover (i.e., "end of September") storage from one water-year to the next is vitally important for protecting cold water flows for	Flows; and 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. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.

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		all salmon spawning and rearing below Shasta Dam, particularly the ESA-listed winter-run Chinook but also other stocks. Additional diversions must be done in adherence with water quality standards set by the State Board, and in equitable consideration of and with rigorous protections for commercial fishing beneficial uses that could be dramatically impacted.	
1044	6	The Staff's Chapter 13 analysis also acknowledges that portions of the Voluntary Agreements (VAs) pathway rely on water purchases from "unspecified willing sellers" or export reductions that are not fully defined, and thus were not modeled. The Partially Recirculated Draft (Dec. 2025) Staff Report clearly notes: "However, the unspecified water purchases (PWA Market Price Water Purchase Program and permanent state water purchases) would be from unspecified willing sellers…. Because the sources of the unspecified water purchases are not fully known at this time, they are not included in the SacWAM modeling of the VA scenario." (Staff Report, pg. 13- 48 [PDF pg. 72]). While willing seller water purchases may play a role in implementation, that there is still considerable uncertainty regarding the source, timing, and feasibility of these actions raises serious questions about whether promised benefits will materialize when they are most needed, particularly during drought years. There must be water quality standards (particularly flow) baselines to ensure that such water purchases are realized, and are sufficient to ensure good river conditions for salmon. A framework that relies primarily on voluntary commitments without clearly enforceable standards risks delaying meaningful protections if recovery objectives are not clearly defined and enforced. This concern is compounded if voluntary agreement performance is evaluated against viability based metrics rather than outcomes that support fisheries.	The Staff Report adequately evaluates environmental impacts associated from potential water purchases under the VA pathway. The sources for the PWA Fixed Price Water Purchase Program are identified and as such are explicitly modeled in SacWAM. However, the unspecified water purchases (PWA Market Price Water Purchase Program and permanent state water purchases) would be from unspecified willing sellers, which could include inflow sources within the Sacramento/Delta watershed or reductions in exports, both of which could result in additional Delta outflows. Because the sources of the unspecified water purchases are not fully known at this time, they are not included in the SacWAM modeling of the VA scenario. Because the unspecified water purchases could be provided from reductions in exports or increases in inflows, the effects of both of these scenarios are evaluated in Section 13.4.4, Changes in Water Supply, and considered in the analysis presented in Section 13.7, Environmental Analysis. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the VA pathway, including enforceability.
1044	7	Accountability and Dry Year Performance The Project description in the Partially Recirculated Draft (Dec. 2025) Staff Report also recognizes uncertainty in the	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP. Please refer to Common Response 3.1, Fish Protection, on use of best available science in the Staff Report. Please also

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		assumptions that will influence how future projects, diversions, and water right actions are evaluated against Bay Delta Plan objectives. How the Plan defines existing instream flows, "new" environmental water, and acceptable levels of modification will shape future determinations of compliance and mitigation. If existing instream flows above minimum regulatory thresholds are not clearly protected in the current Draft Plan, those flows could, over time, be treated as available for future diversion. Alarmingly, under the current 2024 Central Valley Project Long-Term Operation Plan, Action 5 that was recently adopted by the Bureau of Reclamation pursuant to the President's Executive Order 14181, CVP operations under Action 5 will divert an additional 130 to 180 thousand acrefeet (TAF) of Central Valley water to the Central Valley Project, and an additional 120 to 220 TAF to the State Water Project. These increased diversions will effectively cancel out any flow gains that would have been provided under the VAs. Likewise, if the Delta Conveyance Project (DCP) is approved by the State Board as currently proposed, approximately 24% of the total annual flow of the Sacramento River may be diverted under the Delta directly to southern water projects, entirely depriving the Delta of these normal flows. These two factors combined just make achieving protective water quality goals for salmon fisheries through the VAs alone – without any guaranteed minimum in-stream flow targets under the UIF regulations – that much less likely.	see Chapter 13 and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. The Delta Conveyance Project is discussed in Section 13.7.21.1, Cumulative Impact Analysis, of the 2025 partially recirculated draft Staff Report and potentially significant cumulative impacts are identified in the cumulative impact analysis that follows. Please refer to Common Response 7.23, Cumulative Impact Analysis, for responses to comments related to the consideration and analysis of cumulative impacts associated with the Delta Conveyance Project. The revised proposed Plan amendments direct the State Water Board to consider imposing requirements on new water supply projects to ensure that future authorizations for the diversion and use of water are consistent with and support the salmon protection, fish viability, inflow, inflow-based Delta outflow, and interior outflow objectives of the Bay Delta Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the protection of base flows applicable to new water supply projects.
1044	8	Likewise, if "recovery" is defined in ways that do not require successful juvenile outmigration and ocean entry, future analyses may greatly underestimate impacts to commercial fisheries. PCFFA and IFR raise this concern not to suggest that the revised Draft Plan authorizes such treatment, but to ensure that the final Plan clearly prevents this outcome in future implementation.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1044	9	The Staff Report on Chapter 13's own modeling shows that different implementation pathways can produce materially different outcomes, particularly in Dry and Critically Dry years. These differences underscore the importance of adopting a framework that sets clear, enforceable objectives and evaluates success based on whether fish actually reach the ocean in numbers sufficient to sustain fisheries.	Please see the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) for an analysis of the benefits of the VA pathway and Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife beneficial uses. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the

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		Implementation risk for salmon is most acute in Dry and Critically Dry years, which are biologically important for the perpetuation of Central Valley fall-run Chinook and other salmon populations. For that reason, it is not sufficient for implementation frameworks to perform adequately only in Average or Wet years. There must be reasonable salmon protections in all years, even under the driest conditions, or otherwise these species' will simply disappear whenever several drought years next occur in a row. If Voluntary Agreements (VAs) are used as an implementation pathway, monitoring and reporting must also produce decision-grade information that allows the Board to determine whether implementation is actually achieving fishery relevant outcomes. Metrics that focus solely on biological viability or localized conditions without accounting for downstream migration and potential ocean abundance of salmon do not truly protect commercial fishing beneficial uses.	enforceability of the VA pathway and the VA supplemental science and monitoring requirements.
1044	10	Adaptive Management and Fishery Representation In general, we are supportive of the adaptive management systems described in the December 2025 Draft Plan. We stress, however, the need for fisheries representatives to be included in the adaptive management process. In order for commercial fishing beneficial uses to be fully considered, commercial fishing representation is imperative on any decision-making body. We also support the proposed additional flexibility in Delta Cross Channel (DCC) Gates adaptive management, as described in Secs. 13.3.2.4 and 13.3.6. More annual flexibility in the opening and closing of the DCC Gates is likely to help prevent saline intrusions and/or unblock fish passage during salmon outmigrations and adult returns. We understand the need for initial water supply adjustments (WSAs) initially allowing flows below the basic UIF goals, but on a temporary basis and while VAs and other mitigation measures can be developed and then implemented to maintain more water in the ecosystem. However, these WSAs should function as	Any interested parties or members of the public would have the opportunity to participate in annual or periodic reviews of the Bay-Delta Plan. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		temporary exemptions only, rather than a standing substitute for baseline flow protections. Consistent with the structure of the Voluntary Agreements themselves, we recommend that WSA adjustment authority be time-limited, with clear expiration dates aligned with VA performance timelines. Fish and wildlife needs and other beneficial uses such as for commercial salmon fisheries must be balanced with other water needs in implementation decisions. These WSAs are described as interim implementation tools, but their use underscores the importance of ensuring that baseline flow protections are not deferred or weakened for extended periods absent clear performance and accountability benchmarks. Equally important, the Plan must clearly articulate what happens if assumptions underlying implementation do not hold, if metrics are not met, or if outcomes fall short. Adaptive management only functions if there are defined responses to underperformance.	
1044	11	Preserving Fisheries Issues in the Record PCFFA and IFR do not take a position in this proceeding on the merits of any particular Voluntary Agreement (VA). Our focus is not on the choice of implementation mechanisms, but on whether the Bay Delta Plan's framework as a whole ensures that implementation, whatever form it takes, produces outcomes that reasonably protect commercial salmon fisheries. PCFFA and IFR submit these comments to ensure that the record reflects fisheries-specific concerns regarding implementation, outcomes, and accountability. PCFFA and IFR expect that final adoption materials will respond to these concerns and demonstrate how the chosen implementation framework will produce outcomes that reasonably protect commercial salmon fisheries, including the abundant production of harvestable fish.	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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1045	1	My public comment is as follows. There is only one way to meet the requirements of the laws which protect ecosystems and water quality of the delta: maintain adequate flows. All the collaborations and wheeling dealing are smoke and mirrors. Maintain adequate flows; it's that simple.	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.
1046	1	On behalf of Eastern Municipal Water District (EMWD), a water, wastewater, and recycled water provider serving about one million residents in Riverside and San Diego Counties, I am writing to urge you to support and approve the Agreement to support Healthy Rivers and Landscapes (Agreements) as the State Water Resources Control Board (State Board) considers an update to the Water Quality Control Plan for the Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan). EMWD has emerged as a leader, both regionally and statewide, as an agency that has made significant investments to bolster local water supplies to ensure resiliency in times of prolonged drought. For example, EMWD utilizes a large majority of the wastewater treated at our reclamation plants for beneficial uses in agricultural and urban communities. EMWD has also constructed three brackish groundwater desalination facilities that produce 14 million gallons of drinking water per day from a water source that would otherwise be unusable. Although EMWD continues to make these investments to ensure regional resiliency, a portion of our water supply portfolio is, and will continue to be comprised of water imported from the Sacramento-San Joaquin Bay Delta by the Metropolitan Water District of Southern California (Metropolitan) by way of the State Water Project (SWP); this continues to be the highest quality water supply available to EMWD, which helps facilitate our robust water recycling program. We commend Governor Newsom and the State Board for recognizing the value of this collaborative framework by including the Agreements in the revised draft of the Bay-Delta Plan updates. Incorporating these multi-benefit pathways is a vital step toward a more resilient and integrated water management strategy for California.	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.
1046	2	To ensure the ultimate success of this initiative, we respectfully request that the Agreements be incorporated into the final draft	The State Water Board is not a signatory to the VA MOU nor bound by its terms. Please see Common Response 1.3, Revised

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		updates in a manner that remains consistent with the specific proposals advanced by the proponents of the Agreements. From our perspective, the Agreements provide critical benefits to water management operations and the stability of water supplies. By prioritizing functional flows and large-scale habitat restoration, the program supports the long-term health of communities and the ecosystems they depend on. Given the urgency of the challenges facing the Delta, we stress the importance of timely action to advance and adopt these updates, providing the regulatory certainty necessary to move forward with these essential landscape-scale improvements. The Sacramento-San Joaquin Delta region is critical to the overall health of California's ecosystems, agricultural productivity, and urban water supply reliability. The Agreements present an opportunity to move away from a one-size-fits-all regulatory approach and instead tailor solutions that account for the unique characteristics of the various water users in the region. The Agreements offer a promising path forward by fostering cooperation among diverse stakeholders, including agricultural, environmental, and urban interests. Additionally, the Agreements dedicate between 500,000 acre-feet and 700,000 acrefeet of water to the environment in many water years. This collaborative framework recognizes the interconnected nature of water management and seeks to balance the needs of various users while promoting the sustainable use of water resources. Lastly, EMWD would like to note that the adaptive management framework embedded in the Agreements is essential for addressing the uncertainties associated with climate change and evolving environmental conditions. This approach allows for ongoing assessment and adjustments based on the latest scientific understanding, ensuring that water management strategies remain effective and responsive to changing circumstances. We appreciate the opportunity to comment on the proposed update to the Bay-Delta Plan and would also like to echo comments made in letters submitted by the Association of California Water Agencies (ACWA) and Metropolitan.	Proposed Plan Amendments, for information on the VA pathway. See also Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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1047	1	NID is offering to divert Rollins Reservoir spill water, likely the last unallocated water in the Bear River, into Auburn Ravine in exchange for payment of $75/af of taxpayer money. This concerns me for the following three reasons. First, if Rollins Reservoir is spilling, it is likely that all the west Placer streams have adequate flows for fish passage already. Second, this unallocated water belongs to the people of the State, as evidenced by the Public Trust Doctrine. NID has not posted the term sheet on their website, held any public meetings on their proposal, nor did they consult with the nonprofit organizations they are delegating the implementation responsibility to. And third, NID does not have the authority to delegate their responsibilities. The following Ca Fish & Game Code (FGC) Sections (§) in State law bring into question the legality of NID and SSWD's proposals. • §5900(b) includes in the definition of a conduit as "any other conduit or diversion used for the purpose of taking or receiving water." NID refers to these west Placer streams as "Randoms". • §5900(c) and Abatti v. Imperial Irrigation District (2020) clarifies that district customers have "an equitable and beneficial interest in water service, but not a water right." The district, not the customer, is the "owner of the diversion" under statute. • §5901 makes it unlawful to construct or maintain any device that prevents, impedes, or tends to prevent or impede, fish passage up and down a stream. • §6100 requires screening of diversions that are deleterious to salmon and steelhead. "Construction, operation, and maintenance costs shall be borne by the owner of the diversion." NID and SSWD import water into Auburn Ravine from Points of Diversion in the Bear River watershed, including Camp Far West Reservoir and Rollins Reservoir. Under §5900(b), the moment these districts use Auburn Ravine as a conveyance mechanism, the stream itself becomes a 'conduit,' and every customer extraction point becomes a diversion from that conduit, triggering fish screening requirements. These districts have	The Nevada Irrigation District Term Sheet is available on the Board's website. If the NID flow, habitat, science, and other commitments are not provided, they could be subject to termination or modification of the VA pathway. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information about the VA pathway, including enforceability.

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		existing authority under CA Water Code §22257 to impose fish protection requirements as conditions of water service. They have chosen not to exercise it. Both NID and SSWD collect ad valorem taxes from all property owners within their respective district boundaries. A primary purpose for these funds is for operations and maintenance obligations, of which, fish screens are included since they are not only an operations and maintenance responsibility, but also required by State law, and benefit all taxpayers by enhancing the fisheries of the State. It is my understanding that the districts cannot grandfather or transfer their obligations while accepting current ad valorem taxes. The Public Trust Doctrine imposes a duty on the State and local governments to protect public trust resources. Thus, if the districts collect property taxes annually, they have created a current obligation that cannot be grandfathered. Finally, fish can't swim in money. I urge you to consider the disparate impacts of the use of our most precious public trust resource. Improving the fisheries benefits fishermen, the national food supply, and most importantly the environment we rely on to thrive; while single individuals and corporations extract the lion's share of this precious resource for private profit. Please vote for science and future generations. I oppose the "Voluntary Agreements".	
1048	1	The Coalition for a Sustainable Delta (Coalition) is writing to provide input with respect to the December 2025 Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (December 2025 Draft WQCP). The Coalition is a California nonprofit corporation comprised of agricultural, municipal, and industrial water users, as well as individual stakeholders in the San Joaquin Valley. The Coalition and its members depend on water from the Sacramento-San Joaquin Delta for their continued livelihood. Individual Coalition members frequently use the Delta for environmental, aesthetic, and recreational purposes. The economic and non-economic	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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		interests of the Coalition and its members are dependent on a healthy and sustainable Delta ecosystem.	
1048	2	Background California law requires the State Board to adopt and periodically revise water quality control plans to reasonably protect beneficial uses of water. The Board protects water quality that affects beneficial uses of water in the BayDelta through its BayDelta Plan. For more than 15 years, the State Board has been contemplating revisions to the Bay-Delta Plan. In March 2022, numerous parties involved in the management and operation of water infrastructure and delivery of water supplies to much of California executed a MOU reflecting their voluntary agreement to a proposal to update the Bay-Delta Plan (now referred to as the Healthy Rivers and Landscapes (HRL) Program). In September 2023, the State Board released a draft Staff Report evaluating the potential environmental, water supply, and economic effects of different alternatives for the Sacramento/Delta updates to the BayDelta Plan, including the HRL Program but also other alternatives. In October 2024 and July 2025, Board staff released drafts of potential updates to the Bay-Delta Plan that incorporated alternatives identified in the draft Staff Report with revisions based on public comments. Major components The Major components of the draft revised Bay-Delta Plan are: (1) the objectives intended to protect beneficial uses of water, inform actions included in the Plan, and assess compliance with the Plan; (2) alternative regulatory pathways including regulatory requirements described in a program of implementation; (3) flow accounting and non-flow habitat accounting procedures; and (4) science and monitoring processes and activities. Fish objectives The draft revised Bay-Delta Plan includes a number of objectives, including salmon protection and native fish viability objectives	The salmon protection objective is an objective in the existing Bay-Delta Plan and no changes to that objective or any other objectives from the 1995 Bay-Delta Plan are proposed to be changed. The VA commitments were proposed by the VA parties to implement the salmon protection objective. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		as follows: · Water quality conditions shall be maintained, together with other measures in the watershed, sufficient to achieve a doubling of natural production of Chinook salmon from the average production of 1967–1991, consistent with the provisions of State and federal law. · Maintain water quality conditions, including flow conditions in and from tributaries and into and out of the Delta, together with other measures in the watershed sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include, but may not be limited to: (1) flows that support native fish species, including the relative magnitude, duration, timing, temperature, and spatial extent of flows; and (2) conditions within water bodies that enhance spawning, rearing, growth, and migration in order to contribute to improved viability. Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity. Flows provided to meet this objective shall be managed in a manner to avoid causing significant adverse impacts to fish and wildlife beneficial uses at other times of the year. The Chinook salmon doubling goal is bad policy, devoid of any basis in science. State and federal statutes enacted decades ago established the doubling goal based estimated natural production of Chinook salmon over a 25-year period prior to those decades-old statutes. There is no scientific basis for doubling and no scientific basis for selecting that period of time. The vast majority of Chinook salmon in the Central Valley are hatchery produced, and a substantial proportion of these are raised at State-run hatcheries. The State Board's decision to adopt this outdated arbitrary goal as an objective and seek to impose it on water users is misguided. Hatchery-produced salmon compete with naturally spawned salmon for essential resources. As a consequence, the State is taking direct action to undermine the very objective it seeks to impose on water users, including those who have committed tremendous resources to the HRL Program.	

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1048	3	Alternative pathways The voluntary agreement pathway allows water-right holders who participate in the HRL Program to implement Bay-Delta Plan requirements, including water quality objectives, through a combination of flow and habitat restoration commitments that would be documented using accounting provisions and periodic review by the Board. The proposed regulatory pathway provisions would apply if the Board declines to approve the HRL Program and for water right holders that do not participate in the HRL Program. This pathway would direct water right holders to implement new water quality objectives largely through an approach requiring a percentage of the unimpaired flow to remain instream. The unimpaired flow approach to achievement of fish objectives is based on a demonstrable false article of faith -- that gross outflow through the Delta is the "master variable" responsible for the health of the Bay-Delta. The State Board should recognize that a flow-centric approach to development and implementation of water policy in the Bay-Delta is misguided and will not achieve the objectives identified by the Board. Doing so requires revision of the December 2025 Draft WQCP. For example, on page 4, the document states: "Most of the objectives in this plan have historically been, and will continue to be, implemented by assigning responsibilities to water right holders because the parameters to be controlled are primarily impacted by flows and water diversions." The State Board should recognize that physical and biological changes to the Bay-Delta spanning more than a century have contributed and continue to contribute to the state of the watershed, and changes in magnitude and timing of inflows and outflows are just one of the multitude of variables that influences the state of the watershed.	Non-flow related actions and other ecosystem stressors are discussed in Staff Report Chapter 4, Other Aquatic Ecosystem Stressors. A description of complementary, non-flow actions that may help address the stressors described in Chapter 4 can be found in Section 5.5, Habitat Restoration and Other Complementary Ecosystem Measures. The revised proposed Plan amendments contain both flow and non-flow actions, under both the regulatory and VA pathways, as described in Chapter 13 of the Staff Report and Common Response 1.3, Revised Proposed Plan Amendments. The scientific basis of the benefits of increased flow can be found in Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations. For additional information on the scientific basis for fish protections in the Staff Report and the use of best available science, please refer to Common Response 3.1, Fish Protection.
1048	4	Additional Concerns The Coalition supports the HRL Program as the preferred means to update the Bay-Delta Water Quality Control Plan. HRL is being spearheaded by a diverse group, including federal, state, and local agencies and private companies. The effort combines a	The State Water Board is not a signatory to the VA MOU nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. See also Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		significant commitment of resources to improve water quality for beneficial uses, a science-informed effort to leverage those resources to optimize benefits, and a monitoring program that is intended to assess the effectiveness and efficacy of resource-management actions to allow for near-term adjustment and adaptation and for longer-term changes in the resource-management agenda. The Coalition objects to proposed changes by the State Board to elements of the HRL Program, which have the potential to undermine the year-long effort that culminated in the HRL Program.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1048	5	That said, the Coalition has additional concerns about the December 2025 Draft WQCP as follows: · The December 2025 Draft WQCP does not provide sufficient time for the HRL Program participants to achieve the objectives set by the Board. For example, it is foreseeable that habitat restoration projects will not be permitted, constructed, and maintained on a time frame that allows the Board to determine whether they result in the anticipated benefits for fishes of conservation concern. It is critical that the Board set realistic benchmarks to be achieved in the time frames contemplated.	The initial 8 year timeline for the VA pathway was proposed by the VA parties. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1048	6	· The draft revised Bay-Delta Plan (p. 95) requires the State Board to determine whether the HRL Program is "substantially achieving the HRL metrics and targets" to continue after year 8. This standard is vague, allowing the Board latitude to make whatever determination it prefers. The Coalition urges the Board, at a minimum, to replace "achieving" with "contributing to achieving" recognizing that there are myriad intervening factors – ranging from climate change to hatchery practices – that influence whether the metrics and targets are being achieved	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1048	7	· The December 2025 Draft WQCP gives far too much discretion to the Executive Director to impose alternative requirements on HRL Program participants. For example, the Executive Director is authorized, among other things, to change outflow calculation methods (p.26), approve adaptive changes to flow requirements (pp.40-41), review and modify temperature management strategies (p.53), approve or require adjustments to carryover storage requirements (p.55), and refine flow	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		accounting procedures (p.82). The Coalition urges the Board to delegate the vast majority of these decisions to the HRL Systemwide Governance Committee. Where the State Board must retain ultimate decision-making authority, decisions should be made by the Board itself with input from the HRL Systemwide Governance Committee rather than solely by the Executive Director.	
1048	8	· The December 2025 Draft WQCP has insufficient flow accounting provisions. As a consequence, there is the potential for the Projects to be required to backstop flow commitments in the HRL Program. This would be improper since the HRL Program is not based on water right priority. The Board should enhance the flow accounting procedures, including by committing to take affirmative steps to ensure that water users are complying with all their respective obligations under the State Board's regulatory scheme.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1048	9	· The December 2025 Draft WQCP (pp. 61-62) requires the Central Valley Project and State Water Project to comply with the biological opinions and state incidental take permit, as well as certain numeric objectives. The Coalition strongly objects to this requirement in light of the fact that the federal and California Endangered Species Acts impose different standards under distinct statutory authorizations to be implemented by different agencies. It is improper for the Board to unlawfully expand its authority and insert itself into these separate regulatory regimes.	Please see Common Response 1.1, General Comments, regarding the federal and state endangered species acts and Common Response 1.2, Water Quality Control Planning Process, regarding reasonable protection of fish and wildlife. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1048	10	· The December 2025 Draft WQCP is based on a misunderstanding and/or misrepresentation of habitat. The term "habitat" is used over 200 times in the document, but the State Board fails to offer a definition of habitat. There is broad agreement in the scientific community that habitat is a species-specific concept. While the habitats of multiple species can overlap, the resources and resource conditions that define the habitat of each species are different than those of all other species – they inhabit different "niches." Accordingly, "habitat" is not a synonym for the space occupied by one or several species, a landscape feature, a vegetation community, or a narrow set aquatic physical conditions. See, for example, Comments of the	The revised proposed Plan amendments require that habitat restoration projects be designed for the species and life stages they intend to benefit. The habitat accounting criteria are designed for the species intended to be the main beneficiaries of habitat restoration. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on VA pathway habitat accounting.

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		Wildlife Society on Proposed Regulatory Definition of "Habitat" under the Endangered Species Act (Sept. 2020).	
1048	11	The State Board frequently misuses the term "habitat." For example, the December 2025 Draft WQCP (page 1) states, "The Bay-Delta is one of the largest ecosystems for fish and wildlife habitat and production in the United States." The Bay-Delta is not one of the largest ecosystems for habitat; rather, it includes habitats that support for numerous native and non-native species, some of which are imperiled. The December 2025 Draft WQCP (page 9) also makes reference to aquatic, estuarine, terrestrial, and wildlife habitat. All of these are examples of improper use of accepted terminology.	Please see the response to comment 1048-10. It is unclear what specific revisions the commenter is requesting.
1048	12	We urge the Board to adopt the HRL Program after making the changes to the WQCP described above. Thank you for giving due consideration to the Coalition's input.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1049	1	My comments in every aspect echo and support those made more eloquently and with a greater depth of knowledge than I have, during the three days of the hearing--- by Friends of the River, Golden Gate Salmon Association, the California Sport Fishing Alliance, Save California Salmon, Sierra Club, and many other groups and individuals engaged in trying to protect our rivers. The greatest failure of the Plan is the lack of true, enforceable, and numerical protections for flows that will ensure survival of salmon and other aquatic species, and, indeed, our rivers themselves, and the Delta, as living , functioning ecosystems. Flows of 55% - 65% should be established in the VAs and the regulatory pathway.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1049	2	Secondly, those groups glaringly excluded from the Voluntary Agreements planning process-- California Tribes, Salmon protection and fishing businesses and sport fishing groups, environmental NGOs with decades-long experience in advocating for our rivers and the Delta--should be included in decision making, should the VAs be implemented. The wants of irrigation	See Common Response 1.1, General Comments, for information on the VA development process.

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		districts and some municipalities, such as the SFPUC, have been prioritized--an unfair and undemocratic history . Our waters are a public trust resource! My fear is, given the weak protections provided in the VAs, that the two mentioned above will never have enough. The State Water Resources Control Board ought to be an independent, impartial body that protects our public trust resources. Increasingly, however, it seems to have become a body more focused on the political agenda of Mr. Newsome.	
1050	1	We appreciate the opportunity to include our input regarding the Voluntary Agreement Term Sheet proposed by the Nevada Irrigation District for Auburn Ravine. This NID proposal does not align with California laws and codes regarding the protection of the state's fish and wildlife. Our organization, Save Auburn Ravine Salmon and Steelhead (SARSAS) is a 501(c)(3) non-profit organization with a focus on the upper Auburn Ravine watershed from its headwaters in Auburn down to its middle reaches at Gold Hill Dam. Our interests are guided by ecological principles that are reinforced by existing California codes and regulations such as: Article I, §1: Inalienable rights of fishers Article X, §2: Reasonable beneficial use FGC §5900(b): Natural streams used for delivery = conduits FGC§ 5901: Impeding passage of fish in designated districts FGC§ 5937: Fish passage required by owners Abatti v. IID (2020) District is owner, not customer We work with the City of Auburn, Placer County Conservation Program, Friends of Auburn Ravine (FAR) as well as collaborate with regional Non-Governmental Organizations with similar interests in sustainable local watersheds.	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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1050	2	Water districts must adhere to state and federal laws regarding care the of the environment. When actions by water districts are in violation of such laws and regulations, then the districts must adjust their practices and operations accordingly. We are concerned that NID's releases in the proposed VA will be at their convenience rather than for the needs of the aquatic resources of Auburn Ravine, particularly because it does not guarantee minimum and timely flows required for upstream and downstream migration of anadromous fish. Without a solid requirement for minimum flow releases and pulse releases during upstream and downstream migration of salmonids the fishery will dwindle. We note that other Healthy Rivers and Landscapes agreements include minimum flow requirements and request that they also apply to Auburn Ravine.	Please see the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) for an analysis of the benefits of the VA pathway. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.
1050	3	Downstream migration must, by law, be aided by constructing effective screening devices to avoid the entrainment of downstream migrating juveniles which perish by the thousands in agricultural fields due to unscreened intakes. Fish screening is a non-negotiable requirement as evidenced by FGC §6100: NID (water rights holder) must fully fund screens at all points of diversion. The current provision for funding screens appears to be wholly inadequate. The public trust doctrine is a legal principle that mandates the state to protect and manage natural resources for public use, ensuring that these resources are not privatized or exploited for commercial purposes.	Please see Common Response 1.2, Water Quality Control Planning Process, for more information on the Public Trust Doctrine, and Common Response 1.3, Revised Proposed Plan Amendments, regarding the VA pathway habitat restoration actions.
1050	4	We conclude our remarks with a statement from the following report: See: Auburn Ravine 2012 lnstream Flow Study by Elizabeth Lawson and Lauren Mulloy. December 2015 https://plummerj.wordpress.com/wp-content/uploads/2016/02/dfw-auburn-ravine-instreamflow-study-122915.pdf From the Conclusions of this report:	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		The fish and wildlife resources of the State of California are held in trust for the people of the State by and through the Department (Fish & G. Code§ 711.7). The mission of the Department is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public. It is the goal of the Department to preserve, protect, and as needed, to restore habitat necessary to support native fish, wildlife, and plant species that are affected by new and ongoing projects. Specifically for Auburn Ravine, the Department will use the results of this study to identify minimum flows that are sufficient to keep fish in good condition and inform future water rights, FERC licensing and other local flow threshold-setting processes.	
1051	1	The City's water rights, contracts, and entitlements are its most critical resource. The rights originate in tributaries of the Feather River, and are ultimately delivered to customers throughout the City's service area. The City holds two water rights including: (a) one license - 13855; and (b) one permit – 18558. In addition, the City is also a State Water Project Contractor and has a water supply agreement with the North Yuba Water District. Any diminution of or restriction on the sources of water for City's water rights, contracts, and entitlements will have an immediate impact on the City's disadvantaged communities and the long-term economic growth opportunities in the City's water service area. A fundamental obligation of the State Water Resources Control Board in adopting the Bay Delta Water Quality Control Plan is to understand the impact of the Plan on the Public Interest and various beneficial uses of water. Section 1.3 of the Plan states the following: "One of the State Water Board's charges is to ensure that the State's waters are put to the best possible use, and that the public interest is served. In making decision, the State Water Board must keep three major goals in mind, to: develop water resources in an orderly manner; prevent the waste and unreasonable use of water; and protect the environment." [Footnote 1: December 2025 Bay-Delta Plan Draft. Section 1.3 at	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the reasonable protection of fish and wildlife beneficial uses and consideration of other beneficial uses. Water supply impacts related to the City of Yuba are included in the part of the geographic region defined in the Staff Report as the Sacramento River watershed. Chapter 6 and Section 13.4, Changes in Hydrology and Water Supply, describe the changes in hydrology and water supply that could occur as a result of a range of potential instream flow changes in increments of ten, from 35 percent up to 75 percent unimpaired flow, as well as water supply adjustments; refinements to reservoir carryover storage provisions; and changes to constraints on exports from the Delta. In Section 7.20, Utilities and Service Systems, the Staff Report analyzes and discloses the potential environmental impacts resulting from actions entities may take to procure alternative water supplies in response to reduced surface water supplies and proposes measures to mitigate those effects. Impacts determined for the Sacramento River watershed include City of Yuba water supply impacts even if they are not isolated and reported individually for each entity. Specific and detailed discussion for every water district or water diverter would not be feasible, nor is it required. Refer to Common Response 7.1,

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		pg. 5] (emphasis added). Similarly, Section 2.1 of the plan lists "Municipal and Domestic Supply (MUN)" as one of the beneficial uses "protected by this plan…." [Footnote 2; December 2025 Bay-Delta Plan Draft. Section 2.1 at pg. 8]. The public interest necessitates protecting municipal and domestic water supplies in the context of all other public interests and beneficial uses of water. The December 2025 Bay-Delta Water Quality Control Plan (Plan) and the supporting documents create concerns for the City that the public interest in water supply reliability has not been adequately analyzed. Yuba City could not identify how its water supply might be affected by the Plan or Voluntary Agreement, and particularly the impacts on DAC/SDAC communities within the City, after extensive review of the Plan and all supporting materials.	General CEQA and Approach to the Analysis, for a discussion of the level and scope of the analysis presented in the Staff Report.
1051	2	The Sacramento Water Allocation Model (SacWAM) is fatally flawed as the model outputs are wrong and corrupted by (a) incorrect baseline condition assumptions and (b) model inputs. For example, SacWAM utilizes a water use priority system for the City that is exactly the opposite of the water use priority system actually used by the City. Moreover, SacWAM ignores all State Water Project contractors' (like the City) Article 56 stored water in its baseline assumptions, model inputs, and model outputs. Standing alone, these two items are fatal flaws in any assessment of how the Plan would impact Yuba City's water supplies – and there are many more flaws that compound the model's inaccuracy.	The comment does not describe how the priority system is wrong in the model. Baseline assumptions are described in Section 6.2.1, Baseline Assumptions, of the Staff Report and are further discussed in Common Response 6.2, Baseline and No Project Alternative. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for a discussion about model priorities and water rights priorities. Article 56 is not included in SacWAM. Rather, the model assumes that contractors take Table A allocated water to meet their demand. If more Table A supplies are available than needed to meet demands, the water remains in storage and is available for allocation in the following year. This modeling assumption is valid for the scale of the analysis conducted in the Staff Report because Article 56 deliveries are relatively small and the water is still being delivered in subsequent years, though it is not labeled as Article 56 water.
1051	3	The City supports the Feather River Voluntary Agreement as that platform seems to provide the best protection for the City's long-term water supply reliability. But the City is unclear on how its	This comment has been transmitted to the Department of Water Resources (DWR). DWR staff informed State Water Board staff that they would communicate with the commenter. Analyses of

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		water rights were incorporated into the Feather River Voluntary Agreement despite not being invited to participate in the Voluntary Agreement process, nor having been to a meeting or other gathering related to the Voluntary Agreement process. Any binding commitment related to the disposition of the City's water assets requires approval from the City Council. This omission is problematic given that the State Board is prepared to embrace the Voluntary Agreements even without the City's, and potentially other interested water rights holders, involvement in the Voluntary Agreement process. Moreover, if the City's water asset portfolio is included in a Voluntary Agreement – in whole or in part – which is then terminated at a future time, the City may be subject to the more punitive regulatory obligations described in the Plan [Footnote 3: The Plan states: "Water rights that are not identified in Appendix B.1 are subject to the Sacramento/Delta inflow and cold water habitat provisions and inflow-based Delta outflow provisions…." December 2025 Draft Water Quality Control Plan. pg. 64.] all without the City's consent or engagement to ensure a successful Voluntary Agreement. Nevertheless, the City generally supports the Feather River Voluntary Agreement but must follow appropriate democratic protocols in affirming its water supplies' inclusion into the VA's and taking on the obligation to uphold the Feather River Voluntary Agreement should it be adopted by the State Board. The City respectfully requests the State Board to direct DWR to engage the City in the Feather River Voluntary Agreement process as soon as practicable. The City's input on how it can support the VA process and how its water rights, contracts, and entitlements could be used to support the VA process is critically important to the Feather River VA's success. Accordingly, the City needs adequate time to understand (a) what impacts the Plan will have on its water asset portfolio should it be adopted; (b) time to meaningfully engage with the Voluntary Agreements proposing to regulate the City's asset portfolio; and (c) the long-term implications of the Plan to the City's disadvantaged communities and the various adaptive management strategies contained therein. The State Water Resources Control Board has an obligation to understand the impacts of the proposed Bay-Delta Plan on the	the environmental impacts and economic effects of the revised proposed Plan amendments are included in Staff Report Section 13.7, Environmental Analysis, and Section 13.8, Economic Analysis and Other Considerations. Please see Staff Report Chapter 10, Economically Disadvantaged Communities, and Common Response 10.1, Economically Disadvantaged Communities. Also see the response to comment 1051-2. For more information on the revised proposed Plan amendments, see Common Response 1.3, Revised Proposed Plan Amendments.

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		Public Interest [Footnote 4: December 2025 Draft Water Quality Control Plan. pg. 5]. In addition, the State Board's stated intention to adopt a Plan which incorporates the Feather River Voluntary Agreement, necessitates the City's express approval to incorporate its water assets to meet the terms of the Feather River VA. We respectfully request that the State Board direct DWR to engage Yuba City and help us understand the Feather River Voluntary Agreement on our water supply and communities. Moreover, we ask that the State Board thoughtfully correct the problematic conditions imbedded in the SacWAM model so that the State Board can understand all aspects of the public interest when rendering its final decision.	
1052	1	The Tribe appreciates the State Board's attention to this important and complex issue and understands that each tribal nation is unique and may, therefore, approach solutions to their ancestral waterways differently. We also appreciate your staff's recent visit to our homeland last November, and we hope it provided better insight into how our water resources management is directly linked to our sovereignty and self-determination as a tribal nation. Since time immemorial, the Tribe has been stewards of its Patwin ancestral homelands, including the Cache Creek watershed. These lands and waters are a gift from the Creator, and we have a sacred obligation to use the knowledge of our ancestors, handed down over time, to protect and preserve them for future generations. Consistent with this cultural and religious significance, Yocha Dehe practices sound, sustainable resource management practices. We are writing today to express support for the Putah-Cache Creek Watershed Healthy Rivers and Landscapes Project as expressed in the December Draft. The Tribe encourages the State Board to approve a final updated Bay-Delta Plan that includes this Voluntary Agreement ("VA"). The Tribe has extensive trust and fee land holdings along Cache Creek in the Capay Valley of western Yolo County. Although the Tribe holds unadjudicated and unquantified Federal Reserved surface and ground water rights under Winters v. United States, it currently purchases water allocations from the Yolo County Flood Control and Water Conservation District ("District") for	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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		agricultural operations and enterprises, both of which are critical to the Tribe's sovereignty, self-determination, and development of our homelands.	
1052	2	The Tribe is concerned the proposed 55% Unimpaired Flow requirement scenario for Cache Creek would, if adopted, have damaging impacts to the agricultural operations and economic livelihood of both the Tribe and greater Capay Valley. Available water resources in the Capay Valley are limited to groundwater and Cache Creek surface water, which is highly susceptible to drought impacts. For example, during the 2022 drought, the creek went dry and the Tribe, along with many of its neighbors, was forced to fallow and underirrigate many acres of farmland, resulting in economic losses. A 55% unimpaired flow regime would decrease available surface water allocations and drive many farmers in the valley to rely heavily on groundwater, leading to possible overdraft of this critical drinking water resource. The availability of surface water and groundwater affects the Tribe's success as both a major agricultural producer and as one of the largest private employers in the County through its enterprises. Restricted access to vital water resources not only impedes tribal self-determination, but also the livelihoods of those who rely on the Tribe. The Tribe understands that the intent of the unimpaired flow requirement is to protect water quality, fish, and other natural resources; however, the solution should not be a one-size-fits-all approach. Each tributary, especially seasonal streams like Cache Creek that support lives and livelihoods, requires a more local approach. For this reason, the Tribe supports the inclusion of the District's VA in the December Draft. The VA would support water quality and fisheries goals by allocating 5,000 acre-feet of water to Putah Creek, which has an established Chinook salmon run. In contrast, Cache Creek is a highly diverted and dammed waterway that has not historically nor currently supports anadromous fish species. The migration of such species into the Capay Valley portion of Cache Creek is precluded by the Capay Dam and lack of a hydrological connection to the Delta in many water years. From an ecological	Please see Staff Report Chapter 13 and Common Response 1.3, Revised Proposed Plan Amendments, for a description of the revised proposed Plan amendments. As discussed in Chapter 13 and Common Response 1.3, the regulatory pathway under the revised proposed Plan amendments includes new water supply adjustments that reduce water supply impacts and allow more water to be stored in reservoirs at the outset of Plan implementation. The revised proposed Plan amendments also provide for a VA pathway for an eight-year term with the possibility of extension that reduces the required flow contributions for VA water rights. Note that for the regulatory pathway, flexibility in the form of adaptive implementation is provided in part to mitigate water supply impacts if tailored solutions are available that are also protective for fish. CEQA impact determinations are the most conservative but in many instances can be reduced or avoided with tailored operations. The State Water Board provides these flexibilities with the intent that water diverters and reservoir owner/operators utilize these provisions because they often have a good understanding of their unique circumstances on a specific tributary.

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		perspective, supporting the Putah Creek runs is a better use of limited water resources. However, the Tribe wishes to emphasize that regardless of the VA, there is still a need for habitat restoration within the Cache Creek watershed and encourages the State to invest in such efforts and reserves our right to engage with the Board as any such projects may be developed either as part of this VA process or any future process. The Tribe believes this alternative VA approach provides greater ecosystem benefits, while avoiding potentially damaging impacts to surface water and groundwater resources that sustain the Tribe and surrounding rural communities. As responsible stewards of our Patwin ancestral homelands, the Tribe has taken many steps to conserve water, improve the sustainability of its agricultural operations, increase conjunctive use of surface water to prevent groundwater aquifer overdraft, and restore riparian habitat.	
1052	3	The Tribe further urges the State Board to work collaboratively with the District to approve and implement its VA in a timely and reasonable manner. It is the Tribe's understanding that the District will seek further clarification from the State Board on the following items: • How the District's application for a long-term winter water right for its winter water recharge program will be affected by the State Water Board's consideration of how to protect base Delta flows; • Why Indian Valley Reservoir has been included in the December Draft, as subject to developing a long-term temperature management strategy; and • How the State Board will determine a water year type prior to the end of the Water Year for when Healthy Rivers and Landscapes contributions must be made.	Indian Valley Reservoir would not be subject to initial cold water habitat implementation actions unless the Board chooses to pivot to the regulatory pathway. In addition, Indian Valley Reservoir would not be subject to carryover storage requirements. However, Indian Valley Reservoir would be subject to a long-term temperature management strategy. Detailed protocols for VA flow accounting, including the definitions of water year types, can be found in Appendix B.1 to the revised proposed Plan amendments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on protection of base flows provision, the regulatory pathway implementation of the cold water habitat objective, and VA pathway flow accounting.
1052	4	We support including the District's VA in any final approval of the updated Bay-Delta Plan as one way of protecting the Tribe's sovereignty and self-determination. In the event the District's VA is not included in a final approved plan, we request an immediate government-to-government consultation with you on	The YCFCWCD VA is included in the revised proposed Plan amendments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information about the VA pathway.

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		this matter. As explained to your staff during their visit to our lands, any reduction in our water supplies may trigger the assertion of our federal rights as a means of protecting our sovereignty. The Yocha Dehe Wintun Nation appreciates the State Board's ongoing attention to these details, and we look forward to continuing the staff level discussions with your team. We also urge the State Board to work with the District to adopt a VA that balances sovereignty, ecology, and community.	
1053	1	My name is John Hooper. I am a life-long San Franciscan and particularly concerned about the impacts of the plan and the threat of the Delta Water Conveyance Tunnel to the health of San Francisco Bay. At the present time, one half the fresh water which would flow naturally through the Delta and Bay has already been diverted for agriculture and urban uses This drastic reduction has reduced the system's ability to function, altering the critical salinity mixing zone, raising water temperatures, and creating desdly toxic algae blooms. Populations of keystone species, salmon and smell, have collapsed. The 2025 revised Bay-Delta Plan would allow unimpaired flows to be reduced to as little as 35% under certain circumstances. This reduction would, for example, make it impossible to achieve the fundamental goal of doubling the Chinook salmon run to 990,000 fish per year. But the proposed Voluntary Agreements (VAs) - negotiated behind closed doors by BIG AG and Governor Newsom - would endure the collapse of this entire ecosystem. In the nesr future, San Francisco residents, businesses and tourists will look out over fetid toxic algae blooms and a dead bay. The SF Bay-Delta is the largest and most critically endangered	The circumstances under which the 35 percent unimpaired flow requirement would be implemented on a watershed-wide or tributary-specific basis are described in Section 13.3.3.2, Sacramento/Delta Tributary Inflows, of the final Staff Report. The beneficial environmental effects of the regulatory pathway are described in Section 13.5.3, Regulatory Pathway. The beneficial environmental effects of the VA pathway are described in Section 13.5.4, Voluntary Agreement Pathway. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		estuary on the west coast of both North and South America. There is no scientific rationale for further degrading it.	
1053	2	The agriculture industry consumes 80% of the state's water - inefficiently and often on crops which are exported. Both agricultural and urban users could engage in basic upgrades to leaky water distribution systems which would obviate the pressure to destroy a PUBLIC resource -water- which is owned by all Californians.	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.
1053	3	Please reject the Voluntary Agreements. The water agencies have the burden of proof to ensure protection of the beneficial uses of water. We look to this Board to adopt a regulatory pathway with enforceable targets and to protect scientifically-based natural flows . NO VAs and NO DELTA TUNNEL!	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.
1054	1	The 2025 Draft Plan proposes the VA pathway program of implementation and proposes incorporation of VAs in the Plan update. Section 4.4.9 describes implementation actions for water rights and claims of right identified in Appendix B.1. The 2025 Draft Plan provides water rights not identified in Appendix B.1. are subject to the Sacramento/ Delta inflow and cold-water habitat provisions and inflow-based Delta outflow provisions. Appendix B.1., Table B.1-12 to the 2025 Draft Plan ("Friant Area") does not expressly identify senior pre-1914 appropriative and riparian water rights to the San Joaquin River held by the Four Entities ("Four Entities Reserved Water Rights") consisting of an approximately 2,316 cfs entitlement to divert waters of the San Joaquin River downstream of Friant Dam. Table B.1- 12 does, however, identify USBR San Joaquin River appropriative water rights USBR is authorized to store and divert so long as USBR provides "substitute supply" to the Four Entities in defined quantities. VA contributions of the water rights identified in Table B.1-12 are facilitated by the Four Entities' forbearance from diverting the Four Entities Reserved Water Rights. Accordingly, the water rights identified in Table B.1-12 necessarily include the Four	This appears to be a comment on the July 2025 revised draft Bay-Delta Plan. The subsequent December 2025 revised draft Bay-Delta Plan does not include a list of water rights for the "Friant Area." The Friant HRL is included as a voluntary contribution to Delta outflow in the VA pathway. The water rights for the U.S. Bureau of Reclamation's Friant Division are not listed as HRL water rights in Appendix B to the revised proposed Plan amendments because water rights on the San Joaquin River are not covered under the regulatory pathway for the Sacramento/Delta Update to the Bay-Delta Plan and therefore a proposed voluntary agreement cannot be an alternative compliance mechanism. The inclusion of the Friant HRL flow contributions in the VA pathway does not constitute compliance with the Bay-Delta Plan or prevent the Board from considering Bay-Delta requirements for the upper San Joaquin River in the future. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.

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		Entities Reserved Water Rights even if not expressly set forth therein. II. Relationship of Four Entities Reserved Water Rights to Rights Identified in 2025 Draft Plan in 'Friant Area' and 'Foregone Exports' Tables General History of Exchange Contractor Water Rights with Respect to Water Rights Identified in Appendix B.1. Diversion of San Joaquin River water at the Friant Dam was made possible by Reclamation's acquisition of water rights from the Exchange Contractors, who "hold riparian and pre-1914 appropriative rights to the San Joaquin River water south of Friant." Westland I, 153 F. Supp. 2d at 1146-47. The acquisition was accomplished through: (1) a series of purchase agreements executed in 1939 by which the Exchange Contractors sold all of their San Joaquin River water rights to the United States, except and in excess of reserved waters measured by specified rates of flow in Schedule 1 of the contact, (Second Amended Contract for Exchange of Waters, Articles 7 & 9); and (2) a series of exchange contracts simultaneously executed in 1939, which authorized the United States to "store and divert" the reserved waters in exchange for an agreement to provide "substitute water equivalent in quantity." (Second Amended Contract for Exchange of Waters, Article 5.) Article 4(a) of the 1968 Exchange Contract, titled "Conditional Permanent Substitution of Water Supply," provides that the United States can use the San Joaquin River reserved waters "so long as, and only so long as, the United States does deliver to the [Exchange Contractors] by means of the [CVP] or otherwise substitute water in conformity with this contract." Accordingly, USBR's exercise of the water rights identified in Table B.1-12 is facilitated by the Four Entities' foregoing their right to divert the Four Entities' Reserved Water Rights and acceptance of 'substitute supply' in place thereof. III. Conclusion	

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		The proposed VA Pathway for the Friant Area functions because the Four Entities do not exercise the Four Entities Reserved Water Rights. It is assumed this is recognized by SWRCB. If there is any ambiguity in this regard, SWRCB should add or otherwise acknowledge the Exchange Contractors reserved water rights to Table B.1-12 'Water Rights included in the Friant VA.'	
1055	1	As I commented online last Thursday. I oppose Voluntary Agreements because they are ineffective. They do not preven extinction and only extend the period of damage. There are other arguments against VAs articulated by other commenters. I support science based decision making and the inclusion of minority and tribal input. I value biodiversity, TEK, (Tribal Environmental Knowledge). My values are faith based for environmental justice and reflect the interconnectedness of all life, people as part of nature and dependent on all nature. Water is sacred. The Board must adopt a science-backed, enforceable regulatory pathway that does not rely on Voluntary Agreements and that guarantees unimpaired flows of 55 percent or more in the Sacramento River and its tributaries.	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.
1056	1	I am writing to you because I have found the Delta Water Quality Update process to be completely unresponsive to my previous 7 written comments and 2 verbal comments. It is incredibly frustrating to find that well documented, factual statements are completely ignored and not addressed in the revised documents at all. I am disappointed, disheartened, and cynical about this process and the validity of the outcome. Please find and acknowledge my 3 attachments to this email that include a letter to the Waterboard, a report explaining my principal issue that was ignored, and a report that is an additional comment on the latest Dec. 2025 Revision. I am requesting acknowledgement of receipt from both the State Water Resources Control Board and the Delta Water Quality Update Staff. Thank you for your attention to this matter.	The State Water Board received a number of comment letters from this commenter that included detailed questions and comments on the VA commitments from South Sutter Water District (SSWD) and Nevada Irrigation District (NID). The State Water Board appreciates the comments and has investigated the issues raised in the letters. The State Water Board reached out to NID and SSWD and incorporated their input into some of the responses to the comments. In addition, additional public processes for initial verification of HRL water rights proposed to be dedicated instream have been added to the revised proposed Plan amendments. Responses to comments on the 2023 draft Staff Report are included in Volume 3 of the final Staff Report. Please see Common Response 1.1, General Comments, for general information about responses to comments.

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1056	2	Analysis of the Intersection of NID VA Term Sheet B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement Component 2 and 3, and the NID FERC NOP Area and Intent MEMORANDUM OF UNDERSTANDING ADVANCING A TERM SHEET FOR THE VOLUNTARY AGREEMENTS TO UPDATE AND IMPLEMENT THE BAY-DELTA WATER QUALITY CONTROL PLAN, AND OTHER RELATED ACTIONS From NID Term Sheet 8/25 Component 2 Water: In addition to Component 1 water, NID will contribute 5,600 AF via reservoir reoperation in Dry, Below Normal and Above Normal year types from Rollins Reservoir, thence the Bear River. The default period for Component 2 flow contribution will be once Rollins Reservoir ceases spill, typically in June. However, NID will during each Dry, Below Normal, and Above Normal year consult with CDFW and NMFS regarding potential alternative delivery periods for specific fishery benefits. These flows will be coordinated with South Sutter Water District for delivery to the Feather River as additive Delta inflow and Delta outflow. Measurement for purposes of compensation will be made at NID's Combie Reservoir. The Parties agree to collaboratively identify and resolve any redirected adverse impacts resulting from the implementation of these flow contributions. South Sutter Water District and the state will track and account for the wheeling of Component 2 water through Camp Far West Reservoir, thence the lower Bear River. Component 2 water flows appear to benefit Bear River down the entire 27 miles of Bear River below Rollins dam and through Camp Far West reservoir into the Delta. Currently, this benefit is interim, to occur between projected approval of the Delta Water Quality Update including the VAs, and completion of the NID Yuba/Bear FERC license. NID demands compensation for this water ending with the issuance of the FERC license. Component 3 Water: Upon issuance of a new FERC license Components 1 and 2 water will cease and NID will provide 5.6 TAF of additive Delta inflow and Delta outflow above baseline (conditions absent the VAs and new FERC conditions), during the	If the VA pathway is not providing reasonable protection of beneficial uses or will jeopardize the continued survival of native fishes, the Board may consider modifying or terminating the VA pathway through a Bay-Delta Plan amendment. In addition, the effectiveness of the VA pathway will be evaluated near the end of the initial 8 year term to inform the Board's decision on continuing, modifying, or terminating the VA pathway. These mechanisms would allow the Board to consider whether additional flows are needed on the Bear River. The updates to the Bay-Delta Plan exist independent of any existing or future conditions in FERC licenses and accompanying water quality certifications. Please see Common Response 1.1, General Comments, regarding comments about other projects and Common Response 1.2, Water Quality Control Planning Process, for information on the interaction with other regulatory requirements such as FERC licensing.

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		January – June timeframe in Dry, Below Normal, and Above Normal water year types. It is intended that the new FERC license (when issued) instream flows would fulfill the Component 3 flows and will be delivered consistent with the FERC license requirements. Component 3 water will be measured at locations specified in the Yuba-Bear Hydroelectric Project Gaging Plan. Excerpt from page 13-24 of the Dec. 2025 Revision: Component 3 is a commitment of 5.6 TAF of additive Yuba River inflow and associated Delta outflows above approved base conditions in dry, below normal, and above normal years, provided through reduced diversions on the Yuba River. Problems with Component 3: • Component 3 water is limited to a period of January – June, only 6 months of the year during peak and pulse flows, when water is abundant. • Further information indicates that these flows will come from the Yuba River. • The Yuba Accord already provides Yuba River inflow to the Delta. The NID FERC License stops at Rollins Reservoir and does not include the 27 miles of Bear River, (nearly half of the entire length of the river), down to Camp Far West Reservoir. This appears to create NID's exit ramp from further unimpaired instream flows for Bear River. Component 3 water will not serve the Bear River, resulting in a complete abandonment of the 27 miles of Bear River below Rollins dam. Using the proposed FERC license to account for increased unimpaired instream flows would result in no increased flows in the Bear River watershed from issuance of the new FERC Yuba/Bear license for the next 50 years. This includes a 5 cfs flow below Van Geisen dam, (Combie reservoir) on 17 miles of Bear River for the next 50 years.	

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		• Component 2 or regulatory flows from Rollins reservoir to the confluence with the Feather River gives benefit to the Bear River. • Component 3 represents a complete abandonment of these benefits.	
1056	3	Additional Information from the NID FERC Notice of Preparation and scoping meeting: • When I attended the online scoping meeting for this project, Jennifer Hansen, NID GM, stated that the Yuba/Bear Project ended at Rollins dam. It was not clear that any further obligations were considered below that point on Bear River. • For my comment to the NOP, I requested that the EIR include the entire Bear River from headwaters to Camp Far West Reservoir. • In order to meet the commitment for Delta Water Quality Update Voluntary Agreement, flows will be measured at the confluence with the Feather River. This requires a wholistic view of the watershed affected by the Yuba/Bear Project including the 10 miles below Rollins reservoir and 17 miles below Combie reservoir. • This is a 27 mile extension of the stated scope of the analysis. It is meaningless to look at a tiny portion of a watershed to capture the function of the hydraulic environment. The intent of the NID FERC license does not include flows below Rollins dam and thence Bear River to its confluence with the Feather River.	Please see the response to comment 1056-2.
1056	4	From Page 99 Dec. 2025 Revision: “As discussed in more detail in Section 13.4.2, Modeling Approach, in August 2025, the Board received additional HRL proposals from NID and SSWD specific to the Bear River, Yuba River, and Auburn Ravine. These additional HRL flow contributions were not modeled in Sac WAM because the specific conditions under which the HRL flow contributions would be provided are variable based on specific circumstances, including	The statement that while there is uncertainty on the quantity of actual increased streamflow due to the NID and SSWD VAs, they are expected to result in some additional Delta inflow and Delta outflow, is based on DWR’s indication that they will protect some portion of this flow using the offsets described in Appendix B.1. The actual amounts of HRL flow that contribute to Delta outflow will be determined yearly.

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		future consultation with CDFW and others, or not fully known at this time. Specifically, it is unclear when new FERC licenses will be issued and what the specific conditions will be of the new FERC licenses that affect the implementation of these flow contributions. However, these HRL flow contributions would be expected to result in some additional Delta inflow and Delta outflow as discussed above." There is no scientific analysis here because of the very high level of uncertainty regarding the specific conditions under which the HRL flow contributions would be provided. • variable based on specific circumstances • future consultation with CDFW and others not fully known at this time • unclear when new FERC licenses will be issued • what the specific conditions will be that affect the implementation of these flow contributions These unknowns are followed by a baseless assumption. "However, these HRL flow contributions would be expected to result in some additional Delta inflow and Delta outflow as discussed above."	
1056	5	Component 2 is the most reliable element of the flow portion of this B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, when paired with regulatory flows as a toggle providing for adaptive management. Component 3 is speculative with an extreme degree of uncertainty. The vague assumption that it will result in additional Delta inflow and Delta outflows is not measurable and so not predictable. The Yuba/Bear FERC EIR is limited to the project area excluding most of the Bear River. Please initiate removal of Component 3 from the B.1.16 Bear River, Yuba River,	The revised proposed Plan amendments require that component 3 be provided as 5.6 TAF of additive Yuba River inflow and associated Delta outflows. Please see the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) and Staff Report Section 13.5, Beneficial Environmental Effects, for a description of the benefits of the VA pathway.

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		and Auburn Ravine (NID) Voluntary Agreement. It offers no benefit to Bear River and is not an appropriate mitigation for a Healthy Rivers Voluntary Agreement.	
1058	1	I want to start by saying this plainly: the Bay-Delta Plan needs an update that actually matches what the science has been telling us for years. The rivers and the estuary simply aren't getting enough water to function as living systems. Strong, science-based protections mean increased flows — no less than 55 to 65 percent of natural runoff in most years for Central Valley rivers and the Delta. That's not a radical number. It's what's needed for fish to migrate, for water quality to improve, and for the estuary to have a fighting chance to recover. Right now, the system is stuck in an unacceptable status quo. Massive diversions and exports are pushing species toward extinction. We're seeing toxic conditions in the Delta, a fishing industry on the brink, and real harm to tribal, cultural, and community uses of water that have existed for generations. This isn't abstract — it's happening now, and it's happening because flows are too low.	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.
1058	2	That's why I'm urging the Board to reject the proposed Voluntary Agreements. They don't fix the problem. They lock it in. They preserve the same imbalance that got us here in the first place, while calling it progress. From the outside, it looks less like a solution and more like permission to keep doing what isn't working.	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.
1058	3	I also want to be clear about the proposed water supply adjustments to the percent-of-runoff standard. If those adjustments mean increased flows almost never happen, then the standard doesn't mean much at all. We can't protect rivers on paper while draining them in practice.	Please see Staff Report Section 13.5, Beneficial Environmental Effects, for an analysis of the benefits of the 55 w/WSAs scenario.
1058	4	This Board has a real opportunity — and responsibility — to set a baseline that puts ecosystem health, clean water, and long-term resilience first. Updating the Bay-Delta Plan with meaningful flow requirements isn't anti-agriculture or anti-community. It's pro-future. It's about making sure there's still a Delta, still fisheries, still rivers that work for people and wildlife alike.	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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		So I'm asking you to lead. Update the Bay-Delta Plan using the best available science. Require flows that actually protect rivers and the estuary. And say no to proposals that maintain the status quo while our ecosystems continue to collapse.	
1059	1	But today, I'm writing you because I'm deeply concerned that the connection between the people of California and our public trust waters is being severed by short-term economic special interests. For too long, bottom-line profits have been allowed to destroy the habitats that sustain us. We are currently looking at a Bay-Delta plan that has been watered down to the point of failure. The Voluntary Agreements currently on the table are a "rubber stamp" for the status quo. They were negotiated behind closed doors, excluding the very tribes, conservationists, and local communities who rely on these waters most. If you let these Voluntary Agreements stand, you are letting the fox run the hen house. You are prioritizing "Big Ag" over the beneficial uses that belong to all Californians: the salmon, the recreational spaces, commercial fishing industry, and the tribal communities and their heritage. My ask to you today is clear: Reject the Voluntary Agreements. Voluntary is not Control. VAs lack enforcement and rely on "habitat restoration" that is useless without the water to actually flood it.	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.
1059	2	Adopt a plan based on science, not politics. We need sufficient flows of at least 55-65%.	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.
1059	3	We've seen the salmon seasons canceled for years. We've seen the toxic algae blooms. We know that 80% of our water goes to agriculture, often used inefficiently, while our ecosystems starve. This isn't just a policy failure; it's a failure of courage. I know the political pressure from the Governor's office is immense. But you have a job to do. You are the stewards of our public trust. Please, do not let politics get in the way of doing	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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		what is right. Choose a legacy you can be proud of. Stand up for the fish, the tribes, and the people of California. Protect our flows, reject the VAs, and do your job.	
1060	1	I am the Central Sierra Trout Unlimited chapter president, and an outdoor enthusiast who grew up fishing and paddling California's waterways. I regularly visit the many wildlife preserves, refuges, and wetlands of the Central Valley to hike and photograph wildlife. I raised my children to love, appreciate, and explore the outdoors, and I look forward to sharing that same connection with my grandchildren. California should be a leader in science, environmental stewardship, and water conservation— especially as these priorities are being dismantled at the federal level. California has long held itself to a higher standard. The relaxation or elimination of federal environmental protections should not be an excuse for California to weaken its own. California's environmental policies produce real, measurable benefits. Growing up in the foothills of Tuolumne County, my father often pointed out how rare it was to see the Coast Range across the Central Valley, emphasizing how special a smog-free day was. Today, thanks to decades of air-quality improvements across California—from agriculture to transportation—it is rare not to see the Coast Range. Decisions made by air quality boards and other regulatory bodies have had a clear, positive impact on Californians' health and quality of life. As water board members, you now have the opportunity to make similarly meaningful improvements to California's water health. Californians subsidize the water and power used by agriculture, particularly large agribusiness. It is not unreasonable to expect accountability in return—specifically, that water agencies protect our water resources, our state, and the public interest. Too often, the benefits of California's water are privatized while the costs are socialized.	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.
1060	2	I watched portions of last week's hearing and heard compelling arguments from water districts and managers in favor of the Voluntary Agreements. Many of these users appear to be	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		responsible stewards of their watersheds and deserve recognition for the progress they have made. But what about those who are not? How will they be encouraged—or required—to improve? What safeguards exist if new management at currently responsible agencies decides environmental protection is no longer a priority? I understand the importance of California agriculture, both as a global food supplier and as a cornerstone of our state's economy. I also sympathize with small water districts struggling to provide clean, reliable water to their communities. But water is a finite resource, and it must be managed as such. Strong water policies that prioritize the environment and ecosystem health will compel all water users—agribusiness, water districts, and residents alike—to rethink water use and drive innovation in water management solutions. California's water managers and users should be working together to repair and reverse past damage, not perpetuate it. We must prioritize beneficial uses of water over profit. This is your opportunity to vote for a healthier California. You have the chance to establish California as a true leader in water stewardship and management. Years of work have gone into developing the Bay-Delta Plan, and while it will continue to evolve, it must be implemented. Maintaining the status quo of the past 30 years is neither progress nor leadership —it perpetuates environmental decline and leaves future generations to clean up our mess.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1061	1	On January 18, 2024, Woodbridge provided comments on the related September 2023 draft Staff Report ("Draft Staff Report") regarding potential revisions to the Bay-Delta Plan. On January 10, 2025, Woodbridge provided comments on the proposed plan amendments released in October 2024. We incorporate herein by reference our prior comments on the Draft Staff Report and the proposed plan amendments. Woodbridge supports the Healthy Rivers and Landscapes program ("HRL Program") as applied to the Mokelumne River watershed. The Revised Amendments include a modified version	The State Water Board is not a signatory to the VA MOU nor bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. See also Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		of the HRL Program as the "VA Pathway." Woodbridge is concerned that the Revised Amendments do not accurately incorporate critical components of the HRL Program, potentially undermining its efficacy. The final draft should accurately incorporate the Implementation and Enforcement Agreements, Flow Accounting, and the correct baseline for the Mokelumne HRL Participants. Woodbridge opposes the Regulatory Pathway. Many of the issues and concerns expressed in our prior comments regarding the Regulatory Pathway remain. Salmon returns on the Mokelumne River remain robust, thanks to the combined efforts and contributions of multiple agencies responsible for managing water operations on the river over many years. Disrupting that success with the blunt prescriptions of the Regulatory Pathway makes no sense from any reasonable perspective. Woodbridge urges the State Water Board to prioritize strategies that protect the Mokelumne River's ecosystem, and the significant investments made in its restoration. The HRL Program offers a more promising alternative that could build upon the current success and ensure the long-term health of the Mokelumne River. Woodbridge looks forward to implementing the HRL Program on the Mokelumne River in cooperation with other agencies and the State Water Board to continue our success in restoring and managing its fishery resources.	
1062	1	I can't tell you how strange it was to wade into golden-brown water one summer day and actually go swimming in a toxic algae bloom. I didn't know the algae had drifted north on the ebb tide and had engulfed Aquatic Park. I've been swimming in the Bay since 1984 and have never seen anything like it. It literally made me sick.	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.
1062	2	We humans who love the Bay — swimmers, rowers, kayakers, paddle boarders, kite surfers, sailors — urge you to reject the Voluntary Agreements, which will lead to the complete collapse of the Bay/Delta ecosystem, already on life support. Resist the temptation to take the easy way out. Resist pressure from the mega water agencies, corporate AG, and our Governor in favor of what will actually make a difference. Craft solutions based on	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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		science, not politics or greed. You will be remembered with gratitude.	
1063	1	As someone who lives in the San Francisco East Bay but was raised in southern California, I was taught in childhood the importance of water conservation and the careful use of water. I've known the importance of protecting our great Delta and preserving California's fisheries. And I've seen the terrible waste of our precious water by industrial agriculture, and the dedication of huge swathes of land by corporate landowners to growing water-needy products for export like almonds. The industrial agriculture corporations force production on unsuitable land by the overuse of our water and by toxic chemical fertilizers that drain into our water systems. Since their first concern is for their bottom line and profits, clearly we cannot trust big growers to reduce their water use unless the state requires them to do so.	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.
1063	2	The Voluntary Agreements represent a betrayal of the residents of California, who depend on the Water Board to protect all our interests in a healthy Delta, in rivers that have enough of a flow of water to retain the coolness required for fish spawning and health, and enough of a flow through the Delta to prevent the encroachment of saline water, to prevent toxic algae blooms, and to reduce the effects of pollutants. Tribal agreements and cultural traditions need to be respected. The current degradation of our river systems, that has destroyed fisheries going back hundreds, probably thousands of years, ignores promises and treaties made to those tribes for whom healthy river systems and fisheries are a basic necessity in their lives and cultures.	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.
1063	3	It is unacceptable for the Board to continue to ignore your responsibility to fully review and update, according to current scientific standards, the rules of water use in California every three years. We want you to reject the Voluntary Agreements as inadequate to the environmental needs of a healthy Delta and to the possibility of recovering our fisheries. We need actual regulations, with a flow based on science as specified in the 2010 Delta Flow Criteria report calling for a 75% flowthrough to the SF Bay if we are to maintain the health of the Delta ecosystem and fisheries. We want and need the return of salmon and other	Please see Common Response 1.1, General Comments, for information on the Delta Flow Criteria Report and for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		native fish to our river systems, and this is only possible with a required flowthrough to the San Francisco Bay of 75%, as found in the 2010 Delta Flow Criteria. An absolute minimum flowthrough of 55% should be the very least the Board requires.	
1064	1	I urge you to reject the Voluntary Agreements and instead enact strict and clear specific guidelines to protect San Francisco Bay and the Delta with scientifically agreed plentiful water volume flows. Any less won't work. The salinity has already moved upstream many miles up the Sacramento with all the fresh water removed. I do not want tunnels to remove even more fresh water. Algae blooms in the Bay concern me as I live on the SF Bay on the Corte Madera Creek estuary and I cannot live in toxic air of the blooms. Allowing more diversions with VAs may increase the toxicity. This is not fair to me. And to who? We need more guaranteed stream flows not less from the Sacramento region to rescue the health of our Bay.	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.
1065	1	I oppose the Voluntary agreement part of this plan with all of my heart. If they were mandatory agreements with regulatory and financial consequences then I would support this plan. The science is clear that we need a thriving Delta and thriving watersheds for a future that is not one that favors huge farming corporations over the concerns of the population of California.	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.
1065	2	I recognize the global climate change and the impacts it will and is having on our state, our businesses and the community and it is precisely because of that recognition that we must protect what is left of the Sacramento Delta watershed. This water issue is an old issue in California and will likely continue to be an issue for many years to come as long as there is an environment to fight about.	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.
1065	3	Let us not bow to political pressure and financial interests that do not take into account the cost to our quality of life, the quality of life for the watershed that supports California and the science	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		that shows the inadequacy of "voluntary agreements" and the necessity for a healthy Sacramento Delta watershed.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1065	4	I write this as an avid white water rafter, a lake sailor, a mentor/guide for children learning to sail and raft and enjoy and appreciate the wonderful rivers, lakes and watersheds we have in California. Just recently, in October 2025, I was one of ten river guides who took about 55 children and accompanying adults on a four day river trip on the Sacramento River with a put in near Red Bluff and a take out near Los Molinos. It was an amazing trip for the children and everyone actually. Of course one can see agriculture all over the north sate and farther south but I could not help but wonder what would happen if we did not protect our water from these private interests. Each one knows there need is the most important and with each one taking without regard for the environment, the river, the delta and the ground water, we would be like the final miles of the great Colorado River. We would be a memory and we would be living on salt lands that would not support life of any kind.	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.
1065	5	Again, I oppose the "voluntary agreements, make them mandatory with regulatory teeth and consequences for malfeasance.	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.
1066	1	My name is Rush Rehm. I've lived in the Bay Area for over 45 years. I am deeply concerned about the health of Sacramento River and the Bay Delta. In commenting on your Phase 2 Bay Delta plan, let me remind you that your brief is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses ... for present and future generations. By your own accounts, your Phase 2 plan for the Bay Delta, is destined to fail. Your own 2010 Flow Criteria Report found that 75% of unimpaired flow on the Sacramento River and its tributaries, and 75% of unimpaired	Please see Common Response 1.1, General Comments, for information on the Delta Flow Criteria Report and for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		Delta outflow (water reaching the Bay) would be needed to protect the Bay-Delta ecosystem. Your Bay-Delta draft falls significantly short of that, putting the Bay-Delta in a perpetual state of environmental crisis.	
1066	2	No matter how you try to work around this, the simple fact remains: non-flow measures cannot substitute for higher flows. You can't have more fish with less water. So how does the plan hope to guarantee even inadequate unimpaired flow? With Voluntary Agreements. I'd rename them Vacuous Assertions. No enforced regulations, just a lot of talk. Not a single conservation, fishing, tribal or environmental group supports the VAs. Sometimes one has to be real, and given the seriousness of the problem, that time is now. I've sailed in the Bay, I've water ski'd in the Delta – although not recently, for good reason. And I have watched salmon do their miraculous thing. But salmon populations are in such bad shape that the commercial fishing season had to be cancelled last year, and it will likely be cancelled again this year. We have the toxic algae blooms in the Delta, fed by slow moving, warm, nutrient-rich water. The Delta needs more freshwater inflow, and that in turn, will feed the Bay. Given the state of our planet, and the failure of the current federal government, I encourage you to stand up for the Bay and Delta. Sometimes we have to look at the long term, and that time is now. Consider your legacy. What are you going to leave behind? Don't sacrifice the health of the ecosystem by adopting your current Phase 2 Bay/Delta plan, trusting in "voluntary agreements" and pseudoscience that pretends the problem isn't more water. Please. Listen to your better selves. Think about the future.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
1067	1	FRA recognize the Draft Plan as another significant milestone in the process of updating the water quality control plan for the Bay-Delta watershed, including in recognizing voluntary agreements [Footnote 1: Also referred to as "Agreements to Support Healthy Rivers & Landscapes", or "HRL Program"] as an effective pathway to provide reasonable protection to beneficial uses of 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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1067	2	In a separate comment letter, the California Department of Water Resources (DWR) urged, among other things, that the State Water Board correct the description of the Feather River HRL Program in Appendix B.1. FRA join in DWR's letter and similarly write to request corrections in the Draft Plan's description of the Feather River HRL Program. These changes, identical to DWR's changes, are set forth in Exhibit 1 to this letter and will correct section B.1.11 Feather River Accounting Procedures in Appendix B.1 to the Draft Plan. FRA request that the State Water Board accept these changes as they are necessary to accurately reflect DWR's and FRA's proposed HRL Program and to align the State Water Board's Draft Plan with the understanding and structure of agreements between DWR and FRA as to how these parties would implement the Feather River HRL Program. With these requested changes, FRA remain committed to the Feather River HRL Program to implement the water quality control plan for the Bay-Delta watershed. Feather River HRL flow measures will be provided by DWR on behalf of the Feather River HRL parties. FRAs join DWR in recommending the following revisions to Appendix B.1: B.1.11.1 Introduction This section describes the accounting procedures that [begin new text] DWR on behalf [end new text] of the Feather River HRL participants identified in Table B.1-12 will be required to follow in order to utilize the HRL pathway identified in the Bay-Delta Plan. B.1.11.2 Description of Feather River HRL Flow Commitments In each applicable year, [begin new text] DWR [end new text] [begin strikeout] the Feather River HRL participants [end strikeout] will annually provide a total of 60,000 AF of net additive inflows and contributions to Delta outflows from the Feather River, consistent with the default plan and flexibility brackets described in Bay- Delta B.1-48 Plan section 4.4.9, above reference flow (approved base flow) conditions described in this	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		appendix. Flows are to be provided from March to May in dry, below normal, and above normal Sacramento Index water year types as determined by section B.1.3. [begin new text] The HRL flows will be through additional releases from Oroville under DWR's water rights. In coordination with DWR, various agencies within the Feather River covered party area will replenish vacated Oroville storage through actions taken by those agencies, including land idling, groundwater substitution, and reservoir reoperation. [end new text] [begin strikeout] The HRL flows will be made available through the following: i. Reductions in deliveries to Feather River Service Area contractors who will conduct a combination of fallowing of agricultural lands and groundwater substitution in the Feather River Service Area to provide 50,000 AF of water. ii. ii. No less than 38,000 AF will be provided through land fallowing. The remainder will be met through groundwater substitution. iii. iii. Reservoir reoperations upstream of Oroville Reservoir on the South Fork of the Feather River to provide up to 10,000 AF of water (for a total commitment of 60,000 AF) with limitations on reservoir refill to periods when Oroville is full or in flood-control operation, when the Delta is in excess, and when surface water is available under the water right conducting the refill at the time it is being diverted to storage. The refill limitations are intended to protect Project water supplies. The additive flow from reservoir reoperation as part of the Feather River HRL commitment is expected to result in a change in timing of flows, with increased flows at certain times and decreased flows at other times caused by reservoir reoperation that will vary based on storage and refill conditions and may contribute varying amounts to Delta outflow on a seasonal or interannual basis. If 10,000 AF of upstream reservoir reoperations are not available due to hydrological conditions, DWR will secure additional supplies made available through land fallowing or groundwater substitution to ensure the full 10,000 AF of additive flows above reference conditions are provided. [end strikeout]	

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		B.1.11.3 Definition of Reference Conditions [begin strikeout] vii. Upstream Reservoirs – Reference conditions for the Feather River include operations of reservoirs located upstream of Oroville Reservoir that are reoperated to provide HRL flows as they would occur prior to implementation of the VA pathway. [end strikeout] B.1.11.4 Accounting of Reference Conditions and HRL Flow Commitment During the term of the VA pathway, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout] must coordinate implementation and monitoring decisions as outlined in section B.1.3. State Water Board staff must be invited to participate in this coordination. i. Reference and HRL Flow Accounting and Tracking – Annually, starting by February 1st and weekly thereafter up to and during the time period in which Feather River HRL flows may be provided, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants must coordinate with other HRL participants and [end strikeout] document through the public website tracking system as identified in section B.1.3 the information listed below for the following components: 1) forecasted and observed reference conditions, 2) planned HRL flow commitments for the coming month and season, and 3) completed HRL flow commitments to date. The information must be sufficient to demonstrate that the additional Feather River HRL inflow commitments are provided to contribute to additive Delta outflows above reference conditions consistent with sections B.1.11.2 and B.1.11.3 above and section 4.4.9 of the Bay-Delta Plan. The following specific information must be provided: (a) Timeseries of daily inflow, outflow, and storage in Oroville Reservoir and Thermalito Afterbay and applicable upstream reservoirs… [begin strikeout] j) Reference conditions for applicable upstream flow and reservoir conditions associated with 10,000 AF of HRL	

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		flows derived from upstream reservoirs. [end strikeout] ii. Additive Flow Accounting During Flood Control – Feather River HRL flows must be net additive from January through June. If any HRL flow releases occur prior to or during flood control operations, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout]must demonstrate a reduction in end of June Oroville storage equal to the HRL additive flow (i.e., 60,000 AF) minus the volume accrued through June from [begin new text] separate supporting actions by other Feather River parties engaging in [end new text]land fallowing, groundwater substitution, and upstream reoperation. B.1.11.5 Verification of Additive Flow To demonstrate that Feather River HRL flows are net additive flows being provided above reference conditions over the January through June time period as required by Bay-Delta Plan section 4.4.9, [begin new text] DWR [end new text] [begin strikeout] Feather River HRL participants [end strikeout] must demonstrate the following: i. Water Right Verification –[begin strikeout] Feather River HRL participants [end strikeout] [begin new text] DWR [end new text] must provide water right accounting to ensure that all water bypassed or released from storage to comply with Bay-Delta Plan section 4.4.9 was made available under valid water rights where surface water is available under that right at the time it is being provided consistent with section 4.4.9 of the Bay-Delta Plan (i.e., the water right is not subject to curtailment). [begin strikeout] To the extent that DWR Feather River HRL participants bypasses or releases water from storage in advance of fallowing taking place under another water right, both sets of rights must be identified at least 90 days in advance of the land fallowing, or the bypass or release, whichever occurs first. DWR will provide a list of prospective parcels 90 days in advance of providing water, and will submit final fallowing plans as soon as practicable following WYT determination. Water right accounting must be provided to document both DWR's bypasses of inflows, or releases of previously stored water, and reductions in use by other parties under valid un-curtailed surface water	

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		rights or groundwater rights using fallowing or groundwater substitution to repay DWR. [end strikeout] [begin strikeout] ii. Land Fallowing and Groundwater Substitution – To account for additive flows made available by land fallowing and groundwater substitution respectively, Feather River HRL participants must meet the requirements of sections B.1.7 and B.1.8. [end strikeout] [begin strikeout] iii. Feather River Reservoir Reoperation and Refill Accounting –HRL participants on the Feather River plan to rely on reservoir reoperations upstream of Oroville to account for up to 10,000 AF of the Feather River HRL flows in excess of what would be released annually under reference operations. Feather River HRL participants must conduct, and report through the public website tracking system in section B.1.3, refill accounting at each reservoir being reoperated identifying periods and volumes of refill and a daily time series of reference and observed inflows, outflows, and storage that starts when HRL participants begin to provide the reservoir reoperation portion of the Feather River HRL flow commitment and ends when the storage deficit compared to reference conditions has been refilled. [end strikeout] B.1.11.6 Planning and Reporting Requirements Annually by March 1st, Feather River HRL participants must report the following to summarize reference conditions and HRL flows that occurred over the year: i. Statements of whether or not HRL flow commitments were met and on what schedule, if and how flexibility brackets were used, and, if HRL flow commitments were not met, how much of the HRL flow commitment was not provided each month… ii. Summary of how monthly operations changed compared to reference conditions from October through September to bypass net additive flows and refill reservoirs (if refilled), and if flood control operations or spill occurred. iii. Summary of the volumes of HRL water provided by water	

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		right [begin strikeout] using land fallowing, groundwater substitution, and reservoir reoperations. [end strikeout]	
1068	1	The Sites Project Authority appreciates the opportunity to provide comments on the December 2025 Revised Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan or Plan) Updates. The Authority continues to commend the State Water Resources Control Board's (State Water Board's) efforts to update the Bay-Delta Plan in a manner that supports the goals of the Healthy Rivers and Landscapes (HRL) Program and recognizes the critical importance of balancing ecosystem protection with water supply reliability for California's communities, agriculture, and environment. Supporting the goals and implementation of the HRL Program is consistent with the State's 2020 Water Resilience Portfolio, the State's August 2022 Water Supply Strategy, Adapting to a Hotter, Drier Future, and other policy initiatives aimed at enhancing California's long-term water resilience.	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.
1068	2	The December 2025 Draft Bay-Delta Plan Updates recognize that the inclusion of newly issued water rights, that are not initially listed in the Appendix B.1 list of water rights covered by the HRL Program, can be considered for approval by the State Water Board as part of the annual or periodic review process, along with any necessary supporting environmental and scientific documentation, or other documentation determined to be needed by the Executive Director, after notice and opportunity for public comment. (December 2025 Draft, § 4.4.9.) The Authority believes this is the most effective pathway for protecting HRL Program baseline flows while enabling the responsible development of new water supply projects, like the Sites Project. In furtherance of this approach, the Authority expects that at an appropriate time in the future, the Authority may request that any water right permit issued for the Sites Project be covered under the HRL Program. This is an appropriate and sound approach given that the Sites Project is not expected to be operational for another 7 to 8 years, and utilizing the periodic review process will allow for the Authority, the State Water Board, and other interested parties to be informed by the then-	New water rights may be added to the VA pathway following the procedures outlined in the revised proposed Plan amendments. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding the protection of base flows provision and new HRL proposals. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		existing regulatory landscape and best available scientific information. The December 2025 Draft Bay-Delta Plan Updates propose water supply adjustments (WSAs) as a component of the inflow requirement in the regulatory pathway. To the extent that sections 4.4.2.2 and 4.4.9.1 of the December 2025 Draft Bay-Delta Plan Updates [Footnote 1: Section 4.4.2.2 of the December 2025 Draft Bay-Delta Plan Updates states that WSAs regarding the numeric inflow requirements for new water rights obtained after December 31, 2025 "will be addressed as part of the processing of those water right applications consistent with section 4.4.9.1." Section 4.4.9.1 then states in relevant part that "in future water right actions the State Water Board will consider imposing requirements, based on the record established during the administrative proceeding, including any hearing, to ensure that the use of water is consistent with and supports the salmon protection, fish viability, inflow, inflow-based Delta outflow, and interior Delta flow objectives."] can be read to imply that the HRL Program pathway may not be available to new water rights at an appropriate time in the future, the Authority requests that the final version of the Bay-Delta Plan Updates be revised and clarified to remove any such implication [Footnote 2: In addition, section 4.4.2.2 of the December 2025 Draft Bay-Delta Plan Updates should be revised to allow WSAs for new water rights to alternatively be addressed as part of the annual or periodic review process, along with any necessary supporting environmental and scientific documentation, or other documentation determined to be needed by the Executive Director, after notice and opportunity for public comment (like the process afforded under section 4.4.9, described above.)].	
1068	3	Chapter 13 of the Draft Staff Report discusses the Sites Project as part of the cumulative impacts analysis in Section 13.7.21.1. That section (at p. 13-407) references the Authority's estimates of potential changes to Delta outflow resulting from implementation of the Sites Project under the Incidental Take Permit (ITP) issued by the California Department of Fish and Wildlife. The estimates referenced for changes to Delta outflow during Dry year types are incorrectly stated as being an annual average of -65 thousand acre-feet (TAF) and a January through	Section 13.7.21, Cumulative Impacts, Growth-Inducing Impacts, and Significant Irreversible Environmental Changes, of the 2025 partially recirculated draft Staff Report has been revised to include the estimates of changes in Delta outflow that occur in Dry year types under Sites operations as identified by the comment.

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		June average of -95 TAF. Those estimated values are actually -32 TAF and - 65 TAF, respectively [Footnote 3: Jacobs Engineering, 2025, CalSim3 Modeling for Sites Project, Technical Memorandum, Table 8; supporting modeling spreadsheet file: Sites_Metrics_CalSimII_ITP_Application_vs_CalSim3_ITP_102425, Delta Outflow tab, cells AA31:AA36.]. For context, these changes represent very small differences to annual average Delta outflow of -1.2% across all years, -1.4% in wet years, -1.7% in above normal years, -1.3% in below normal years, -0.4% in dry years, and -0.5% in critical years; and similarly small differences to January through June Delta outflow of -1.5% across all years, -1.4% in wet years, -2.1% in above normal years, -2.1% in below normal years, -1.1% in dry years, and -1.0% in critical years. These percentages are calculated by comparing the proportional change to Delta outflow values from the Sites baseline ("CalSim 3 No Action") to the Sites Project under the ITP ("CalSim 3 Sites Project") for both the annual volumes and the January through June volumes." [Footnote 4: The above-referenced Jacobs spreadsheet file refers to the Sites baseline as the "CalSim 3 No Action" and the ITP run as the "CalSim 3 Sites Project". The calculations are determined as such: from the spreadsheet file's Delta Outflow tab, annual average percentages are calculated by dividing cells U4, X4, Y4, Z4, AA4, and AB4 by the annual average volumes determined from the values in cells H12:H1211 for each condition, respectively; the January through June average percentages are calculated by dividing the sum of cells U31:U36, X31:X36, Y31:Y36, Z31:Z36, AA31:AA36, and AB31:AB36 by the January through June average volumes determined from the values in Cells H12:H1211 for each condition, respectively].	
1069	1	These comments are in addition to comments previously submitted on January 10, 2025 to the October 2024 version of the Draft Bay-Delta Plan Updates, which comments are attached hereto and incorporated herein, and any comments submitted directly by MID [Footnote 1: MID also refers to and incorporates herein by this reference all prior MID comments and objections to the Draft Bay-Delta Plan Updates, and to the prior 2018 updates to the Bay-Delta Plan and to the environmental review of current and prior updates to the Bay Delta Plan].	The commenter has not provided support for the claim that the economic effects are underestimated. Economic analyses are included in Staff Report Chapter 8, Section 9.8, and Section 13.8, each titled Economic Analysis and Other Considerations. See Common Response 1.2, Water Quality Control Planning Process, regarding the interaction with the 2018 LSJR/SD Plan Update. See also Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		At the outset, MID would like to express its strong support for the Healthy Rivers and Landscapes ("HRL") process under the voluntary agreement pathway discussed in the Draft Bay-Delta Plan Updates as an alternative pathway to the proposed regulatory pathway or Lower San Joaquin River flow objectives. Under the voluntary agreement pathway, the HRL process involves a more comprehensive approach that protects reasonable and beneficial uses of water and takes into account economic considerations while returning tangible benefits for fish and wildlife populations not achievable solely through a flow-based program. [Footnote 2: Under Water Code Section 13241, the Water Board must consider the following factors in establishing water quality objectives: (a) Past, present, and probable future beneficial uses of water; (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto; (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area; (d) Economic considerations Economic considerations; (e) The need for developing housing within the region; and (f) The need to develop and use recycled water.] The Draft Bay-Delta Plan Updates incorporate HRL commitments by major water rights holders in the following watersheds: Sacramento River, Feather River, Bear River, Auburn Ravine, Yuba River, American River, Putah Creek, Mokelumne River, Friant Area (San Joaquin River watershed), and the Delta. (See Draft Bay-Delta Plan Updates Section 4.4.9; Draft Staff Report, Section 13.3.4.) In addition, through a separate process, the State Water Resources Control Board ("Water Board") is considering proposed Tuolumne River HRL commitments as an additional voluntary agreement within the San Joaquin River watershed. [Footnote 3: Though a separate process, the Draft Staff Report does evaluate the possible contribution of Tuolumne River HRL flows to Delta outflows under the VA pathway. (Draft Staff Report, Section 13.3.4.3.)] (Draft Staff Report, Section 13.3.4.3) MID is committed to the successful implementation of the HRL process on the Merced River. The adverse economic impacts of the alternative pathways (regulatory or the Lower San Joaquin River flow objectives) are severe and likely underestimated. The	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		Merced community illustrates the real-world consequences of the non-HRL/voluntary agreement approach.	
1069	2	MID is a century-old public agency serving more than 2,200 small, multigenerational family farms in California's San Joaquin Valley. The District operates essential water storage, hydropower, flood protection, and groundwater recharge infrastructure that sustains the local economy, supports drinking water supplies, and contributes to national food security. The Water Board seeks to implement the Lower San Joaquin River flow objectives (non-voluntary agreement pathway) on eastern Merced County through the federal relicensing process for MID's hydroelectric licenses through the Clean Water Act section 401 process. These 401 conditions threaten to strip local control over reservoir operations and undermine the carefully balanced, multi-benefit management of the Merced River. If imposed, these conditions would drastically reduce irrigation water supplies, degrade drinking water quality, diminish clean hydropower generation, and force greater reliance on already-stressed groundwater resources. For an already economically disadvantaged region, the impacts are profound—up to $670 million in lost economic activity and $170 million in lost wages—reverberating through farmworker employment, food processing, small businesses, and public services. [Footnote 4: Projected economic impacts come from a forthcoming update to a prior June 2023 report titled Economic Impacts of Reduced Water Availability to the Merced River Hydroelectric Project 2022 Update. A copy of the June 2023 report is attached hereto and incorporated herein.] Reduced operational flexibility would also impair drought response and wildfire risk mitigation, increasing vulnerability for rural communities. To that end, MID submitted an HRL proposal to the State and remains committed to working with the Water Board to finalize, adopt and implement a voluntary agreement on the Merced River through the HRL process. MID submits the following renewed comments to identify MID's continuing concerns with the current Draft Bay-Delta Plan Updates and to protect and preserve all of its legal rights in connection with the Draft Bay-Delta Plan Updates, as necessary.	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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1069	3	Environmental Review Phased updates to the water quality control plan may violate the California Environmental Quality Act ("CEQA"). The Water Board has split the processes for updating the Bay-Delta Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed into two or more separate processes, with distinct environmental review – this Sacramento/Delta Update, the Lower San Joaquin River/Southern Delta Salinity 2018 Update, and the Tuolumne River Voluntary Agreement. The Bay-Delta region constitutes a single watershed, and impacts from all of these "separate processes" affect the other parts of the watershed, in particular the legal Delta. Impacts from these update processes have not been adequately analyzed as a single project. A lead agency may not split a single large project into small pieces so as to avoid environmental review of the entire project. (Orinda Association v. Board of Supervisors (1986) 182 Cal.App.3d 1145, 1171.) Further, programs of implementation within the Draft Bay Delta Plan Updates require project-level environmental review. It is not clear from the Draft Staff Report in support of the Draft Bay-Delta Plan Updates whether and when additional project-level review will be conducted for implementation of the proposed Draft Bay-Delta Plan Updates.	Please refer to Common Response 7.1, General CEQA and Approach to the Analysis, regarding CEQA and the level and scope of the analysis. Please see Common Response 1.2, Water Quality Control Planning Process, regarding State Water Board authorities related to the water quality control planning process and the relationship to the LSJR/SD Update to the Bay-Delta Plan.
1069	4	Water Rights Priorities The Draft Bay-Delta Plan Updates cannot subvert water rights priorities. The "rule of priority" is "one of the fundamental principles of California water law." (El Dorado Irrigation Dist. v. State Water Resources Control Board (2006) 142 Cal.App.4th 937, 943.) It should be the first concern of the Water Board in the exercise of its powers, to recognize and protect the interests of those who have prior and paramount rights to the use of the waters of a stream. (El Dorado, 142 Cal.App.4th, at 961, 970-971, citing Meridian, Ltd. v. San Francisco (1939) 13 Cal.2d 424, 450.) Although the rule of priority is not absolute, the Board is obligated to protect water rights priorities unless doing so will result in the unreasonable use of water, harm to values protected	Section 2.7, Existing and Future Water Rights in the Sacramento/Delta Watershed, of the 2023 draft Staff Report provides general information on California's water right system and water rights and claims in the Sacramento/Delta watershed. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, water supply adjustments, and provisions for implementing numeric inflow requirements in accordance with water right priorities. Adoption of the revised proposed Plan amendments would establish water quality objectives and a program of implementation. Adoption would not itself amend, determine, or alter individual water rights or water right priorities. Any

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		by the public trust doctrine, and to support its findings with adequate justification. (Id., at 944.)	enforceable obligations needed to implement adopted objectives would be addressed, as appropriate, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. Please see Common Response 1.2, Water Quality Control Planning Process, regarding water right administration and the relationship between adopting water quality objectives and future implementation actions. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the revised proposed Plan amendments and implementation pathways.
1069	5	The Draft Bay-Delta Plan Updates repeatedly emphasize the importance of maintaining water rights priorities. As a holder of senior water rights on a major San Joaquin River tributary, protection of water rights priorities is of major importance to MID. However, a number of provisions in the Draft Bay-Delta Plan Updates appear to authorize the subversion of water rights priorities, in particular the proposed curtailment methodology (Section 4.4.3). Section 4.4.3 contemplates a curtailment methodology to be implemented by a subsequent regulation. [Footnote 5: As a general rule, the Water Board does not have jurisdiction to regulate pre-1914 appropriative rights and riparian water rights. (California Farm Bureau Federation v. State Water Resources Control Board (2011) 51 Cal.4th 421, 429.) Pre-1914 appropriative rights and riparian water rights are subject to some State regulation, but that regulation is generally limited to regulation "to prevent illegal diversions and to prevent waste and unreasonable use of water." (Young v State Water Resources Control Board (2013) 219 Cal.App.4th 397,404, Farm Bureau, 51 Cal.4th at 529.)] Past experience with the curtailment methodology during the previous drought demonstrated that the spreadsheet model used (and that presumably would form the initial version of this methodology) contravened water rights priorities. The model used during the drought assumed that all water right holders in the Delta claiming individual water rights as both pre-1914 appropriative and riparian water rights had the priority of riparian water rights resulting in an unsupported demand calculation that impacted all upstream users holding appropriative water rights. The prior drought curtailment	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology.

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		methodology, and again proposed here, included exceptions to curtailments for human, health and safety needs and unspecified "other possible reasons" which also could lead to a contravention of the rules of priority without adequate justification. (Draft Bay-Delta Plan Updates, p. 51.) Moreover, the granting of exceptions pursuant to the drought curtailment emergency regulations was done without adequate notice to other water rights holders and adequate opportunity to oppose such exceptions to water rights priorities, which was a violation of due process rights.	
1069	6	Accuracy of Proposed Curtailment Methodology Regarding the proposed curtailment methodology (Section 4.4.3), prior experience during the most recent drought also supports two additional comments regarding the implementation of such a methodology by regulation. First, the model is only as good as the accuracy of the supply and demand data provided to the Water Board. Compliance with SB 88 by water right holders is low, particularly in the Delta. The Water Board must obtain and allocate sufficient funding and staff to improve the accuracy and extent of the information supplied by water rights users to implement such a methodology. Second, the model is severely compromised by unauthorized diversions in the Bay-Delta watershed as a whole. For example, MID and the Water Board are currently in discussions regarding data and information identifying a large number of unauthorized diversions on the lower Merced River. The Water Board must have adequate funding and staff to ramp up enforcement activities to ensure that unauthorized diversions are not diverting the unimpaired flows necessary to meet water quality objectives.	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology.
1069	7	Inflow-Based Delta Outflow Objectives The Inflow-Based Delta Outflow Objective provides that inflows for both the Sacramento/Delta tributaries and the San Joaquin River are required as outflows with adjustments for downstream natural depletions and accretions. Like the previous comment to the curtailment methodology, outflow compliance will be severely compromised by unauthorized diversions lower down in the Bay-Delta watershed. Again, the Water Board must have adequate funding and staff to ramp up enforcement activities to	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		ensure that unauthorized diversions are not diverting the unimpaired flows necessary to meet water quality objectives, both inflow and outflow.	
1069	8	Equal Protection Violation The Inflow-Based Delta Outflow Objective provides that inflows for both the Sacramento/Delta tributaries and the San Joaquin River are required as outflows with adjustments for downstream natural depletions and accretions. However, the Lower San Joaquin River Flows adopted by the Water Board in 2018 only require contributions from the three eastside tributaries of the lower San Joaquin River (Merced, Tuolumne and Stanislaus Rivers) and exclude contributions of unimpaired flow from all water rights on other tributaries of the San Joaquin River and the mainstem San Joaquin River, though now the "Friant Area" appears to have a proposed voluntary agreement. [Footnote 6: Unlike the other three tributaries, the Friant Area is not being held to the same Lower San Joaquin River flow objectives standards. Further, it is unclear whether the voluntary commitments of the Friant Area are in addition to the required San Joaquin River Restoration Program flows.] The Bay-Delta Plan, including the Draft Bay-Delta Plan Updates setting Delta Inflow/Outflow, continue to violate MID's right to equal protection (and water rights priorities) by imposing a classification that treats similarly situated groups in an unequal manner. (U.S. Const., Am. XIV, Section 1; Cal. Const. Article 1, Section 7(a).)	The inflow-based Delta outflow objective simply requires that any required inflows (from the Sacramento/Delta and Lower San Joaquin River) be provided as outflows. Implementation of the inflow-based Delta outflow objective could not alter the upstream inflow requirements from the San Joaquin River and thus would have no effect on the required inflows from the Lower San Joaquin River. It is thus unclear why the commenter believes this is violating their "right to equal protection." The Friant VA is included as a voluntary contribution to Delta outflow in the VA pathway. The water rights for the U.S. Bureau of Reclamation's Friant Division are not listed Appendix B.1 because water rights on the San Joaquin River are not included in the Sacramento/Delta Update to the Bay-Delta Plan. The inclusion of the Friant HRL flow contributions in the VA pathway does not constitute compliance with the Bay-Delta Plan or prevent the State Water Board from considering Bay-Delta requirements for the Upper San Joaquin River in the future. Please see Common Response 1.2, Water Quality Control Planning Process, for more information on the relationship to the 2018 LSJR/SD update to the Bay-Delta Plan.
1069	9	Monitoring, Evaluation, Reporting and Special Study Provisions In Section 4.5, it remains unclear in what manner the Water Board is contemplating comprehensively integrating monitoring, evaluation, reporting and special study provisions associated with the proposed Draft Bay-Delta Plan Updates with the 2018 Bay-Delta Plan Updates. Further, the Water Board is required to develop Biological Goals prior to the development of water quality standards. (Draft Bay-Delta Plan Updates, Section 4.5.2.) Section 4.5.2 directs the development of Biological Goals for the Sacramento/Delta watershed to inform the continued update and implementation	The intent of integrating monitoring, evaluation, reporting and special study provisions included in the Bay-Delta Plan is to comprehensively understand the full watershed. The development of the comprehensive Bay-Delta Monitoring and Evaluation Program will be completed through a separate process and will build from existing monitoring efforts to the extent practicable. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on biological goals.

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		of the Bay-Delta Plan. As with the 2018 Bay-Delta Updates for the Lower San Joaquin River, Biological Goals should have been developed prior to setting water quality objectives to meet such goals. Moreover, adoption of Biological Goals subsequent to adoption of the Draft Bay-Delta Plan Updates would be an improper and unauthorized later amendment to the Bay-Delta Plan, including a violation of Water Code Sections 13241 and 13242, and would be an underground regulation in violation of the Administrative Procedures Act.	
1069	10	Failed to Adequately Consider All Factors Necessary for a Water Quality Control Plan By focusing primarily on flow requirements (% unimpaired flow) in the default regulatory pathway, the Water Board has failed to sufficiently consider the factors required by Water Code Section 13241 in adopting a water quality control plan, including but not limited to adequately considering the past, present and probable beneficial uses of water, and also economic considerations. The evidence does not support that flow alone can achieve the water quality objectives for fish and wildlife beneficial uses without addressing other factors affecting fish and wildlife, and in light of other beneficial uses for the water and economic considerations. The State's paramount duty is to provide "reasonable protection" to beneficial uses, considering all demands made upon the water. (Water Code §§ 1300, 13241; United States v. State Water Resources Control Board (1986) 182 Cal.App.3d 82, 122.)	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's consideration of beneficial uses during the water quality control planning process, Board consideration of factors listed in Water Code section 13241, and a discussion of non-flow measures. In addition, please see Staff Report Section 13.6.2, Water Code Section 13241 Analysis, for a discussion of the factors the Board is required to consider under Water Code section 13241. As further discussed in Section 7.21 of the Staff Report, Habitat Restoration and Other Ecosystem Projects, the State Water Board acknowledges that the benefits of increased flow are further enhanced when implemented in concert with non-flow measures such as physical habitat restoration, control of invasive species, and other efforts. However, non-flow measures often depend on sufficient flow for successful implementation. For an in-depth examination of the benefits of flow and its role as a critical element of protection and restoration, see Chapter 3 of the Staff Report, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations.
1069	11	Article X, Section 2 of the California Constitution Similarly, focusing primarily on flow requirements, the Draft Bay-Delta Plan Updates do not put water resources of the Bay-Delta watershed to "beneficial use to the fullest extent to which they are capable." (Cal. Const. Article X, Section 2.) A water quality control plan is improper if it requires the unreasonable use of water. The evidence does not support that the unimpaired flow objectives for fish and wildlife beneficial use are a reasonable use of water given the significant impacts to	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's authority to prevent waste and unreasonable use under Article X, Section 2 of the California Constitution.

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		agriculture, water supply, groundwater and other environmental impacts.	
1069	12	Sustainable Groundwater Management Act ("SGMA") The Draft Bay-Delta Plan Updates are contrary to the goals and principles of SGMA. The required inflows from Sacramento/Delta tributaries and the required outflow from both San Joaquin River tributaries and the Sacramento/Delta tributaries represent a significant loss of surface water supplies that will be offset and mitigated through pumping and the use of groundwater which will adversely impact the ability of over-drafted basins of the Bay-Delta watershed to sustainably manage groundwater supplies.	The comment is unclear about which overdrafted basins of the Bay-Delta watershed will be adversely impacted by the proposed Plan amendments that are the project. Commenter Merced Irrigation District (Merced ID) owns, operates, and maintains New Exchequer and McSwain dams, reservoirs, and hydroelectric facilities on the Merced River. The Merced River was part of the 2018 Bay-Delta Plan update for Lower San Joaquin River (LSJR) flows and southern Delta salinity. Please see Common Response 1.2, Water Quality Control Planning Process, regarding interaction with other State Water Board regulatory activities, for a discussion of the 2018 update for Lower San Joaquin River Flows and Southern Delta salinity and the subsequent litigation challenging that update, to which Merced ID is a party (State Water Board Cases). Merced ID's appeal is currently pending before the Third District Court of Appeal. As discussed in the Staff Report, the proposed Plan amendments would result in changes in water supplies exported from the Delta through the SWP and CVP. The 2023 draft Staff Report includes background information on the entire San Joaquin Valley, include the area where Merced ID is located but recognizes that the SWP and CVP deliver water to the western and southern portions of the San Joaquin Valley. Merced ID does not receive either SWP or CVP supplies. The Staff Report analyzes the potentially significant impacts in the San Joaquin Valley on groundwater resources from changes in water supply from the proposed Plan amendments. Shortages are discussed as Impact GW-b in Section 7.12.2 Groundwater. The Staff Report also notes that public agencies have been on notice since 2012 regarding State Water Board's intention to update the Bay-Delta Plan. Such notification should have informed groundwater sustainability agencies' planning efforts and management assumptions regarding the amount of surface water supplies, in excess of environmental needs, that may be available for GSP implementation.Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for information regarding SGMA considerations including SGMA's

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			overlap with the Sacramento/Delta updates to the Bay Delta Plan.
1069	13	Vague and Unclear Regulations The narrative objectives for protection of fish and wildlife beneficial uses are unlawful for lack of clarity. (Gov't Code § 11349.) A regulation must inform the directly affected public of what they must do to comply with a regulation. The narrative objectives do not provide sufficient clarity and are impermissibly vague in violation of due process. The narrative objectives are not clear and subject to different interpretations, making compliance and enforcement difficult.	Please see Common Response 1.2, Water Quality Control Planning Process, regarding narrative and numeric objectives and Common Response 1.3, Revised Proposed Plan Amendments, for information on the fish and wildlife objectives. The requirements to comply with the objectives are specifically articulated in the program of implementation. The commenter has not provided any explanation of how they believe the objectives are unclear or any basis for the claim that the objectives are unlawful for lack of clarity.
1070	1	South Feather Water & Power Agency, along with the California Department of Water Resources and other agencies within the Feather River watershed, is a participant in the proposed Feather River Healthy Rivers & Landscapes (HRL) Proposal. South Feather supports the State Water Board's adoption of the HRL Program as the mechanism to update its Water Quality Control Plan for the Bay-Delta. However, South Feather does not support the inclusion of the unimpaired flow (UIF) regulatory pathway, including the modification to incorporate water supply adjustments (WSA). Nor does South Feather support the concept of a "regulatory backstop" under which HRL parties, such as South Feather, could pivot to an UIF standard without potential future plan amendment, further CEQA analyses (e.g. a supplemental or subsequent substitute environmental document), and opportunity for public review and comment of comprehensive environmental and economic analyses. South Feather has previously written concerns about the UIF approach, including in January 2025 in response to the October 2024 Draft Staff Report. The concerns expressed in prior letters remain unaddressed notwithstanding the State Water Board's inclusion of a WSA to adjust the 55% UIF requirement. South Feather has reviewed the comment letter and supporting technical memorandum of Nevada Irrigation District. South Feather incorporates NID's comments by this reference and adopts them as its own. South Feather and NID share common	All elements of the revised proposed Plan amendments and all alternatives presented in the Staff Report are analyzed as required by CEQA, Porter-Cologne, and all other applicable requirements. Please see Common Response 1.3, Revised Proposed Plan Amendments, for further information regarding continuation, modification, or termination of the VA pathway.

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		characteristics, including treated and agricultural deliveries, FERC regulated hydroelectric power projects, reliance in interbasin transfers [Footnote 1: The South Feather Power Project diverts approximately 85 TAF/yr from Slate Creek (tributary to the North Yuba River) into the Feather River watershed.], and reservoirs and recreational facilities. Given the two agencies' similarities, the impacts and inadequate analyses identified by NID would similarly apply to South Feather, including water supply, power generation, recreation, and other inadequately described and analyzed impacts in the State Water Board's December 2025 Draft Plan and Chapter 13 recirculated environmental analyses.	
1070	2	As detailed in prior comment letters, the State Water Board in violation of CEQA and applicable law has not analyzed water supply, economic, and other impacts associated with the proposed UIF standard on South Feather facilities . The updated analyses in the December Draft Plan, Chapter 13, and updated modeling do not assess the impacts of UIF on South Feather. The model was hardcoded to not change storage levels notwithstanding the imposition of 55% UIF with WSA. Consider, for example, the updated modeling prepared by the State Water Board for South Feather's Little Grass Valley Reservoir that shows no change in storage: Similarly, the State Water Board's Chapter 13 recirculated environmental analysis hardcodes South Feather's Sly Creek Reservoir so that there is no change to storage even with the imposition of a 55% UIF with WSA standard: South Feather relies exclusively on capturing and storing surface water to sustain its drinking water, irrigation water, hydropower and recreation enterprises, as well as to deliver water to a neighboring water district, North Yuba Water District. South Feather does not have any groundwater wells, or access to groundwater given its location almost exclusively overlies fractured rock aquifers. Water supply impacts resulting from the proposed plan amendments (55% with WSA) cannot be made up through "other water management actions", such as diversifying water supply portfolios. Groundwater storage and recovery is not available given South Feather's location. There is no	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the level of detail of the analysis and the scope, scale, and application of SacWAM. No changes were observed at Little Grass Valley and Sly Creek Reservoir for any of the four scenarios presented in Section H1a2.5, Reservoir Storage, of Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Amendments, of the Staff Report. Top of conservation storage was constrained to historical monthly averages for both reservoirs. The large scale of SacWAM limits the detailed representation of reservoir operations for smaller reservoirs. The model is sufficient to inform the analyses and is consistent with the scope and detail required for the Bay-Delta Plan updates. In the implementation of the proposed project, it is possible that South Feather Water and Power operations may be affected. Note that model results are presented as worst case scenarios that do not make use of flexible Plan provisions allowing for adaptive implementation and local cooperative solutions. As explained in Section 13.3.3.2, Sacramento/Delta Tributary Inflows, of the Staff Report, the inflow objective is proposed to apply throughout the watershed on all Sacramento/Delta tributaries that support or contribute to the protection of anadromous fish species, including the Feather River. Under the regulatory pathway, all water right holders on these tributaries except those with a de minimis effect on flows, other approved

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		upstream or other party from which to purchase transfer supplies. Nor are the other water management actions feasible in South Feather's case. It is imperative that the State Water Board provide robust analysis and description of impacts before adoption of a UIF regime. CEQA requires full disclosure of the proposed action and its environmental effects. (Washoe Meadows Community v. Department of Parks & Recreation (2017) 17 Cal.App .5th 277 [project description that did not identify a specific proposed project, and instead presented significantly different alternative proposals, was found legally inadequate because it precluded informed public participation in the CEQA process].) The voluminous State Water Board analyses such as the Draft Staff Report, December Draft Plan, and Chapter 13 cannot answer even the most basic question as to whether the proposed UIF requirement applies to South Feather's facilities and water rights (as some text suggests), or not (as SacWAM tables suggest). And, certainly, there is no analysis of the impacts of UIF on South Feather's facilities. (See, e.g., County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931 [CEQA analysis inadequate because it lacked detailed description of effects of proposed action on reservoir operations and related impact areas].) The UIF regulatory pathway, as applied to South Feather, are woefully inadequate under CEQA. Given the foregoing, South Feather can only speculate as to the environmental impacts, economic effects, feasibility of alternatives and mitigation measures of the proposed UIF regulatory pathway and backstop, and the reasonableness (or not) of the balancing of beneficial uses required by Water Code section 13241. To the extent the State Water Board wishes to incorporate UIF as a regulatory pathway, or potential HRL "backstop", the State Water Board analyses must again be recirculated to address the issues raised in this and other comment letters. In summary, South Feather supports the adoption of the HRL Program as the State Board's update to its Water Quality Control Plan. South Feather cannot support any UIF regime, or potential pivot to a UIF regime, unless and until the State Water Board	exceptions, or those water rights covered under the VA pathway, would be subject to the numeric inflow requirements. South Feather Water and Power Agency possess several rights currently proposed to be covered under the VA pathway.

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		fulfills its legal obligations of informed decisionmaking and robust analysis of impacts and feasible mitigation measures available to South Feather if an UIF regime is imposed on it.	
1071	1	Western Growers Association appreciates the State Water Resources Control Board's decision to include the Healthy Rivers and Landscapes (HRL) Program as an implementation pathway in the Revised Draft Bay-Delta Plan. Western Growers previously submitted comments supporting inclusion of HRL as a plan alternative, and we appreciate the Board's recognition of this collaborative, science-based approach. California agriculture relies on both healthy river systems and a reliable, affordable water supply. From northern California through the Central Valley, growers have made long-term investments in permanent crops such as almonds, pistachios, citrus, table grapes, and other tree and vine crops, as well as row crops that are essential to food production, crop rotation, and farm viability. These operations are highly sensitive to water year variability and drought risk, making predictability and flexibility in water management critically important. The HRL Program offers a practical and balanced framework by pairing strategically timed flows with targeted habitat restoration, supported by monitoring, science, and adaptive management. This integrated approach provides a meaningful alternative to rigid, flow-only regulatory requirements that can create abrupt and unpredictable water supply reductions, particularly in lean water years. By contrast, HRL improves planning certainty for agricultural producers while still advancing measurable progress toward the recovery of Chinook salmon and other native species. The HRL Program's emphasis on partnership among water agencies, farmers, conservation interests, and scientists helps prioritize limited resources, improve accountability, and maintain operational flexibility for farms managing both permanent and row crops. Absent the HRL framework, agricultural water users face significantly reduced water supplies. For permanent crops, this	The environmental impacts and economic effects of the revised proposed Plan amendments are described in Chapter 13, Revised Proposed Plan Amendments. 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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		risk includes orchard and vineyard loss and stranded capital investments; for row crops, it can mean reduced planting, lost income, and broader supply chain disruptions. These impacts extend beyond individual farms to farm workers, rural communities, and California's food system. Western Growers Association respectfully urges the Board to approve the Healthy Rivers and Landscapes Program in the final Bay-Delta Plan update.	
1072	1	I also want to applaud the board for its efforts in including youth voices, so thank you. The reason I'm providing my public comment today is because I feel extremely passionate about this issue. Water is a vital resource and as such we must do our very best to protect it.	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.
1072	2	I wanted to touch on in regards to the proposed "water supply adjustments" in the regulatory backstop approach. This would effectively change the requirement from 55% of unimpaired river flow to 55% in the wettest third of water flow, 45% of the middle third, 35% in the driest third (when species and water quality are at highest risk). Although this is better than the VA's, it is not real protection. This Board is proposing to weaken the draft standards, and I believe this approach would do more substantial harm and is looking in the wrong direction. Under both the VA approach as well as the Regulatory backstop, there will be significant effects on not only fish but rivers as well. The reduced flow will harm salmon, steelhead, and other native fish by raising temperatures, limiting the habitat extent and quality for both spawning and rearing, failing to cue migration, restricting fish passage, and reducing food production.	Please see Staff Report Section 13.4, Changes in Hydrology and Water Supply, for the increases in flow expected to result from the regulatory and VA pathways of the revised proposed Plan amendments and Section 13.5, Beneficial Environmental Effects, for an assessment of the benefits. Also see Common Response 1.2, Water Quality Control Planning Process, regarding the reasonable protection of fish and wildlife.
1072	3	Another subset of impacts that I don't want to go unmentioned are the Tribal and Cultural Impacts. Flows affect cultural resources. The ability to do ceremonies, cultural traditions, access and adequate tribal fishing. There are tribal beneficial uses, outlined in the report right now, which is a fantastic sign. I just want to reiterate that protection of rivers equals protection of tribal heritage. That is axiomatic.	The revised proposed Plan amendments incorporate Tribal Beneficial Uses (CUL, SUB, and T-SUB), would designate Tribal Tradition and Culture (CUL), and include provisions for tribal outreach and engagement and incorporation of tribal feedback and Traditional Ecological Knowledge into the Bay-Delta Plan update and implementation processes. See Section 13.7.2, Environmental Analysis of CUL Tribal Beneficial Use Designation, of the Staff Report for more discussion and environmental

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			analysis of the CUL Tribal Beneficial Use designation. Please see also Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses. Please also see Chapter 13 of the Staff Report, Revised Proposed Plan Amendments, for additional information on incorporation and designation of Tribal Beneficial Uses.
1072	4	Water quality is also a massive concern of mine. The reduced flows can increase algae blooms and toxins. Low freshwater flows cause toxic algae blooms in the Delta that can kill pets and wildlife and make people sick. Underserved Delta communities suffer the most. This is an issue of environmental justice. Surface water quality will degrade if we do not have additional fresh water flows in and through the Delta.	Please see Common Response 4.1, Harmful Algal Blooms, for responses to comments related to cyanobacteria harmful algal blooms (HABs) and economically disadvantaged communities and environmental justice communities, and HABs and instream flow.
1072	5	I urge the Board to proceed expeditiously with adoption and implementation of the Bay Delta Water Quality Control Plan, including strong new science-based protections that require increased flows of at least 55% in Central Valley rivers in most years. Decisions should be made based on facts and science, not political pressure and wishful thinking.	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.
1073	1	We would like to note at the outset that we believe the Bay-Delta Plan Updates are ready for adoption, with the ability to collaboratively refine specific points at a future date. The comments in this letter are intended to 1) call out potential impacts shown in the State Board's documentation to the American River associated with the provided pathways and to draw the State Board's attention to these impacts; and 2) create an awareness of these trade-offs as the State Board prepares for Plan adoption. We encourage the State Board to adopt the Healthy River and Landscapes (HRL) program to alleviate the impacts of strictly and solely adopting the regulatory pathway. HRL will also better address the hydrologic reality that we are now living with, like this year's snow drought.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1073	2	We would like to extend our appreciation to the State Board staff for their work on the Revised Draft Bay-Delta Plan Updates since the October 2024 Draft Bay- Delta Plan Updates. The main body of the document provides significant improvements and clarifications which greatly improve readability,	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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		implementability, and enforceability. We are also pleased to see the HRL as a viable means to achieve the purposes of the Bay-Delta Plan Updates and protect water quality that affects beneficial uses of water.	
1073	3	Regulatory Pathway Degrades Decades of Regional Sustainability and Ecosystem Efforts Given RWA's core mission, values, and collaborative efforts toward sustainability, we are alarmed by some of the results disclosed in the State Board's December 2025 documents, particularly Chapter 13 of the Staff Report and its appendices. Revised Proposed Plan Amendments (Regulatory Pathway) and associated hydrologic modeling. Appendix H1a2.7.13 – Groundwater Storage by Basin, Figure H1a2-241. American River Groundwater Basin End of Year Storage – Change from Baseline (TAF), page H1a2-379 shows the Sacramento Water Allocation Model (SacWAM) results, which indicate that under the State Board's Regulatory Pathway the American River groundwater basin's end-of-year storage declines by over 1 million acre-feet (MAF). This result comes even after the application of Water Supply Adjustments (WSAs) that are intended to reduce potential impacts and balance beneficial uses. The more detailed modeling that the State Board provided at our request shows that this impact is only from a loss of recharge in the basin. In other words, the analysis does not include or show the actual impact of additional pumping that would need to occur to meet demands caused by the loss of surface water supplies and the need to find alternative supplies to meet Municipal & Industrial (M&I) demands in our region. Therefore, one can assume that the 1 MAF of disclosed impacts underestimates actual impacts to our local groundwater basins. A 1 MAF decline to groundwater storage within the American River region would be devastating and completely infeasible. The State Board's modeling of the Regulatory Pathway suggests a compounding series of impacts to groundwater that would create multiple sustainability issues, leaving domestic groundwater users, the environment (including groundwater-dependent ecosystems), and other beneficial users of groundwater without a water supply. A groundwater reduction	The commenter misinterprets the appendix modeling outputs by treating SacWAM's groundwater-pumping constraints and long-term cumulative groundwater-storage differences as findings of the groundwater impact analysis. The conclusions presented in the comment do not reflect the purpose, scope, or findings of the groundwater analysis in the Staff Report, nor do they represent any predictions or estimations of actual groundwater storage or use in a groundwater basin. The groundwater impact analysis is described in Sections 7.12.2 and 13.7.12.2 (Groundwater). For clarification on the appropriate groundwater impact analysis, SacWAM's consideration of groundwater and for further discussion on SGMA considerations, please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act for information regarding SGMA considerations including SGMA's overlap with the Sacramento/Delta updates to the Bay Delta Plan.

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		such as this would be ruinous to our nearly 30-plus-year conjunctive use program and the riverine ecosystem. It would thoroughly deplete the American River region's efforts to address climate change and force a return to unsustainable pumping, reversing the very progress the Sustainable Groundwater Management Act (SGMA) seeks to achieve.	
1073	4	Appendix H1b.Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers also discloses some concerning results of the modeling of the regulatory pathway with the new "Water Supply Adjustments" refinement. Table H1b-53 through H1b-55. Comparison of Modeled Baseline and Flow Scenario Monthly Temperature Distributions in the American River below Folsom Dam, at Hazel Avenue, and at Watt Avenue all show that, even with the refinements of the proposed Water Supply Adjustments, temperatures at these locations during the months of April through November increase by up to three degrees. Table H1b-53 is provided as an example of these effects. The Lower American River has temperature requirements that are already challenging to meet even in years when Folsom Reservoir storage is flush. Lower American River temperatures are already high when compared to other Sacramento River tributaries, and any temperature increases run the risk of impacting Fall Run Chinook Salmon and Central Valley Steelhead populations. Additionally, it is important to note that the temperature modeling in the State Board's documentation is a monthly time step, which has the potential to mask impacts that could occur on a daily time step – but fish experience environmental circumstances as they occur in real-time at the moment, not by averaging the conditions available to them over a month.	Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for a description of HEC-5Q modeled American River temperatures sensitivity to Folsom Reservoir release temperature targets. The HEC-5Q modeling varies based on historical meteorological data and executes water temperature on a 6-hr timestep based on hydrology of a monthly timestep. During times of year when water temperature is of most concern to fish, flows are generally more steady and monthly average flows are adequate to represent the system.
1073	5	Chapter 4.4.2.4 – Local Cooperative Solutions of the Bay-Delta Plan Updates provides an approach to comply with inflow and cold water habitat requirements that would require water rights holders who are subject to the regulatory approach to collaborate and then submit an alternative plan to the State Board. This, as mentioned by Board members and State Board staff in the State Board workshops that took place from January 28 through January 30, 2026, would in turn have the potential to further refine the implementation of the regulatory pathway with the intent of offsetting impacts to temperature as discussed	Local cooperative solutions can include proposals to meet the inflow and cold water habitat requirements in the regulatory pathway so it is unclear what the commenter means by the statement that "these collaborative solutions appear to focus primarily on cold water pool formation." Groundwater impacts are analyzed in Staff Report Section 13.7.12.2, Groundwater. The local cooperative solutions offer the opportunity for water users to propose creative solutions and take advantage of adaptive management flexibilities to tailor implementation to individual tributary needs. They are clearly described in the Staff Report

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		above. However, this concept is challenging for the following reasons. • First, while the Local Cooperative Solutions section discusses "integration with SGMA" in Section viii, these collaborative solutions appear to focus primarily on cold water pool formation. Therefore, the groundwater impacts described above still appear to not be addressed. Cold water pool impact minimization may or may not affect groundwater recharge potential depending on conditions; • Second, as the Draft Plan Update itself acknowledges, it is unknown at this time what the features of the Local Cooperative Solution would be, or how such a solution would be implemented. At this time, the concept remains ambiguous and undefined, but the State Board's decision-making needs to occur based on the data that exists now. Implementing this as-yet-to-happen approach cannot be fully assessed or described at this time will require a future tier of project-specific CEQA review; and • Third, the American River HRL participants have worked for decades with the Sacramento Water Forum. This work has included the development of the Lower American River Flow Management Standard (FMS). The FMS uses best available science to set targets for minimum river flows and cold water storage at Folsom Reservoir to guard against drought and improve water temperature in the Lower American River for salmon and steelhead. In fact, we see the FMS as already being the Local Cooperative Solution for the American River. This makes the analysis for water temperatures in Appendix H1b even more troubling because it would appear that the baseline in the modeling is the FMS and that the temperature impacts shown as a result of the regulatory approach would negatively impact implementation of the FMS. Our region would be very concerned if the good work being achieved through the implementation of the FMS were to be essentially undone by imposition of unimpaired flow.	and in the revised proposed Plan amendments and include clear criteria for consideration. Water users would have the opportunity to submit local cooperative solution proposals that align with the required criteria for consideration after Plan adoption. See Common Response 1.3, Revised Proposed Plan Amendments, for more information about adaptive implementation and local cooperative solutions. The analysis in the Staff Report is broad and covers possible adaptive implementation scenarios, including local cooperative solutions. For example, habitat restoration and other ecosystem projects are analyzed in Section 7.21, Habitat Restoration and Other Ecosystem Projects. For more information, see Common Response 7.1, General CEQA and Approach to the Analysis. Also see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for information on implementation of the cold water habitat objective.
1073	6	Incorrect Characterization of Flow Accounting Requirements or Descriptions	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		Language provided in the Bay-Delta Plan Updates mischaracterizes or misinterprets commitments to flow by American River HRL participants. The document name, page number, and referenced text are provided below (Reference) with a description of the issue and recommended changes (Response). • Reference: Bay-Delta Plan Update, Appendix B.1.10.2, page B.1-43. (i). . . Reservoir reoperations upstream of Folsom Reservoir, on the American River to provide up to 10,000 AF in above normal, below normal, and dry water year types. This portion of the American River HRL flow commitment is expected to result in a change in timing of flows and may increase flows at certain times but may not provide net overall additive flows over time. If 10,000 AF of upstream reservoir reoperations are not available due to hydrological conditions, American River HRL participants will secure additional supplies made available through groundwater substitution to ensure the full 10,000 AF of additive flows above reference conditions are provided. (ii) Groundwater substitution of 30,000 AF in dry and critical water year types. Response: The description of the American River's contribution is not accurate. Upstream reservoirs provide water in above normal and below normal years. For dry years, there is an additional 10 TAF (beyond the 30 TAF of groundwater contributions) that may be provided from upstream, groundwater, or a combination of the two sources. There is no commitment for groundwater contributions in above normal and below normal years to make up any upstream reservoir contribution deficit. Further, providing groundwater contributions in these wetter year types would run counter to the purpose of groundwater use in the American River region – which focuses on storing water during wetter years and pumping groundwater (thereby easing pressure on river flows) during dry conditions. Using strikeout for omissions and additions underlined, we request the following revision: "(i)…Reservoir reoperations	the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		upstream of Folsom Reservoir, on the American River to provide up to 10,000 AF in above normal [begin new text] and [end new text] below normal[begin strikeout], and dry water [end strikeout] year types. This portion of the American River HRL flow commitment is expected to result in a change in timing of flows and may increase flows at certain times but may not provide net overall additive flows over time. (ii) Groundwater substitution of 30,000 AF in dry and critical water year types. (iii) Reservoir reoperation, groundwater substitution, or a combination thereof of 10,000 AF in dry water year types. [begin strikeout] If 10,000 AF of upstream reservoir reoperations are not available due to hydrological conditions, American River HRL participants will secure additional supplies made available through groundwater substitution to ensure the full 10,000 AF of additive flows above reference conditions are provided." [end strikeout]	
1073	7	• Reference: Bay-Delta Plan Updates, page 69. In order to utilize the VA pathway for the HRL water rights identified in Appendix B.1, the American River HRL participants must provide 30, 40, 10, and 10 TAF of additive inflow and associated Delta outflows above approved base conditions defined in Appendix B.1 in critical, dry, below normal, and above normal years, respectively. Flows must be provided in the first three dry or critical years and in the first three above normal or below normal years during the eight-year term of the VA pathway. A portion of American River HRL flows may be provided through groundwater substitution and may only be provided in a manner that does not have redirected impacts on fish and wildlife and in a manner consistent with SGMA as specified in section 4.4.9.2. Response: The Draft Implementation Agreement for the American River, which is Exhibit B1 of the Global Agreement to the Healthy Rivers and Landscapes Program in the Bay-Delta and related flow accounting materials provided to the State Board in March 2024, indicated that the American River HRL participants would provide water in three out of eight years for each of the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		two respective sources of flow (for a combined total of six years for both water sources). This limitation was chosen to allow for the basin to recover from repeated environmental releases and avoid challenging environmental conditions that threaten water supply reliability. For example, if multiple dry or critical year types – similar or worse than that of 2012-2016 or 2020-2021 – were to occur, the American River HRL participants committing to providing groundwater in those year types would consult and assess watershed conditions to make a determination on whether the groundwater basin could sustain providing water for both public health and safety and environmental flows. While American River Parties anticipate meeting their obligations, we know that climate change and weather whiplash can cause variations that were not accounted for and we need to be prepared to prioritize meeting public health & safety needs of our local communities during extreme conditions. We also understand the desire of the Board staff who, for modeling and analytical purposes, are trying to quantify the outflow commitments for the purposes of the Revised Draft Plan. For modeling, we can accept the use of the State Board specifying the "first three" years be years flows are provided. But the practical implications of using a "first three years" methodology does not account for conditions that warranted the shift in the first place. We request the following revision: "Flows must be provided in [begin strikeout] the first [end strikeout]three dry or critical years and in [begin strikeout] the first [end strikeout] three above normal or below normal years during the eight-year term of the VA pathway."	
1073	8	• Reference: Bay-Delta Plan Update, Appendix B.1.10.2, page B.1-42. This will occur in the first three above normal or below normal years and the first three dry or critical years. During a declared drought emergency, American River HRL participants may submit a request for a delay to providing their dry or critical year flow commitment for Executive Director approval. The request must include an analysis demonstrating limitations to groundwater substitution. If approved, the delayed dry or critical year flow commitment must be provided in the first dry or critical year that occurs following the approved delay.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Response: Similar to the response provided to the text from page 69 of the Bay-Delta Plan Updates above, the Draft Implementation Agreement for the American River, which is Exhibit B1 of the Global Agreement to the Healthy Rivers and Landscapes Program in the Bay-Delta and related flow accounting materials provided to the State Board in March 2024, indicated that the American River Parties would provide water in three out of eight years for each of the two respective sources of flow (for a combined total of six years for all water sources). While the text in Appendix B.1 focuses on drought, drought conditions are not the only driving factor. Reservoir operations upstream may have similar constraints in above normal and below normal years. There are a number of factors that may limit water supply availability, including, but not limited to, hydrology, timing of rain runoff or snowmelt, carryover storage, license or permit conditions, and planned or forced maintenance outages. Even in the absence of a declared drought emergency, it may be difficult for upstream reservoir operators to meet their commitments in consecutive below normal years because operators must meet elevated minimum in-stream flow requirements below their reservoirs and at downstream locations in these year types, and those in-stream flow requirements are higher in below normal years than they are in dry or critically dry years. For example, under El Dorado Irrigation District's (EID) Project 184 Federal Energy Regulatory Commission (FERC) license, EID must release 40 cubic-feet-per-second (cfs) or natural flow below Caples Lake during May in below normal year types, compared with 27 cfs or natural flow during dry years. Similar differences exist for the months of June and July. In practice, EID has found that it must release even more than the minimum in order to maintain adequate flow at downstream locations. These elevated instream flow requirements in below normal years can result in similar if not less carryover storage supply at the end of a below normal water year compared with a dry year. Using the rationale and reasons referenced from our response to the text on page 69 of the Bay- Delta Plan Updates above, we can accept the use of the State Board specifying the "first three" years be the years HRL flows are released. However, instead of	

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		requiring approval from the Board Executive Director for any modifications to this "first three" approach, we suggest adherence to the mechanisms described in documents submitted to the State Board, including the processes outlined in Section 4.1 of the Draft Implementation Agreement. To comply with the terms of the Draft Implementation Agreement, we request the text be revised as follows: "Flows [begin strikeout]must be provided[end strikeout] [begin new text] should be targeted[end new text] in the first three dry or critical years and in the first three above normal or below normal years during the eight-year term of the VAs. [begin new text] Flows will be subject to the following required review and recommendation processes, which will assist in determining whether consecutive years of flow are warranted and feasible: • A mid-February coordination with the Bureau of Reclamation (Reclamation) and American River HRL participants to evaluate the year's potential hydrologic scenarios; • Coordination with the American River Group (ARG), the Sacramento Water Forum, the California Department of Fish and Wildlife, and the National Marine Fisheries Services on biological conditions. American River HRL participants and Reclamation may use this information to inform their operational recommendations; and • By February 22 of each HRL year, providing recommendations for the year's actions, from both the operational discussions and the ARG, to the systemwide HRL Governance Program for discussion." [end new text] The process described above is a more meaningful and holistic approach to addressing conditions that may or may not preclude the release of flows. The ARG, which is an established working group that has been coordinating on American River conditions for many years, includes local, state, and federal agencies, environmental non-governmental organizations, and technical experts. Keeping this existing practice with a robust dialogue across many sectors will continue to ensure transparency, reduce decision-making in vacuum by a singular entity, and	

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		maintain success through established methods. Finally, we recommend removing any reference to a "declared drought emergency." As noted above, drought emergencies are not the only time that consecutive flow years could be precluded.	
1073	9	• Reference: Appendix B.1.10 – American River Accounting Procedures. There are multiple locations within this section where there are references to American River HRL participants fulfilling commitments that local water agencies cannot fulfill. For example, there are references to American River HRL participants providing information on what flows are bypassed from storage to meet D-1641 requirements, verification of bypassing HRL flows from Nimbus or Folsom dams, or a demonstration of reduction in Folsom Reservoir storage volumes. There are numerous other comments that seem to assume American River HRL participants have the capability to control facilities or report on operations that are beyond their control. Response: American River HRL participants cannot commit to reoperating or tracking things done at facilities owned or operated by the United States through Reclamation. We can, however, commit to coordinating with Reclamation, who will presumably be an HRL participant. We recommend removing any references to American River HRL participants needing to fulfill any obligations that are associated with a facility they neither own nor control.	The American River VA pathway flow commitments are the collective responsibility of all American River water rights covered under the VA pathway, which includes Reclamation. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1073	10	• Reference: Appendix B1.8.1(iii)(c), page B.1-34. Reference groundwater pumping from identified wells should be determined by averaging the most recent six years of groundwater pumping in non-groundwater substitution years and non-curtailment years. If an outstanding issue makes the six-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 six-year average. Response: The Draft Strategic Plan for the Proposed Agreements	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		to Support Healthy Rivers and Landscapes was submitted to the Board in October 2024. Starting on page 28, Appendix E – Flow Accounting, provided the American River Draft Quantitative Flow Accounting Procedures, which were updated July 29, 2024. In this document, on page 32 under Deployment and Replenishment, Groundwater Contributions, American River Parties providing groundwater contributions to HR&LP state that "[B]aseline groundwater pumping will be determined for each participating agency by averaging the most recent three years of groundwater pumping in non-groundwater substitution (transfer) years and non-curtailment years." A representative three-year average was provided because this is the method employed by the State of California and the Bureau of Reclamation for water transfers. It is unclear why a six-year average was proposed for Appendix B1 or what this provides. The text should be revised to provide for a three-year average to remain consistent with standard practice and avoid incongruent analyses.	
1073	11	Reference: Appendix B.1.8.2 (iv), page B.1-35. HRL participants will coordinate with DWR and Reclamation, or other appropriate entities to identify appropriate streamflow depletion volumes. Streamflow depletion volumes will be subtracted from the groundwater substitution pumping volumes when determining water made available for HRL flow commitments. Streamflow depletion factors are subject to review and concurrence by the Deputy Director for Water Rights. Response: A blanket assumption that streamflow depletion is occurring is presumptive and may not be warranted. For example, in the American River region, groundwater is first stored (banked) before any pumping occurs. Therefore, depletion may not be appropriate as the "puts" happen before any "takes." Further, the quantities of water committed are the cap and if DWR or Reclamation insist on applying SDF despite evidence to the contrary showing a net surplus of groundwater due to proactive management of levels in the American subbasins, no additional water will be pumped to make up for this volume. We request the text be edited as follows: "HRL participants will	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		coordinate with DWR and Reclamation, or other appropriate entities to identify appropriate streamflow depletion volumes[begin new text], if applicable[end new text]. [begin strikeout] Streamflow depletion volumes will be subtracted from the groundwater substitution pumping volumes when determining water made available for HRL flow commitments. [end strikeout] Streamflow depletion factors are subject to review and concurrence by the Deputy Director for Water Rights. [begin new text] If streamflow depletion is included, this will be subtracted from the overall groundwater contribution as groundwater contributions will not exceed the committed amount." [end new text]	
1073	12	• Reference: Appendix B.1.8.3, page B.1-35. HRL participants are required to coordinate with their local Groundwater Sustainability Agencies to develop and implement a plan to monitor effects of groundwater substitution. Response: This text should instead state that the HRL participant should work with the applicable Groundwater Sustainability Agency (GSA). GSAs should already have a plan to monitor and ensure groundwater sustainability without implementing a new plan to monitor the effects of groundwater substitution.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1073	13	• Reference: Appendix B.1.9.3, pages B.1-37 to B.1-39. Definition of Reference Conditions… Response: It would be helpful to understand if these reference conditions are only referring to the operation of Folsom Reservoir or more broadly to include the American River HRLP participants. If this list includes the HRLP participants, then it should include the additional reference conditions as follows: For Reservoirs: [begin new text] o Consumptive demands within service territories; o Non-consumptive (hydropower) uses; o Terms and conditions of applicable water rights (i.e., points and seasons of diversion, places of use, etc.);	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		o Federal Energy Regulatory Commission (FERC) licenses, including, as applicable, water quality certifications, minimum instream flow requirements, recreational flow or lake level requirements, and other applicable terms and conditions; o California Department of Fish and Wildlife Streamflow Modification and Lake and Streambed Alteration Agreements; o Division of Safety of Dams requirements; o Applicable contractual or legal binding agreements. [end new text] For Groundwater: [begin new text] o Regulations imposed by agencies with authority to implement the Sustainable Groundwater Management Act; o State Water Resources Control Board – Department of Drinking Water permits; o Department of Toxic Substance & Control permits through California Environmental Protection Agency; o Total Coliform Rule. [end new text]	
1073	14	• Reference: Appendix B1.3, Flow Accounting, page B.-7: iii. Public Website Tracking System…implement a machine-readable, user-friendly tracking and reporting system for reference conditions and HRL additive flows that is posted in real-time… (c) Forecasts of daily river, Delta, and related reservoir operations. Response: If this means reporting in real-time for things like replenishment of flows from groundwater or upstream reservoirs released in the spring by Reclamation from Folsom, then the reporting on a real-time basis would not be meaningful in real-time. For example, groundwater replenishment would happen following spring releases and groundwater pumps have a capacity limit. Additionally, many well readings occur in	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		intervals of weeks or months. "User-friendly" should also be defined. It is unclear what this means. Daily river forecasts and reservoir operations are done by Reclamation and not the American River parties. The text should be revised as follows: "…that is posted in real-time [begin new text]or incrementally as appropriate[end new text] on a publicly available website."	
1073	15	• Reference: Bay-Delta Plan Update, Section 4.4.2.6, page 558. These flows are in addition to any approved VA flow contributions to Delta outflows described in section 4.4.9. Response: The first full paragraph of Section 4.4.2.6 concludes by saying, "These flows are in addition to any approved VA flow contributions to Delta outflows described in section 4.4.9." This text indicates that inflow from the Sacramento River and its tributaries, as required by section 4.4.2, and the San Joaquin River and its tributaries, as required by section 4.4.1, must be provided as Delta outflows. However, section 4.4.9, the Implementation of Healthy Rivers and Landscapes Commitments Under the Voluntary Agreement (VA) Pathway section, indicates that the HRL Pathway is offered "in lieu of implementing the implementation provisions described in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6." Thus, these statements appear to conflict. Please clarify.	The statements are not in conflict. The regulatory pathway would apply to water rights that are not included in the list of HRL water rights identified in Appendix B.1 of the revised proposed Plan amendments. Under the regulatory pathway, non-HRL water rights would be required to meet inflow, cold water habitat, and inflow-based Delta outflow requirements. The VA pathway is the alternative implementation pathway for HRL commitments that apply to the HRL water rights identified in Appendix B.1 of the revised proposed Plan amendments in lieu of the regulatory pathway requirements. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information.
1073	16	Habitat Accounting Clarification Needed for Successful Implementation Habitat is a key aspect of the success of the HRL Program and ensuring that American River HRL participants are able to meet their commitments is important. To that end, the Bay Delta Plan Update should be clarified, as set forth below, so that the text contains the level of detail needed for successful implementation. The document name, page number, and referenced text are provided below (Reference) with a description of the issue and recommended changes (Response). • Reference: Bay-Delta Plan Update, Section 4.4.9.6 – Non-Flow Habitat Restoration Accounting, pages 86 to 87. [F]or tributary	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. To clarify, in the meetings referenced by the commenter, State Water Board staff and American River HRL representatives came to agreement that the updated flow habitat curve developed by American River parties would include cover suitability in addition to hydraulic suitability, since draft habitat accounting procedures have consistently included cover requirements and

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		spawning, instream rearing, and floodplain rearing, habitat verification must occur to confirm that the acreage of habitat meeting design criteria across a range of flows conforms with or provides equivalent benefits to the flowhabitat relationships provided by HRL participants for assessment of the benefits of the VA pathway (i.e., those used in the 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 (Scientific Basis Report Supplement)). This verification must be provided to the Executive Director and DFW for approval. If approved, the committed acres of habitat for the approved habitat category will be considered fulfilled. This verification is not required for tributary floodplain restoration projects intended to be counted toward the valley floor floodplain 86 habitat commitment. Instead, the number of acres meeting applicable design criteria may be counted toward the valley floor floodplain habitat commitment. Response: The American River flow-to-habitat curves provided for in the Scientific Basis Report Supplement and through follow-up meetings and communications with State Board staff and its technical consultant FlowWest verified that these curves were only intended for hydraulic suitability in pre-project conditions (i.e., cover is not included). To support a fair comparison during habitat accounting, we are assuming only the hydraulic suitability of constructed project acreages (not including cover) would be evaluated against the data provided for the Scientific Basis Report Supplement. Further, it would be helpful to provide clarification as to why the simpler accounting method newly proposed for the recently delineated valley floor floodplain commitments (counting of acreage meeting applicable design criteria for subject habitat type) is not available for all proposed HRL habitat types. Finally, delegating verification to DFW for approval appears to be an impermissible delegation of authority.	the Scientific Basis Report Supplement assumes cover suitability. As described in the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) cover is a critical component of salmonid rearing habitat suitability and for that reason the flow to habitat curves used in the Scientific Basis Report Supplement are assumed to represent habitat with suitable cover, cover is included as a design criteria for habitat accounting, and cover would be included in the habitat verification step. However, habitat accounting includes significant flexibility that would allow the VA parties to propose alternative design criteria for consideration by the Executive Director and CDFW. The State Water Board has maintained oversight over implementation of the Bay-Delta Plan so it is unclear why the commenter is claiming an unlawful delegation of authority, particularly since the habitat accounting proposals developed by VA parties including the commenter also include joint decision-making by the Executive Director and CDFW. The simpler accounting method for the valley floor floodplain commitments is only applicable to floodplain habitat types because inundation design criteria are only defined for floodplain projects. If this method were to be extended to other habitat types, similar criteria for the time period over which habitat is required to be suitable would need to be developed for those habitat types. In addition, it includes less flexibility than the tributary habitat commitment accounting protocol.
1073	17	• Reference: Bay-Delta Plan Update, Section 4.4.9.6– Non-Flow Habitat Restoration	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		Accounting, page 83. i. The project must create new suitable habitat or restore existing habitat with limited suitability in a manner that provides significant additional benefits for the target species and life stages;… Response: We assume that this language is allowing credit for areas that in the existing condition may be highly suitable (i.e., suitable depth, velocity, cover) but only at a high or infrequently occurring flow, and we are modifying topography to provide suitable conditions much more frequently, at typical flows. The definition of "significant" as it pertains to crediting American River HRL participants for habitat contributions should be clarified. For example, if the habitat is enhanced, is there a threshold for additional benefits that must be met?	the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1073	18	• Reference: Bay-Delta Plan Update, Section 4.4.9.6– Non-Flow Habitat Restoration Accounting, page 83. final paragraph. Second, the number of acres of qualifying projects that meet all applicable design criteria must be determined. Tributary spawning, instream rearing, and tributary floodplain rearing habitat restoration projects are subject to the design criteria in Table 15, Table 16, and Table 17 as applicable. Tributary floodplain restoration projects intended to be counted toward the valley floor floodplain habitat commitment are also subject to the design criteria in Table 15, Table 16, and Table 17. Design criteria must be met during seasonal time periods that would support the species and life stage that the project is intended to benefit. Bypass floodplain and tidal wetland habitat projects do not have pre-defined criteria and instead VA parties are required to submit proposed design criteria for approval by the Executive Director and DFW. Response: Please add the additional sentence included below, to the end of the final paragraph on page 83. "VA parties may submit additional documentation demonstrating individual projects' contributions to the habitat restoration amounts in section 4.4.9.5." This edit is intended to provide VA parties with	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		an opportunity to provide the State Board with "additional documentation" demonstrating how individual restoration projects contribute to the acreage-based restoration targets detailed in the MOU, which are also included in the POI at sec. 4.4.9.5. The POI provides that: "In order to utilize the VA pathway for HRL water rights, HRL participants must restore the following amounts of habitat [the acreages listed in the MOU] by the end of year eight of the VA pathway." (POI at sec. 4.4.9.5., emphasis added.) The State Board's proposed habitat accounting protocol in Appendix B.2. does not produce a result measured in acres that allows for a comparison of whether the MOU commitments are being met. This edit is needed to enable HRL parties to submit additional information that will allow the State Board to assess and determine whether the acreage-based commitments are being met.	
1073	19	• Reference: Bay-Delta Plan Update, Section 4.4.9.6– Non-Flow Habitat Restoration Accounting, page 84, rows 2 and 3, Table 15. Design Criteria for HRL Non-Flow Habitat Restoration Projects: Tributary Spawning Habitat, Instream Rearing Habitat, and Tributary Floodplain Rearing Habitat. For 15 percent of the habitat area (75 percent of the cover area), the areal extent of cover features must be quantified as the actual extent of the feature itself with no buffer applied, although adjustments may be made to account for expected increases in the size of vegetation. Five percent of the habitat area (25 percent of the cover area), may constitute either cover features listed in Table 16, cobble 3-12 inches in diameter, or the area of a 2-foot buffer applied to the following cover features from Table 16: woody debris, boulders, undercut banks, root wads, logjam/submerged brush piles, and large wood. Response: Five percent of the habitat area that is cobble or the 2-foot buffer may not always be equal to 25 percent of the cover area. For example, if cover due from woody debris, boulders, undercut banks, root wads, logjams/submerged brush piles, and large wood accounts for 10 percent of the suitable habitat area,	The requirement is that up to 25% of the cover area may be accounted for by cobble or a buffer. There is no requirement for cobble or buffer to be exactly 25% of the cover area. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		can cobble 3-12 inches in diameter or the 2-foot buffer account for 5 percent of the suitable habitat area (which would be 33.3 percent of the cover area) or 25 percent of the total cover area (which would be 3.3 percent of the suitable habitat area)? Clarification should be provided in this table. The most straightforward clarification would be to remove the parenthetical reference to "(75 percent of the cover area)" and "(25 percent of the cover area)" such that only the criterion related to the percent of the habitat area be provided.	
1073	20	• Reference: Bay-Delta Plan Update, Section 4.4.9.6– Non-Flow Habitat Restoration Accounting, page 86. Any modifications to the design criteria in Table 15, Table 16, or Table 17 will be subject to approval by the Executive Director and DFW. The Executive Director and DFW may approve the proposed design criteria, approve the proposed design criteria with modifications, or reject the proposed design criteria. Response: Please clarify what specific criteria the Executive Director and DFW would utilize to evaluate potential requested modifications to design criteria, if review is requested by the American River HRL participants or other HRL participants. As stated above, it appears approval by DFW is an impermissible delegation of authority.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Also see the response to comment 1073-16.
1073	21	• Reference: Bay-Delta Plan Update, Section 4.4.9.7 – Supplemental Science and Monitoring, page 89: HRL hypotheses, metrics, targets, and monitoring are required to address the following topics at a minimum: i. Actual and, as feasible, forecasted future changes in the abundance and condition of adult and juvenile Chinook salmon and steelhead in each tributary and the Delta, relative to the conditions before implementation of the VA pathway; […] vii. Effects of the HRL actions on concentrations of current-use pesticides in water, zooplankton, benthic invertebrate prey	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		sources, and native fish species, across the geographic areas affected by the HRL habitat restoration actions that may be expected to affect pesticide concentrations, including the food production, and bypass floodplain habitat projects that are included in the HRL non-flow commitments; viii. Effects of the HRL actions on methylmercury concentrations in water and native fish species across the geographic areas affected by the HRL habitat restoration actions that may be expected to affect methylmercury concentrations, including the food production, bypass floodplain habitat, tidal wetland habitat, and tributary floodplain habitat projects that are included in the HRL non-flow commitments; and ix. Other relevant topics as identified by the Executive Director. Response: For list item i it should be noted that fishery abundance is heavily influenced by hatchery and fisheries management practices over which the American River HRL participants have no influence, control, or responsibility. List items vii and viii should include the language "as applicable" as a concluding statement since effects associated with pesticides and/or methylmercury resulting from habitat restoration actions are not known to exist or expected to be encountered on the American River. This may also be true for other HRL tributaries. List item ix should be stricken from this list as there is already a comprehensive list of science and monitoring activities provided for the HRL.	
1073	22	• Reference: Bay-Delta Plan Update, Section 4.4.9.7 – Supplemental Science and Monitoring, page 90. The HRL participants will be required to conduct site specific assessments periodically following completion of construction of each habitat restoration project, for a minimum of eight years following completion of construction or for the term of the VA pathway, whichever is longer. Response: Habitat suitability assessments will require	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Authorities for requiring monitoring include, but are not limited

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		characterizing physical conditions (i.e., topographic and bathymetric surveying, hydraulic modeling, cover and substrate mapping) and habitat suitability analysis. Additional specificity on the term "periodically" is needed. Further, the imposition of a monitoring requirement that could survive the life of the HRL by up to eight years (depending on the timing of the completion of habitat projects) may prove challenging. It would be helpful to understand the State Board's authority for such an imposition of a requirement, particularly if the associated permit for the habitat restoration project is expired.	to, Water Code sections 1051, 13165 and 13267. Please see Common Response 1.2, Water Quality Control Planning Process, for more information on the Board's information request authority.
1073	23	• Reference: Bay-Delta Plan Update, Section 4.4.10.7 – Habitat Restoration and Other Ecosystem Projects, page 101. Improve Hatchery Programs for Species of Concern - To assist in the management of natural fish stocks, salmon and steelhead hatcheries should continue to implement a marking program on the fish they release to distinguish between hatchery and natural stock. Response: We request revisions to this text as follows: "To assist in the management of natural fish stocks, salmon and steelhead hatcheries should continue to implement a 100% marking program on the fish they release to distinguish between hatchery and natural stock." Implementation of a 100% marking program will support evaluation of hypotheses contained in the Science Plan.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1073	24	• Reference: Bay-Delta Plan Update, Section 4.4.9.6– Non-Flow Habitat Restoration Accounting, page 85, row 4, Table 16. Suitable Categories of Cover Features That Can Be Applied Toward the Cover Criterion for Rearing Habitat. Trees, bushes, willow riparian, willow scrub, and other riparian vegetation, taller than 2 feet above the ground Response: It is unclear whether naturally recruited woody riparian vegetation within a project area will be allowed to be applied as cover. Many projects are designed to allow natural recruitment of woody vegetation, and those projects often outperform planted woody vegetation.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		We request revisions to the text as follows: Trees, bushes, willow riparian, willow scrub, and other riparian vegetation [begin new text] (both planted and those anticipated due to natural recruitment), [end new text] taller than 2 feet above the ground.	
1073	25	• Reference: Bay-Delta Plan Update, Appendix B-2 – Section B.2.1.6 Accounting for Multiple Habitat Types within a Single Project Footprint, page B.2-14. In the case of a project that includes multiple habitat types within the same footprint (e.g., tributary spawning and rearing habitat, or in-channel rearing habitat and tributary floodplain rearing habitat) they will be divided by a feature specific geospatial boundary associated with distinct topographical delineation, or by the project specific elevation associated with the flow that activates off-channel inundation, such that there is no spatial overlap between these habitats for the habitat accounting assessment. Response: The proposed approach is not a useful method to delineate spawning habitat from in-channel rearing habitat which can occur in the same location. However, this method can be useful for delineating tributary floodplain rearing from in-channel rearing habitat. We request revisions to this text as follows: "In the case of a project that includes multiple habitat types within the same footprint (e.g.,[begin strikeout] tributary spawning and rearing habitat, or [end strikeout] in-channel rearing habitat and tributary floodplain rearing habitat) they will be divided by a feature specific geospatial boundary associated with distinct topographical delineation, or by the project specific elevation associated with the flow that activates off-channel inundation, such that there is no spatial overlap between these habitats for the habitat accounting assessment."	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1073	26	• Reference: Bay-Delta Plan Update, Section 4.4.9.6– Non-Flow Habitat Restoration Accounting, page 87. The non-flow accounting procedures included in Appendix B.2 may be refined by the Executive Director as part of the annual and periodic review processes described below after an opportunity for public review and comment in order to determine compliance with the HRL non-flow commitments approved in this plan.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Response: Changes to the Habitat Accounting methods after the program has been adopted could result in moving the goal posts such that HRL participants would need to restore/enhance more habitat than was committed to. We request revisions to the text as follows: "The non-flow accounting procedures included in Appendix B.2 may be refined by the Executive Director as part of the annual and periodic review processes described below after an opportunity for public review and comment in order to determine compliance with the HRL non-flow commitments approved in this plan. [begin new text]Any changes to the non-flow accounting procedures will not be used to require HRL parties to restore more habitat if the revised accounting approach yields less-enhanced habitat than the amount calculated by the initial method." [end new text]	
1073	27	Hydrologic Modeling Concerns with Regulatory Pathway for the American River Chapter 13. Revised Proposed Plan Amendments of the Draft Staff Report and Appendix H1a2. Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments show several impacts that are concerning and greater than impacts associated with the HRL. We are not suggesting more analysis is needed, instead, we want to ensure the impacts are well understood by the State Board. • Reference: Chapter 13, Section 13.7.12 – Hydrology and Water Quality, pages 13-344 to 13-377. This section minimizes the scope of impacts to municipal water supplies associated with the implementation of the Regulatory Pathway. Response: There are water suppliers in the American River region, such as the City of Folsom, who show a significant loss to their water supplies, but this is not discussed. Similarly, the effects of increased groundwater pumping and decreased groundwater levels for municipal water users is not disclosed. Given the urban nature of the American River, fallowing is not an option and reductions in things like outdoor use do not replace lost supplies. This means the region would need to rely on groundwater pumping. Regional GSAs demonstrate sustainability under the HRL scenario, but the Regulatory	Chapter 13, Revised Proposed Plan Amendments, evaluates the changes included in the December 2025 revised draft Plan and builds upon the analyses included in the 2023 draft Staff Report. Because the water supply adjustments could be modified after initial implementation and flows could be higher in the range of unimpaired flow in the future on some or all tributaries, impacts could be as high as those identified in the 2023 draft Staff Report. Sections 7.20 and 13.7.20, Utilities and Service Systems, disclose that some service providers could experience reductions in water supply and that the effect on municipal water suppliers could be significant even if proposed response actions to augment or replace water supply are implemented. The Staff Report also discusses that, with changes in water supply, increased groundwater pumping and reductions in incidental groundwater recharge from applied irrigation could contribute to groundwater overdraft, particularly in areas where groundwater storage volumes are already in decline. Sections 7.12.2.4, Mitigation Measures, and 13.7.12.2, Groundwater, discuss measures to mitigate this impact, including SGMA implementation and oversight, water supply diversification, groundwater banking, water recycling, water transfers, and local cooperative solutions to provide equivalent protection of fish and wildlife habitat. Please refer to Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for

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		Pathway would more than double required groundwater pumping and would preclude sustainability for the American River groundwater basins. We have provided comments previously in January 2024 on prior chapters related to the State Board's analysis for CEQA. We would like to continue to further discuss these concerns with the State Board.	discussion on how the Sacramento/Delta Update to the Bay-Delta Plan aligns with the implementation of SGMA.
1073	28	• Reference: Chapter 13, Section 13.7.8 – Energy, pages 13-325 to 13-338. There is no consideration of added groundwater pumping associated with the Regulatory Pathway creating an increased use of power. Response: The discussion in this section focuses primarily on impacts to hydropower generation and, to a lesser extent, pumping associated with the export of water from the Delta. However, the impacts that the Regulatory Pathway will have on the loss of available surface water supplies will cause foreseeable impacts from groundwater pumping to Impacts EN-a (effects on energy resources), EN-b (effects on peak and base period demands for electricity and other forms of energy), EN-c (effects on local and regional energy supplies and requirements for additional capacity), EN-d (the degree to which the project complies with existing energy standards), and potentially EN-e (energy requirements and energy use efficiencies by amount and fuel type for each stage of the project). All of these effects of the Regulatory Pathway should be understood and discussed.	Please see Common Response 7.8, Energy and Hydropower, regarding the consideration of possible energy expenditure to replace surface water supplies, including increased groundwater pumping.
1073	29	• Reference: Appendix H1a2.8 – Unmet Instream Flow Requirements, pages H1a2-384 to H1a2- 385. Table H1a2-475. Number of Months (Percent of Months) with Unmet REG Instream Flow Requirements shows three months under the Baseline and VA when flow requirements would not be met, but zero under the 55 w/WSAs scenario. Response: It is unclear what combination of conditions would result in the Baseline and VA scenarios both missing the flow requirements for three months, but the 55 w/WSAs scenario not missing those requirements. The analysis conflates the different natures of the requirements and implies a higher reliability of meeting flow requirements under a 55 w/WSAs scenario over the Baseline or VA scenarios. In reality, the baseline and VA flow requirements are designed to be within the operational release	The three instances of unmet flow requirements on the American River in SacWAM's simulation period were in the fall of 1977, where in the baseline and VA scenarios, Folsom was at dead pool. This limited the reservoir's ability to release water. In the 55 w/WSA scenario, due to the carryover storage requirements, Folsom had sufficient storage to meet the flow requirements. It is also important to note that three months out of 1,188 months of the simulation period rounds out to 0.25 percent of months that the flow requirement is unmet in the baseline and VA scenarios at a single reservoir. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope, scale, and application of SacWAM.

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		capacity of Folsom and Nimbus dams, whereas the 55 w/WSA scenario could require spills from Folsom Dam or temporary diversion curtailments from downstream diverters to meet the required flow. It is confusing to suggest that the 55 w/WSAs scenario would have a higher frequency of meeting flow requirements. The monthly modeling used for the analysis of the 55 w/WSAs will mask many challenges with operating for a seven-day average flow requirement. Even with perfect foresight, there will be capacity and operational constraints that preclude releasing sufficient water to meet the requirement. This limitation does not exist under the Baseline and VA scenarios. It is requested that footnotes be added to describe conditions leading to not meeting instream flow requirements under Baseline and VA scenarios, and separate footnotes that also describe the potentially misleading nature of the underlying analyses when comparing relative abilities to meet instream flow requirements.	
1073	30	• Reference: Bay-Delta Plan Update, Section 4.4.2.2 – Narrative Inflow Objective for Sacramento/Delta Tributaries, page 47 provides an overview of how and where the Sacramento/Delta Tributary Inflow objectives would be implemented. The required percentage of unimpaired flow does not apply to an individual tributary during periods when flows from that tributary could cause or contribute to flooding or other related public safety concerns, as determined by the State Water Board or Executive Director through consultation with federal, state, and local agencies and other entities with expertise in flood management. The development of the implementation methodology will include a public process to determine these provisions and any needed provisions for limits on maximum release amounts due to existing reservoir release capacities and related existing infrastructure limitations. Response: It is challenging to understand how an unimpaired flow scenario would affect water rights holders without further	The provision quoted by the commenter references "existing reservoir release capacities and related existing infrastructure limitations" which would address the hypothetical situation raised by the commenter. Otherwise, it is unclear what specific additional information the commenter is requesting. The implementation methodology would be developed in a separate process, and the commenter would have the opportunity to participate in that process. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology.

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		clarity about what a preclusion of flood flows means. For example, is Reclamation expected to spill Folsom Dam to meet the American River unimpaired flow requirement if the requirement exceeds the Folsom Powerhouse release capacity? The monthly modeling used to conduct the analysis makes it difficult to understand the implications of this relief from the unimpaired flow requirements. It would be useful to have further information that better describes the concept for uncontrolled flow releases to meet American River flow requirements.	
1073	31	• Reference: Bay-Delta Plan Update, Section 4.4.2.2, Flow Shaping, page 50. For each tributary, the numeric inflows may be managed as a total volume of water on a water year basis and released on an adaptive schedule to meet the inflow requirements. .... Any shaping of the numeric inflow requirements must be for the benefit of native fish and wildlife, including for the purpose of protecting fish and wildlife on a year-round basis both within the tributaries and the Delta, including: … flows timed to respond to observed presence of native aquatic species, cold water releases to provide for temperature management, … flows to avoid stranding and dewatering, floodplain inundation flows to support juvenile salmonid rearing, appropriately timed contributions to Delta outflows, and other functions supported by inflows and Delta outflows to protect native fishes. The total volume of water provided within a water year must be no lower than the volume of water that would have resulted from meeting the applicable unimpaired flow percentage on a 7-day running average, including applicable WSAs. Flows that would have occurred absent flow shaping (releases for water diversions, flood control purposes, hydropower releases, or other uncontrolled flows in excess of the applicable unimpaired flow percentage) do not reduce overall required inflow levels. Response: The American River is a temperature-constrained river and water temperatures have been identified as the key limiting factor for anadromous fish health. The FMS was designed to balance habitat needs in the spring, water temperature needs in the fall, Reclamation's operations, and local water supply needs, thus meeting the desired goal for flow	The flows that would have occurred absent flow shaping would be calculated with the 7-day running average. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		shaping. Annual American River flows (measured at U.S. Geological Survey Gauge 11446500) since 1970 have never been less than 74% of the California Department of Water Resources computed unimpaired flow (California Data Exchange Center Gauge AMF). This seems to imply that the total volume of water within a water year substantially exceeds the ranges of unimpaired flow contemplated by the Bay-Delta Plan Update. However, it is unclear what [f]lows that would have occurred absent flow shaping (releases for water diversions, flood control purposes, hydropower releases, or other uncontrolled flows in excess of the applicable unimpaired flow percentage) do not reduce overall required inflow levels means in this context. Virtually all releases from Folsom and Nimbus dams are made for hydropower (i.e., through the powerhouse) or flood control (from the spillway) and it is unclear why these releases would be precluded from the flow shaping methodology or from a calculation to Delta inflow. These flows presumably provide value towards meeting the stated Delta flow requirements. It is requested that the Bay-Delta Plan Update's description of flow shaping be clarified to allow for releases for flood control or hydropower in the total volume of water for adaptive implementation and provide additional detail about how a tributary could participate in adaptive flow shaping.	
1073	32	American River HRL Early Habitat Implementation Success In response to Board Member Firestone's comments during the January 28, 2026 workshop on the Bay-Delta Plan Updates, we would like to provide some insight as to how the American River HRL is already achieving habitat success. Since early implementation actions associated with the HRL began in 2018, six restoration and enhancement projects have been completed on the Lower American River. This has created 36 acres of spawning habitat, which has exceeded the HRL-committed amount, and 24 acres of instream rearing habitat. From extensive studies done by the Sacramento Water Forum, we know that restored locations support 30 to 56 percent of all natural spawning on the river and that constructed rearing habitat provides food and shelter for salmon and steelhead across a range of flows. By providing high-quality habitat and	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		abundant food sources, the HRL habitat projects on the Lower American River ensure that fish have the needed resources to propagate, grow, and thrive. This supports the broader goals of the Bay-Delta Plan Updates by consistently producing larger, healthier smolts capable of successfully navigating the Delta.	
1073	33	Conclusion RWA urges the State Board to give full consideration to the concerns outlined in this letter, particularly regarding the potentially devastating and unviable impacts on American River groundwater storage and summer temperatures for salmonids that would result solely from the proposed Regulatory Pathway, without the Healthy River and Landscapes program that alleviates these effects. The American River region has a proven track record of implementing sustainable strategies that work for both people and fish, and we believe that the HRL program's collaborative effort offers a more robust and implementable solution for protecting our water resources and the environment. We look forward to working with the State Board and its staff to ensure the final Bay-Delta Plan Update successfully balances the needs of all beneficial uses of water for our communities and the ecosystem.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1074	1	NID recognizes the Draft Plan and Chapter 13 as another significant milestone in the process of updating the water quality control plan for the Bay-Delta watershed, including the recognition of voluntary agreements [Footnote 1: Also referred to as "Agreements to Support Healthy Rivers & Landscapes"] as an effective pathway to provide reasonable protection to beneficial uses of water. NID also appreciates additional analyses and recognition of NID's Healthy Rivers and Landscapes (HRL) proposal as the preferred mechanism to provide reasonable protection of beneficial uses of water within NID's sphere of influence. NID supports the State Water Board updating its plan and adopting HRL Proposals, including NID's proposal, as the program of implementation for the new water quality objectives contained in the Plan update.	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.
1074	2	NID does not support the unimpaired flow (UIF) regulatory pathway for several reasons, including that it would cause unmanageable and unmitigable water supply and other impacts to NID and its service area, UIF has not been satisfactorily	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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		analyzed under the California Environmental Quality Act (CEQA), would constitute a waste and unreasonable use of water in violation of Article X, section 2 of the California Constitution, fails to provide reasonable protection to other beneficial uses of water, violates the water right priority system, and is not capable of implementation at this time. The balance of this comment letter focuses exclusively on NID's concerns with the UIF regulatory pathway.	The proposed Plan amendments, specifically the inflow and outflow provisions, would be implemented consistent with water right priorities, subject to certain exceptions for health and safety. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities related to the water quality control planning process, water rights, and the consideration of beneficial uses.
1074	3	NID's Prior Comment Letters Regarding the UIF Standard On January 18, 2024, in response to the State Water Board's October 2024 Draft Staff Report, NID submitted extensive comments setting forth several concerns with the application of a UIF standard on NID, an agency located in the headwaters region of California. Those concerns, supported by independent modeling of UIF on NID facilities that incorporated climate change hydrology, demonstrated devastating water supply, hydroelectric generation, recreation, economic, and fish and wildlife impacts, as well as enhanced risk of catastrophic wildfire to NID's sphere of influence because of the UIF standard. NID incorporates by reference and reiterates its concerns with UIF as applied to NID, particularly given that Chapter 13 has not corrected these deficiencies as required by the California Environmental Quality Act (CEQA).	Please refer to Comment Letters 226 and 324 to review responses to the comments incorporated by reference. The State Water Board has adequately evaluated environmental impacts as required under CEQA in the draft Staff Report, including in Chapter 7 for the proposed Plan amendments, Section 9.7 for the proposed VAs, and Section 13.7 for the revised proposed Plan amendments, each titled Environmental Analysis. Please also refer to Common Response 4.2, Drought and Climate Change, for comments regarding climate change in Staff Report modeling and the consistency with regulatory requirements and other policies. In addition, many of Nevada Irrigation District's (NID) comments are based on an analysis by Western Hydrologics that draws conclusions based on modeling and analysis that overstates the effects of the proposed Plan amendments on NID's operations. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for a discussion on Yuba River model representation and operations and response to NID's comments based on analysis by Western Hydrologics.
1074	4	While Chapter 13 does not address the impacts specific to NID, it does attempt to incorporate "water supply adjustments" or "WSA" to minimize water supply impacts associated with a static 55% UIF standard. Consistent with NID's prior comments, NID utilized its state-of-the-art model developed for its Plan for Water process to assess the water supply and other impacts associated with the 55% UIF with WSA. Importantly, this model uses historical hydrology and three projected hydrology scenarios from Global Climate Models, scaled to assess climate	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		change impacts within NID's service area and watersheds. Incorporating future hydrology is particularly important to NID, given its headwaters location and historical reliance on snowmelt for numerous beneficial uses. Attached as Exhibit A is a January 23, 2026, Technical Memorandum summarizing the December Draft Plan 55% UIF with WSA and its effects on NID's facilities and operations. Given uncertainty as to the scale of future climate impact, NID's model incorporates four hydrologic scenarios: (1) existing condition/historical hydrology; (2) dry climate change; (3) median climate change; and (4) wet climate change. (Technical Memorandum, Table 1.) In sum, the December Draft Plan's attempt to incorporate WSA to mitigate water supply impacts does not address NID's concerns or otherwise meaningfully reduce impacts to NID. For example, Figure 10 in the Technical Memorandum depicts NID's annual unmet consumptive demands: In over 70% of years, under the 55% UIF with WSA scenario, NID must attempt to manage a significant water supply deficit. Fifty percent of the time, this water supply deficit is approximately 20,000 to 30,000 acre-feet. Twenty percent of the time, NID would have to manage a nearly 40,000-to-55,000-acre-foot deficit. As described in NID's prior written comments, NID, given its location in the headwaters region, does not have alternative water supplies, such as groundwater or as a purchaser from an upstream water seller.	
1074	5	These water supply impacts become even more significant when evaluated by impacted facility. For example, NID's Scotts Flat Reservoir is highly reliant on imported water supplies, given its small watershed. However, Scotts Flat is essential to NID operations because it supplies water to Nevada County and is the primary drinking water source for NID customers. Figure 17 of the Technical Memorandum reflects Scotts Flat storage on April 30, reflecting seasonal highpoint: Under the 55% UIF with WSA, Scotts Flat Reservoir is at deadpool storage in many of the drier year types. This means there is effectively no water supply for Nevada County before the	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations, as well as the scope, scale, and application of SacWAM.

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		high-demand Summer and Fall water seasons. In violation of CEQA, and applicable law, the State Water Board does not analyze these impacts to NID and its facilities. For example, Table H1a3-287 shows no change to Scotts Flat end-of-April storage because the SacWAM modeling was hardwired to not analyze the effects of UIF on NID facilities:	
1074	6	Given NID's headwater location and lack of alternative water supplies, carryover storage is a vitally important tool to prepare and manage for the potential that the following year is the start of a drought. NID typically targets a minimum carryover storage of 78,000 acre feet. Under the proposed plan amendments, NID in most years would be unable to maintain that level of minimum carryover storage. (See Technical Memorandum, Figures 12, 14, 16, 18, and 20.) This creates a greater risk to NID when future dry and critical years occur. As an example, Figure 18 of the Technical Memorandum depicts November 1 Scotts Flat Reservoir storage, averaged by water year type under existing and 55% UIF with WSA scenario: Having carryover storage at Scotts Flat Reservoir of less than 5,000 AF in most year types, except wet, is not a realistic or reasonable operational regime for NID. Under a 55% UIF with the WSA standard, NID would need to reduce demands to achieve greater carryover storage at Scotts Flat and other NID facilities. These actions would exacerbate other impacts, including on hydroelectric generation, regional economic activity, terrestrial species, recreation, and agricultural land fallowing.	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.
1074	7	Impacts to Water Supply – Multiyear Drought NID's Technical Memorandum assesses storage conditions under historical hydrology and climate change hydrology with the 55% UIF with the WSA scenario. The results demonstrate, again, significant and unmanageable impacts to NID. For example, Scotts Flat Reservoir using median climate change hydrology in a multiyear drought is as follows: In a multiyear drought scenario, Scotts Flat Reservoir is	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		effectively at deadpool during the spring and summer months for the entire three-year drought. Additionally, storage levels cannot recover under the UIF requirement. Even at highpoint, Scotts Flat Reservoir storage levels are effectively unusable below 5 TAF. Water delivery below this elevation will degrade water quality in downstream canals and streams by mobilizing sediment accumulated behind the dam. Additionally, hydroelectric power becomes infeasible due to the loss of head pressure and flow to spin the turbine. It should also be noted that during periods of severely reduced water supply, associated with a 55% UIF, even with a WSA, NID would be required to terminate all raw water deliveries. Raw water, or untreated water, is the primary source for over 5,000 customers or parcels. Some parcels lack alternative water sources and rely on water deliveries for both outdoor and in-home use (constructed conveyance). Furthermore, NID serves an extremely fire-prone area; drying up the canal system that delivers raw water would have catastrophic impacts on vegetation, significantly increasing the risk of wildfires.	
1074	8	Impacts on NID's Hydroelectric Generation The State Water Board's environmental analyses fail to accurately characterize impacts to NID's generation due to a significant reduction in imports to the Bear River from NID's Bowman-Spaulding Conduit. NID's Technical Memorandum summarizes the generation impacts associated with the 55% UIF with the WSA scenario:	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding NID modeling of the flow scenarios. Please also see Common Response 7.8, Energy and Hydropower, regarding Staff Report analysis of individual facilities and commenter estimates of local effects.
1074	9	Conclusion Thank you again for including NID's HRL Program as part of the December Draft Plan and Chapter 13. NID supports the HRL Program and encourages the State Water Board to adopt it as the update to its Water Quality Control Plan for the Bay-Delta.	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.
1074	10	However, given the foregoing and the issues raised in prior comment letters that remain unaddressed, NID cannot support the UIF regulatory pathway, including the attempt to incorporate water supply adjustments. The UIF under the WSA regime continues to impose unmanageable and unmitigable impacts on NID and its service area.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		To facilitate the development of a solution to the challenges and deficiencies identified above, NID staff would be happy to meet with State Board staff and provide input on potential resolutions.	
1074	11	As requested, Western Hydrologics has completed a series of updated studies simulating the inflow objectives for Sacramento / Delta tributaries contained in the December 2025 Water Quality Control Plan for the Sacramento San Joaquin Delta Watershed (Inflow Objectives). The purpose of this effort is to evaluate NID water supply impacts from the Inflow Objectives. The Inflow Objectives amendments include year-round flows of 35% to 55% of unimpaired inflows that would apply to salmon bearing tributaries of the Sacramento River and Delta. The unimpaired flow requirement would require releases of 35% of unimpaired inflow in years where the 12-month 4-river index is below 13.2 MAF, 45% of inflow in years where the 12-month 4-river index is between 13.2 and 20.2 MAF, and 55% of inflow in years above 20.2 MAF. In addition to the Instream Flow Requirements, the proposed changes to the Bay-Delta Plan include end of September carryover storage targets at rim reservoirs to maintain cold water pool targets. These storage targets do not include any NID Reservoirs but do include Camp Far West and New Bullards Bar. The plan also includes a cold-water habitat objective and implementation measures. Key ResSim Modeling Assumptions Key modeling assumptions focused almost entirely on setting the instream flow requirements. Minimum flow requirements in the modeling studies are the greater of the Inflow Objectives' unimpaired flow requirement or the existing FERC license requirements. A model rule was placed at each reservoir in the model, setting a minimum release to the river of the maximum of the current FERC License requirement or water-year type based percentage of the unimpaired flow at that location. Low level outlet capacities were increased as needed to allow the reservoirs to be able to pass unimpaired flow requirements. The drought contingency plan was also removed from the NID	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		system allowing the model to use all available storage to meet demands as much as feasible. Studies Performed The following studies were performed and analyzed: Table 1 - Scenarios Modeled Number: 1 Name: Existing Conditions Demand: Current Historical Hydrology: Historical MinFlows: Existing FERC min flows Number: 2 Name: Dry Scenario Inflow Objectives Demand: Median Projected Hydrology: Dry Climate Change MinFlows: Inflow Objectives flow requirement or Existing FERC min flows Number: 3 Name: Median Scenario Inflow Objectives Demand: Median Projected Hydrology: Median Climate Change MinFlows: Inflow Objectives flow requirement or Existing FERC min flows	

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		Number: 4 Name: Wet Scenario Inflow Objectives Demand: Median Projected Hydrology: Wet Climate Change MinFlows: Inflow Objectives flow requirement or Existing FERC min flows Diversions Annual Average Diversions at several NID facilities are shown in Tables 2 through 6 and shown graphically in Figures 1 through 5. Table 2 - NID Diversions into Milton-Bowman Conduit Figure 1 - NID Diversions into Milton-Bowman Conduit Table 3 - NID Diversions into Bowman-Spaulding Conduit Figure 2 - NID Diversions into Bowman-Spaulding Conduit Table 4 - NID Diversions into Bear River Canal Figure 3 - NID Diversions into Bear River Canal Table 5 - NID Diversions into Chalk Bluff Canal Figure 4 - NID Diversions into Chalk Bluff Canal Table 6 - NID Diversions out of Lake Combie Figure 5 - NID Diversions out of Lake Combie	
1074	12	River Flows Annual average flow in the River below NID Facilities are shown in Table 7. Average daily flow in a few selected reaches for the Median Climate Change Hydrology scenarios are shown in	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		Figures 6 through 9. Table 7 - Average Annual Flows, AF Figure 6 - Daily Average Flow in Middle Yuba below Milton Figure 7 - Daily Average Flow in Canyon Creek below Bowman Figure 8 - Daily Average Flow in Bear River below Rollins Figure 9 - Daily Average Flow in Bear River below Lake Combie Figures 6 and 7 show that the resulting flows below Milton and Bowman of the Inflow Objectives' flow requirement with median hydrology are generally higher than the existing scenario flows in the January through April period until the historical spill season causes existing scenario flows to be higher on average in May through June due to higher reservoir elevations. Summer flows are equal in both scenarios when the Inflow Objectives required flow falls below the existing FERC flow requirements in July through September. Figures 8 and 9 show that the resulting flows below Rollins and Combie are almost always lower than the existing scenario, with the general exception of November through December. This is due to a reduction in Middle and South Yuba exports to the Bear River. Under the proposed flow regime, more of the unimpaired flow stays in the native rivers. This results in significantly less generation in the Bear River watershed and less water available for delivery.	
1074	13	Deliveries An exceedance of unmet consumptive demands is shown in Figure 10. Unmet consumptive demands are defined here as a reduction in diversions into NID canals below what would be needed to make full deliveries to customers. Figure 10 - Annual Unmet Consumptive Demands Exceedance	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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1074	14	Storage Figures 11 through 20 illustrate storage differences by year type between the historic operations and the climate change projected hydrology coupled with the Inflow Objectives' flow bypass requirements. Figure 11 shows the average April 30th storage at Jackson Meadows Reservoir by year type for each scenario. The existing storage levels illustrate a slightly lower storage level than the climate change scenarios in wet years and higher storage level in non-wet years. For wet years this is due to the runoff patterns within the hydrology datasets. The climate change hydrology provides a greater percentage of the annual volume before April 30th than the historic hydrology used in the existing condition scenario. The result is that the climate change scenarios tend to have more storage on April 30th. However, in drier years the previous year's lower carryover level results in lower April 30th storage level. Figure 11 - Jackson Meadows Reservoir April 30 Storage, Averaged by Water Year Type Figure 12 shows the Jackson Meadows November 1 storage. Because the runoff pattern in the historic hydrology dataset provides water supply later into the water year, the reliance of storage into the late spring and early summer is less in the existing study than in the climate change scenarios. This generally results in a higher November 1 storage in the existing scenario. Additionally, the scenarios with the Inflow Objectives' flow bypass requirement draw Jackson Meadows Reservoir down to minimum pool more often to maintain water supply. Figure 12 - Jackson Meadows Reservoir November 1 Storage, Averaged by Water Year Type Figure 13 illustrates the Bowman Lake April 30th storage. As with Jackson Meadows, the largest factors in the storage shifts are the lower carryover levels in the previous year. Figure 13 - Bowman Lake April 30 Storage, Averaged by Water	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		Year Type Figure 14 shows the Bowman Lake November 1 storage. Like Jackson Meadows, the runoff pattern in the historic hydrology dataset provides water supply later into the water year. There is less reliance on storage into the late spring and early summer in the existing study than in the climate change scenarios. This generally results in a higher November 1 storage in the existing scenario. Figure 14 - Bowman Lake November 1 Storage, Averaged by Water Year Type Figure 15 illustrates the Upper Mountain Division storage as a total. The April 30th storage levels are lower with the Inflow Objectives' flow bypass requirement scenarios due to lower carryover storage levels in previous years. Figure 16 illustrates the November 1 Upper Mountain Division storage. Figure 15 - Upper Mountain Division Storage (French, Faucherie, Sawmill, and Jackson Lakes) April 30 Storage, Averaged by Water Year Type Figure 16 - Upper Mountain Division Storage (French, Faucherie, Sawmill, and Jackson Lakes) November 1 Storage, Averaged by Water Year Type Figure 17 illustrates Scott's Flat April 30th storage. The Inflow Objectives' flow requirement impacts Scott's Flat operations more than any other reservoir. The impacts are due to a large reduction in imports from the Yuba River. The Inflow Objectives results in a large portion of the unimpaired inflow staying in the native streams rather than being imported through the Bowman Spaulding Conduit and then delivered to Scott's Flat. This results in a significant decrease in storage and consumptive deliveries along Deer Creek. Figure 17 - Scotts Flat Reservoir April 30 Storage, Averaged by Water Year Type Figure 18 illustrates the same decrease in storage on November	

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		1. Figure 18 - Scotts Flat Reservoir November 1 Storage, Averaged by Water Year Type Figure 19 illustrates the NID portion of Rollins Reservoir Storage. Rollins April 30th storage is impacted by runoff patterns, and in the case of the Inflow Objectives scenarios, the reduction in imports to the Bear River and the Inflow Objectives' flow bypass requirement on the Bear River. In addition, Rollins reservoir operations are primarily for meeting consumptive deliveries and the model is attempting full deliveries in each year. The deliveries, bypass requirements, and the Mountain Division releases influence Rollins Reservoir storage. Figure 19 – Rollins Reservoir April 30 NID Only Storage, Averaged by Water Year Type Figure 20 Illustrates the November 1 NID storage at Rollins Reservoir. The model is making full deliveries each year with less imported water than in the existing condition, resulting in less storage on November 1 in the Inflow Objectives' flow bypass requirement condition. Figure 20 - Rollins Reservoir November 1 NID Only Storage, Averaged by Water Year Type	
1074	15	Generation Table 8 and Figure 21 illustrate the impacts to generation. Most of the impacts are due to a significant reduction in imports to the Bear River from the Bowman-Spaulding Conduit. If the compliance point for the Inflow Objectives is at the mouth of each river (Middle Yuba, Canyon Creek, South Yuba & Bear River), there will be a significant impact to both water supply and generation. Table 8 -Monthly Average Generation	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations. See also Common Response 7.8, Energy and Hydropower, regarding commenter simulations of local effects.
1074	16	Operations Examples – Three-Year Drought Sequence – Dry Climate Change Scenario	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		Below is a series of plots showing the modeled project operations during a three-year drought sequence with the dry climate change scenario, both with and without the Inflow Objectives' flow requirement. Figure 22 shows operations at Jackson Meadows Reservoir. Compared to the existing condition, the Inflow Objectives' flow requirements causes more releases earlier in the season, resulting in lower storage levels at the end of the fill season and less releases for diversion into the system in the summer. Figure 22 - Jackson Meadows Reservoir Operations, Dry Climate 2030-2032 Figure 23 shows operations at Bowman Lake. Bowman Lake storage is highly affected by the combination of increased releases in the winter and spring due to the Inflow Objectives' flow requirement and less imports from the Middle Yuba from Jackson Meadows Reservoir. This lower fill level results in less water available for diversions into the NID system. Figure 23 - Bowman Lake Operations, Dry Climate 2030-2032 Figure 24 shows operations at Rollins Reservoir. With the Inflow Objectives' flow requirement and reduced imports from the Yuba River, Rollins does not necessarily fill in Dry Years. This results in less ability to make diversions into the Bear River Canal and less ability to move water down to Lake Combie to maintain Lake Combie reservoir elevations. Figure 24 - Rollins Reservoir Operations, Dry Climate 2030-2032 Figure 25 shows operations at Lake Combie. With reduced imports into the Bear River and the Inflow Objectives' flow requirement while attempting to make full deliveries, Lake Combie cannot maintain a full pool and may not fill in dry years. Here Combie is prioritizing deliveries over maintaining a storage pool. Figure 25 - Lake Combie Operations, Dry Climate 2030-2032 Figure 26 shows operations at Scotts Flat Reservoir. Scotts Flat	

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		Reservoir is highly dependent on imports from the Yuba River. The reduction of these imports resulting from loss of supply at upstream reservoirs results in the Reservoir going empty in most dry years which then reduced the ability for the reservoir to make deliveries downstream. Figure 26 - Scotts Flat Reservoir Operations, Dry Climate 2030-2032	
1074	17	Operations Examples – Three-Year Drought Sequence – Median Climate Change Scenario Below is a series of plots showing the modeled project operations during a three-year drought sequence with the median climate change scenario, both with and without the unimpaired flow requirements. Figure 27 shows operations at Jackson Meadows Reservoir. Compared to the existing condition, the Inflow Objectives' flow requirement causes more releases earlier in the season, resulting in lower storage levels at the end of the fill season and less releases for diversion into the system in the summer. Figure 27 - Jackson Meadows Reservoir Operations, Median Climate 2038-2040 Figure 28 shows operations at Bowman Lake. Bowman Lake storage is highly affected by the combination of increased releases in the winter and spring due to Inflow Objectives' flow requirement and less imports from the Middle Yuba from Jackson Meadows Reservoir. This lower fill level results in less water available for diversions into the NID system. Figure 28 - Bowman Lake Operations, Median Climate 2038-2040 Figure 29 shows operations at Rollins Reservoir. With the Inflow Objectives' flow requirement and reduced imports from the Yuba River, Rollins does not necessarily stay full in Dry Years. This results in less ability to make diversions into the Bear River Canal and less ability to move water down to Lake Combie to maintain Lake Combie reservoir elevations.	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		Figure 29 - Rollins Reservoir Operations, Median Climate 2038-2040 Figure 30 shows operations at Lake Combie. With reduced imports into the Bear River and the Inflow Objectives' flow requirement Lake Combie cannot maintain a full pool and may not fill in dry years. Here Combie is prioritizing deliveries over maintaining a full storage pool. Figure 30 - Lake Combie Operations, Median Climate 2038-2040 Figure 31 shows operations at Scotts Flat Reservoir. Scotts Flat Reservoir is highly dependent on imports from the Yuba River. The reduction of these imports resulting from loss of supply at upstream reservoirs results in the Reservoir going empty in most dry years which then reduced the ability for the reservoir to make deliveries downstream. Figure 31 - Scotts Flat Reservoir Operations, Median Climate 2038-2040	
1074	18	Operations Examples – Three-Year Drought Sequence – Wet Climate Change Scenario Below is a series of plots showing the modeled project operations during a three-year drought sequence with the wet climate change scenario, both with and without the unimpaired flow requirements. Figure 32 shows operations at Jackson Meadows Reservoir. Compared to the existing condition, the Inflow Objectives' flow requirement causes more releases earlier in the season, resulting in lower storage levels at the end of the fill season and less releases for diversion into the system in the summer. Figure 32 - Jackson Meadows Reservoir Operations, Wet Climate 2033-2035 Figure 33 shows operations at Bowman Lake. Bowman Lake storage is highly affected by the combination of increased	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		releases in the winter and spring due to the Inflow Objectives' flow requirement and less imports from the Middle Yuba from Jackson Meadows Reservoir. This lower fill level results in less water available for diversions into the NID system. Figure 33 - Bowman Lake Operations, Wet Climate 2033-2035 Figure 34 shows operations at Rollins Reservoir. With the Inflow Objectives' flow requirement and reduced imports from the Yuba River, Rollins does not necessarily fill in Dry Years. This results in less ability to make diversions into the Bear River Canal and less ability to move water down to Lake Combie to maintain Lake Combie reservoir elevations. Figure 34 - Rollins Reservoir Operations, Wet Climate 2033-2035 Figure 35 shows operations at Lake Combie. With reduced imports into the Bear River and the Inflow Objectives' flow requirement Lake Combie cannot maintain a full pool and may not fill in dry years. In a severe dry sequence such as 2033-2035, the combination of hydrology and the Inflow Objectives' flow requirements prevent Combie from any refill while still maintaining deliveries. Figure 35 - Lake Combie Operations, Wet Climate 2033-2035 Figure 36 shows operations at Scotts Flat Reservoir. Scotts Flat Reservoir is highly dependent on imports from the Yuba River. The reduction of these imports resulting from loss of supply at upstream reservoirs results in the Reservoir going empty in most dry years which then reduced the ability for the reservoir to make deliveries downstream. Figure 36 - Scotts Flat Reservoir Operations, Wet Climate 2033-2035	
1074	19	Operations Examples – Three-Year Drought Sequence – Historic Climate Below is a series of plots showing the modeled project operations during a three-year drought sequence with historic	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the Yuba River and operations.

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		inflows, both with and without the unimpaired flow requirements. Figure 37 shows operations at Jackson Meadows Reservoir. Compared to the existing condition, the Inflow Objectives' flow requirement causes more releases earlier in the season, resulting in lower storage levels at the end of the fill season and less releases for diversion into the system in the summer. Figure 37 - Jackson Meadows Reservoir Operations, 1990-1992 Figure 38 shows operations at Bowman Lake. Bowman Lake storage is affected by the combination of increased releases in the winter and spring due to the Inflow Objectives' flow requirement and less imports from the Middle Yuba from Jackson Meadows Reservoir. This lower fill level results in less water available for diversions into the NID system in the summer. Figure 38 - Bowman Lake Operations, 1990-1992 Figure 39 shows operations at Rollins Reservoir. With the Inflow Objectives' flow requirement and reduced imports from the Yuba River, Rollins does not necessarily fill in Dry Years. This results in less ability to make diversions into the Bear River Canal and less ability to move water down to Lake Combie to maintain Lake Combie reservoir elevations. Figure 39 - Rollins Reservoir Operations, 1990-1992 Figure 40 shows operations at Lake Combie. With reduced imports into the Bear River and the Inflow Objectives' flow requirement Lake Combie cannot maintain a full pool and may not fill in dry years. Figure 40 - Lake Combie Operations, 1990-1992 Figure 41 shows operations at Scotts Flat Reservoir. Scotts Flat Reservoir is highly dependent on imports from the Yuba River. The reduction of these imports resulting from loss of supply at upstream reservoirs results in the Reservoir going empty in most dry years which then reduced the ability for the reservoir	

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		to make deliveries downstream. Figure 41 - Scotts Flat Reservoir Operations, 1990-1992	
1075	1	Thank you for the opportunity to review and comment on the State Water Resources Control Board's (Board) December 2025 revised draft of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (revised draft Plan). We appreciate the Board's efforts to update the Bay-Delta Plan and consideration of our suggestions for strengthening the final Plan. This letter provides the Delta Stewardship Council's (Council) comments on key elements of the revised draft Plan, with particular emphasis on ensuring that the final Plan: • Be rooted in best available science. • Include independent review of science actions and scientific monitoring surveys to inform adaptive management of the Plan. • Support open, transparent, and collaborative science and information sharing. • Work in concert with the Council's Delta Plan to advance the state's coequal goals. As stated in previous letters (in January 2024 and January 2025), the Council stands ready to contribute to the Board's implementation of the final Plan, particularly as it pertains to providing high-quality, independent, and relevant scientific review of actions and programs. These contributions are directly aligned with the Council's statutory mission and core functions.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1075	2	Implementation of the Delta Plan's regulations and recommendations is critical to furthering the coequal goals and for fostering collaborative and relevant science supportive of the Plan.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1075	3	The Best Available Science The Council's Delta Science Program (DSP) is charged with providing the best possible unbiased scientific information to	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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		inform water and environmental decision-making in the Delta. DSP advances this mission in support of the Council and its implementation of the Delta Plan, and in support of the broader community. The Council recognizes the Board's addition to Appendix A in the revised draft Plan (section A.3.4) that defines best available science and appreciates the consistency with the Delta Plan's definition. The Council expects this important addition to strengthen the monitoring and science carried out in support of the updated Plan.	
1075	4	Science, Monitoring, and Review There's a long legacy of science and monitoring in the Delta, much of which was prompted by previous SWRCB Water Rights Decisions, including D-1485 and D- 1641, and which is supported by long-standing sampling programs underwritten by other state and federal agencies. Continuing that legacy, especially given forecasted climate changes, water supply reliability, and species distribution, is more important than ever. The Council appreciates the Board's recognition of the importance of that legacy and the need to strengthen it through the proposed establishment of the Bay-Delta Monitoring and Evaluation Program (BDMEP). In particular, the Board's proposed approach to regularly review monitoring surveys identified in the BDMEP to facilitate adaptive management of the Plan is consistent with the Delta Science Program's practices when supporting credible and relevant science in the San Francisco Bay-Delta Estuary. To that end, we appreciate the science role outlined for DSP in the revised draft Plan: to provide scientific advice and support scientific review of monitoring surveys encompassed by BDMEP and other science actions in the Bay-Delta Plan (e.g., unimpaired flow compliance measures, procedures for adaptive methods, and the San Joaquin River Monitoring and Evaluation Program). This role aligns with DSP's statutory mission and functions, and DSP has a proven track record facilitating reviews of complex science and monitoring documents. Should the Plan be adopted the Council looks forward to supporting the Board in the ways identified in the Plan as resources allow.	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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1075	5	Science Governance The revised draft Plan stands to reshape the important but complex governance and organization of science and monitoring in the estuary, including through the BDEMP as well as the Healthy Rivers and Landscapes Science Committee. Further, the Plan update is happening amid a larger context of regional and federal changes to science and monitoring investments in the Delta. The Council urges the Board to incorporate into the final Plan standards for ensuring the transparency of these venues to promote open and public engagement, collaboration and learning. As a public-facing boundary organization, the Council regularly hosts and convenes public science venues and workshops and believes the collaborative venues in support of the Plan should be explicitly open and accessible.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1075	6	Closing Comments To review, we stand ready to support the Board with: • Incorporating best available science into the final Plan, including through robust independent peer review of Plan actions. • Promoting open and credible science venues in support of Plan implementation and adaptive management. • Working together to meet the state's goals for the Delta through our respective Plans and collaborative efforts. We also wish to express our support for the open and transparent process the Board has used to develop this Revised Draft Sacramento/Delta Bay-Delta Plan Update. The opportunity to provide input will contribute to a successful and forward-looking Bay-Delta Plan update. Council staff are available to discuss the comments and resources offered in this letter as the Board prepares the final Plan.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	1	Thank you for providing the opportunity to comment on the updated Draft Water Quality Control Plan and Chapter 13 of the	The Board is not a signatory to the VA MOU and is not bound by its terms. In addition, the VA MOU requires Board adoption of the

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		Draft Staff Report. Attached, please find Reclamation's comments. As a signatory to the 2022 MOU to advance the Healthy Rivers and Landscape program, Reclamation remains committed to habitat restoration as part of a larger approach to protect species and water reliability than one focused primarily on unimpaired flow. Our comments reflect our concern that the updated Draft WQCP and Draft Staff Report reflect a deviation from those commitments. As an example of our comments, we offer the following: • In Section 4.4.9.7 the Board makes a significant modification beyond concepts in the 2022 MOU Term Sheet and appears to contemplate developing its own new regulatory criteria for the approval of science and monitoring.	VA science and monitoring framework and thus the VA supplemental science and monitoring provisions in the revised proposed Plan amendments are consistent with the MOU.
1076	2	• As another example, the Board in Section 13.4 overlooks the Department of Water Resources' (DWR) and Bureau of Reclamation's significant combined investment into the public and widely used CALSIM III model, instead electing to advocate the continued use of SacWAM by only the Board. This strains public accessibility and transparency. Reclamation staff have for years informed the Board that our staff are unable to open the model nor make any meaningful comparisons to our extensive analyses with CALSIM. From the Board hearings, we were not surprised by the presented findings that SacWAM had different and unrealistic representation of operations. We would request the Board work with DWR and Reclamation to come to a common modeling platform, or help us understand the policy preventing such action by the Board, especially considering the limited availability of public funds. It is our intention to understand why this is the case and find resolution to ensure these commitments are kept. Reclamation remains committed to immediately working with the Parties to the MOU, our contractors, and other HRL interest to make the necessary changes to update the Draft WQCP and Draft Staff Report	SacWAM is currently one of the most advanced representations of the Sacramento River watershed and the Delta eastside tributaries. SacWAM has gone through multiple rounds of public review as well as review by an independent science review panel convened by the Delta Stewardship Council's Delta Science Program to ensure transparency, and confirm the adequacy of SacWAM to simulate flows, reservoir operations and diversions in order to inform the Sacramento/Delta update of the Bay-Delta Plan. SacWAM development incorporated updates to upper watershed hydrology and operations, and CVP and SWP operations based on updates related to development of the CalSim 3 model. See 2023 draft Staff Report Section 1.3.4.2, SacWAM Development, for more information on the development of SacWAM and Staff Report Section 13.4.2.1, Sacramento Water Allocation Model (SacWAM) General Updates, for more information on general updates to SacWAM that incorporate input from stakeholders during the public comment process. When the State Water Board began the update to the Bay-Delta Plan and its supporting Staff Report, CalSim 3 was not yet available and the State Water Board (working closely with DWR) determined that CalSim 2 was inadequate for use in the Staff Report, as detailed in a 2016 Draft Hydrological and Operations Modeling Considerations for the Phase II Update of the 2006 Bay-Delta Plan (available on the State Water Board's website). As

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			a result, the State Water Board began developing SacWAM. Much of the work that went into developing SacWAM was integrated into CalSim 3 when that tool was later developed. SacWAM is built on Water Evaluation and Adaptation Planning software, which is widely used and allows for allocation of water among different demands. SacWAM runs can show demands as unmet, demonstrating the impact of a given scenario and better allowing for adjusting parameters to reach different outcomes.
1076	3	The current hydrology underscores the importance of rectifying our comments. Seasonably low snowpack and drying conditions highlight the need for adaptive management strategies to the benefit of all beneficial uses of our limited water resources. Significant variations in climate conditions and heavy swings between dry and wet conditions, often in the same year, are currently the norm rather than the exception. The recent example of the Spring X2 triggers in the Delta signify how the system we all rely on could benefit from collaborative and adaptive management strategies committed to in the 2022 MOU.	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.
1076	4	[Comment Number:] 1, [Chapter/Appendix:] All, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] These comments are in addition to all of Reclamation's prior comments on previous Draft Staff Reports and Draft Plans of Implementation, which the State Water Resources Control Board (Board) has provided no written responses to-date.	Responses to comments on the 2023 draft Staff Report are included in Volume 3 of the final Staff Report. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1076	5	[Comment Number:] 2, [Chapter/Appendix:] All, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] Reclamation noted several modifications to items related to the 2018 Phase 1 Plan Update. Our understanding from the public documents and meetings to-date is that the Board is addressing Phase 1 separately. We would like information on whether the Board intended additional edits to the 2018 Phase 1 Plan Update in conjunction with Phase 2, and any other modifications it is considering when approving the Water Quality Control Plan (WQCP).	The revised proposed Plan amendments do not include any substantive changes to the lower San Joaquin River and Southern Delta salinity components of the Bay-Delta Plan. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship to the 2018 Lower San Joaquin River and Southern Delta salinity update to the Bay-Delta Plan.
1076	6	[Comment Number:] 3, [Chapter/Appendix:] All, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] Throughout the Program of Implementation (POI), it is unclear whether the Board believes it can use its quasi-legislative	Please see Common Response 1.2, Water Quality Control Planning Process, regarding State Water Board authorities related to water rights for a discussion of the State Water Board's use of quasi-legislative and quasi-adjudicative actions and

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		authority (adoption of a WQCP) to make quasi-judicial rulings, or orders which apply to specific parties. Reclamation requests that the Board make clear which tools for implementation it believes require further proceedings, and which it believes would be fully enforceable upon adoption of the amended WQCP. An example is the Board's statements in the POI, which appear to call out Reclamation for comprehensive monitoring actions. Another example is where the Board states "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." Reclamation also requests information from the Board on what additional actions would require conducting a water rights hearing process.	authorities. Plan text is sufficiently clear regarding the various authorities and implementation mechanisms the State Water Board can use. However, additional clarifying language has been added to revised proposed Plan amendments clarifying that the State Water Board's information request authorities include, but are not limited to Water Code sections 1051, 13165, and 13267. Further, while cold water habitat provisions could be implemented upon adoption pursuant to Fish and Game Code section 5937 and other authorities, the Board would not have authority to impose administrative civil liability until an order or regulation gave force and effect to the Plan. The initial Bay Delta Monitoring and Evaluation Program incorporates the specific requirements from the "Water Quality Compliance and Baseline Monitoring" table, which is identified as Table 5 in both State Water Board Water Right Decision 1641 and the 2018 Bay-Delta Plan.
1076	7	[Comment Number:] 4, [Chapter/Appendix:] All, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] Reclamation has neither the legal authority, nor the legal obligation to implement the State Board's Water Quality Control Plan. Instead, California's Porter-Cologne Water Quality Control Act places that responsibility with the State Board. (Cal. Water Code§ 13242.) In addition, the Water Quality Control Plan does not apply organically to the permits of the Central Valley Project (CVP). If the Board doesn't adopt the Healthy Rivers and Landscapes Program, as written by the Parties, and instead uses its authority over water rights to implement flow objectives in a water quality control plan, it is the Board's obligation to assign responsibility to water right holders, after a hearing, and to follow the law with respect to regulation of property interests, including federal property interests.	As described in section 4.1 of the revised proposed Plan amendments, the State Water Board will implement the water quality objectives using its quasi-legislative or adjudicative authorities involving both water rights and water quality. (See Wat. Code, § 175.) Objectives may be implemented through regulations, adjudicative proceedings, or both. Further, the State Water Board will continue to use, as necessary and appropriate, its Clean Water Act section 401 water quality certification authority, waste discharge requirements, and other water quality and water rights actions to implement water quality objectives.
1076	8	[Comment Number:] 5, [Chapter/Appendix:] All, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] There are multiple sections with statements to the effect of "This section will be completed once the specific changes to the Bay-Delta Plan are identified, including once a decision is made on the possible incorporation of VAs and other options described in this draft." The Board and interested parties have been actively working on updating the WQCP since 2012. Inclusion of multiple	Staff Report Chapter 13, Revised Proposed Plan Amendments, includes the description and analysis of the revised proposed Plan amendments, which are consistent with the December 2025 revised draft Bay-Delta Plan. The revised proposed Plan amendments are based on the various alternatives identified in the 2023 draft Staff Report with modifications in consideration of public comments. The environmental impacts of the revised proposed Plan amendments are analyzed in Section 13.7,

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		new alternatives, some of which conflict with each other, is confusing for any reasonable reader to understand the Board's approach. What alternatives and/or combination of alternatives should we be evaluating and where/when were the environmental effects of each alternative fully analyzed?	Environmental Analysis. Environmental analyses of the alternatives are provided in Staff Report Chapters 7, Environmental Analysis, and 9, Proposed Voluntary Agreements. Please see Common Response 7.24, Alternative Analysis, regarding the range of alternatives considered in the draft Staff Report.
1076	9	[Comment Number:] 6, [Chapter/Appendix:] All, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] The Draft POI includes many provisions for determinations to be made by the Executive Director on activities such as habitat, science, flow accounting, critical years, and cold water management. Please elaborate on the process and timelines the Executive Director intends to follow in making these approvals, what additional Board resources will be required to meet these new approval requirements, how they will ensure conformance with environmental rules and regulations, and the provision of California Code providing that authority to the Executive Director to require such approvals. This will be particularly helpful to understand if the approval by the Executive Director is in fact within their authority, especially when in conflict with state and federal Endangered Species Act requirements.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.
1076	10	[Comment Number:] 7, [Chapter/Appendix:] 1, [Section:] 1.2, [Text at Issue/Proposed Edits:] "Generally, if requirements contained in the Bay-Delta Plan differ from those contained in any water right order or water quality certification, the more stringent requirement would control.", [Comment:] This new language infers that the Board can change obligations in a water right order or water quality certification by adopting a more stringent WQCP objective, and skipping the implementation of that new, more stringent requirement. For flow dependent objectives this would appear to mean that the Board would not undertake a water right proceeding assigning responsibility for the stricter, or higher, flows but instead simply consider those water right orders and quality certifications to also become more stringent. This appears contrary to law and deprives water users of due process, among other things. This newly added language should be deleted in its entirety.	The commenter misinterprets the quoted section from the revised proposed Plan amendments. The excerpt identified simply clarifies that more stringent requirements control and does not specify that the Bay-Delta Plan would override other State Water Board orders or decisions. Nothing in the language highlighted by this commenter contemplates skipping any procedural steps required to implement narrative and numeric requirements contained in the update to the Bay-Delta Plan. The State Water Board may implement water quality objectives using its quasi legislative or adjudicative authorities involving water rights and water quality. The State Water Board may implement objectives by adopting regulations, conducting adjudicative proceedings, or both, that take into consideration the requirements of the public trust doctrine and the California Constitution, article X, section 2. The State Water Board will also continue, as necessary and appropriate, to use its Clean Water Act section 401 water quality certification authority, waste

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			discharge requirements, and other water quality and water rights actions to implement objectives in this plan.
1076	11	[Comment Number:] 8, [Chapter/Appendix:] 1, [Section:] 1.3, [Text at Issue/Proposed Edits:] "After adopting this plan, the State Water Board will submit this plan to the U.S. Environmental Protection Agency (USEPA) for approval under the federal Clean Water Act. (33 U.S.C. section 1251 et seq.) To the extent that this plan addresses matters outside the scope of the Clean Water Act, this plan will be provided to the USEPA for its consideration as a matter of State/federal comity.", [Comment:] Please delineate what sections of the WQCP the Board intends to provide and not provide to the USEPA for review and/or approval under with the Federal Clean Water Act.	Section 303 subdivision (c) of the Clean Water Act requires a state to submit water quality standards, as defined in the Act, to the U.S. Environmental Protection Agency for review and approval. (33 U.S.C. § 1313 subd. (c).) Under the Clean Water Act, a water quality standard consists of designated uses and water quality criteria for such waters based on such uses. (33 U.S.C § 1313 subd. (c)(2)(A).) Under California law, a water quality objective is defined as "the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area." (Wat. Code § 13050, subd. (h).) In accordance with Clean Water Act section 303 subdivision (c), after State Water Board adoption of amendments to the Bay-Delta Plan, the State Water Board will submit the water quality standards contained within the Plan to the U.S. Environmental Protection Agency for its review and approval. A 2012 USEPA guidance memo articulates four questions to help evaluate whether a provision constitutes a new or revised water quality standard and therefore subject to its review and approval. (USEPA 2012.) The questions include: 1) whether the provision is legally binding adopted or established under state or tribal law; 2) whether the provision addresses designated uses, narrative or numeric criteria to protect designated uses and/or antidegradation requirements for waters of the US; 3) whether the provision expresses or establishes a desired condition or instream level of protection; and 4) whether the provision establish a new water quality standard or revise an existing water quality standard. The State Water Board considers both the objectives and the program of implementation together in its overall determination of reasonable protection. Provisions in the Bay-Delta Plan are equally enforceable under State law whether included as water quality objectives or in the program of implementation. USEPA could consider portions of the program of implementation subject to its review. Both VA and regulatory pathways include binding provisions intended to address beneficial uses, water quality objectives (narrative or numeric)

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			to protect those uses, and express or establish the desired conditions or instream level of protection. USEPA will ultimately decide; however, as referenced in Section 1.3 of the revised proposed Plan amendments, the State Water Board will submit the Bay-Delta Plan in its entirety to the USEPA for its consideration as a matter of comity. Please see Common Response 1.2, Water Quality Control Planning Process, for more discussion on Porter-Cologne Water Quality Control Act and the Clean Water Act.
1076	12	[Comment Number:] 9, [Chapter/Appendix:] 1, [Section:] 1.4, [Text at Issue/Proposed Edits:] "[Note to reader: This section will be updated in the final draft.]", [Comment:] Reclamation cannot assess potential impacts or plan for the updates in the WQCP if the current draft is incomplete. We urge the Board to, at minimum, provide some draft text or additional context for what updates to expect in the final draft.	The referenced section of the revised proposed Plan amendments summarizes the most recent changes to the Bay-Delta Plan. It is unclear why this text is necessary for the commenter to "assess potential impacts or plan for the updates." As stated in the note quoted by the commenter, the summary is completed and provided in the final draft.
1076	13	[Comment Number:] 10, [Chapter/Appendix:] 3, [Section:] Table 2, [Text at Issue/Proposed Edits:] Southern Delta Objectives for San Joaquin River at Vernalis (Compliance Station C-10), [Comment:] Reclamation maintains the same concerns with the contradiction between Table 2 and the POI as it had during Phase I of the WQCP update. The stated revised water quality objective for station C-10 is a 30-day average EC of 1.0 dS/m year-round (Table 2); however, the POI states that the Board will hold Reclamation (and Reclamation alone) accountable for meeting a 30-day average EC of 0.7 dS/m at station C-10 from April through August, despite the revised objective clearly listed in Table 2.	No changes to the new objectives adopted in the 2018 LSJR/SD Plan Update are proposed in this Sacramento/Delta Update to the Bay-Delta Plan. See Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a description of the purpose and goals of the Sacramento/Delta update to the Bay-Delta Plan; and Section 7.1.5.1, Sacramento/Delta, Plan Area, and Study Area, for a description of the plan area and study area. Also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project, and Common Response 1.2, Water Quality Control Planning Process, regarding the relationship with the 2018 LSJR/SD Plan Update.
1076	14	[Comment Number:] 11, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] "(Sacramento River/Delta Tributary Flows) Maintain water quality conditions, including inflow conditions from the Sacramento River/Delta tributaries, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include the relative magnitude, duration, timing, quality and	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the numeric vs narrative water quality objectives. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the

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		spatial extent of flows [begin strikeout] as they would naturally occur [end strikeout].", [Comment:] It is unclear what the purpose of a narrative objective is if there are no numeric targets provided. The narrative objectives stated in Table 3 are vague and use inconsistent terminology from one another, potentially leading to inconsistent interpretations and/or implementations of those objectives. Here we suggest updated language for the new narrative objectives in Table 3 for consistency with one another. Additionally, the term "indicators" should be deleted from Table 3 since Table 3 is a list of objectives, not methods of evaluating achievement of those objectives, which is more appropriate for subsequent sections of the WQCP. [Comment Number:] 12, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] "(Sacramento/Delta Cold Water Habitat) Maintain streamflows and reservoir storage conditions on Sacramento River/Delta tributaries to protect cold water habitat [begin new text] sufficient to support and maintain the natural production of viable native fish populations [end new text]. [begin strikeout] for sensitive "native fish species, including Chinook salmon, steelhead, and other native cold water fish species. [end strikeout] [begin new text] Conditions and measures that reasonably contribute toward protection of c [end new text] old water habitat [begin strikeout] conditions to be protected [end strikeout] include maintaining sufficient quantities of habitat with suitable temperatures on streams to support passage, holding, spawning, incubation, and rearing while preventing stranding and dewatering due to flow fluctuations.", [Comment:] It is unclear what the purpose of a narrative objective is if there are no numeric targets provided. The narrative objectives stated in Table 3 are vague and use inconsistent terminology from one another, potentially leading to inconsistent interpretations and/or implementations of those objectives. Here we suggest updated language for the new narrative objectives in Table 3 for consistency with one another. Additionally, the term "indicators" should be deleted from Table 3 since Table 3 is a list of objectives, not methods of evaluating achievement of those objectives, which is more appropriate for subsequent sections of the WQCP. [Comment Number:] 13, [Chapter/Appendix:] 3, [Section:] Table	changes to the project since the December 2025 revised draft Plan.

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		3, [Text at Issue/Proposed Edits:] "(Delta Outflow) Maintain water quality conditions, including Delta outflows, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include [begin strikeout], but may not be limited to,[end strikeout] flows that support [begin new text] viable native [end new text] fish species, including the relative magnitude, duration, timing, quality and spatial extent of flows. [begin strikeout]Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity.[end strikeout]", [Comment:] It is unclear what the purpose of a narrative objective is if there are no numeric targets provided. The narrative objectives stated in Table 3 are vague and use inconsistent terminology from one another, potentially leading to inconsistent interpretations and/or implementations of those objectives. Here we suggest updated language for the new narrative objectives in Table 3 for consistency with one another. Additionally, the term "indicators" should be deleted from Table 3 since Table 3 is a list of objectives, not methods of evaluating achievement of those objectives, which is more appropriate for subsequent sections of the WQCP. [Comment Number:] 14, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] "(Interior Delta) Maintain water quality conditions, including flow conditions in the interior Delta, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include the relative magnitude, duration, timing, quality, and spatial extent of flows. [begin strikeout] Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity. [end strikeout]", [Comment:] It is unclear what the purpose of a narrative objective is if there are no numeric targets provided. The narrative objectives stated in Table 3 are vague and use inconsistent terminology from one another, potentially leading to inconsistent interpretations and/or implementations of those objectives. Here we suggest updated language for the	

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		new narrative objectives in Table 3 for consistency with one another. Additionally, the term "indicators" should be deleted from Table 3 since Table 3 is a list of objectives, not methods of evaluating achievement of those objectives, which is more appropriate for subsequent sections of the WQCP. [Comment Number:] 15, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] "(Fish Viability) Maintain water quality conditions, including flow conditions in and from tributaries and into and out of the Delta, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. "Conditions and measures that reasonably contribute toward maintaining viable native fish populations include[begin strikeout], but may not be limited to[end strikeout]: (1) flows that support native fish species, including the relative magnitude, duration, timing, temperature, and spatial extent of flows; and (2) conditions within water bodies that enhance spawning, rearing, growth, and migration in order to contribute to improved viability. [being strikeout] Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity. Flows provided to meet this objective shall be managed in a manner to avoid causing significant adverse impacts to fish and wildlife beneficial uses at other times of the year. [end strikeout], [Comment:] It is unclear what the purpose of a narrative objective is if there are no numeric targets provided. The narrative objectives stated in Table 3 are vague and use inconsistent terminology from one another, potentially leading to inconsistent interpretations and/or implementations of those objectives. Here we suggest updated language for the new narrative objectives in Table 3 for consistency with one another. Additionally, the term "indicators" should be deleted from Table 3 since Table 3 is a list of objectives, not methods of evaluating achievement of those objectives, which is more appropriate for subsequent sections of the WQCP.	
1076	15	[Comment Number:] 16, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] "(Interior Delta Flows / Delta Cross Channel Gates Closure) Oct-Nov Gates Closed when needed….", [Comment:] October is not included in Revised D-	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for

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		1641 as part of this Delta Cross Channel operation. October, along with other certain parameters, is included in Reclamation's Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project, the effects of which were analyzed by USFWS and NMFS for the purpose of issuing Biological Opinions. These operations can and will change by Reclamation based upon the best available science, making the proposed WQCP in conflict with Reclamation's Record of Decision and corresponding Biological Opinions under the Federal Endangered Species Act. Reclamation could not identify the analysis nor parameters the Board relied upon to modify Reclamation's water rights in the draft WQCP. Please clarify.	a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.
1076	16	[Comment Number:] 17, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] "(Interior Delta Flows / Delta Cross Channel Gates Closure) Dec-Jan Gates Closed, except when opening needed to meet water quality objectives", [Comment:] Revised D-1641 identifies the period of this Delta Cross Channel operation as "Nov-Jan". Is the bifurcation of November by the Board a decision that in November the Delta Cross Channel Gates could not be opened when needed to meet water quality objectives? Also, Revised D-1641 states that the closure from Nov-Jan is for a total of up to 45 days. The 45 days are not included in the WQCP. Is it the Board's intention to require the gates to be closed for the entire 62 days of Dec-Jan plus any gate closure days in November? This is a significant increase in closure days, which does not appear to be analyzed in the Board's modeling and the purpose is not explained.	For the Oct-Nov period, the December 2025 revised draft Bay-Delta Plan stated, “Gates closed when needed for the protection of salmonids based on fisheries monitoring information and other information regarding fisheries conditions.” The Delta Cross Channel gate operations were modeled as described in Appendix A1, Sacramento Water Allocation Model Methods and Results, to the Staff Report. As described in Staff Report Section 5.4.6.1, Delta Cross Channel Gates, the proposed updates to the Delta Cross Channel were intended to improve protection of salmonids, consistent with improved protections included in the 2019 National Marine Fisheries Service Biological Opinions beyond those included in the current Bay-Delta Plan. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	17	[Comment Number:] 18, [Chapter/Appendix:] 3, [Section:] Table 3, [Text at Issue/Proposed Edits:] Dry and Critically Dry Water Years, [Comment:] Table 3 inadequately addresses California-wide water shortages in dry and critically dry water year types. This has resulted in multiple requests from the Projects to seek Temporary Urgency Change Petitions. Since D-1641 was issued, nearly half of the water years have been dry or critical. Language in resulting Temporary Urgency Change Orders have suggested	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		the Projects should account and deliver for the Table 3 deficiencies of water that were never produced from seasonal runoff less obligations. Table 3 omits the consideration of initial storage conditions in these extreme events, where D-1641 and reduced Project deliveries would result in the emptying of reservoirs.	
1076	18	[Comment Number:] 19, [Chapter/Appendix:] 4, [Section:] Table 6, [Text at Issue/Proposed Edits:] "Stony Creek", [Comment:] Stony Creek is subject to the Angle Decree, established by the Federal Court and managed by a Federal Water Master. How is the Board addressing this apparent conflict with its proposed unimpaired flow requirement and the Angle Decree. We recommend working with the Orland Water Users Association and Federal Water Master to ensure consistency with the Angle Decree.	Generally, a decree declares the rights of parties relative to one another (see, e.g., p. 119 of the Angle Decree, which states "this right for each of said defendants entitles him to a first and prior call to the extent thereof upon the available natural flow of the stream as against others whose rights as listed in said schedule bear later dates of priority than his own…"). Such a decree is not an entitlement to a specific amount of water superseding all other requirements of state law. For example, all water rights are available "to the extent thereof", subject to limitations created under the public trust doctrine, the constitutional prohibition on waste and unreasonable use, etc.
1076	19	[Comment Number:] 20, [Chapter/Appendix:] 4, [Section:] 4.4.1.2, [Text at Issue/Proposed Edits:] Adaptive Methods for February through June Flows (b), [Comment:] The rules for adaptive management and "optimization" are vague in the WQCP and Reclamation has concerns that the process for coordinated operations of 3 major reservoirs has not been adequately considered. Operation criteria should not be based on vague rules not yet determined and cannot be adequately planned to meet vague, narrative objectives. Please also see comments regarding the narrative objectives listed in Table 3.	No substantive changes to the new objectives or their implementation adopted in the 2018 LSJR/SD Plan Update are proposed in this Sacramento/Delta update to the Bay-Delta Plan. See Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a description of the purpose and goals of the Sacramento/Delta update to the Bay-Delta Plan and Section 7.1.5.1, Sacramento/Delta, Plan Area, and Study Area, for a description of the plan area and study area. Also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project, and Common Response 1.2, Water Quality Control Planning Process, regarding the relationship with the 2018 LSJR/SD Plan Update.
1076	20	[Comment Number:] 21, [Chapter/Appendix:] 4, [Section:] 4.4.1.6, [Text at Issue/Proposed Edits:] Annual Adaptive Operations Plan, [Comment:] Procedures (not just this instance, but others as well) suggest a future methodology will be developed (by parties assigned responsibility) to make adaptive adjustments. Reclamation cannot evaluate or provide constructive comments on a process for which it has no details. We suggest at a minimum, the Board provide governance, sideboards, and procedures to be evaluated.	Please see the response to comment 1076-19.

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1076	21	[Comment Number:] 22, [Chapter/Appendix:] 4, [Section:] 4.4.2.2, [Text at Issue/Proposed Edits:] Narrative Inflow Objective for Sacramento/Delta Tributaries, [Comment:] The Sacramento/Delta tributaries Water Supply Adjustments target percentages are based on historical information; however, this information is irrelevant if the action is taken on the prior year information. This underscores the limitations of accepting statistical stationarity.	Please see Staff Report Section 13.4.2.3, Regulatory Pathway, for a description of how the water supply adjustment thresholds were calculated. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	22	[Comment Number:] 23, [Chapter/Appendix:] 4, [Section:] 4.4.2.3, [Text at Issue/Proposed Edits:] Sacramento/Delta Cold Water Habitat Objective, [Comment:] The tradeoffs between keeping water in storage and using water for downstream requirements are not explained. For example, downstream requirements such as Delta outflow or salinity, often come from a direct storage withdrawal, but this cold water habitat objective aims to keep water in storage. The Board should consider how this should be reconciled, especially during dry or critically dry water years.	Staff Report Section 13.3.2.2, Sacramento River/Delta Cold Water Habitat, introduces the cold water habitat objective as a complementary measure to the inflow objective to protect salmonids and other native species in the tributaries. The proposed objective is intended to ensure that there are no redirected impacts on cold water habitat from the new inflow and Delta outflow objectives and to address other existing and potential future temperature management concerns on the tributaries for salmonids and other native species. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for information on implementation of the cold water habitat objective. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	23	[Comment Number:] 24, [Chapter/Appendix:] 4, [Section:] Table 8, [Text at Issue/Proposed Edits:] Whiskey Town Reservoir, [Comment:] Whiskeytown is a regulating reservoir for Trinity diversions and not a storage reservoir. Please update the WQCP to reflect this and remove carryover targets in all water year types.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	24	[Comment Number:] 25, [Chapter/Appendix:] 4, [Section:] 4.4.2.4, [Text at Issue/Proposed Edits:] "Prior to submittal of any	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and

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		proposed local cooperative solution to the State Water Board, participants must consult with DFW, appropriate California Native American Tribes, USFWS, NMFS, and other appropriate entities and provide any comments to the State Water Board for consideration.", [Comment:] This statement should clarify that the State Board does not have authority to require consultation with, or among, any federal and state agencies or parties. Instead, those agencies will consult as required by law. To the extent that the State Board is trying to impose extra-legal consultation requirements, please explain the Board's authority to so require, including those with federal agencies.	incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.
1076	25	[Comment Number:] 26, [Chapter/Appendix:] 4, [Section:] 4.4.4.2, [Text at Issue/Proposed Edits:] "During the period from October 1 through November 30, the Delta Cross Channel Gates may be required to be closed for the protection of salmonids based on fisheries monitoring data and other information regarding fisheries conditions, including provisions of the NMFS BiOp for the CVP.", [Comment:] See comments 16 and 17 [Comments 15 and 16]	Please refer to the response to comment 1076-16.
1076	26	[Comment Number:] 27, [Chapter/Appendix:] 4, [Section:] 4.4.4.2, [Text at Issue/Proposed Edits:] During the period of May 21 through June 15, the timing and duration of the gate closures will be determined based on evaluation of monitoring and related information regarding needed measures for the protection of salmonids in consultation with NMFS, DFW, and State Water Board staff. Any disagreement on gate closures pursuant to the Bay-Delta Plan shall be resolved by the Executive Director of the State Water Board., [Comment:] The enviornmental compliance for operations of the DCC was analyzed by Reclamation and DWR consistent with NEPA and ESA, culminating with the 2025 ROD. It is unclear what environmental compliance analysis the Board is relying upon for their determination on our operations of this feature of the Central Valley Project. We are unaware of the authority of the Exectuive Director to make these operational decisions for this Federal water project.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.
1076	27	[Comment Number:] 28, [Chapter/Appendix:] 4, [Section:] 4.4.9, [Text at Issue/Proposed Edits:] "…will commence no later than January 1, 2027", [Comment:] This date will need to be updated if the Board does not approve in 2026. Depending on how late	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of

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		into 2026 the Board does approve, actions that require starting at the beginning of the WY27 (i.e. October 1, 2026) may be delayed or reduced in the first commencement year.	comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	28	[Comment Number:] 29, [Chapter/Appendix:] 4, [Section:] 4.4.9, [Text at Issue/Proposed Edits:] "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. HRL participants may also hold water rights that are not covered under the VA pathway.", [Comment:] This is inconsistent with the MOU Term Sheet, which identified Covered Parties. Consistent with the MOU Term Sheet and the direction provided by Board Counsel, in 2025 we cooperatively worked with the Board to develop the MOU "Enforcement Agreement," which included a Covered Parties list. In reviewing the Draft WQCP this appears to have been abandoned by the Board and replaced with a list of water rights they identified. We noted the lack of inclusion of several of Reclamation's water rights (especially on the Sacramento River). We are unclear on why the Board made this change and would welcome a discussion to remedy.	The Board is not a signatory to the VA MOU and is not bound by its terms. The Board also considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. The water right lists in Appendix B.1 of the revised proposed Plan amendments were provided by VA parties. The lists are undergoing review by State Water Board staff and may be further amended in a subsequent version of the appendix. The water rights submitted to the State Water Board and retained in Appendix B.1 do not constitute evidence of a right to divert water. Priority dates are not included for certain rights where claimed dates provided by VA parties do not match the type of right. Some water right claims were identified as pre-1914 appropriative and included priority dates after 1914. These dates are identified, but the State Water Board is not confirming the overlapping claim of right or priority date and may revise this list as appropriate related to those issues or others.
1076	29	[Comment Number:] 30, [Chapter/Appendix:] 4, [Section:] 4.4.9, [Text at Issue/Proposed Edits:] Accounting, [Comment:] The concept of "virtual" or "shadow" accounting is not a desired method to base a regulatory scheme on. The future that we envision with this approach becomes increasingly more burdensome, first the virtual accounting of D-1485, next D-1641, and then 2024 LTO to determine 3406 (b)(2), next to account for D-1641, then the LTO to determine the VAs. Any future modification is likely to build layers upon layers of virtual legacy conditions. Our experience in managing the virtual can point to areas of serious concern - it is extremely time consuming to execute - operations are already complicated in real-time and this just exacerbates the situation, the virtual simulation of the Delta in the "reference" cases can not be fully known because it never occurred and is ripe for challenge, this will never be fully	The accounting approach referenced by the commenter was proposed by the VA parties, including the commenter. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding flow accounting for the VA pathway.

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		defendable, and the notion of implementing accurate accounting protocols will just give a false sense of precision. A better method is to accept "menu" item actions with pre-assigned costs that will "over and under," balancing out over time.	
1076	30	[Comment Number:] 31, [Chapter/Appendix:] 4, [Section:] 4.4.9.3, [Text at Issue/Proposed Edits:] "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 approved base conditions defined in Appendix B.1 [begin new text] and needed to achieve the Delta Outflow, Salmon Protection, and Fish Viability objectives [end new text].", [Comment:] Updated text ensures action incorporates the best available real-time and science-based decisions.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	31	[Comment Number:] 32, [Chapter/Appendix:] 4, [Section:] 4.4.9.6, [Text at Issue/Proposed Edits:] Non-Flow Habitat Restoration Accounting, [Comment:] This is a significant modification of the MOU Term Sheet and appears to be the Board developing regulatory criteria of approval of habitat restoration. Please identify the authority of the Board to establish these regulatory requirements and approvals. [Comment Number:] 33, [Chapter/Appendix:] 4, [Section:] 4.4.9.7, [Text at Issue/Proposed Edits:] Supplemental Science and Monitoring, [Comment:] This is a significant modification of the MOU Term Sheet and appears to be the Board developing regulatory criteria of approval of science and monitoring. Please identify the authority of the Board to establish these regulatory requirements and approvals.	The State Water Board is not a party to the HRL participants' 2022 Memorandum of Understanding (2022 MOU), nor is it bound by the various associated documents drafted by HRL parties. However, the State Water Board considered the documents and other comments received and exercised its independent judgement as it developed the VA pathway described in the 2024 and 2025 drafts of the Bay-Delta Plan. The habitat accounting criteria contained in the revised proposed Plan amendments are consistent with the 2022 MOU, which provided for habitat design criteria that would be subject to State Water Board approval. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding a description of the VA pathway and its accounting provisions. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 Revised Draft Plan.

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1076	32	[Comment Number:] 34, [Chapter/Appendix:] 4, [Section:] 4.4.9.10, [Text at Issue/Proposed Edits:] Continuation, Modification, or Termination of the VA Pathway, [Comment:] The 8-years should be protected as a period of stability for all parties to best implement the WQCP/HRL Program. The Board could accomplish this by establishing a culture that promotes and defends: science based approaches; publicly accessible information; all aspects of the science enterprises are fully and unequivocally open to all interested parties and Tribes; modernizing science through competitive processes; and, all of these things for the purpose of allowing decision makers to have improved understandings to make any necessary updates in Year 8. Any term or condition less than 8-years would be contrary and a breach of the parties expectations and appropriations requests.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	33	[Comment Number:] 35, [Chapter/Appendix:] 4, [Section:] 4.4.10.1, [Text at Issue/Proposed Edits:] Trinity River, [Comment:] We are unclear on the modeling assumptions used by the Board for analysis of redirected impacts. Any impacts would be inconsistent with our modeling for the LTO using CALSIM III. Our analysis does not show redirected impacts from reoperation due to HRL. There is an instance in the modeling in drier years where the storage elevation goes down earlier in one month but recovers the following months. These temporal shifts may occur. The continued inclusion of Trinity and addition of new apparent oversight by the North Coast Regional Water Quality Control Board on the Trinity Division appear to suggest the Board believes the Bay-Delta WQCP is inclusive of the Trinity system. We are not aware of any analysis of the Trinity Division in the Board's Bay-Delta WQCP, please confirm.	The revised proposed Plan amendments contain a provision to ensure that implementation of the Bay-Delta Plan, including the VA pathway, does not result in redirected impacts on native fish and wildlife resources in the Trinity River watershed, including temperature and instream flow impacts. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for a discussion on the differences in baseline between the SacWAM and CALSIM III models. Additionally, model results are presented as a comparative tool rather than a prediction of precise conditions in real time. Please also see Common Response 1.5, Trinity River, on how the Bay-Delta Plan relates to the Trinity River.
1076	34	[Comment Number:] 36, [Chapter/Appendix:] 4, [Section:] 4.5.1 & Appendix A, [Text at Issue/Proposed Edits:] Bay-Delta Monitoring and Evaluation Program, [Comment:] In addition to our support with the State of California's Department of Water Resources over the concerns with this purported monitoring program, we are unclear on the authority and provisions of law allowing the WQCP to expand monitoring requirements, require specific surveys, selectively assign responsibility, and perpetuate failed science enterprises that are not fully open and inclusive of	The identified purpose and the water right conditions that are fulfilled, in part, by each monitoring survey are identified in Table A-2 of the revised proposed Plan amendments. It is unclear what additional written determination the commenter could be requesting. It is also unclear what “failed science enterprises” the commenter is referring to. While all monitoring programs should be reviewed and regularly revised as needed to ensure they are fulfilling their purpose, the Bay-Delta has a long history of successful monitoring that has provided the information

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		interested parties and Tribes. We are unclear on the requirement for specific field surveys and relation to understanding the drivers of the ecosystem, is there a specific vendor the Board is requiring us to contract with? Should these specific surveys actually be required by the Board for compliance with CVP and SWP water rights requirements, noting several were developed after the adoption D-1641, we would appreciate such determination in writing. This will assist us and you in understanding discretion and responsibility for environmental compliance.	necessary to inform management decisions, including this update to the Bay-Delta Plan as evidenced by the reliance on Bay-Delta monitoring in the Staff Report and Scientific Basis Reports. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's information request authority. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	35	[Comment Number:] 37, [Chapter/Appendix:] Appendix B.1, [Section:] [blank], [Text at Issue/Proposed Edits:] [blank], [Comment:] The State Board's draft is a significant change from Friant Water Authority's (FWA) proposal. FWA's 2024 proposal under the VAs was to reduce recapture by up to 50% of available Restoration Flows to the extent necessary to contribute 50,000 AF toward Delta outflow during Feb-May. The proposed flow commitment is thus the amount of Restoration Flows reaching Vernalis and passing the Delta Pumps. The draft document changes the intent of that commitment by creating a reference condition circa 2022 which is then adjusted by future increases in rediversion capacity and other factors. In most years, this would greatly increase FWA's commitment of foregone recapture as compared to their original commitment of Restoration Flows. [Comment Number:] 38, [Chapter/Appendix:] Appendix B.1, [Section:] [blank], [Text at Issue/Proposed Edits:] flows. Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity., [Comment:] The Friant reference condition is inconsistent with the Bay-Delta Water Quality Control Plan and currently not possible to track on a daily basis. The State Board's proposed VA reference condition for Friant is going to be exceedingly difficult to track for daily accounting, especially with	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		regard to Delta recapture. Furthermore, the San Joaquin River Restoration Program (SJRRP) believes it is inconsistent with the Bay-Delta Plan "regulatory pathway" which specifically excludes the Upper San Joaquin and Restoration Flows released pursuant to the Settlement. The State Board has stated its intent is to provide an "apples to apples" comparison among all the VA parties, but the administrative record going back as far as D-935 in 1959 supports an approach where the reference condition is the absence of Restoration Flows. Another reason to use a different reference condition for Friant as compared to other partes is that Friant does not share the same "regulatory pathway" as the other tributaries are subject to. [Comment Number:] 39, [Chapter/Appendix:] Appendix B.1, [Section:] [blank], [Text at Issue/Proposed Edits:] [blank], [Comment:] The proposal may conflict with the Settlement Act. The proposed method of identifying foregone recapture and preventing those flows from being pumped at Jones and Banks could create a condition where Restoration Flows combined with Friant's VA commitment would impact other CVP and SWP contractors. Reductions to contract supply as compared to pre-Settlement conditions are more likely to occur under certain Delta operational limitations; this is specifically prohibited under the Settlement Act (PL.111-11).	
1076	36	[Comment Number:] 40, [Chapter/Appendix:] Appendix B.1, [Section:] All, [Text at Issue/Proposed Edits:] General Comment, [Comment:] There are several notes to readers throughout the VA accounting protocol appendix that indicate specific accounting protocols for the VAs are either still under development, or still being evaluated for efficacy and accuracy. Is there a timeline for when these subsequent draft protocols and/or their evaluation will be available for public comment? The potential impacts and practicality of the accounting protocols cannot be considered without a complete draft.	No notes to reader remain in Appendix B.1.
1076	37	[Comment Number:] 41, [Chapter/Appendix:] Appendix B.1, [Section:] B.1.4.3, [Text at Issue/Proposed Edits:] Water Quality, [Comment:] Appendix B states that "…the Projects will operate to modified water quality requirements that reflect an increase in flow or a decrease in electrical conductivity (EC)." These modified water quality requirements are referred to as water	The quoted text is not entirely accurate. The actual quote from Appendix B.1 is "To verify that the HRL flow commitments are in addition to the reference operation when the Delta is in balanced conditions, the Projects will operate to modified water quality requirements that reflect a decrease in electrical conductivity (EC) associated with the increase in flow."

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		quality "offsets" and have been calculated by converting flows into EC values at certain compliance locations. If the water quality objectives the Projects currently operate to have been determined to be protective of beneficial uses, then why would the Projects be required to operate to an arbitrarily stricter objective? The relationship between flow and EC is not always predictable in the Delta and the nature of it can change depending on location and time of year. If the goal is increased Delta outflow, the accounting protocols should focus on provided flows, not imposing new, arbitrarily stricter water quality objectives within the Delta.	As described in detail in Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, since the time the Bay-Delta Plan was last updated and implemented, populations of native aquatic species in the Bay-Delta watershed have shown significant signs of decline due to a combination of factors, including hydrologic modifications, non-flow physical habitat degradation, water quality impairments, and climate change. Scientific information indicates that restoration of more natural flow functions is needed to address these declines in an integrated fashion with physical habitat improvements. As described in Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, the underlying fundamental purpose of the project is to establish water quality objectives, a program of implementation, and monitoring and special study measures for the reasonable protection of fish and wildlife beneficial uses in the Sacramento/Delta. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.
1076	38	[Comment Number:] 42, [Chapter/Appendix:] Appendix B.1, [Section:] Reporting Protocols, [Text at Issue/Proposed Edits:] [blank], [Comment:] It is unclear what the timelines for accounting and/or forecasting are. Accounting on a daily basis may not be feasible in many instances and the expectation to provide "seasonal" VA flow contributions based on forecasted flows comes with a high level of uncertainty and will be subject to many changes throughout the year. Additionally, monthly projections are expected to begin on February 1st, but it is unclear what forecast should be relied on that early in the year.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Appendix B.1 of the revised proposed Plan amendments includes more information on timelines for accounting and water year type definitions.
1076	39	[Comment Number:] 43, [Chapter/Appendix:] Appendix B.1, [Section:] B.1.4.1, [Text at Issue/Proposed Edits:] Definition of Delta Reference Conditions, [Comment:] Given that there are differences between the NMFS/USFWS Biological Opinion (LTO	The VA MOU excluded the ITP from the base to which the VA flows are additive. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see

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		BiOp) and the CDFW/DWR Incidental Take Permit (ITP), the ITP should also be included in the definition of Delta reference conditions. It is unclear why the ITP is omitted.	Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	40	[Comment Number:] 44, [Chapter/Appendix:] Appendix B.1, [Section:] B.1.4.2, [Text at Issue/Proposed Edits:] Table B.1-1; Losses from Control Point to Delta Outflow, [Comment:] The justification for assuming 0% losses for the majority of the listed rivers, especially those with longer travel times to Delta outflow, needs greater explanation within the text. Are losses accounted for during any point in the accounting process?	These values were proposed by VA parties and the Projects have agreed to protect the flows through to Delta outflow. The revised proposed Plan amendments include options for updating the flow accounting in the future.
1076	41	[Comment Number:] 45, [Chapter/Appendix:] Appendix B.1, [Section:] B.1.4.3, [Text at Issue/Proposed Edits:] From page B-16: "Water quality requirements that involve averaging periods such as the D-1641 Table 4 (X2) requirements that can be met by a 3-day average or 14-day average salinity level will be calculated using a weighted average…", [Comment:] It is unclear what is meant by using a weighted average, or how it is different than using the moving averages described in the D-1641 requirements. Please clarify.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	42	[Comment Number:] 46, [Chapter/Appendix:] Appendix B.1, [Section:] B.1.5.4 vii., [Text at Issue/Proposed Edits:] "Repeat steps (i)- (vi) until the minimum reference Delta outflow that satisfies the condition for each compliance location where observed EC + ECoffset is less than the offset D-1641 requirement. This is the minimum reference Delta outflow that meets water quality requirements.", [Comment:] Step iii in the process uses observed Delta outflow. Would every iteration of the G-Model yield a different EC value to try and meet? This would make it difficult when it comes to planning for releases to meet Delta objectives. Also the tide has a heavy influence on how well Delta outflow works in meeting a compliance station and there's no indication of how accurate the GModel represents this dynamic.	For more specifics regarding the methodology behind the G-model, please see Denton and Sullivan (1993), Antecedent Flow-Salinity Relations: Application to Delta Planning Models. The purpose of this process is to determine the minimum hypothetical outflow required to meet water quality requirements in order to determine the reference outflow and exports from which the volume of foregone exports shall be calculated. In the spring, exports will be reduced from some hypothetical higher rate. To determine how much exports were foregone, this methodology is a way to calculate what they could have been without VA actions so this process does not need to produce an EC to which it is easy to operate.
1076	43	[Comment Number:] 47, [Chapter/Appendix:] Appendix B.1, [Section:] B.1.2, [Text at Issue/Proposed Edits:] Definitions, [Comment:] The State Water Project (SWP) is missing from the list of definitions.	The State Water Project (SWP) has been added to the list in Appendix B.1 of the revised proposed Plan amendments.

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1076	44	[Comment Number:] 48, [Chapter/Appendix:] 13, [Section:] All, [Text at Issue/Proposed Edits:] Biological Opinions, [Comment:] Reclamation operates to the Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project, dated December 2025, which incorporates the 2025 Biological Opinions. All reference to operations should be to the ROD.	References to the Biological Opinions have been updated in Staff Report Chapter 13, Revised Proposed Plan Amendments, when warranted.
1076	44.1	[Comment Number:] 49, [Chapter/Appendix:] 13, [Section:] 13.3.2.1, [Text at Issue/Proposed Edits:] Narrative Objective, [Comment:] See edits/comment on WQCP, Table 3. [Comment Number:] 50, [Chapter/Appendix:] 13, [Section:] 13.3.2.2, [Text at Issue/Proposed Edits:] Narrative Objective, [Comment:] See edits/comment on WQCP, Table 3. [Comment Number:] 51, [Chapter/Appendix:] 13, [Section:] 13.3.2.3, [Text at Issue/Proposed Edits:] Narrative Objective, [Comment:] See edits/comment on WQCP, Table 3. [Comment Number:] 52, [Chapter/Appendix:] 13, [Section:] 13.3.2.4, [Text at Issue/Proposed Edits:] Narrative Objective, [Comment:] See edits/comment on WQCP, Table 3. [Comment Number:] 53, [Chapter/Appendix:] 13, [Section:] 13.3.2.6, [Text at Issue/Proposed Edits:] Narrative Objective, [Comment:] See edits/comment on WQCP, Table 3.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1076	45	[Comment Number:] 54, [Chapter/Appendix:] 13, [Section:] 13.3.3.5, [Text at Issue/Proposed Edits:] The State Water Board could consider possible exemptions to meeting the inflow-based Delta outflow requirements for water rights in which the diversion and use of water is limited to irrigation of lands below sea level in the Legal Delta. Initial monitoring of water use suggests that the net consumptive use of irrigated agriculture on subsided islands below sea level in the Delta may be equivalent to the amount of water that would be used by the vegetation that would grow absent irrigation and land management. However, because of the limited data set available for analysis, there is some uncertainty in this conclusion. Therefore, the State Water Board, in coordination with other appropriate agencies and entities, would conduct additional analyses regarding water use	This provision would only apply to the Delta and would be the focus of a subsequent analysis and process. It is unclear how the commenter believes that this provision is connected to the Sustainable Groundwater Management Act. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		on irrigated lands below sea level in the Delta and undertake a public process to evaluate the effectiveness of curtailments of agricultural diversions below sea level. Based on those analyses, the State Water Board could consider exemptions during implementation or periodic reviews to the inflow-based Delta outflow requirements for water rights for which diversions and use are limited to irrigation of lands below sea level in the Legal Delta., [Comment:] This appears to be establishing the precedent that irrigation has the same consumptive use as riparian habitat. Could the Board please provide the data and information it relied upon for this determination and how it would or would not apply this standard to similar situations on other tributaries, water transfers, and for SGMA.	
1076	46	[Comment Number:] 55, [Chapter/Appendix:] 13, [Section:] 13.3.4.3, [Text at Issue/Proposed Edits:] HRL Flow Commitments, [Comment:] The Board made several unilateral modifications to the HRL Parties' proposals and inserted requirements for Executive Director approval (see American River, where it was modified to be the first 3 critical years in a row, which would likely have significant water supply and temperature issues on the American River in the third consecutive year). We are unclear on all of the modifications unilaterally made by the Board and how they modeled these assumptions. Reclamation's ROD covers the HRL actions on the American River, Sacramento River, and Delta as developed by the HRL Parties, these unilateral undisclosed changes may result in the Board's modifications being outside of the range of effects analyzed by Reclamation.	The Board is not a signatory to the VA MOU and is not bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding a description of the VAs. The environmental impacts of the revised proposed Plan amendments, including the VA pathway, are analyzed in Staff Report Section 13.7, Environmental Analysis.
1076	46.1	[Comment Number:] 56, [Chapter/Appendix:] 13, [Section:] 13.3.8.1, [Text at Issue/Proposed Edits:] Trinity River, [Comment:] See above comment on Trinity in WQCP [Comment Number:] 57, [Chapter/Appendix:] 13, [Section:] 13.3.9.1, [Text at Issue/Proposed Edits:] BDMEP, [Comment:] See above comment on BDMEP in WQCP	Please see the response to comment 1076-33. Please see the response to comment 1076-34.
1076	47	[Comment Number:] 58, [Chapter/Appendix:] 13, [Section:] 13.4, [Text at Issue/Proposed Edits:] SacWAM, [Comment:] Given the Department of Water Resources' and Bureau of Reclamation's significant combined investment into the publicly and widely used CALSIM III model, the continued use of SacWAM by only the	In addition to the public workshops and trainings held to explain SacWAM and how it works, State Water Board staff has been available to answer questions and assist interested parties with accessing and using SacWAM. Many interested parties have requested such help, and State Water Board staff would be happy

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		Board strains public accessibility and transparency. Overall, we were unable to open the model nor make any meaningful comparisons to our extensive analyses with CALSIM. From the Board hearings, we were not surprised by the presented findings that SacWAM had different and unrealistic representation of operations. We would request the Board work with DWR and Reclamation to come to a common modeling platform or help us understand the policy preventing such action by the Board, especially considering the limited availability of public funds.	to provide such assistance to Reclamation upon request. Please also see the response to comment 1076-2.
1076	48	[Comment Number:] 59, [Chapter/Appendix:] 13, [Section:] 13.5.2.3, [Text at Issue/Proposed Edits:] Two studies demonstrated a positive statistical relationship between flows in the interior Delta and survival of late fall-run and winter-run out-migrating Chinook salmon. These studies supplemented the analysis of the lower Sacramento River, in reaches that are tidally influenced. Perry et al. (2018) demonstrated that through the lower Sacramento River, Sutter and Steamboat Slough, and Georgiana Slough, late fall-run probability of outmigration survival increased when flows exceeded approximately 35,315 cubic feet per second (cfs) at Freeport from December through March. Hance et al. (2021) analyzed survival for winter-run Chinook salmon in the same reaches and found that survival probability increased when daily flows exceeded 35,315 cfs at Freeport from February to mid-May. Therefore, a new flow threshold is incorporated for 35,300 cfs at Freeport during December through May for the outmigration survival of late-fall and winter-run Chinook salmon., [Comment:] Both reports cited use Freeport flow to demonstrate flow-survival relationship and this is summarized as "demonstrating a positive statistical relationship between flows in the interior Delta and survival" of late fall and winter run Chinook. Freeport is more indicative of North Delta regional flows. These studies did not find a statistical relationship between interior Delta flows (e.g. Georgian Slough, Mokelumne, Prisoner Pt) and survival, which is a region dominated by tidal flows (CSAMP SST 2018, 2024).	Please see Common Response 3.1, Fish Protection, on use of best available science and process for updates to literature in Chapters 3 and 4, and flow thresholds. Although both studies cited for the Sacramento River flow thresholds (Perry et al. 2018; Hance et al. 2022) used flows in the Sacramento River at Freeport to estimate the through-Delta survival of Chinook salmon juvenile, they also evaluated the survival rates along multiple routes through the Delta. These routes included, in addition to the mainstem Sacramento River, Sutter and Steamboat Sloughs, Georgiana Slough, Delta Cross Channel to Mokelumne River, and other Interior Delta channels (Perry et al. 2018, Figure 1; Hance et al. 2022, Figure 1). Further, they showed that survival probabilities in these routes increased approaching the maxima as the Sacramento River flow at Freeport increased toward about 35,000 cfs (Perry et al. 2018, Figure 6; Hance et al. 2022, Figure 5).
1076	49	[Comment Number:] 60, [Chapter/Appendix:] 13, [Section:] 13.5.2.1, [Text at Issue/Proposed Edits:] These analyses were applied within appropriate seasons for each salmon run and habitat type: fall-run rearing (February through June), fall-run spawning (October through December), spring-run rearing	The spring-run Chinook salmon spawning period was intended to capture the adult holding period in addition to the time when spawning occurs. The time periods were taken from Peterson and Duarte (2020). As described in the Scientific Basis Report Supplement (Staff Report Appendix G2), it is expected that

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		(November through May), and spring-run spawning (March through October)., [Comment:] Temperature analysis incorporates a number of nonappropriate months when spring-run spawning does not occur, and March through October is more representative of winter run and spring run spawning. Spring run spawning is observed in late August through September in Sacramento River tributaries. [Comment Number:] 61, [Chapter/Appendix:] 13, [Section:] 13.5.2.1, [Text at Issue/Proposed Edits:] These analyses were applied within appropriate seasons for each salmon run and habitat type: fall-run rearing (February through June), fall-run spawning (October through December), spring-run rearing (November through May), and spring-run spawning (March through October)., [Comment:] The tributary habitat analysis should evaluate environment effects of the alternatives of ESA-listed species including winter run Chinook spawning (May-August) and rearing (July-December) and steelhead spawning (January-April) and rearing (year-round) in tributaries. Results from Hib.2.6.1 regarding winter run Chinook temperature effects should figure into beneficial (or nonbeneficial) description in 13.5.2.1.	habitat created for fall-run Chinook salmon will also provide ancillary benefits to other runs and other native fish populations because of similar habitat suitability. Please see Common Response 3.1, Fish Protection, for more information on the peer reviewed Scientific Basis Report Supplement, which was the basis for the tributary habitat analyses in Section 13.5, Beneficial Environmental Effects.
1076	50	[Comment Number:] 62, [Chapter/Appendix:] 13, [Section:] 13.5.3.1, [Text at Issue/Proposed Edits:] Results for most tributaries show no difference in suitable spawning habitat area between the 55 w/WSAs scenario and baseline (Figure 13.5-1 and Table 13.5-2). The 55 w/WSAs scenario could result in reduced median spawning habitat on the Feather River, Sacramento River (spring-run), and Yuba River, but increased median spawning habitat in Stony Creek., [Comment:] The Voluntary Agreement spawning habitat and rearing analyses (13.5.4.1) is described in context of the 25% and 100% of doubling goal targets, but this is not described in the Regulatory Pathway section (13.5.3.1). Does the Regulatory Pathway meet these targets with the same frequency? Please incorporate these same targets in the Regulatory Pathway section or identify biological targets used in the Regulatory Pathway for spawning and rearing habitat.	The results for the VA pathway are compared to the doubling goal targets because the VSs were proposed to provide sufficient habitat to meet 25% of the doubling goal habitat area. The regulatory pathway does not propose to restore a specific amount of habitat relative to the doubling goal habitat area and thus it would not be appropriate to compare the benefits in that manner.
1076	51	[Comment Number:] 63, [Chapter/Appendix:] 13, [Section:] 13.5.4.1, [Text at Issue/Proposed Edits:] Under the VA pathway,	Clarification has been added that results are only presented for the 5 main VA tributaries. The benefit of the proposed 20,000

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		all tributaries except…, [Comment:] In section 13.5.3.1, there are 26 watersheds analyzed. This section only analyzed 5 watersheds. It is unclear what is meant by "all watersheds" when there are 21 watersheds that are not represented. Please consider revising or explaining what happens in all the watersheds somewhere in the spawning and rearing sections. Please assess or describe the potential for how the 20,000 acres of valley floodplains may be available as rearing for non-VA pathway watersheds such as: Antelope, Battle, Bear, Big Chico, Butte, Clear, Cottonwood, Cow, Deer, Elder, Mill, Paynes, Stony, Thomes creeks.	acres of valley floodplain habitat is briefly described in Section 13.5.3.1, Tributaries, and described in more detail in the Scientific Basis Report Supplement (Staff Report Appendix G2). Without specific information on the habitat restoration projects that would be completed to fulfill this requirement, it would be speculative to discuss benefits for non-VA pathway watersheds.
1076	52	[Comment Number:] 64, [Chapter/Appendix:] 13, [Section:] 13.3.4.2, [Text at Issue/Proposed Edits:] Because the HRL flows are intended to be additive to required flows under D-1641 and resulting flows under the 2024 BiOps, additional mechanisms are needed to protect the base upon which the HRL flows are intended to be additive from diversion, [Comment:] As new information has become available, Biological Opinions have change over time to improve achieving their objectives. These objectives are not the same as the HRL or D-1641. This information will be integrated additively and no protections should be established that will create conflicting regulations under the Plan.	The VA parties, including the commenter, proposed that their flow commitments would be additive to the flows resulting from the 2019/2024 BiOps. This concept was incorporated within the VA flow accounting and is the basis for the provision quoted by the commenter. Please also see Common Response 1.1, General Comments, for information on the federal and state endangered species acts; Common Response 1.2, Water Quality Control Planning Process, regarding State Water Board authorities related to the water quality control planning process; and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.
1076	53	[Comment Number:] 65, [Chapter/Appendix:] H1b, [Section:] Table H1b-60, [Text at Issue/Proposed Edits:] [blank], [Comment:] The weight of evidence seems to be placed on local information for wintering Chinook salmon temperature criteria related to spawning. Why are available non-California citations for rearing, emigration, and adults being used from other regions rather than local sources (e.g. Myrick and Cech 2004, Bratovich et al 2012, Myrick and Cech 2002, Marine and Cech 2004, Zillig et al 2020).	Assuming the commenter meant winter-run Chinook salmon, the guidance provided in USEPA (2003) is based on a comprehensive review and synthesis of a large body of peer-reviewed studies and published papers, including temperature studies completed on Central Valley salmonids, and subsequent review by both an independent scientific panel and the public. For more information about this document and its use of Central Valley salmonid empirical studies, please see Common Response 3.1, Fish Protection.
1076	54	[Comment Number:] 66, [Chapter/Appendix:] Hic, [Section:] Figure H.1c.2.1-1, [Text at Issue/Proposed Edits:] [blank], [Comment:] The Regulatory Pathway instream rearing analyses (H1c.2) is not presented in a similar context as the other evaluated scenario (Voluntary Agreement, e.g. 25% and 100% of doubling goal targets). Please add these targets for comparison. Does the Regulatory Pathway meet these targets with the same	Please see the response to comment 1076-50.

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		frequency, which is described in the Voluntary Agreement section? Please incorporate these same targets in the Regulatory Pathway figures or identify biological targets used in the Regulatory Pathway for instream rearing habitat.	
1077	1	Westlands is a California water district serving 614,000 acres of the world's most highly productive agricultural lands located in western Fresno and Kings counties. It is also one of the agencies proposing and supporting the Healthy Rivers and Landscapes Program ("HRL Program" or "Voluntary Agreements") as an alternative to a "flows only" approach to certain water quality objectives described in the Bay-Delta Plan. To that end, Westlands has worked with multiple state, federal, and local agencies ("HRL Parties") to develop the HRL Program and is a signatory to the March 29, 2022, Memorandum of Understanding in support of the Voluntary Agreements ("2022 MOU"). Westlands views the HRL Program as California's best chance of making meaningful contributions to protect the beneficial use of water for fish and wildlife while balancing all demands being made on water in the Delta and streams tributary thereto.	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.
1077	2	This past week we have witnessed the intense pressure being applied to the State Water Resources Control Board ("State Water Board") by some stakeholders imploring the Board to impose draconian measures on consumptive water users that will only foment further conflict through ongoing contentious regulatory processes and litigation. The HRL Program was envisioned by former Governor Brown and embraced by Governor Newsom as a good faith effort to move past the endless conflict among warring factions into a new period where water right holders could make substantial commitments to ensure long term benefit for the environment without destroying farms, lives, and the State's place in feeding our nation. With the benefit of these foundational commitments embodied in the HRL Program, the State Water Board and all stakeholders could pursue the greatest collective net benefit scenarios.	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.
1077	3	As initially agreed, the HRL Program represents a model of water right holders making voluntary contributions, in the forbearance of rights once granted by the State Water Board, to benefit fisheries and wildlife and enabling future public and private investment. This is not a concept unique to the Bay-Delta and is being applied globally under a wide array of programs for	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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		similar purposes. The cornerstone of these programs is the trade of lasting, material, and enforceable contributions from water right holders toward environmental benefit in exchange for certainty: an outcome that is consistent with the prior actions of the State Water Board and directives of Article X, section 2 of the California Constitution. (See In re Waters of Long Valley Creek Stream System (1979) 25 Cal.3d 339, 355 ["Uncertainty concerning the rights of water users has pernicious effects . . . inhibits long range planning and investment . . . and fosters recurrent, costly and piecemeal litigation ."].)	
1077	4	As a member agency of the San Luis & Delta-Mendota Water Authority, Westlands joins the comments submitted by the Water Authority and provides this letter to underscore the following specific concerns with the December 2025 Revised Draft. Specifically, Westlands appreciates that the State Water Board included the HRL Program in the December 2025 Revised Draft, but Westlands remains deeply concerned that the document makes material changes to the HRL Program that was described in the 2022 MOU. These changes move the goalposts, undercut the benefits of the HRL Program, and threaten to render the HRL Program ineffective to make meaningful positive change for fish and wildlife resources.	The Board is not a signatory to the VA proposal and is not bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a description of the voluntary agreements. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1077	5	Both the reasonable protection of beneficial uses of water through the Bay-Delta Plan and resulting impacts on the operations of the Central Valley Project ("CVP")—through which Westlands receives water to serve to its customers—are of critical importance for Westlands. Therefore, Westlands is concerned that the material changes to the HRL Program described in the December 2025 Revised Draft will inject unnecessary uncertainty, inhibit planning, and discourage investment—jeopardizing water supply reliability for the diverse customers served by Westlands, including agricultural producers, disadvantaged communities, and other municipal and industrial users like Naval Air Station Lemoore. These material changes to the HRL Program threaten the economic foundation of the communities served by Westlands, where water supply reliability is integral to agricultural activities generating over 38,000 jobs and approximately $4.7 billion in average annual economic activity.	The Board is not a signatory to the VA proposal and is not bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a description of the VAs. The environmental impacts and economic effects of the revised proposed Plan amendments are analyzed in Staff Report Section 13.7, Environmental Analysis, and Section 13.8, Economic Analysis and Other Considerations. Regarding disadvantaged communities, see Staff Report Chapter 10, Economically Disadvantaged Communities, Section 13.8.2.6, Agricultural Economic Effects on Economically Disadvantaged Communities, and Common Response 10.1, Economically Disadvantaged Communities.

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		Indeed, Westlands actively participated in developing the HRL Program and drafting the 2022 MOU for the principal reasons of ensuring a water supply reliability for a minimum of 8 years and to avoid the need to challenge unworkable unimpaired flows. The December 2025 Revised Draft, however, creates significant questions about whether Westlands will realize either of these benefits for the reasons outlined below.	
1077	6	I. The December 2025 Revised Draft Significantly Diminishes Water Supply Certainty. The 2022 MOU anticipates a minimum eight-year term for the HRL Program, during which the HRL Parties would undertake defined and quantified flow and non-flow measures. Given the anticipated substantial habitat and species benefits from these measures, the 2022 MOU contemplates that the State Water Board would agree that the HRL Program represented the total obligation of the HRL Parties to contribute to achieving the specified water quality objectives (i.e., the narrative salmon objective and narrative viability objective [Footnote 1: The December 2025 Revised Draft expands this to note that the HRL Program will "contribute to the implementation of the Sacramento/Delta tributary inflow, Sacramento/Delta cold water habitat, narrative Delta outflow, inflow-based Delta outflow, salmon protection, and fish viability objectives." (December 2025 Revised Draft, p. 64.)]), and that additional unimpaired flow requirements would not apply to water rights of HRL Parties. The December 2025 Revised Draft, however, significantly diminishes water supply certainty when compared to the terms of the 2022 MOU.	Please see the response to comment 1077-5.
1077	7	A. The December 2025 Revised Draft Should Not Include Early Termination or Modification of the HRL Program. The December 2025 Revised Draft would enable the State Water Board to terminate the HRL Program prior to expiration of the eight-year term, at which point HRL Parties would be subject to unimpaired flow requirements, whatever they may be. (December 2025 Revised Draft p. 96-97.) That flatly contradicts the 2022 MOU, which anticipated a minimum of eight years during which the HRL Program would operate under the terms of its original approval. The certainty of a prescribed water	The Board is not a signatory to the VA proposal and is not bound by its terms. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a description of the VAs. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.

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		supply over the eight-year term of the HRL Program is critical to Westlands' decision to make the significant water contributions and funding expenditures for the HRL Program described in the 2022 MOU. The December 2025 Revised Draft should be modified to conform to the terms of the 2022 MOU, with a fixed eight-year term and possible extension to fifteen years, assuming the conditions identified in the MOU are met. The State Water Board has previously acted to provide assurances in other contexts so that voluntary agreements conveying millions of acre-feet under conservation efforts were left undisturbed for an extended period of time.[Footnote 2: See, e.g., SWRCB WRO 2002-0013 (approving the transfer of conserved water from the Imperial Irrigation District to the San Diego Water Authority for a 75-year term with required habitat conservation strategy measures extending for a period of 15 years).] Such actions supported public benefits that are not dissimilar to what is being requested here.	
1077	8	B. Curtailments Should Not Apply to Water Rights Participating in the HRL Program, and Non-Emergency Curtailments Must be Implemented Through a Water Rights Hearing The December 2025 Revised Draft, at Section 4.4.3, includes water rights curtailment provisions that will be applicable to HRL Parties. (December 2025 Revised Draft, p. 60.) Application of curtailments to HRL Parties in non-emergency circumstances would undercut the certainty of the water supply benefits as outlined in the 2022 MOU. Additionally, Westlands strongly maintains that it is impermissible for the Stater Water Board to impose water right curtailments through the adoption of a regulation except in the exigent circumstances of a declared water shortage emergency. Rather, non-emergency curtailments must be undertaken through a water rights proceeding consistent with the Racanelli decision.[Footnote 3: United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 112-113 (noting the separate quasi-adjudicative and quasi-legislative functions of the State board.)] The December 2025 Revised Draft does not provide any legal support for the idea that non-emergency regulatory curtailments are permissible or that they provide adequate due process protections for the property right interests of water rights holders. The State Water	Please see Common Response 1.2, Water Quality Control Planning Process, for discussion of the State Water Board's authorities and the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, for discussion of the VA pathway, the regulatory pathway, and generally applicable provisions in the program of implementation. The revised proposed Plan amendments include a VA pathway for water rights included in the approved VA pathway and a regulatory pathway for water rights not included in that pathway; the regulatory pathway would also serve as a backstop under the circumstances described in the Plan. State Water Board actions to implement adopted Plan requirements would be conducted under applicable water quality or water right authorities and consistent with applicable law and procedures.

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		Board should amend the December 2025 Revised Draft to clarify that it will proceed in compliance with applicable law and will curtail water rights only after a water rights hearing.	
1077	9	The included exception to curtailments for wildlife refuges and reserves underscores the appropriateness of undertaking a water rights hearing for application of curtailments. The December 2025 Revised Draft states: In implementing the numeric inflow requirements, the Executive Director may approve exceptions to curtailments for Central Valley Project Improvement Act (CVPIA) wildlife refuge supplies. In addition, the Executive Director may consider a request for an exception to curtailment for other State or federal designated refuges or reserves. Any such request should include appropriate supporting information to substantiate the need for an exception to curtailment, including information requested by State Water Board staff. (December 2025 Revised Draft, p. 51.) There is no explanation or supporting justification for why the use of water for this one purpose warrants an exception while others beneficial uses, including domestic uses in disadvantaged communities, will be subject to a curtailment regulation of general application. The State Water Board's determinations must meet the exacting standard of Article X, section 2 of the California Constitution. Thus, while the ends may be beneficial, the means must be reasonable in consideration of other competing uses.[Footnote 4: All uses of water, including public trust uses must now conform to the standard of reasonable use." (National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 443.) Article X, section 2 is self-executing and "must be made effectual in all cases." (Gin S. Chow v. City of Santa Barbara (1933) 217 Cal. 673, 700.)] Additionally, there is no explanation why following California's water rights priority framework would not apply to refuges or reserves. Implementing curtailments through a water rights hearing would allow for appropriate consideration of all beneficial uses and water rights priorities.[Footnote 5: Furthermore, the ability to provide this curtailment exception is left to the discretion of the Executive Director without any specifics on the standards by which such an exception would be	In a comment on the 2023 draft Staff Report (see comment letter 291), Grassland Water District requested that the State Water Board recognize CVPIA refuge water requirements as already-existing mitigation, and include protections for wildlife refuge waters supplies in its implementation measures for the Sacramento/Delta update to the Bay-Delta Plan. The revised proposed Plan amendments include a provision that the Executive Director may approve an exception to curtailments for refuge water supplies. This is in part due to the requirements of the Central Valley Project Improvement Act (CVPIA), which requires the watering of CVPIA-identified wetland habitat area (via the Refuge Water Supply Program). This provision of the Plan would ensure that refuges continue to receive water in line with the requirements of the CVPIA in times of low flow. The inclusion of this provision in the Plan is also because refuge water supply is directly tied to fish and wildlife beneficial uses – the fish viability objective identifies that flows provided to meet the objective shall be managed in a manner to avoid causing significant adverse impacts to fish and wildlife beneficial uses at other times of the year. This provision of the Plan serves that objective. Please see Common Response 1.2, Water Quality Control Planning Process, for discussion of the State Water Board's authorities, consideration of beneficial uses, and the relationship between water quality control planning and implementation actions. See also Common Response 1.3, Revised Proposed Plan Amendments, for discussion of the revised proposed Plan amendments, including the VA pathway, regulatory pathway, and generally applicable implementation provisions. The Staff Report and Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report identify potential effects on wildlife refuges and terrestrial species that rely on Sacramento/Delta supplies and identify measures to reduce or minimize those effects, including voluntary implementation plan provisions addressing potential effects on refuges and terrestrial species and provisions related to refuge water supply deliveries.

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		approved. As noted in Section I.C, below, Westlands has overarching concerns with the discretion and oversight the December 2025 Revised Draft anticipates granting to the Executive Director.] The December 2025 Revised Draft also states that "The Board may consider implementation procedures other than, or in addition to curtailment regulations, that are designed to achieve comparable protections." (December 2025 Revised Draft, p. 61.) It is unclear what this means or what additional procedures may be adopted through this provision. Assuming for the purposes of argument that the State Water Board could curtail water rights through the adoption of a regulation, it should clearly define what alternative measures or procedures might apply and clarify that to the extent they conflict with the HRL Program as outlined in the 2022 MOU those additional procedures would not apply to the HRL Parties.	See Section 5.6.2.6, Refuge Water Supplies and Other Wildlife Protection Measures, and Section 13.7.6, Biological Resources. See also Common Response 10.1, Economically Disadvantaged Communities, regarding comments related to economically disadvantaged communities and water supplies. State Water Board actions to implement adopted Plan requirements would be conducted consistent with applicable law and procedures.
1077	10	C. The December 2025 Revised Draft Provides for Unnecessary Oversight of the HRL Program, Including Significant Discretion to the Executive Director. The December 2025 Revised Draft contemplates that the State Water Board's Executive Director would have significant authority to review, condition and affect HRL projects and annual operations, including related to flow and habitat monitoring. In other words, the December 2025 Revised Draft would allow the Executive Director to modify the performance and outcomes of the HRL proposals. This is contrary to the more limited role of the SWRCB contemplated in the 2022 MOUs and the Program of Implementation submitted by the HRL Parties—i.e., to ensure compliance with HRL commitments. This discretion given to the Executive Director in a variety of circumstance undercuts the certainty of total commitments the HRL Parties will be required to comply with. Some examples of this discretion include: • Allowances for the Executive Director to review, condition, and approve HRL projects. (See, e.g., December 2025 Revised Draft, pp. 82-87 [discussion of multiple approval points by Executive	The Board is not a signatory to the VA proposal and is not bound by its terms. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the Board's authority to require non-flow measures and Common Response 1.3, Revised Proposed Plan Amendments, for a description of the VAs. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.

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		Director for design criteria and accounting for habitat restoration projects]; pp. 88-89 [discussing Executive Director review of different elements of the Science Plan].) In addition to providing significant discretion, this process for obtaining approval appears cumbersome and may lead to significant deviations from proposals by HRL Parties in a way that may alter costs, timeline, and performance of habitat enhancement projects. • Significant involvement of the State Water Board and Executive Director in daily operations and monitoring decisions instead limiting its role to compliance monitoring and deferring to operational expertise of the agencies that have historically operated the Delta. For example, Section 4.5.1.1 requires Executive Director approval of changes to monitoring programs and allows the Executive Director to impose requirements even where monitoring is already required for purposes of the ESA or CESA. (December 2025 Revised Draft, p.111.) Additionally, Appendix B.1 and B.2 discussing HRL Accounting Protocols also includes multiple circumstances where Executive Director approval is required. (See, e.g., December 2025 Revised Draft p. 87 ["The non-flow accounting procedures included in Appendix B.2 may be refined by the Executive Director as part of the annual and periodic review processes described below after an opportunity for public review and comment in order to determine compliance with the HRL non-flow commitments approved in this plan."].) • As discussed above, discretion to modify curtailment requirements for wildlife refugees and wildlife reserves. (See supra, section I.B.) • Involvement in the HRL Program governance framework, including discretion for the Executive Director to require certain procedures for tribal outreach. (December 2025 Revised Draft, p. 93.) This oversight, which would give the State Water Board and/or the Executive Director discretionary authority to modify how requirements of the Bay-Delta Plan apply to the HRL Program during its eight-year term, will result in uncertainty that	

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		undermines the ability of HRL Parties to rely on the State Water Board's approval of the HRL Program as a means of implementing the Bay-Delta Plan. Furthermore, many of these Executive Director decision-points are made without opportunity for public comment or oversight from the State Water Board. This is particularly concerning where there is no discussion of a dispute resolution procedure as to these decisions.[Footnote 6: The 2022 MOU anticipates such a procedure would be addressed in the Government Code 11415.60 Enforcement Agreements, but the State Water Board has not agreed to participate in any such programs. (See discussion supra, at Section I.D.)] Additionally, Westlands questions the appropriateness of providing the State Water Board oversight in areas where it lacks expertise (for example, in CVP and State Water Project operations) or lacks discretion to enforce these actions outside of the HRL Program (e.g., in the context of habitat restoration projects). The HRL Parties should be responsible for certain outcomes as agreed to in the 2022 MOU, and the Board's oversight should be limited to evaluating whether those outcomes have been met.	
1077	11	D. The State Water Board Has Not Committed to Signing Enforcement Agreements The 2022 MOU anticipates that use of "Enforcement Agreements" under Government Code Section 11415.60 as a mechanism for the State Water Board and the HRL Parties to agree to conditions of the HRL Program, liability for enforcement, assurances regarding the total obligations of the HRL Parties, proper accounting and protection of HRL flows, and a dispute resolution process. (2022 MOU Term Sheet, Sections 7.2 & 7.3.) However, the December 2025 Revised Draft mentions that the State Water Board "may" enter into these agreements, but also states the Board issue "other decisions, orders, or regulations to enforce HRL commitments." (December 2025 Revised Draft, p. 64.) Lack of an agreement signed by the State Water Board incorporating these provisions as provided in the 2022 MOU leads to uncertainty on how the HRL Program will be enforced and leaves the HRL Parties without a mechanism to	The State Water Board is not a signatory to the VA proposal and is not bound by its terms. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		settle disputes with the State Water Board as to obligations for protection of HRL flows and commitments on total HRL Program obligations.	
1077	12	E. Baseline for Additive Flows The 2022 MOU is unambiguous: increased flow and outflow resulting from actions taken by HRL Parties were intended to be additive to incidental flow and outflow resulting from implementation of the 2019 Biological Opinions. Moreover, not all HRL Parties agree that merely because the 2019 Biological Opinions were replaced in 2024, increased flow and outflow should be additive to incidental flow and outflow resulting from the 2024 Biological Opinions. At a minimum, more clarity must be provided in Appendix B.1 of the Revised Amendments to demonstrate that if the 2024 Biological Opinions are used as a refence condition for flow contributions, use of these more recent biological opinions for this purpose will not result in additional water supply reductions for HRL Parties.	The VA flow base was changed from the 2019 to 2024 BiOps at the request of the VA parties, as documented in the VA parties' proposed draft flow accounting from October 2024 (VA Parties 2024). For more information on the difference between the 2019 and 2024 BiOps condition, please see Staff Report Appendix H1a3 Section H1a.3.2, Sensitivity to LTO of the CVP and SWP.
1077	13	F. Incorporation of New Water Rights There remains some uncertainty with respect to the treatment of new water rights and their possible incorporation into the HRL Program. The December 2025 Revised Draft states: Substantive modifications, including inclusion of water rights larger than 100 acre-feet that were not previously identified, inclusion of newly issued water rights approved after December 31, 2025, or inclusion of water rights on new tributaries, to the water right list in Appendix B.1 could be considered for approval by the Board as part of the annual or periodic review process, along with any necessary supporting environmental and scientific documentation or other documentation determined to be needed by the Executive Director, after notice and opportunity for public comment. (December 2025 Revised Draft, p. 64.) As currently drafted, this leaves open the possibility that the State Water Board will determine new water rights issued to HRL parties or substantive changes to existing rights that are part of the HRL Program will be subject to unimpaired flow framework.	As described in the quote provided by the commenter, the addition of new water rights to the VA pathway would be subject to consideration for approval by the Board. In addition, the VA pathway covers the VA water rights in Appendix B.1 of the revised proposed Plan amendments as they are being exercised at the time of Plan adoption by the State Water Board. The Board reserves discretion to impose any appropriate limitations on any changes to the exercise of these water rights that involve an increase or change in timing of diversions consistent with the provision for the protection of base flows and other applicable legal authority. Any water rights not covered by the VA pathway would be required to comply with the regulatory pathway. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the VA pathway and the provision for the protection of base flows.

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1077	14	Taken together, these different areas of ambiguity in the length of the HRL Program, application of curtailments, future approvals of different HRL Program requirements, baseline for additive flow calculations, and ability to ensure the State Water Board complies with its commitments results in uncertainty in the anticipated water supply from participation in the HRL Program. Westlands requests the State Water Board amend the Plan to ensure consistency with the agreed-upon terms in the 2022 MOU. The ambiguity creates the prospect of future litigation to resolve the scope of permissible authority and contributes to uncertainty anathema to the objective of the HRL Program.	The State Water Board is not a signatory to the VA MOU and is not bound by its terms. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1077	15	II. The December 2025 Revised Draft Should Align with and Ensure Flexibility for Federal Management Obligations It is critical that the HRL Program, as reflected in the Bay-Delta Plan, provides sufficient flexibility for the management of the CVP to align with federal law. The December 2025 Revised Draft includes areas of inconsistencies that must be rectified. First, the December 2025 Revised Draft's discussion of the 2024 Long-Term Operations and associated Biological Opinions should clarify that water quality control plan implementation is a separate and independent of requirements in Biological Opinions designed to avoid entrainment management of listed species. Outflow that incidentally results from these actions should be counted toward the CVP's voluntary commitment to provide additional outflow under the HRL Program.	The VA parties proposed that the VA flow commitments be additive to the flows resulting from the 2019/2024 Biological Opinions. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Also see Common Response 1.1, General Comments, for a discussion of the federal and state endangered species acts.
1077	16	Second, the State Water Board should ensure that roles and responsibilities for the Bureau of Reclamation are clearly addressed, including in draft agreements between Reclamation and the HRL parties as appropriate. Reclamation's implementation of the Bay-Delta Plan must achieve consistency with applicable federal laws and directives, as noted in the Coordinated Operations Agreement (COA.). This will allow for Reclamation to modify operations as appropriate for consistency in implementation of Executive Order 14181, as defined by the administration, with input from water users and the State of California.	If the committed flow, habitat, science, and other measures are not provided, the VA pathway could be modified or terminated. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP, and for information on the continuation, modification, and termination of the VA pathway, and enforceability of the VA pathway. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of

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			comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1077	17	Third, the State Water Board should remove all provisions of the December 2025 Revised Draft that overlap with existing requirements on water project operations or extend into areas outside the scope of a water quality control plan. The duplication of these requirements creates uncertainty and barriers to operational improvements and may lead, unintentionally, to "locking" requirements in place despite the fact that those requirements may be later modified through the separate regulatory processes (e.g., updates to the operative biological opinions). For example, the December 2025 Revised Draft prescribes requirements for operations of the Delta Cross Channel Gates as described in the current NMFS Biological Opinion without providing an allowance that these requirements might change. (December 2025 Revised Draft, p. 62.) Should there be future modifications to that Biological Opinion, this language will lead to uncertainty and potentially enforcement of unnecessary restrictions that are contrary to the then-applicable biological opinion.[Footnote 7: Furthermore, this provision states that "disagreements on gate closures pursuant to the Bay-Delta Plan shall be resolved by the Executive Director of the State Board." As discussed supra in Section I.C, Westlands has significant concerns with the level of approval and discretion being provided to the Executive Director, especially in areas such as water project operations where the State Water Board lacks the expertise to allow for nimbleness in operations as fisheries conditions that influence operations recommendations evolve on a daily basis.]	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Please also see Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements and Common Response 1.2, Water Quality Control Planning Process, for more information on Porter Cologne and the reasonable protection of fish and wildlife.
1077	18	Along similar lines, Section 4.4.4.1 implies that the incidental take permit ("ITP") issued by the California Department of Fish and Wildlife governs CVP operations. (December 2025 Revised Draft, p. 61 ["The narrative objective for interior Delta flows is implemented through . . . implementation measures described below and in the USFWS and NFMS BiOps and DFW ITP Requirements for the operations of the CVP and SWP export facilities."].) The ITP does not govern CVP operations as CESA	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		does not apply to federal actions and Westlands requests the State Water Board revise this section to so clarify.	
1077	19	Additionally, the Revised Draft imposes redundant monitoring requirements associated with the existing biological opinions and, in some cases, monitoring activities that have been discontinued. Then, it imposes a cumbersome process for monitoring modifications requiring State Water Board deliberation and approval. In some cases, the December 2025 Revised Draft incorrectly states that monitoring that has been discontinued is required for implementation of D-1485 or D-1641 (e.g., the Delta Smelt Spring Kodiak Trawl, Enhanced Delta Smelt Monitoring as introduced in 2015 and described in Appendix A, Table A-2). The HRL Parties should have the flexibility to prioritize the use of limited financial resources to enhance outcomes, including realigning monitoring expenditures with critical needs and defunding defunct activities. The requirement for State Water Board deliberation and approval to modify the monitoring efforts is an inappropriate burden, as the State Water Board does not have the expertise in these areas to advise and the process will be cumbersome.	The revised proposed Plan amendments provide monitoring purposes and links to specific requirements in State Water Board Water Right Decision 1485 and State Water Board Water Right Decision 1641 for the discontinued surveys in Table A-2 and the commenter has not explained how they disagree with that determination. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1077	20	Language that purports to give the State Water Board oversight of the regulatory requirements imposed by the ESA also lacks legal foundation and is problematic because such matters are outside of the Board's expertise and regulatory jurisdiction. The Plan must therefore be clarified to reflect that the HRL Parties will comply with applicable ESA requirements, as those requirements may change over the lifetime of the Plan. This allows the state and federal fishery agencies, who have the expertise and tools to respond quickly to changes in best available science and real-time environmental and flow conditions to implement appropriate adaptive management measures.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Please also see Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements and Common Response 1.2, Water Quality Control Planning Process, for more information on Porter Cologne and the reasonable protection of fish and wildlife.
1077	21	III. The December 2025 Revised Draft Raises Significant Questions Over the Need to Pursue Legal Challenge at the Time of Adoption of the Plan The proposed pathway for imposition of unimpaired flows on HRL Parties is inadequate to preserve the future ability of HRL	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project

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		Parties to challenge the unimpaired flow framework. This may necessitate HRL Parties having to challenge the adoption of the Bay-Delta Plan in contravention of the goal of the HRL Program to avoid the need to challenge the water quality control plan at the time of its adoption. Westlands appreciates the State Water Board's attempt to preserve the right to future legal challenge by inclusion of the following language in Section 4.4.9.10: If the Board determines modifications to the regulatory provisions in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 are not necessary, it will provide a new determination, that is judicially reviewable under Code of Civil Procedure section 1085, that the regulatory provisions in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 of the Bay-Delta Plan are legally and scientifically appropriate under the provisions of Water Code section 13241. (December 2025 Revised Draft, p. 95.) Although this language attempts to create a future opportunity to challenge the unimpaired flow pathway, Westlands is concerned as to its limited application. First, the judicial review provision is embedded within a subsection titled "Default Processes for Continuation, Modification, or Termination of the VA Pathway," which discusses the process at year six of the HRL Program by which the State Water Board can evaluate a potential extension of the VA pathway under the green, yellow, and redlight criteria. (December 2025 Revised Draft, p. 94-96) The legal review provisions is framed to apply only if the State Water Board "concludes that it is appropriate to terminate the VA pathway under the redlight scenario." (December 2025 Revised Draft, p. 95.) Based on this language and the location in the plan, the judicial review provision would not seem to apply to the following actions by the State Water Board: • Modifications made to the HRL Program as part of the yellow light scenario, which might then lead certain parties to choose not to further participate (December 2025 Revised Draft, p. 96);	description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		• Modifications or terminations of the HRL Program undertaken by the State Water Board pursuant to the following subsection, titled "Possible Modification or Termination of the VA Pathway as Part of Annual and Periodic Review Processes." (December 2025 Revised Draft, p.96); or • Actions by the State Water Board to remove a single HRL Party from participation in the HRL Pathway as opposed to terminating the entire program. (December 2025 Revised Draft, p. 97.) This limited scope of the judicial review provision, which does not encompass all future scenarios whereby HRL Parties may be required to participate in the unimpaired flows pathway, would unduly constrain Westlands' (and other HRL Parties') ability to challenge that unimpaired flow pathway at the time it becomes applicable to water rights exercised to supply water to Westlands.	
1077	22	Second, edits in the December 2025 Revised Draft would limit the opportunity for future judicial review only to the Bay-Delta Plan provisions in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6, rather than the entirety of the Plan. It appears that the intent of these edits is to require an immediate challenge to the Bay-Delta Plan in the event a HRL Party had concerns with any other provision of the adopted Plan. Notably, these sections do not include legally dubious plan components including the concept of non-emergency water rights curtailments by regulation (December 2025 Revised Draft, Section 4.4.3, pg. 60-61) or use of water project facilities as a water quality objective (December 2025 Revised Draft, Section 4.4.4.2, p. 62). Furthermore, even if the Board does determine that modifications to those sections are necessary under subsection (a) on page 95 of the December 2025 Revised Draft, it is still unclear that there would be a pathway to seek review of any sections not specifically listed in the judicial review provisions. These limitations on the scope of future judicial review are even more concerning given language in the December 2025 Revised Draft Plan that the State Water Board may, in certain circumstances, "modify or terminate the VA pathway without a	The Delta Cross Channel objective has been included in the Bay-Delta Plan since the very first Bay-Delta Plan was adopted in 1978. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Bay-Delta Plan amendment." (December 2025 Revised Draft, p. 97.) In particular when considering the reduction in certainty in the term, obligations, and benefits of the HRL Program (see supra, Section I), the ability to raise future legal challenges to the unimpaired flows pathway increases in importance. The State Water Board should clarify that the judicial review provision (1) applies to any action taken by the board to modify or terminate the HRL Program, whether that action applies to the entire program or a single party's participation, and (2) applies to all aspects of the Water Quality Control Plan.	
1077	23	IV. The State Water Board Must Ensure It Acts Within The Bounds Of Its Regulatory Authority. As raised in previous comments, Westlands continues to be concerned with actions outlined in the December 2025 Revised Draft that are inconsistent with the legal authorities available to the Board.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1077	24	A. Curtailments must occur through a water rights hearing, which allows for proper balancing of all uses consistent with Article X, Section 2 of the California Constitution. As outlined above, the State Water Board should ensure compliance with legal authorities requiring a water rights hearing before curtailments are issued outside of an emergency situation. Currently, the December 2025 Revised Draft envisions a regulation to adopt a curtailment methodology. (December 2025 Revised Draft, p. 60-61.) This allows for the fact-specific analysis required for balancing of reasonable and beneficial uses required by Article X, section 2, including consideration of the water needs for competing uses of water, including wildlife refuges and disadvantaged communities, and water rights priorities. The water rights hearings process provide the due process protections necessary to ensure there is no inappropriate taking of water rights. What is a reasonable use is now and always has been a question of fact depending on the circumstances in each case.[Footnote 8: Gin S. Chow v. City of Santa Barbara (1933) 217 Cal. 673, 706 (what is reasonable use depends "upon the facts of each case"); Santa Barbara Channelkeeper v. City of San Buenaventura (2018) 19	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the reasonable protection of fish and wildlife beneficial uses, the State Water Board's consideration of different beneficial uses, and the State Water Board's consideration of the factors listed under Water Code section 13241 during the water quality control planning process. See also Common Response 1.2, Water Quality Control Planning Process, for a description of the State Water Board's authorities and obligations under Article X, Section 2 of the California Constitution. This commenter appears to have misinterpreted the language included in Section 13.6.2, Water Code Section 13241 Analysis, of the Staff Report regarding Article X, Section 2. Nowhere has the State Water Board claimed that Article X, Section 2's prohibition on waste and unreasonable use does not apply to actions taken under the Porter-Cologne Water Quality Control Act.

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		Cal.App.5th 1176, 1185 ("What constitutes reasonable use is case-specific.").] Along similar lines, Westlands is concerns with language found in Chapter 13 indicating the State Water Board's position that this type of balancing of uses is not required when setting water quality objectives under the Porter-Cologne Act. Specifically, Chapter 13 states that "reasonable protection of water quality for fish and wildlife . . . does not involve analysis of competing water allocations." (Chapter 13, p. 12-220.) Chapter 13 then distinguishes this from the application of Article X, section 2 in a water rights context. These assertions by the State Water Board ignore unambiguous language in Water Code section 13000, which states: The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, [begin underline] considering all demands being made and to be made on those waters [end underline] and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. (Emphasis added.)[Footnote 9: Similarly, in other provisions the Water Code requires that that water quality objectives provide reasonable protection of all beneficial uses, including consideration of impacts to other beneficial uses. (See, e.g., Wat. Code, § 13241 [requiring the State Board to "establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses"]; § 13050(f) [defining beneficial uses to include "domestic, municipal, agricultural and industrial supply."].)] Moreover, Westlands strongly disagrees with the suggestion that Article X, section 2, does not apply to actions taken under the Porter-Cologne Act. Any determination on appropriate use of water must take into consideration the requirements of the California Constitution.[Footnote 10: Bring Back the Kern v. City of Bakersfield (2025) 110 Cal.App.5th 322, 335 ("[U]nder the self-executing provisions of Article X, Section 2 of the state Constitution, courts must always consider reasonableness	

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		whenever adjudicating a use of water – even if the pertinent statutes do not call for a reasonableness determination themselves.").]	
1077	25	B. The State Water Board Must Adopt Lawful Parameters for Water Quality Objectives The Revised Draft includes a "flow rate" parameter, which Westlands has repeatedly raised concerns with as not a lawful parameter for a water quality objective because it is not a constituent or characteristic of water quality. Even farther removed from that category is the Revised Plan's use of water project operations (for example, operations of the Delta Cross Channel Gate) in furtherance of its water quality objectives. (December 2025 Revised Draft, p. 62.) Neither of these are lawful parameters for water quality objectives.	Please see Common Response 1.2, Water Quality Control Planning Process, for information on parameters for water quality objectives.
1077	26	V. Conclusion The State Water Board's responsibilities here are substantial with potentially profound consequences. We acknowledge that the task is hard and that its successful completion may require a Herculean effort. In the afterglow of the adoption of Article X, Section 2 of the California Constitution, the California Supreme Court in the Gin S. Chow decision presciently declared that the amendment was intended to govern the affairs of the state not only at the present, but for all time to come, setting forth the fundamental rule that the waters of the state shall be put to reasonable and beneficial use to the fullest extent of which they are capable.[Footnote 11: 1 Gin S. Chow v. v. City of Santa Barbara (1933) 217 Cal. 673, 699-700] This now is the State Water Board's duty. Westlands stands ready to work with the State Water Board in a cooperative manner to achieve this objective through shared responsibility under implementation of the HRL Program consistent with the Program's description in the 2022 MOU. Doing so in this manner will provide real, tangible benefits for fish and wildlife resources that are both durable and meaningful while contemporaneously preserving the lives and businesses of the countless Californians, businesses and farms that depend	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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		upon reliable, and affordable water in their daily lives, minimizing disruptive impacts on all beneficial uses. The public interest requires nothing less.	
1078	1	Please find attached my comment letter for inclusion in the administrative record regarding the Bay-Delta Plan Update and Voluntary Agreement framework. This comment is submitted pursuant to the Notice of Public Comment dated December 2025, with written comments due February 2, 2026. Every attempt was made to make comments in context to the State Water Board as Trustee of the Public Trust and water allocation for a bright future now. The public hearing held January 28-30, 2026 substantively changed my comments. The attached document maps the constitutional territory within which California water governance must operate, identifies the gap between procedural compliance and constitutional fidelity, and requests entry into the administrative record for reference by future observers.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1078	2	This comment letter does not address specific provisions of the December 2025 revised draft Plan or Chapter 13 of the draft Staff Report on a section-by-section basis. Rather, it addresses the constitutional and statutory architecture within which any Bay-Delta Plan framework must operate and is maintained including the proposals in the Revised Draft Sacramento/Delta Bay Delta Plan Updates & Ch. 13 of Draft Staff Report. The letter does not raise CEQA-specific claims. It is submitted for the administrative record as a territorial mapping document for reference by future observers reviewing the proceedings. It does raise serious constitutional concerns: term sheets finalized at the last minute, FERC relicensing commitments traded for regulatory certainty, and water districts functioning as state agencies whose Public Trust fiduciary obligations have never been defined—all illustrated by the Bear River System.	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.
1078	3	I am one parent-citizen guarding the governance nest. I did not have the bandwidth to review the full VA corpus that well-funded signatories negotiated over nine years behind closed doors. That territory remains to be mapped professionally—and the constitutional questions raised here will follow wherever that mapping leads.	Please see Common Response 1.1, General Comments, for a response to comments on the VA development process and general comments that do not raise specific environmental impacts of the project.

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		Cheers with water and respectfully submitted,	
1078	4	Re: Comment Letter – Revised Draft Sacramento/Delta Bay Delta Plan Updates & Ch. 13 of Draft Staff Report. Subject: Comment for Administrative Record: Mapping the Constitutional Territory—Why Procedural Frameworks Cannot Occupy Ground That Does Not Exist, Bay-Delta Plan Dear Chair Esquivel and Members of the Board: Mapping the Constitutional Territory: (Why Procedural Frameworks Cannot Occupy Ground That Does Not Exist) Every attempt was made to make comments in context to the State Water Board, as Trustee of Public Trust and water allocation for a bright future now. EXECUTIVE SUMMARY This comment letter is submitted for the administrative record on February 1, 2026, one day prior to the procedural deadline for public input on the Bay-Delta Plan Update and Voluntary Agreement framework. The Trustee's path appears to have been chosen based on statements made in a verbal public hearing. This letter does not seek to alter that path but to document, for future observers, the constitutional territory through which that path travels. The letter maps three pre-governance conditions that California water governance inherited rather than created: Article I, Section 1's inalienable rights that exist "by nature"; Article X, Section 2's self-executing reasonable use doctrine; and the Public Trust Doctrine that California courts recognize as "predating governmental creation." These provisions form a Governance Water Trinity—three constraints that must be satisfied conjunctively, not balanced against each other or traded through economic transactions, political bargains, or projected judicial	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		calculus. Use "concept" to bridge: The Natural Backbone Infrastructure concept in planning, as defined in California Water Plan Update 2023, provides needed relational lexicon about the watershed substrate upon which all Built Backbone Infrastructure depends. This relationship is not negotiable—only navigable. No procedural framework can change the physical fact that human water systems require functioning natural water systems for operation. The Voluntary Agreement framework exhibits what this letter terms and explains as the 'Governance Cowbird' pattern: occupying constitutional structures while denying their foundations, using the language of public trust while transforming fiduciary obligations into market exchanges, defending status quo governance, and compensating water districts with public funds for the people's water to remain in the people's rivers. This letter identifies a "Map of the Gap" between two fundamentally incompatible understandings of governance: one that recognizes pre-governance territory constraining what procedures may validly do, and one that treats procedural compliance as self-validating regardless of constitutional substance. The Trustee's choice between reactive and anticipatory judicial postures—between defending degraded baselines until courts compel correction, or affirmatively demonstrating constitutional fulfillment—determines the direction of travel relative to constitutional telos. This document is entered into the record so that when future observers review what occurred, they will understand that the constitutional territory was mapped, that the gap between constitutional obligation and procedural compliance was identified, and that some of those present understood what was happening. The territory endures. Whether the map is consulted is another matter. This map is yours and the public’s in relationship in nature. It is fundamentally selective, partial, provisional, place-based, time-	

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		dependent, and culturally appropriate toward our Republic's telos. Please update it, if needed, and send it back to us. This map is yours as Trustee for the public's interests—held in relationship, grounded in nature. It is fundamentally selective, partial, provisional, place-based, time-dependent, and culturally appropriate toward our Republic's telos. Please update it in cycles that detect Cowbird actions faster and send it back to us."	
1078	5	I.WHY THIS MAP EXISTS This letter serves as a map of the constitutional territory within which California water governance must operate. It is entered into the administrative record not to persuade anyone of anything, but to establish clear markers that future observers may reference when evaluating what occurred here and what continues to occur across all watersheds where these same territorial questions arise. A map does not argue. It shows the terrain. Those who travel through territory may ignore the map, but they cannot ignore the terrain itself. Rivers flow where hydrology dictates, not where administrative convenience prefers. Aquifers recharge according to geology, not accounting protocols. Ecosystems function or collapse based on conditions that exist regardless of what procedures are followed in their regulation. I submit this comment as a California-licensed Professional Engineer with expertise in water resource systems, as a parent-citizen concerned with what we do in this generation, and hand to the next generation, as a water ratepayer, and as a taxpayer. My profession requires me to work at the interface between human systems and natural systems and apply science as known. Water does not negotiate. Gravity does not recognize permits. These facts have shaped how I read legal frameworks: I look for where the map matches the territory, and where it does not. The Voluntary Agreement (VA) framework currently before the Board represents an attempt to occupy constitutional territory that does not exist. This letter maps that territory so the record preserves what was understood, what was ignored, and what the	Please see Common Response 1.1, General Comments, for a response to concerns about the process to develop the VA pathway, and 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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		terrain itself will eventually reveal regardless of what procedures are followed or not followed in any particular watershed at any particular time.	
1078	6	II. THE TERRITORY BEFORE THE MAP Every map presupposes a territory. Cartographers do not create the mountains and rivers they chart; they discover and represent what already exists. When the map and territory diverge, travelers who trust the map find themselves lost. The map may be procedurally perfect, approved by all relevant authorities, and beautifully rendered. None of this matters if it does not represent the ground beneath the traveler's feet. California water governance operates within a territory it did not create. The constitutional provisions that govern water allocation describe conditions that existed before any government acted, conditions that government inherited rather than established. Understanding this territory is essential before examining whether any procedural framework can occupy the ground it claims. This map is by its nature selective, partial, and provisional—just as the United States preamble, declaration, federal and state constitutions, statutes, codes and regulations, and the Public Trust Doctrine jurisprudence are selective, partial, and provisional. Three Constitutional Landmarks Article I, Section 1 of the California Constitution (CONS) declares that all people are "by nature free and independent" with "inalienable rights." The phrase "by nature" locates these rights outside governmental creation. The word "inalienable" means they cannot be transferred or surrendered, not even by the people who hold them, not even through democratic process, not even through procedurally perfect administrative action. This landmark existed before any constitution was drafted through any legal framework; the drafters discovered it and marked its location(s). CONS Article X, Section 2 establishes that water use must be "reasonable" and must serve "the general welfare." The section is	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the State Water Board's consideration of public trust resources during the water quality control planning process, and the State Water Board's authority to prevent waste and unreasonable use under Article X, Section 2 of the California Constitution.

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		self-executing , meaning it operates of its own force without implementing legislation. The reasonable use doctrine is not a policy choice that administrators may balance against other considerations. It is a constitutional constraint that applies to every water right, every allocation decision, every administrative action touching the waters of this state. This landmark was discovered, not created, and is entangled with all inalienable rights, unenumerated as they are. Without “water” and “use of water” as the same thing as stipulated in California Water Code (WAT) Section 1000, the procedural separation of the two, water and the use of water, may seem practical and logical until you unify their meaning with the WAT statute. The Public Trust Doctrine is recognized in California jurisprudence as "predating governmental creation (P-GC)." The California Supreme Court in National Audubon Society v. Superior Court (1983) explained that the state holds navigable waters and tidelands in trust for the people, with an "affirmative duty" to protect these resources. The trust exists before government acts; government inherits the trusteeship for PGC territory as mapped, it does not create it. Courts did not invent this doctrine; they recognized it as inherent in the relationship between sovereign and commons. This landmark was already there when the first surveyors arrived. These three landmarks share a common P-GCs, characteristics: they describe the territory within which governance occurs, not options that governance may accept or reject. Together, they form what might be called a governance water trinity (GWT) for “water” and “use of water” unity, three provisions that must be satisfied conjunctively, not balanced against each other, not traded off. A traveler cannot be simultaneously at the mountain summit and the valley floor. A water allocation cannot simultaneously violate and satisfy the public trust. The territory has contours; governance must navigate them operationally and through maintenance unified.	
1078	7	Natural Backbone and Built Backbone Before any dam was built, before any canal was dug, before any water right was claimed, the rivers flowed. Mountain ranges	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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		captured precipitation. Snowmelt fed streams that carved canyons, deposited sediments, and created the valleys where California's cities now stand. This is the Natural Backbone Infrastructure as now defined in California Water Plan Update 2023 (CWP-2023), the state's strategic plan: the watershed systems that provide the substrate upon which all human water uses depend. The Natural Backbone Infrastructure (NBI) is not a "use" of water. It is the condition that makes water uses possible. The fish that spawn in these rivers are not "using" the water in the way a farmer irrigates crops or a city serves and uses drinking water. The salmon are part of the terrain system itself, features and indicators of whether the backbone retains its integrity to help fulfill and optimize all human inalienable rights. When fish populations collapse, it is not because one "use" has crowded out another; it is because the totality of BBI "use" is breaking the Natural Backbone. Human infrastructure, the Built Backbone Infrastructure (BBI) as defined and used in the CWP-2023 relational language, operates within and upon the NBI substrate. Dams store water that mountains captured, valleys drink, and ocean awaits as signal in cycles of Nature. Canals route water that rivers delivered to other places in the terrain. The Built cannot exist without the Natural. The Built is a modification of the Natural, a redirection of flows, that continue to originate from conditions humans did not create. This relationship is not negotiable—only navigable. No amount of procedural compliance or noncompliance can change the fact that human water systems depend on natural water systems. The Built Backbone Infrastructure is selective, partial, and provisional (SPP): choosing among possible configurations, serving some purposes while constraining others, subject to revision as conditions change. The Natural Backbone Infrastructure and built 'use of water' are the ground upon which all these choices are made—choices involving 'water' that exists as P-GC.	

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1078	8	III. THE FRAMEWORK THAT CANNOT SEE THE GROUND Modern administrative law operates within a framework that treats law's validity as deriving from social facts and procedural compliance rather than from conformity with pre-political principles. Valid law seems to be whatever officials recognize as valid law. The procedures have been followed; therefore the outcome is legitimate. This framework, often called Legal Positivism, has genuine virtues: it provides clear criteria for identifying valid law, allows legal systems to function without resolving deep philosophical disagreements, and enables peaceful resolution of disputes through procedural mechanisms. But this framework has a characteristic that becomes problematic for water governance: it cannot account for the conditions of its own existence. Consider: if law's validity derives from "social facts," from the observable behavior of officials and citizens who follow certain rules for identifying valid law, then what makes these social facts possible? Officials must exist before they can follow rules. They must breathe, drink, occupy space. The social facts presuppose biological facts, which presuppose ecological facts, which presuppose conditions that no legal system created. A procedural framework that cannot see pre-governance conditions (P-GC) treats law as a self-contained system generating its own validity through internal procedures. But the officials who perform the procedures need air to breathe and water to drink. The buildings where procedures are followed stand on ground that geological processes created. The citizens whose compliance constitutes the "social facts" are biological organisms embedded in ecological systems. I am not bringing this forth for no reason and this is not an abstract philosophical problem. It is a practical problem for water governance as seen by a professional engineer in system thinking territory. If law's validity derives entirely from procedure, and procedures can be followed while degrading the watershed systems upon which all human activity depends, then "valid law" can authorize the destruction of its own preconditions. The people can vote, through procedurally perfect processes, to eliminate the	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		conditions of their own existence—unless there exists P-GC for the Republic. A procedural framework calls this valid law. The river and the US-CA Constitutions with preambles and telos intact call it something else. What the Territory Requires Place, air, water, the substrate of biological existence: these are not policy preferences that governance may consider or not consider. They are the conditions without which there are no officials to follow rules, no citizens to comply, no social facts to constitute legal validity in the preferred Republic. They are, in the language of the Declaration of Independence, "self-evident." The phrase "self-evident" does not mean "obviously true to everyone." It means "carrying its own evidence," requiring no external proof because the alternative is incoherent. The proposition "humans require water to live" is self-evident because any human who denies it will shortly cease to be a human who denies anything. The territory validates itself. Air and water carry this self-evident character of P-GC so naturally in inalienable rights fulfillment that they may be thought of as breathing and heartbeat—the very conditions of being alive. A purely procedural framework cannot recognize self-evident propositions because it has defined validity as procedural rather than substantive. But the territory does not care what any framework defines. Fish spawn or they do not. Aquifers recharge or they do not. Ecosystems function or they collapse. These outcomes are not determined by whether procedures were followed; they are determined by whether the map corresponds to the territory and the people, government agencies, and water allocation Trustee navigate with the same self-evident map. Any procedural framework, including the one that currently dominates administrative law, is itself a natural phenomenon. It emerges from human social practices, which emerge from human biology, which emerges from ecological conditions, which emerge from planetary processes that no governance framework created or controls—it's all natural. The framework that claims the territory does not exist is itself located in the territory. This is	

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		not irony but necessity. There is no view from nowhere. Every perspective is embedded in conditions it did not create. If there is no agreement on this, then where does each of us stand in and with the law in the interest of the public of the Republic?	
1078	9	IV. THE GOVERNANCE COWBIRD PATTERN A cowbird does not build nests; that is simply its nature. It lays its eggs in other birds' nests and lets the hosts raise its young. The cowbird chick often grows larger than the host's offspring, pushes them out, and consumes resources meant for others. The host parents exhaust themselves feeding an imposter they have been tricked into treating as their own. It is all very natural. But the cowbird evolved following buffalo across the prairie. The buffalo were the keystone species whose grazing shaped the grasslands, whose movement created the patterns countless other species depended upon. The cowbird's parasitism was one small pattern within a larger functioning whole—sustainable because the ecosystem-builders vastly outnumbered the ecosystem-occupiers. The buffalo are mostly gone now. They were not killed by cowbirds; they were exterminated by actors who did not understand, or did not care, that the prairie depended on them. What remains are cowbirds still doing what cowbirds naturally do, but in an ecosystem stripped of the keystone species that maintained it. The nest-builders decline. The cowbirds continue occupying whatever nests remain. The pattern accelerates the very degradation it cannot survive. This biological history poses a question for governance: The Democratic Constitutional Republic—the living practice of self-governance through constitutional fidelity, through selective, partial, provisional attention to place, time, and cultural coherence—is the buffalo of the governance ecosystem. It builds the nests. It maintains the structures. It transmits meaning across generations. The procedural framework that has displaced constitutional understanding is the cowbird pattern: occupying structures it did not build, cannot operate, cannot maintain, and does not understand.	Please see Common Response 1.1, General Comments, for a discussion of the public process associated with the Sacramento/Delta update to the Bay-Delta Plan and for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 6.2, Baseline and No Project Alternative, for a discussion of the environmental baseline use throughout the Staff Report.

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		Will the DCR go the way of the buffalo, leaving only cowbird actors performing procedures in structures whose purposes have been forgotten? How does that end? It ends the way it always ends when parasites outlive their hosts. The procedures continue for a while, coasting on residual legitimacy. The structures hollow out. The meaning that built them is not transmitted. And one day, there are no nests left to occupy. The cowbird pattern, having consumed everything that sustained it, consumes itself. The pattern manifests when confidential negotiation of public resources excludes the beneficiaries of public trusts. When framework deliberations occur through confidentiality agreements and records act exemptions, the trust beneficiaries, meaning the people of California, are excluded from deliberations about resources that belong to them. By the time public hearings occur, the framework has been established, the terms negotiated, the institutional commitments made. The public is asked to comment on outcomes, not to participate in planning deliberation. The cowbird egg was laid and hatched while the nest-builders were away. The parent-citizens return to find a large, hungry chick already in place, demanding to be fed, and their own eggs—their constitutional protections, their voice in how trust resources are allocated—pushed over the edge. The pattern manifests when accounting systems create categories that statutory frameworks do not recognize. Water Code Section 1000 provides that "water" includes "use of water." These categories are unified. "Virtual water" representing reductions from baseline diversions is neither actual water (no physical water changes hands) nor actual use of water (the premise is non-use). A category that is neither water nor 2026 use of water falls outside the statutory framework. Compensation for such a category expends public funds for something that the law governing water rights does not acknowledge exists. The pattern manifests when degraded conditions become normalized baselines. When environmental harm is accepted as the starting point from which "improvement" is measured, the	

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		framework avoids questioning whether the baseline itself satisfies constitutional requirements. The cowbird egg is already in the nest; the accounting begins from its presence rather than asking how it arrived. The host birds, meaning the citizens, the tribes, the future generations, the species that depend on functioning ecosystems, exhaust themselves responding to procedures that were never designed to protect them. Comments are submitted. Hearings are attended. Legal briefs are filed. And the pattern continues because the framework cannot see what it is doing. It sees only procedures, and the procedures are being followed. This is what the decline of a civilization likely looks like from the inside. The forms persist after the substance is gone. The procedures continue after anyone remembers what they were for. The structures stand while the understanding that built them ceases to be transmitted to the next generation. Rome's Senate still met for generations after the Republic had hollowed out. Officials held titles. Rituals were performed. But the civic practice that built and maintained the commonwealth had been displaced by actors who occupied positions, performed procedures, and extracted what could be extracted. Cowbirds in the nests of eagles. The fall, when it came, surprised only those who had mistaken the forms for the substance. The question before California water governance—before all American governance—is whether the Democratic Constitutional Republic will go the way of the buffalo, leaving only cowbird actors performing procedures in structures whose purposes have been forgotten for Modernity's capitalism. The procedural framework cannot answer this question. It cannot even see it. It sees only compliance and non-compliance, valid procedures and invalid procedures. The territory where civilizations live or die is not on its map.	
1078	10	V. THREE TEST QUESTIONS FOR CONSTITUTIONAL IDENTITY The United States governs itself through what is called a Democratic Constitutional Republic. Each word describes an identity condition, a feature that makes this form of governance	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 1.2, Water Quality Control Planning Process,

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		what it is rather than something else. When we understand these identity conditions, we can test whether any particular framework is consistent with them. Democratic requires ongoing popular participation in governance. The people, through electoral processes, authorize those who exercise governmental power. This authorization is not a one-time grant but a continuing relationship requiring regular renewal. Democracy is not merely a procedure for selecting leaders; it is a principle that sovereignty resides in the people. It is selective, partial, and provisional (SPP) in and of nature. Constitutional requires that governance operate within fundamental constraints that cannot be overridden by ordinary political processes. The constitution establishes the rules by which rules are made, the framework within which governance occurs. Constitutional provisions are not policies that majorities may revise at will; they are the architecture within which majorities exercise their authority. It is SPP in and of nature. Republic requires that sovereignty reside in the people rather than in a monarch, aristocracy, or any ruling class that holds power by right rather than by popular authorization. A republic is not merely an absence of monarchy; it is a positive commitment that governmental power exists to serve the public good rather than private interests. It is SPP in and of nature. These identity conditions generate test questions: Test Question One: Can the people vote to turn the president into a king, eliminating the Democratic and Republican requirements? If yes, then these features are merely policy preferences that democratic processes may revise. If no, then some features of the system are beyond revision by the system itself and are pre-governance conditions (P-GC). Test Question Two: Can the people vote to eliminate voting everywhere, foreclosing all future popular participation? If yes, then democratic self-governance can authorize its own permanent abolition. But such a vote would claim authority from	regarding the State Water Board's obligations and authorities under the public trust doctrine.

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		the very principle it destroys—P-GC. The "consent" that authorizes the elimination of consent is fraudulent because it purports to bind people who will never have the opportunity to withdraw consent. Test Question Three: Can the people vote to grant permanent private ownership of air, water, and the substrate of existence, such that future generations inherit no commons, no public trust resources, no conditions for life except what private owners choose to provide? If yes, then the present generation can bind all future generations to conditions they never consented to and cannot escape. If no, then some resources are beyond alienation regardless of procedural compliance. The Public Trust Doctrine answers the third question: certain resources are held in trust for the people and cannot be permanently alienated to private ownership. The Supreme Court in Illinois Central Railroad v. Illinois (1892) held that a legislative grant of Chicago's entire harbor to a private railroad was void, not because it violated some other constitutional provision but because the legislature lacked the power to make such a grant. If the legislature lacks power to alienate trust resources, does any procedure possess such power? A framework that treats constitutional obligations as economic transactions does not permanently alienate public trust resources in a single act. But it normalizes the treatment of fiduciary relationships as market exchanges. It establishes precedent that compliance with public trust duties may be purchased rather than required. Over time, transaction by transaction, the trust relationship erodes. The question is not whether any single transaction destroys the trust but whether the pattern of transactions is consistent with operating and maintaining it.	
1078	11	VI. EVERY OPERATION IS MAINTENANCE In drinking water systems, the lesson is immediate and unforgiving. Fail to maintain and the water quality degrades within days. People get sick. The feedback loop is tight, visceral, undeniable. Engineers learn very quickly that "operation"	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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		without "maintenance" is just coasting toward system failure on the residual integrity of past maintenance or initial construction. The same principle applies to governance, though the feedback loop (cycle) is slower. The cycle of DCR nest building is slower than cowbird action, and the host species dies out. Every act of governance is simultaneously an operation of the constitutional system and a maintenance intervention upon it. There is no neutral operation. Every legislation, every adjudication, every administrative decision either maintains or degrades the system's capacity to fulfill its purposes. Operation IS maintenance, positive or negative. The Democratic Constitutional Republic exists to "form a more perfect union" as its Preamble declares. This is the telos, the purpose toward which the system orients. Without this telos, every procedurally valid act appears as legitimate as every other. With the telos in view, acts become evaluable: Does this decision maintain or degrade our capacity to move toward the more perfect union? Does this framework strengthen or weaken the constitutional architecture it purports to implement? A procedural framework can "operate" the water allocation system. Procedures are followed. Term sheets are signed. Appendices are prepared. Hearings are conducted. The rituals of administrative law are performed with appropriate solemnity. But if the framework fails as maintenance, if it normalizes degraded conditions, transforms constitutional obligations into economic transactions, protects the status quo over actual planning for future conditions, excludes trust beneficiaries from trust deliberations, and creates accounting constructs that the statutory framework does not recognize, then it degrades the system's capacity to fulfill its constitutional purposes. Over time, maintenance failures compound. The constitutional system's capacity to protect the pregovernance conditions upon which governance depends degrades. Inalienable rights go unfulfilled; governance does not optimize for the interest of all	

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		the people. Fish populations decline. Aquifers fall into overdraft. Ecosystem services diminish. And eventually, the degradation becomes visible in ways that procedural compliance cannot obscure. Slowly, we recognize that the DCR is no longer the DCR but something changed by pre-governance conditions and government parasitism. The drinking water lesson applies: you can "operate" the system right into the ground while claiming you are doing your job. The degradation only becomes visible when the system breaks. By then, those who separated operation from maintenance have moved on. The feedback loop in governance is too slow to discipline them within management change or electoral cycles. But the loop eventually closes. The cycles go on. The territory eventually reveals what the procedures obscured. The mapping is selective, partial, and provisional and tries to form a more perfect union.	
1078	12	VII. AN ILLUSTRATIVE EXAMPLE The patterns described above are not abstractions. They manifest in specific term sheets, specific watersheds, specific compensation arrangements. One illustration, selected from many possible examples, demonstrates how the territorial analysis applies to particular circumstances. In one Sacramento Valley tributary watershed, voluntary agreement term sheets provide for water district 'contributions' organized into components. One component involves redirecting 'spill water' that the term sheet explicitly acknowledges 'is not new water to the Delta and is not intended to contribute to additive Delta outflows.' Yet compensation is provided. For what? For the district's agreement to let water flow where it was already flowing. Spill water is ill-defined in the term sheet but likely refers to water that exceeds storage, direct diversion capacity, or allocation provisions—water that would flow downstream regardless of any agreement. This is Natural Backbone Infrastructure water, not BBI 'use of water' as defined in existing water allocations. Another component involves reservoir reoperation to release	The State Water Board is not a party to the HRL parties' 2022 Memorandum of Understanding (2022 MOU), nor is it bound by the various associated documents drafted by HRL parties. However, the State Water Board considered the documents and other comments received and exercised its independent judgment as it developed the VA pathway described in the 2024 and 2025 drafts of the Bay-Delta Plan. Please refer to Staff Report Section 13.3.4.3, HRL Flow Commitments, for information about the Bear River VA. The revised proposed Plan amendments specify that component 1 of the flow commitments will not be additive to Delta outflow. The State Water Board is not providing compensation for HRL flow commitments. The revised proposed Plan amendments include a public process for the list of water rights that could be dedicated to provide the HRL flow commitments, and a public process each year for the specific water rights that are proposed to be dedicated to meet HRL flow commitments for that year. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information about the VA pathway and enforceability of flow commitments under the VA pathway. See also Common Response 1.2, Water Quality Control Planning

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		stored water. The water released belongs to the people of California under Water Code Section 102. As a state agency, the district holds appropriative rights to the 'use of water,' subject to public trust fiduciary obligations, the reasonable use doctrine, and constitutional constraints. The "contribution" consists of not using water that the district never owned. The compensation comes from public funds. The people's money flows from one category of state agency to water districts—many of which are themselves state agencies—so that the people's water may remain in the people's rivers. A third component involves flows that will be "satisfied by FERC license conditions" upon federal relicensing. These flows are "not required to be additive" to license conditions. If federal licensing requires these flows anyway, what is being purchased? The answer is regulatory certainty: commitment not to litigate flow requirements in exchange for defined payment streams and protection from more stringent regulatory pathways. In this same watershed system, another district's term sheet establishes a "Base Flow Contribution" representing existing operational flows or legally mandated minimums for which no compensation is provided. Compensation applies only to flows above this baseline. The baseline thus normalizes existing environmental conditions as the starting point, accepting as given the very degradation that public trust obligations were meant to prevent. This is an example of mapping just one small watershed—Bear River—but the features identified here are unlikely to be unique. They may represent patterns that appear across the voluntary agreement framework wherever it is applied. The specific numbers differ. The specific watersheds differ. The territorial analysis remains the same: compensation for categories that statutory frameworks do not recognize, treatment of constitutional obligations as economic transactions, normalization of degraded baselines, exclusion of trust beneficiaries from trust deliberations, and defense of status quo planning at the expense of both the NBI and the public treasury. The illustration is offered not to argue about any particular	Process, for information on the Plan's interaction with other regulatory requirements such as FERC licensing, and Common Response 6.2, Baseline and No Project Alternative, for a discussion of the environmental baseline use throughout the Staff Report.

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		watershed but to show that the territorial mapping applies to actual circumstances. The map describes terrain that actual travelers must navigate. Whether they consult the map is their choice. Whether the terrain exists is not.	
1078	13	VIII. THE GAP BETWEEN THE MAPS There are now two maps before the Board, and before everyone else who participates in California water governance. One map shows the constitutional territory: the inalienable rights that exist "by nature," the public trust that "predates governmental creation," the reasonable use doctrine that is "self-executing," the Natural Backbone Infrastructure upon which all Built Backbone Infrastructure depends. This map was drawn by those who believed they were discovering a territory, not creating one. The landmarks they marked correspond to conditions they understood as real, as existing independently of whether anyone chose to recognize them. The other map shows a procedural territory: compensation rates by acre-foot or cubic feet per second, virtual and real, measurement points for flow accounting, baseline conditions normalized from whatever exists at the moment of negotiation, mechanisms for coordinating agencies and districts through signed agreements. This map was drawn by those who believe the territory is whatever they agree it to be, that procedures constitute substance, that compliance is validity. The gap between these maps is not a gap between policy preferences. It is a gap between two fundamentally different understandings of what law is and what governance serves. The constitutional map says: certain conditions exist before governance acts; governance inherits responsibility to honor them; some features of the territory are not negotiable because governance did not create them and cannot legitimately destroy them. The procedural map says: valid law is whatever procedures produce; if procedures are followed, outcomes are legitimate;	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities and obligations related to the water quality control planning process.

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		there is no pre-governance territory that constrains what governance may validly do. If procedurally the Trustee decides the easiest path is choosing one type of judicial review (law suits) over another type, one type on the plus side of zero and the other on the negative, then where in the gap are we exactly and which direction are we traveling at this planning or compliance moment toward our telos? These maps cannot both be accurate. The territory is what it is. Either there are pre-governance conditions that constrain governance, or governance floats free to define its own constraints. Either the public trust exists as a fiduciary relationship with substantive content, or "public trust" is merely a label that procedures may attach to any arrangement. Either "inalienable rights" cannot be transferred regardless of procedural compliance, or "inalienable" means "alienable through sufficiently elaborate procedures." The Board is being asked to adopt a framework. In doing so, it is being asked to accept a map. The question is not which map is more convenient, which serves particular interests, or which has more signatures attached to its term sheets. The question is which map corresponds to the territory. Rivers do not read either map. Fish do not recognize the rule of recognition. Atmospheres do not defer to administrative convenience. Eventually, the territory reveals itself regardless of what the maps claim. The feedback loop may be slow, but it closes.	
1078	14	IX. REQUEST FOR THE ADMINISTRATIVE RECORD: The Map of the Gap I make no request that the Board change its course. Those who have navigated to this point have made their calculations and will proceed according to those calculations. The pattern is larger than any single proceeding, and the trajectory was established long before this particular framework reached this particular hearing. What I offer instead is a Map of the Gap—not of the procedural	Please see the response to comment 1078-12. See also Common Response 1.1, General Comments, for a response to concerns about the process to develop the VA pathway and Common Response 1.2, Water Quality Control Planning Process, regarding article X, section 2 of the California Constitution, the public trust doctrine, and the State Water Board's authorities and obligations related to the water quality control planning process.

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		territory the Board has traversed, but of the gap between that procedural map and the constitutional territory it claims to serve. The procedural map asserts that valid law is whatever procedures produce; that if procedures are followed, outcomes are legitimate; that there is no pre-governance territory constraining what governance may validly do. Within this framework, the Trustee faces a choice between two judicial postures—one reactive, one anticipatory—and this choice determines the direction of travel toward or away from constitutional telos. The reactive posture waits for proven harm, places the burden of proof on victims and impacted parties, and treats past allocations as presumptively valid baselines requiring affirmative challenge. The anticipatory posture—grounded in the Precautionary Principle that California's own Water Plan identifies as the "cornerstone of planning wisdom"—inverts this burden entirely: proponents of activity must demonstrate that their actions secure inalienable rights, constitute reasonable use under present conditions, and honor public trust obligations. The question is not "Has harm been proven?" but "Does this allocation fulfill constitutional requirements?" These two postures occupy opposite sides of zero. One invites litigation to stop ongoing harm—placing the Trustee on the negative side, defending degraded baselines until courts compel correction toward the telos. The other requires affirmative demonstration that constitutional obligations are being fulfilled—placing the Trustee on the positive side, exercising the anticipatory wisdom that planning demands toward the telos. When the Trustee calculates that VA signatory litigation poses greater institutional threat than litigation from tribes and citizens—when the procedural path of least resistance means conceding suits from those with fewer resources to sue—the Trustee has chosen the negative posture. The direction of travel is away from telos. The Precautionary Principle exposes the Religion of Procedure for what it is: a framework that can evaluate procedural	

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		compliance but cannot evaluate whether governance is actually fulfilling its constitutional purpose. Legal Positivism has no concept of sin against pre-governance conditions, no concept of sin against future generations, no concept of sin against the salmon whose existence preceded every human institution now deliberating their fate. It has only procedural violation—and if procedures were followed, the religion has been satisfied. The ritual was performed correctly. Meanwhile, the river dies, and the procedural map calls this valid law. The gap between the two judicial postures—between 'prove we're harming' and 'prove we're fulfilling'—is precisely the space where degradation accumulates while remaining procedurally legitimate. This is where the Cowbird cycles faster than constitutional correction cycles. This letter maps that gap. I request that this map be entered into the administrative record so that when future observers review what occurred, they will understand that the constitutional territory was identified, that the gap between constitutional obligation and procedural compliance was measured, and that some of those present understood what was happening. Let the record show: That California's constitutional framework for water, including Article I Section 1's inalienable rights, Article X Section 2's reasonable beneficial use requirement, and the Public Trust Doctrine, describes pregovernance conditions that constrain what governance may validly do. That California Water Code Section 1000 unifies "water" and "use of water," thereby excluding from the statutory framework anything that is neither actual water nor actual use. That accounting constructs representing reductions from baseline diversions, being neither actual water nor actual use of water, fall outside this statutory category. That compensation for non-use of water belonging to the people, paid from public funds to water districts as political subdivisions	

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		of the state, creates circular fiscal arrangements where the people pay themselves through multiple administrative intermediaries. That confidential negotiation of public resources excludes the beneficiaries of the public trust from deliberations about trust corpus. That frameworks mathematically normalizing degraded environmental conditions as baselines enable officials—sworn to uphold the constitution—to accept as starting points the very harms their oath, through public trust fiduciary obligations, requires them to prevent. That procedural compliance cannot substitute for constitutional fidelity when the procedures operate within a framework that denies the constitutional territory exists or is complicit in obscuring it. That the Trustee's choice of judicial posture—reactive rather than anticipatory, harm-based rather than precautionary—determines the direction of travel relative to constitutional telos. The mathematics do not change with sign convention; only the intention revealed by the choice of coordinate system. This map chooses constitutional fulfillment as positive. The current trajectory, by that measure, is negative. Let future generations, if there are future generations capable of reviewing this record, understand that the map was offered. Whether it was used is another matter.	
1078	15	X. THE TERRITORY ENDURES Every procedural framework, for all its influence on how governance currently operates and maintains itself in cycles, cannot escape a simple fact: every system of governance, including governance frameworks that deny pre-governance territory exists, must itself exist somewhere. The officials must breathe. The buildings must stand on ground. The procedures must be performed by biological organisms in the physical space of mapped territory. Any procedural framework is itself a natural	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities and obligations related to the water quality control planning process.

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		phenomenon. It emerges from human social practices, which emerge from human biology, which emerges from ecological conditions, which emerge from planetary processes, which emerge from cosmological origins that no governance framework created or controls. The map that denies the territory is itself located in the territory. This is not paradox but physics. This is structure, not surprise. There is no view from nowhere. Every perspective is embedded in conditions it did not create. The question is not whether pre-governance territory exists but whether governance will recognize its dependence upon that territory. A governance framework that treats constitutional obligations as economic transactions, that creates accounting categories the statutory framework does not recognize, that excludes trust beneficiaries from trust deliberations, that normalizes degraded conditions as baselines, represents a choice not to recognize—[GAP]—and proceeds as if procedures can create ground where none exists, as if agreements constitute reality, as if the map can determine the territory. Rivers will have the final word. Fish populations, if any remain to spawn, will demonstrate whether the accounting protocols tracked anything real. Aquifers will reveal whether baseline conditions were sustainable or merely convenient. People in the ecosystems will show whether Built Backbone Infrastructure can survive the degradation of Natural Backbone Infrastructure upon which it depends. These revelations will come—or not—regardless of what procedures are followed. They will come in every watershed where the same patterns operate, maintained or not. The territory endures. The question is only how much damage governance will inflict upon itself before it remembers where it stands.	Please also see Common Response 6.2, Baseline and No Project Alternative, for a discussion of the environmental baseline use throughout the Staff Report.
1079	1	The Board Should Contemporaneously Release for Public Comment a Revised Version of the Proposed Updates to the Plan with a Complete Staff Report Analyzing Those Proposed Updates	As the commenter notes, the State Water Board has accepted comments on each release of the Plan amendments and the Staff Report. The 2023 draft Staff Report included a complete description of the proposed Plan amendments and the VAs, and

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		The Board's regulations require that all water quality control plans "include or be accompanied by Substitute Environmental Documentation (SED) and supported by substantial evidence in the administrative record." (Cal. Code Regs., tit. 23, § 3777.) The Draft SED must include, among other things, an environmental analysis of the WQCP, an analysis of reasonable alternatives to the proposed WQCP, and an analysis of the reasonably foreseeable methods of compliance with the proposed WQCP. (Id.) The Board must circulate the Draft SED "prior to board action approving or adopting" a WQCP. (Id.) In this update to the Bay-Delta Plan, the Board released a draft staff report for public review and comment on September 28, 2023—without the accompanying revisions to the plan. After the close of the comment period on the draft staff report, the Board released its proposed revisions to the Bay-Delta Plan for public comment on October 25, 2024—without releasing another version of the draft staff report or soliciting further comments on the draft staff report in light of the proposed revisions to the WQCP. Nine months later, on July 24, 2025, the Board released another version of its proposed revisions to the Bay-Delta Plan, again without providing an updated staff report. Three weeks later, on August 15, 2025, the Board notified the public it would be releasing "supplemental modeling results" by August 22, 2025, for certain changes included in the July 24, 2025, draft version of the Bay-Delta Plan (namely the addition of Water Supply Adjustments [WSA] to the unimpaired flow requirements). Standing alone, the inclusion of WSAs into the plan that change the required unimpaired flow percentages constitutes "significant new information" that necessitates recirculation of the draft staff report for public review and comment. (See Pub. Res. Code, § 21092.1; Cal. Code Regs., tit. 23, § 3779(e); Cal. Code Regs., tit. 14, § 15088.5.) In the supplemental modeling results, the Board advised the public that it would be releasing another version of the draft staff report (with no specific timeline for doing so), and that the supplemental modeling results may be further refined in that staff report. (Supplemental Modeling Results at 4.) On September 16, 2025, the Board cancelled the public comment period and the scheduled hearings on the July 24, 2025, revisions to the Bay-Delta Plan.	environmental analysis of both. The public was provided substantial time to comment. Most recently, the 2025 partially recirculated draft Staff Report analyzed the environmental impacts of the simultaneously released revised proposed Plan amendments, and the public had full opportunity to comment on that analysis. The comment identifies no way in which this process has failed to meet the State Water Board's procedural obligations, nor any way in which the public has been prejudiced.

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		Thereafter, on December 12, 2025, the Board released another draft update of the Bay- Delta Plan, along with a new chapter (Chapter 13) of the draft staff report, and advised the public that it was conducting a limited recirculation of the draft staff report and would accept public comments on only the updated plan amendments and the new Chapter 13. Through these disjointed releases of the staff report and the plan updates, the Board has consistently separated the comment period on the plan from the comment period on the analysis in the staff report, hindering the ability of the public to comprehensively review and comment on the Board's proposed actions and the purported analytical support for those actions. Even in this latest release, the Board is only accepting comments on the revised draft plan and Chapter 13 of the draft staff report, not the entire staff report. The Board should release the entirety of the proposed edits to the Bay-Delta Plan, along with the purported analytical support and related environmental documentation, for comprehensive review, consideration, and comment by the public.	
1079	2	b. The Proposed Narrative Inflow Objective for Sacramento/Delta Tributaries Is Inconsistent with the Unimpaired Flow Objective for the Lower San Joaquin River Tributaries The Board proposes to add a new narrative objective applicable to the Sacramento River and its tributaries, as well as to the Mokelumne, Calaveras, and Consumnes Rivers (collectively, the Delta eastside tributaries), referred to in the Program of Implementation (POI) as the "Narrative Inflow Objective for Sacramento/Delta Tributaries." (Draft Plan, at 17.) The Narrative Inflow Objective would require the following: "Maintain water quality conditions, including inflow conditions from the Sacramento River/Delta tributaries, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include the relative	Please see Common Response 1.2, Water Quality Control Planning Process, for information on the State Water Board's authority as it relates to reasonable protection of fish species, the consideration of competing beneficial uses, and the revised proposed Plan amendments' interaction with the 2018 LSJR/SD Update to the Bay-Delta Plan. Contrary to this commenter's assertion, the proposed narrative inflow objective goes beyond simply restating the Board's statutory obligation to adopt water quality objectives that reasonably protect beneficial uses. The proposed narrative inflow objective includes a list of conditions and measures that contribute towards maintaining a viable native fish population, illustratively listing relative magnitude, duration, timing, quality, and spatial extent of flows as they would naturally occur. Fish viability is also defined in the narrative objectives: "Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity." See Common Response 1.3, Revised Proposed Plan

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		magnitude, duration, timing, quality and spatial extent of flows as they would naturally occur." (Draft Plan, at 17.) This type of narrative objective allows for a broad range of implementation actions that can reflect the unique hydrology and aspects of different tributaries, as demonstrated by the Board's proposal to implement this objective through both unimpaired flow requirements on certain tributaries (with Water Supply Adjustments that account for specific hydrology and include dry year relief) and through more functional flows and habitat commitments on other tributaries that are part of the voluntary agreements. (Draft Plan, at 46; Wat. Code, § 13242 [the program of implementation must describe "the nature of actions which are necessary to achieve the objectives"].) [Footnote 3: Of course, the law requires the Board to establish objectives that provide reasonable protection for identified beneficial uses considering multiple factors, including other beneficial uses of water. (Wat. Code, §§ 13000, 13241.) The Board cannot satisfy this statutory obligation by simply adopting objectives that accomplish nothing more than effectively restating the Board's statutory obligation in slightly different terms, namely that beneficial uses should be reasonably protected. To the extent that the language in the objective requiring flow conditions that "support and maintain the natural production of viable native fish populations" is merely a restatement of the statutory requirement that fish and wildlife beneficial uses be reasonably protected, the Board has failed to satisfy its statutory obligations of balancing numerous factors and establishing an objective that provides a reasonable level of protection for beneficial uses. (Draft Plan, at 17.)]. By contrast, the objectives applicable in the Lower San Joaquin River watershed are unduly restrictive and require that 40% unimpaired flow, with an adaptive range between 30% and 50%, be maintained on the Stanislaus, Tuolumne and Merced Rivers from February through June. (Draft Plan, at 17.) This type of restrictive flow objective limits the Board's ability to adopt implementation measures that reflect the unique characteristics of individual tributaries. The Board must adhere to the flow range (even if lower flows might be warranted to conserve water for certain uses, to maintain cold water reserves, or to respond	Amendments, for information on the water quality objectives for fish and wildlife. Also refer to Common Response 7.23, Cumulative Impact Analysis, for information related to the consideration, analysis, and mitigation of cumulative impacts associated with the 2018 LSJR/SD Update to the Bay-Delta Plan.

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		to dry year conditions) and must also adhere to the February through June time period (even if high unimpaired flows during that time period would be unreasonable). The Board cannot sustain these two divergent approaches for the Lower San Joaquin River and the Sacramento Delta under a single Water Quality Control Plan. The SJTA suggests the Board revise the Lower San Joaquin River flow objectives by eliminating the unimpaired flow requirements therein, leaving only the narrative objective that requires flow conditions "to support and maintain the natural production of viable native San Joaquin River watershed fish populations." (Draft Plan, at 17.) This revision to the objectives would align the Lower San Joaquin River watershed objectives with the Sacramento/Delta tributary objectives, consistent with the fact that this is a single water quality control plan intended to protect the same species and same beneficial uses across the watershed. Furthermore, this revision would allow for changes to the program of implementation that could include more equitable and adaptable implementation actions, including dry year relief such as the WSAs that are proposed for inclusion in the Sacramento/Delta aspect of the plan but not the lower San Joaquin River aspect of the plan due to the overly-restrictive objectives applicable to the latter.	
1079	3	c. The Draft Plan Improperly Proposes Changes to the 2018 Bay-Delta Plan i. The Board Cannot Add Tribal Tradition and Culture (CUL) as a Beneficial Use Applicable to the San Joaquin River Watershed The Board amended the Bay-Delta Plan in 2018 by adopting new objectives and a program of implementation for the lower San Joaquin River watershed and the southern Delta. At that time, the Board did not propose to change or add new beneficial uses applicable to the lower San Joaquin River watershed or the southern Delta. The Board has never issued a notice advising the public of an intent to revise the 2018 Bay-Delta Plan or any component of the plan applicable to the lower San Joaquin River watershed or southern Delta. The public notice applicable to the current proposed revisions	The Lower San Joaquin portion of the Bay-Delta Plan was updated in 2018 and included updated water quality objectives for the reasonable protection of fish and wildlife beneficial uses. The Sacramento/Delta update to the Bay-Delta Plan focuses on water quality objectives for the Sacramento/Delta. Although the Lower San Joaquin River (LSJR) updates and the Sacramento/Delta updates occurred at different times, both updates work together to provide reasonable protection for beneficial uses. The proposed incorporation of Tribal and Subsistence Fishing beneficial uses along with the designation of Tribal Tradition and Culture (CUL) as part of the Sacramento/Delta update to the Bay-Delta Plan applies to the entire watershed. The CUL beneficial use is designated throughout the Bay-Delta watershed due to the cultural and spiritual importance of native fish and wildlife, particularly salmon, to California Native American Tribes. Salmonids utilize the entire watershed, including the Sacramento River

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		for the Sacramento/Delta tributaries is a 2012 Supplemental Notice of Preparation which advised the public that the Board intended to review and potentially update the then-current 2006 Water Quality Control Plan for the Bay-Delta. (See Supplemental Notice of Preparation and Notice of Scoping Meeting for Environmental Documentation for the Update and Implementation of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary: Comprehensive Review, dated January 12, 2024.) As part of the update to the Sacramento/Delta tributaries component of the Bay-Delta Plan, the Board proposes to designate Tribal Tradition and Culture (CUL) as a beneficial use. (Draft Plan, at 9.) As the Board has never provided notice of an intention to revise the 2018 Bay- Delta Plan (and the components thereof applicable to the lower San Joaquin River watershed), it cannot designate the CUL beneficial use for the lower San Joaquin River watershed or southern Delta. (See Wat. Code, § 13244 [requiring notice and hearing before adopting a water quality control plan].) Additionally, the Board has not provided any environmental or other analysis that would support adding CUL as a beneficial use for the lower San Joaquin River watershed or the southern Delta. The draft plan asserts that "[t]he reasonable protection of CUL … overlaps with the reasonable protection of the aquatic life beneficial uses identified in the Bay-Delta Plan [and therefore] the objectives needed to protect both categories of beneficial uses overlap and are addressed by the objectives and program of implementation in this plan," but the Board has not provided any analysis to support this assertion as to the objectives for the lower San Joaquin River and the reasonable protection provided thereby. (Draft Plan, at 10-11.) Indeed, CUL was not included as a beneficial use when the Board adopted the objectives for the lower San Joaquin River, and therefore no analysis was done at that time to support the claimed overlap in protection. To the extent the Board intends to rely on the overlapping protection assertion for inclusion of CUL as a beneficial use within the lower San Joaquin River watershed, it must provide a notice and hearing before doing so in accordance with Water Code 13244.	subwatershed including the Delta, and the San Joaquin River subwatershed as well. The Beneficial Uses listed in Chapter 2 of the revised proposed Plan amendments are not assigned to individual LSJR or Sacramento/Delta subwatersheds but are instead listed for the entire Sacramento-San Joaquin watershed. The CUL designation for the Bay-Delta watershed does not affect the existing or future requirements on the Lower San Joaquin River in the Bay-Delta Plan. Like the Sacramento/Delta updates, the CUL designation is due to the intrinsic connection between salmon and tribal culture. The reasonable protection of CUL as it relates to the tribes' cultural ceremonies and spiritual lifeways that are connected to salmon overlaps with the reasonable protection of the aquatic life beneficial uses identified in the Bay-Delta Plan or designated in the applicable Regional Water Boards' water quality control plans, including the fish and wildlife beneficial uses. Although the CUL beneficial use does not itself authorize implementation actions aimed at protecting fish populations, there is a practical overlap: implementation actions taken to protect aquatic life beneficial uses related to flow, water project operations, and physical habitat restoration, also support the healthy fish populations on which tribal cultural and spiritual uses depend. Accordingly, the water quality objectives needed to protect fish and wildlife beneficial uses are addressed by the objectives and program of implementation in the Bay-Delta Plan. Please see Staff Report Section 13.3.7, Designation of Tribal Tradition and Culture (CUL) and Incorporation of Tribal and Subsistence Fishing Beneficial Uses, and Staff Report Section 13.7.2, Environmental Analysis of CUL Tribal Beneficial Use Designation, for more information. Beneficial use designations describe existing or potential uses of water bodies. A water quality objective specifies the level of protection reasonably necessary to protect a beneficial use. A water quality objective for one beneficial use may be sufficiently protective of other beneficial uses. As a result, even when new beneficial uses are designated for a water body, that does not necessarily mean that additional water quality objectives, restrictions on waste discharges, or other new or different actions will be necessary. Existing water quality objectives for an existing beneficial use may be sufficient to protect the newly added beneficial uses.

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		Accordingly, the Board should revise the Draft Plan to specify in the Bay-Delta Plan that the CUL beneficial use is only applicable to the Sacramento/Delta tributaries [Footnote 4: The Board should provide clarification on the following proposal in the Draft Plan: "the plan incorporates tribal and subsistence fishing beneficial uses…as they relate to the reasonable protection of fish and wildlife; however, these uses are not designated by this plan for any waterbodies in the Bay-Delta watershed." (Draft Plan, at 9.) If these beneficial are not designated for any waterbodies in the Bay-Delta watershed, they should not be mentioned in the plan. (See generally, Wat. Code, § 13050(j) ["'Water quality control plan' consists of a designation or establishment for the waters within a specified area of all of the following: (1) Beneficial uses to be protected, (2 Water quality objectives, (3) A program of implementation needed for achieving water quality objectives."].) The Board should explain—in legal and practical terms—what it means to incorporate these beneficial uses into the plan "as they relate to the reasonable protection of fish and wildlife." (Draft Plan, at 9.)].	Additional designations for specific water bodies and input from tribes will likely be needed for uses that are unique and specific from the fishable/swimmable beneficial uses. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses.
1079	4	ii. The Draft Plan Improperly Proposes to Modify the 2018 Bay-Delta Plan By Identifying the Implementation Actions for the LSJR Flow Objectives as Also Implementing the Inflow-Based Delta Outflow Objective without Notice or a Hearing The Draft Plan proposes that the "inflow-based Delta Outflow objective" will be implemented by requiring "inflows from the Sacramento/Delta tributaries" and "inflows from the Lower San Joaquin River" as "Delta outflows." (Draft Plan, at 57.) The Draft Plan further states that this objective will be implemented "in order of water right priority, unless exceptions apply, using the implementation methodology." (Draft Plan, at 57.) On this issue, the SJTA has previously commented that the proposal to require San Joaquin River flows be committed to Delta outflow year-round improperly (1) expands the flow objectives from the 2018 Bay-Delta Plan from February through June to year-round; and (2) adds a new compliance point for the LSJR flow objectives, changing the most downstream compliance point from Vernalis to the Golden Gate. (See Letter from Paris	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the Delta outflow requirements in the regulatory pathway.

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		Kincaid Wasiewski, LLP Re: Comments by San Joaquin Tributaries Authority on Sacramento/Delta Draft Staff Report, January 19, 2024 [Exhibit A], at 2-3.) The SJTA incorporates those comments herein and opposes any such fundamental change to the LSJR Flow Objectives without notice, hearing, consideration, and supporting analysis – none of which have been provided to the parties affected by the LSJR Flow Objectives.	
1079	5	iii. The Draft Plan Improperly Proposes to Modify the 2018 Bay-Delta Plan by Identifying a Curtailment Methodology as a Mechanism for Implementing the LSJR Flow Objectives The Board plans to implement the "Sacramento/Delta updates to the Bay-Delta Plan," by "develop[ing] an implementation methodology to determine when water is not available at water right holders' priorities of right." (Draft Plan, at 60.) The Draft Plan states that the Sacramento/Delta implementation methodology "is intended to be integrated with the methodology to implement Lower San Joaquin River instream flows, to the extent possible." (Draft Plan, at 60.) This proposal for a curtailment methodology to implement LSJR instream flows is an improper revision to the 2018 Bay-Delta Plan. The 2018 Bay-Delta Plan requires the Board to "fully implement the February through June LSJR flow objectives through water right actions or water quality actions, such as Federal Energy Regulatory Commission (FERC) hydropower licensing processes." (2018 Bay-Delta Plan, at 28.) The 2018 Bay-Delta Plan does not identify a curtailment procedure or methodology as a means of implementing any of the Lower San Joaquin River instream flow requirements. Notably, the term "water right action" is used elsewhere in the plan to describe instances where the Board has added conditions to water right permits and licenses, and is therefore not sufficient to encompass the proposed curtailment methodology. (Draft Plan, at 28.) The Board has not provided notice, nor a hearing, related to this proposed change to the 2018 Bay-Delta Plan. The 2012 Supplemental Notice of Preparation advised the public that the Board intended to review and potentially update the then-current 2006 Water Quality Control Plan for the Bay- Delta. (See	No substantive changes to the new objectives or their implementation adopted in the 2018 LSJR/SD Plan Update are proposed in this Sacramento/Delta update to the Bay-Delta Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology and Common Response 1.2, Water Quality Control Planning Process, for information on the implementation methodology and curtailment regulation.

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		Supplemental Notice of Preparation and Notice of Scoping Meeting for Environmental Documentation for the Update and Implementation of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary: Comprehensive Review, dated January 12, 2012.) The Board has never provided notice of an intention to revise the 2018 Bay-Delta Plan. Accordingly, the proposal in the Draft Plan to revise the means of implementing the LSJR flow objectives is improper. (Wat. Code, §§ 13240, 13244; Cal. Code Regs., tit. 14, § 15082; Pub. Res. Code, § 21080.4; Pub. Res. Code, § 21080.5.) Additionally, the Board has not released a staff report, nor any other analysis, to evaluate the potential environmental impacts of this change as required by law. (Cal. Code Regs., tit. 14, § 15252.)	
1079	6	iv. Footnotes from Table 3 of the 2018 Bay-Delta Plan Cannot be Moved into The Body of the Objective Without Proper Notice, Hearing or Analysis As the SJTA has noted in prior comments, the Draft Plan improperly proposes to move footnote 14 from Table 3 of the 2018 Bay-Delta Plan into the body of the Table 3 objectives, indicating that the footnote is no longer an interpretive guide to the objective, but rather part of the objective itself. The 2018 Bay-Delta Plan cannot be lawfully amended without notice, a public process, appropriate environmental analysis, and consideration of all factors set forth in Water Code section 13241. (Wat. Code, §§ 13240, 13241, 13244; Cal. Code Regs., tit. 14, §§ 15082, 15252; Pub. Res. Code, § 21080.4; Pub. Res. Code, § 21080.5 [certified regulatory programs only exempt from Chapters 3 and 4 of the California Environmental Quality Act, and section 21167].) (Letter from Paris Kincaid Wasiewski, LLP, Re: Comment Letter—Draft Sacramento/Delta Bay-Delta Plan Updates, January 10, 2025 [Exhibit B], at 4.)	No objectives were changed through the relocation of the footnotes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the water quality objectives for fish and wildlife.
1079	7	v. The Draft Plan Improperly Proposes to Change the Program of Implementation Adopted as Part of the 2018 Bay-Delta Plan As the SJTA previously noted, the Draft Plan includes a revised introductory section for the program of implementation, but the revisions are not explicitly limited to the Sacramento/Delta tributaries and improperly extend to the 2018 Bay-Delta Plan.	Please see the response to comment 1079-5. In addition, the introduction to the proposed program of implementation states that the State Water Board may implement the objectives by adopting regulations, conducting adjudicative proceedings, or both.

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		(Letter from Paris Kincaid Wasiewski, LLP, Re: Comment Letter—Draft Sacramento/Delta Bay-Delta Plan Updates, January 10, 2025 [Exhibit B], at 6.) The changes include, but are not limited to, deletion of water right proceedings as a mechanism for implementing the objectives, and the addition of a proposed regulation to administer the water right priority system as a means of implementing the objectives. The Board has not provided proper notice, nor a hearing, related to these proposed changes to the 2018 Bay-Delta Plan concerning the lower San Joaquin River watershed. Accordingly, the proposal in the Draft Plan to revise the POI language adopted in 2018 and which applies to the Stanislaus, Tuolumne, and Merced rivers is improper. (Wat. Code, §§ 13240, 13244; Cal. Code Regs., tit. 14, §§ 15082; Pub. Res. Code, § 21080.4; Pub. Res. Code, § 21080.5.) Additionally, the Draft Staff Report does not notice or evaluate the potential environmental impacts of these changes in the San Joaquin River watershed as required by law. (Cal. Code Regs., tit. 14, § 15252.)	
1079	8	vi. The Draft Plan Improperly Proposes to Commit LSJR Flows to Delta Outflow Without the Required Analysis Under Water Code Section 13241 When establishing water quality objectives, the Board must consider, among other things, "[w]ater quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area." (Wat. Code, § 13241(c).) The Board also failed to consider what water quality conditions could reasonably be achieved through committing, or not committing, certain LSJR flows to Delta outflow as required by Water Code section 13241. Because the Board set LSJR flow requirements in Phase 1 of the Bay-Delta Plan update, and then determined that those pre-decided flow requirements would be committed to Delta outflow during Phase 2, it failed to fulfill its obligation under Water Code section 13241 to consider what water quality conditions could reasonably be achieved through the coordinated control of all factors affecting water quality in the area, namely, what water quality conditions could be achieved for Delta outflow by requiring more or less flow from the LSJR than was required during Phase 1. In short, by establishing the flows required from the San Joaquin River	Please see Staff Report Sections 7.2, Description of Alternatives, and 7.24, Alternatives Analysis, for the description and analysis, respectively, of the No Project Alternative. Also see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's consideration of factors under Water Code section 13241 and the relationship to the 2018 Lower San Joaquin River and southern Delta salinity update to the Bay-Delta Plan.

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		watershed first, and then later determining what flows were needed for Delta outflow, the Board improperly restricted itself from adjusting the flow requirements from the LSJR, thus potentially requiring more flow than necessary from the San Joaquin River watershed.	
1079	9	d. Violations of Rules of Water Right Priority The SJTA reiterates the comments it made regarding water right priority violations in response to the Board's draft staff report released September 28, 2023, and in response to the Board's proposed revisions to the Bay-Delta Plan released on October 25, 2024. (See Letter from Paris Kincaid Wasiewski, LLP, Re: Comments by San Joaquin Tributaries Authority on Sacramento/Delta Draft Staff Report, January 19, 2024 [Exhibit A]; Letter from Paris Kincaid Wasiewski, LLP, Re: Comment Letter—Draft Sacramento/Delta Bay-Delta Plan Updates, January 10, 2025 [Exhibit B].) Those comments include: (1) the Board's proposal to develop a curtailment methodology to implement the objectives would be unlawful to the extent it involves adjudicatory decision making without an evidentiary hearing on issues such as the validity of water rights for purposes of issuing curtailments, the relative water right priorities of all water right holders, and the hydrologic connectivity between diversion points in the Delta watershed, (2) the Board's limited authority over the waste and unreasonable use of water does not authorize it to curtail water rights based on priority, (3) the stored water of the Central Valley Project and State Water Project (collectively "Projects") cannot be deemed exempt from priority when it is the very cause of the water quality degradation sought to be remedied by the objectives being implemented, (4) any provisions intended to eliminate the need for the Projects to seek Temporary Urgency Change Petitions ("TUCPs") are inconsistent with the rules of water right priority, and (5) the Board does not have the legal authority to implement flow objectives through curtailment regulations, or to otherwise administer all surface water rights and the water right priority system throughout the entire Bay-Delta watershed via regulation.	Section 2.7, Existing and Future Water Rights in the Sacramento/Delta Watershed, of the 2023 draft Staff Report provides general information on California's water right system and water rights and claims in the Sacramento/Delta watershed. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, VA pathway, water supply adjustments, and provisions for an implementation methodology. The revised proposed Plan amendments would establish water quality objectives and a program of implementation for achieving those objectives. The Plan specifies that numeric inflow requirements for the Sacramento/Delta tributaries would be implemented in accordance with water right priorities. Adoption of the revised proposed Plan amendments would not itself determine, quantify, or adjudicate individual water rights; determine the relative priority or hydrologic connectivity of all diversion points in the Delta watershed; amend individual water right permits, licenses, decisions, or orders; or resolve stored-water or Temporary Urgency Change Petition-related issues. Any enforceable obligations needed to implement adopted objectives would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. To the extent that this comment summarizes other comments, please see the substantive responses to those comments. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the revised proposed Plan amendments, the regulatory pathway, the VA pathway, and water supply adjustments.
1079	10	The SJTA adds the following comments in response to the Board's proposed revisions to the Bay-Delta Plan released	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation

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		December 12, 2025, and its supplemental modeling released August 15, 2025. i. The Proposal to Render Earlier Adopted Bay-Delta Plan Objectives Secondary to Newly Adopted Objectives Violates the Rules of Water Right Priority As noted in the Draft Plan, "D-1641 imposes conditions on DWR's and Reclamation's water rights requiring implementation of the base fall Sacramento River flow objective at Rio Vista." (Draft Plan, at 45.) The Draft Plan states that "DWR and Reclamation will continue to maintain responsibility for meeting the base fall Sacramento River flow objective." (Draft Plan, at 45.) However, the Draft Plan also states that "[c]ompliance with the year-round Sacramento and Delta tributary flow requirements … will also contribute to achieving the Sacramento River at Rio Vista flow objective." (Draft Plan, at 45-46.) To the extent the Draft Plan proposes to treat the Rio Vista flow objective—and any other flow objective from the 1995 Bay-Delta Plan— as a backstop to the newly proposed tributary flow objectives, such treatment violates the rules of water right priority. The Board first enacted the Bay-Delta Plan in 1978 and implemented the objectives in that plan by modifying the water right permits of DWR and USBR, i.e., "the water right holder with the lowest seniority." (United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 111.) The Board modified the Bay-Delta Plan in 1995 and again assigned responsibility to DWR and USBR (as the most junior water users in the watershed) for meeting all flow objectives, including the flow objectives at Rio Vista and Vernalis. (Revised Water Right Decision 1641 [March 15, 2000], at 131-132.) The proposal in the Draft Plan to spread responsibility to parties other than DWR and USBR, (i.e., to more senior water users) for meeting the flow objective at Rio Vista (and potentially Vernalis) that is already imposed upon DWR and USBR as conditions of their permits through D-1641 would violate the rules of water right priority. "[W]hen the Board seeks to ensure that water quality objectives are met … [it] must attempt to preserve water right priorities to the extent those priorities do not lead to unreasonable use or	methodology and Common Response 1.2, Water Quality Control Planning Process, for information on the implementation methodology and curtailment regulation. See also Common Response 7.24, Alternatives Analysis, for responses to comments on the modular drought alternatives.

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		violation of public trust values." (El Dorado Irrigation Dist. v. State Water Resources Control Bd. (2006) 142 Cal.App.4th 937, 967.) In the context of meeting water quality objectives, "the subversion of water right priority is justified only if enforcing that priority will in fact lead to the unreasonable use of water or result in harm to values protected by the public trust." (Id. [emphasis supplied].) The Board has not claimed nor demonstrated that it would constitute an unreasonable use of water or violate the public trust to require DWR and USBR to first meet the Rio Vista objective (and all other objectives from the 1995 Bay-Delta Plan) before any senior water right holders are required to contribute to meeting those same objectives—whether through direct assignment of responsibility or through the assignment of responsibility for meeting separate upstream objectives that must contribute to achieving the Rio Vista objective (or other objectives from the 1995 Bay-Delta Plan). In fact, in D-1641, the Board determined it would be unreasonable to require upstream diverters on the San Joaquin River tributaries "to release or bypass extra water to dilute downstream salinity" to satisfy the Vernalis salinity objective. (D-1641, at 81.) In short, the Board has not provided any justification—much less a legally defensible justification—for requiring water right holders that are senior to DWR and USBR to contribute to meeting the Rio Vista objective (or other 1995 Bay-Delta Plan objectives) that have already been assigned to DWR and USBR as the most junior users through D-1641.	
1079	11	i. The Proposed Water Supply Adjustments Violate Water Right Priority To the extent the Board proposes to implement the flow requirements by curtailing water diversion in order of water right priority across multiple subwatersheds or across the entire Delta watershed, the proposed Water Supply Adjustments ("WSAs") for specific tributaries would violate the rules of water right priority [Footnote 5: The SJTA notes that Delta watershed-wide curtailments are unlawful insofar as there has been no Delta watershed-wide adjudication to determine, among other things, (1) the validity of all claimed water rights in the Delta watershed, and in particular within the legal Delta, (2) the relative priority of all valid water rights across the Delta	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology and Common Response 1.2, Water Quality Control Planning Process, for information on the implementation methodology and curtailment regulation.

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		watershed, and (3) the inter-connectivity of all valid diversion points throughout the Delta watershed to inform whether the bypassing of water by an upstream junior water user would physically make water available for a downstream senior water user. The Legislature has set forth a singular process for resolving these legal and factual issues, namely a stream adjudication governed by Water Code § 2500, et seq., which requires notice, an investigation, a hearing and a decree of court, among other procedural safeguards. There is no authority in the law for the Board's proposal to skip or subvert this procedure by creating a separate—and undefined—"public process" for developing a curtailment methodology that would decide these same issues. (Draft Plan, at 60.)]. As an example, the Draft Plan proposes to exempt water right holders on three "rainfall dominated and municipal supply dominated tributaries" from the unimpaired flow requirements when certain water storage conditions occur on those tributaries, while water right holders on other tributaries remain subject to flow requirements of 35% to 55% of unimpaired flow. (Draft Plan, at 46-47.) As noted above, "the subversion of water right priority is justified only if enforcing that priority will in fact lead to the unreasonable use of water or result in harm to values protected by the public trust." (El Dorado Irrigation Dist., supra, 142 Cal.App.4th at 967. [emphasis supplied].) The Board has not asserted nor demonstrated that, absent an exemption for all water right holders on these three rainfall-dominated streams, enforcement of the objectives against those water right holders in accordance with their priority would lead to an unreasonable use of water or result in harm to the public trust. In fact, the Board has not offered any justification for exempting these tributaries from the flow requirements (and by extension exempting them from the curtailment priority methodology under certain conditions); it has only noted the hydrological characteristics and primary water uses that distinguish these watersheds from others in the Bay-Delta watershed. (Supplemental Modeling, at 8 [noting the tributaries are "either municipal supply dominated or are flashy rainfall dominated systems that cause a significant challenge managing carryover storage, or both"].) There is no information in the Draft Plan, nor in the Supplemental Modeling, demonstrating that these distinguishing factors bear on	

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		unreasonable use or public trust issues that would justify deviating from the rules of water right priority.	
1079	12	e. The Draft Plan's Proposal to Allow the Executive Director to Incrementally Implement the Inflow Requirements for Good Cause Lacks Clarity The Draft Plan states that "[i]mplementation of the inflow-based Delta outflow objective will begin within two years of approval of the current plan amendments by OAL and proceed in coordination with implementation of the Sacramento/Delta tributary inflow objective." (Draft Plan, at 58.) The Draft Plan also states that the "Executive Director may also approve incremental implementation of the inflow-based Delta outflow objective for good cause, such that the objective is fully implemented within five years of initial implementation." (Draft Plan, at 58.) This proposal to grant the Executive Director authority to incrementally implement the inflow-based Delta outflow objective lacks clarity as it fails to explain what type of incremental measures are permitted. For instance, it fails to explain whether incremental implementation may occur by watershed (i.e., by Sacramento River or San Joaquin River), by tributary, by water right holder, or by some other incremental measure.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1079	13	f. The Draft Plan Proposes to Violate Due Process by Assigning Responsibility For Meeting Objectives Through a Regulatory Document "A legislative act is … one which predetermines what the law shall be for the regulation of future cases falling under its provisions, while a judicial act is a determination of what the law is in relation to some existing thing done or happened." (Wulzen v. Board of Supervisors (1894) 101 Cal. 15, 24.) "Whenever an act undertakes to determine a question of right or obligation, or of property, as the foundation upon which it proceeds, such act is to that extent a judicial one, and not the proper exercise of legislative functions." (Id.) The distinction is critical because "due process requires 'notice and hearing' only in quasi-judicial or adjudicatory settings and not with respect to the adoption of general legislation." (McKinny v. Board of Trustees (1982) 31 Cal.3d 79, 98.) Thus, where an agency undertakes a quasi-	Please see Common Response 1.2, Water Quality Control Planning Process, for discussion of the Board's use of quasi-legislative and quasi-adjudicative authorities regarding water rights and for discussion of due process and compensable taking of private property. As explained in Staff Report Section 5.2.3, Regulations and Adjudicative Proceedings, the State Water Board conducts both quasi-legislative and quasi-judicial administrative proceedings, and different rules apply depending on the type of action pending before the State Water Board. In the past, the State Water Board has conducted adjudicative water right hearings to implement the Bay-Delta Plan, but it is not required to implement water quality objectives through such a mechanism. The State Water Board possesses legal authority to adopt regulations declaring that a particular use of water under given circumstances is unreasonable without the requirement to

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		legislative action without providing the type of due process protections that would be required during a quasijudicial proceeding, it cannot undertake quasi-judicial actions without violating constitutional due process protections. (See Wulzen v. Board of Supervisors, supra, at 24-25 ["As to the action of the board, so far as judicial, being in excess of its jurisdiction, we entertain no doubt"].) Water Quality Control Plans, such as the Bay-Delta Plan, are regulations. (United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 112 ["The Water Quality Control Plan is thus a quasi-legislative document"].) By contrast, the assignment of responsibility for meeting a water quality objective within a water quality control plan is an "adjudicatory function." (Id. at 113.) Since the right to use water is a "vested property right" that "cannot be infringed by others or taken by governmental action without due process and just compensation," any attempt to assign responsibility to certain water right holders through a WQCP itself (i.e., through a quasi-legislative procedure) would violate the due process rights of those water right holders. (United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 101.) The Draft Plan improperly assigns responsibility to certain water right holders and excludes other water right holders, without providing appropriate due process to those impacted. Specifically, the Draft Plan states, "[a]ll water rights not part of approved VAs on the tributaries identified above are subject to the numeric inflow requirements, except those determined to have a de minimis effect on inflows [wherein] [d]e minimis water diversions [are] defined as diversions of 10 acre-feet or less per year…." (Draft Plan, at 46.) If adopted, the plan will become law and the Board would be required to assign responsibility according to the language of the plan. (Wat. Code, § 13247; State Water Resources Control Bd. Cases (2006) 136 Cal.App.4th 674, 730 ["the Board was compelled by section 13247 to comply with the 1995 Bay-Delta Plan" which stated that it "will allocate responsibility for meeting the … objectives" through a "water right decision"][emphasis in original].) By stating in the Draft Plan that all water right holders that divert more than 10 acre feet per year on specific tributaries are	conduct a hearing as to any individual water right. (Stanford Vina Ranch Irrigation Co. v. State (2020) 50 Cal.App.5th 976, 1004 [citing Light v. SWRC State Water Resources Control Bd. (2014) 226 Cal.App.4th 1463, 1484-85] ["Stanford Vina"].) The State Water Board may implement the Bay-Delta Plan's water quality objectives by adopting regulations, conducting adjudicative proceedings, or both. The State Water Board will also continue, as necessary and appropriate, to use its Clean Water Act section 401 water quality certification authority, waste discharge requirements, and other water quality and water rights actions to implement objectives in this plan. While the State Water Board may consider implementation procedures other than, or in addition to curtailment regulations, it is likely that the State Water Board will develop and adopt regulations through a public process as necessary to implement portions of the plan updates, including regulations to administer the water right priority system with applicable Bay-Delta Plan requirements and commitments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology to be developed after approval of the revised proposed Plan amendments, and regarding new HRL proposals and water rights.

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		subject to the objectives, the Board has assigned responsibility to those water right holders and violated their due process rights by infringing on vested property rights in a quasi-legislative proceeding, without providing the required due process protections that would be afforded in a quasi-judicial proceeding. Any due process protections—such as notice and a hearing—that might be provided during the implementation phase would be ineffectual because the result of that hearing would be preordained by the fact the Board must follow its own plan and assign responsibility as set forth in the plan.	
1079	14	g. The Proposal to Implement Via Curtailment Would Exceed the Board's Authority The Board proposes to implement the Sacramento/Delta updates to the Bay-Delta Plan through the issuance of "water right curtailments based on water right priorities for appropriative and pre-1914 appropriative and riparian claims of right, including adjudicated rights." (Plan, at 60.) The Board intends to impose a permanent curtailment regime by (1) issuing curtailments to all water right holders whenever it determines—through an undisclosed methodology—that water is not available at particular water right priorities, and (2) issuing curtailments to non-VA parties when water is purportedly not available due to the tributary instream flow requirements and the inflow-based Delta outflow requirements. (Draft Plan, at 60.) The Board has not identified any legal authority that supports its proposal to impose this curtailment regime on water right holders, particularly pre-1914 appropriative water right holders and riparian water right holders.	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities, water right administration, and the relationship between water quality control planning and implementation of adopted water quality objectives. Section 13.3.5, Implementation Methodology, of Chapter 13, Revised Proposed Plan Amendments, describes the proposed implementation methodology for the flow components of the Sacramento/Delta update. The Bay-Delta Plan establishes water quality objectives and a program of implementation; the revised proposed Plan amendments would update those Plan components for the Sacramento/Delta watershed. Adoption of the revised proposed Plan amendments would not itself amend, determine, or curtail individual water rights. Enforceable obligations would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable procedures. The State Water Board will implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities subject to possible modifications (e.g., drought, public health and safety, public trust obligations).
1079	15	i. The Board Does Not Have Authority to Curtail Valid Riparian and Pre- 1914 Water Rights The Board "does not have jurisdiction to regulate riparian and pre-1914 appropriative rights." (Young v. State Water Resources Control Bd. (2013) 219 Cal.App.4th 397, 404.) Consistent with this limitation, the Sixth District Court of Appeal held that the Board does not have jurisdiction "to curtail diversions based on	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities, including discussion of riparian and pre-1914 appropriative rights, water right administration, and procedures for implementing adopted water quality objectives. Section 13.3.5, Implementation Methodology, of Chapter 13, Revised Proposed Plan Amendments, describes the proposed implementation methodology for the flow components of the Sacramento/Delta

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		alleged violations of priorities of right among valid pre-1914 right holders if it concludes that the water supply is insufficient to satisfy their entitlements." (California Water Curtailment Cases (2022) 83 Cal.App.5th 164, 173.) In the Draft Plan, the Board proposes to do exactly what the Sixth District Court of Appeal held it could not do: curtail diversions whenever it determines that water is not available for a particular priority of right. Moreover, the Board "is a creature of statute ([Wat. Code,] § 175) and possesses only such powers as are expressly granted or fairly implied from the law of its creation." (63 Ops.Cal.Atty.Gen 95, 101, citing California Toll Bridge Authority v. Kuchel (1952) 40 Cal.2d 43, 53.) Accordingly, the Board cannot—under the guise of implementing a water quality objective—grant to itself a curtailment authority which the legislature has not granted to it. As the Board lacks authority to curtail riparian and pre-1914 water rights, the Board's proposal to impose a permanent curtailment regime and to curtail water use based on purported availability given instream flow requirements and Delta outflow requirements is unlawful.	update. The revised proposed Plan amendments would update the Bay-Delta Plan's water quality objectives and program of implementation; adoption of the revised proposed Plan amendments would not itself amend, determine, or curtail individual water rights. Enforceable obligations would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable procedures. The State Water Board will implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities subject to possible modifications (e.g., drought, public health and safety, public trust obligations).
1079	16	ii. The Board's Proposal to Develop a Curtailment Methodology Is Unlawful The Board proposes to "develop an implementation methodology to determine when water is not available at water right holders' priorities of right … through a public process…." (Draft Plan, at 60.) The Draft Plan states that "[t]he implementation methodology is intended to be integrated with the methodology to implement Lower San Joaquin River instream flows, to the extent possible." (Draft Plan, at 60.) In developing the methodology and determining when water is purportedly unavailable, the Board proposes to consider, among other things, " [1] information regarding unimpaired flows … [2] other flows available for diversion, including return flows from agricultural and municipal water uses; [3] depletions from factors other than surface water diversions … [4] information related to water right priority dates; [5] water demands and diversions … [6] relevant court decrees, settlement agreements, and other arrangements that affect water diversion and use…." (Draft Plan, at 61.) Ultimately, the Board plans to adopt "curtailment regulations consistent with [its consideration of]	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities, water right administration, and procedures for implementing adopted objectives. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the regulatory pathway and implementation methodology. The revised proposed Plan amendments establish water quality objectives and a program of implementation. As described in Section 5.2.3, Regulations and Adjudicative Proceedings, the State Water Board implements Bay-Delta Plan objectives using quasi-legislative or adjudicative authorities involving water rights and water quality and may do so through regulations, adjudicative proceedings, or both. Enforceable obligations to implement adopted Plan requirements would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. The implementation methodology would be developed through a public process before use and would be subject to refinement over time through a public process.

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		the above [factors]." (Draft Plan, at 61.) The Board's proposed process—to the extent defined in the Draft Plan—is unlawful for several reasons. First, the factors that the Board proposes to consider when developing a methodology and when implementing curtailments do not include the validity of claimed water rights. In the absence of any determination of the validity of claimed rights, there is no justification for curtailing a purportedly junior right to make water available for a purportedly senior right. Second, the factors the Board proposes to consider also do not include hydrologic connectivity between diversion points upstream and downstream of one another to ensure that flows required to be bypassed at one location are physically capable of reaching a more senior downstream user that can put those flows to beneficial use. Absent a determination of hydrologic connectivity between diversion points, there is no justification for curtailing a purportedly junior right to make water available for a purportedly senior right. Third, the Board proposes to consider "information related to water right priority dates" when it develops a methodology and implements curtailments. (Draft Plan, at 61.) The Legislature has authorized a specific procedure for determining the relative priority dates of water rights. That procedure, referred to as a stream adjudication, is set forth in Water Code section 2500, et seq. (California Water Curtailment Cases, supra, 83 Cal.App.5th at 192; see Wat. Code, § 2501 ["The board may determine, in the proceedings provided for in this chapter, all rights to water of a stream system whether based upon appropriation, riparian right, or other basis of right"].) Any attempt by the Board to determine water right priority through some separate process other than the one authorized by the Legislature would result in the Board "arrogat[ing] to itself a legislative function," which it cannot do. (63 Ops.Cal.Atty.Gen 95, 101, citing Bank of Italy v. Johnson (1926) 200 Cal. 1, 15.) Finally, the numerous other factors the Board proposes to consider when imposing curtailments based on water right priority (e.g., unimpaired flows, flows available for diversion,	

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		water demands and diversions) "involve[] the actual application of [a] rule"—namely the rule of first-in-time, first-in-right for water right priority—"to a specific set of existing facts"—namely the supply of, and demand for, water—and therefore any determinations stemming from the consideration of these facts would be adjudicatory in nature. (California Assn. of Sanitation Agencies v. State Water Resources Control Bd. (2012) 208 Cal.App.4th 1438, 1453.) As these are quasi-judicial determinations, it would be unlawful, in the absence of due process, for the Board to make these decisions through the adoption of "curtailment regulations"—i.e., quasilegislative rules—as it proposes to do. (Draft Plan, at 60; Wulzen, supra, 101 Cal. at 24 ["[w]henever an act undertakes to determine a question of right or obligation, or of property, as the foundation upon which it proceeds, such act is to that extent a judicial one, and not the proper exercise of legislative functions"].)	
1079	17	h. The Draft Plan Provides Inconsistent Justifications for Carryover Storage Requirements in the San Joaquin River Watershed and the Sacramento River Watershed The Draft Plan provides that "[w]hen implementing the LSJR flow objectives through water right actions or water quality actions, the State Water Board will require the development and implementation of minimum reservoir carryover storage targets or other requirements to help ensure that providing flows to meet the objectives will not have significant adverse temperature or other impacts on fish and wildlife." (Draft Plan, at 39.) In other words, carryover storage requirements will be established to protect against the harm to fish and wildlife beneficial uses that will be caused by the Board's unimpaired flow objectives; they are intended to counter the ill effects of the objectives, not to further the objectives. By contrast, in the Sacramento River watershed, carryover storage targets are intended to implement the cold water habitat objective. (Draft Plan, at 51-53.) In other words, unlike in the San Joaquin River watershed where carryover storage requirements are intended to counter the ill effects of the objectives, the carryover storage requirements in the Sacramento River watershed are intended to achieve an established objective, as	No changes to the new objectives adopted in the 2018 LSJR/SD Plan Update are proposed in this Sacramento/Delta Update to the Bay-Delta Plan. See Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a description of the purpose and goals of the Sacramento/Delta updates to the Bay-Delta Plan and Section 7.1.5.1, Sacramento/Delta, Plan Area, and Study Area, for a description of the plan area and study area. Also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project, and Common Response 1.2, Water Quality Control Planning Process, regarding the relationship with the 2018 LSJR/SD Plan Update.

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		Water Code section 13242 intends. Because the Board did not establish a cold-water habitat objective as part of the LSJR Flow Objectives, it has not done the work to determine whether such an objective is needed, would provide protection, or otherwise is appropriate. As the Board has not established a statutorily-recognized purpose for requiring carryover storage requirements in the San Joaquin River watershed, it should revise the program of implementation to eliminate any reference to carryover storage in the San Joaquin River watershed.	
1079	18	i. The Board Should Consider and Adopt WSAs and Other Process Changes to the LSJR Program of Implementation to Align with the Sac/Delta Program of Implementation The Draft Plan states that the "most recent updates to the Bay-Delta Plan and the 2018 updates to the Bay-Delta plan are intended to work together to provide for the comprehensive update of the Bay-Delta Plan." (Draft Plan, at 7.) However, there are numerous discrepancies between the objectives (as noted above) and the programs of implementation for the Lower San Joaquin River and Sacramento/Delta portions of the plan that should be resolved to ensure the plan works comprehensively and avoids inequitable results. First, the narrative inflow objective for the Sacramento/Delta region will be implemented by requiring "inflows from Sacramento/Delta tributaries [to] be maintained at 55 percent of unimpaired flow year-round on a 7-day running average." (Draft Plan, at 46.) One of the exceptions to this unimpaired flow requirement is the newly developed water supply adjustments (WSAs), which reduce the unimpaired flow requirement to 45 percent or 35 percent, depending on hydrologic conditions. (Draft Plan, at 46-47.) Some tributaries (Mokelumne, Putah, Calaveras) receive even greater reductions to the unimpaired flow requirement, including the complete elimination of any unimpaired flow requirement depending on reservoir storage levels on those tributaries. (Draft Plan, at 47.) According to the Staff Report, the WSAs are being considered "[i]n response to public comments expressing concerns that the inflow	No changes to the new objectives adopted in the 2018 LSJR/SD Plan Update are proposed in this Sacramento/Delta Update to the Bay-Delta Plan. See Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a description of the purpose and goals of the Sacramento/Delta updates to the Bay-Delta Plan and Section 7.1.5.1, Sacramento/Delta, Plan Area, and Study Area, for a description of the plan area and study area. Also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project, and Common Response 1.2, Water Quality Control Planning Process, regarding the relationship with the 2018 LSJR/SD Plan Update.

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		requirements … would have significant water supply impacts and could result in drawing down reservoir storage, with associated temperature impacts." (Staff Report, Chapter 13, 13-10 – 13-11.) According to the Staff Report, the WSAs will "reduce water supply impacts and allow more water to be stored in reservoirs." (Staff Report, Chapter 13, 13-11.) These same water supply impact concerns were raised about the unimpaired flow requirements for the tributaries to the lower San Joaquin River. (See, e.g., Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento San Joaquin Delta Estuary [July 2018], Master Response 2.1, at 29 ["Other commenters requested that the State Water Board reduce the required percent of unimpaired flow to better protect water supply beneficial uses during a drought"]). Additionally, the Board acknowledged that the unimpaired flow requirements imposed on the lower San Joaquin River tributaries would "drain the reservoirs [or] … come close to it in some years and we'd lose all [instream] temperature control for many months." (Transcript of Public Hearing In the Matter of Amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality and on the Adequacy of the Supporting Recirculated Draft Substitute Environmental Document (SED) [Exhibit C], November 29, 2016, at 50-51.) However, the Board did not propose or adopt any water supply adjustments to reduce water supply impacts or to allow more water to be stored in reservoirs as part of the 2018 update. In addition to revising the objectives for the lower San Joaquin River to replace the unimpaired flow objectives with a more flexible narrative objective, the Board should also revise the program of implementation to incorporate water supply adjustments that allow for flow reductions beyond the 30% to 50% unimpaired flow range established in the 2018 Bay-Delta Plan. Second, the adaptive implementation provisions for the Sac/Delta objectives (such as flow shaping and unimpaired flow range adjustments) allow for the Executive Director to make seasonal or one-year basis adjustments, while the Board may make longer-term adjustments, provided that any such changes are preceded by public review and comment. (Draft Plan, at 49.)	

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		By contrast, the Executive Director cannot make similar adaptive adjustments to the LSJR flow requirements unless members of the Stanislaus, Tuolumne, Merced (STM) Working Group unanimously agree to the change or recommend a change (depending on the type of adjustment), effectively adding a layer of process and complication to the implementation process for the LSJR. (Draft Plan, at 41-42.) Additionally, implementation provisions for the Sac/Delta objectives preclude the Board from increasing the unimpaired flow percentage unless (1) flows in a tributary are already higher than the required percent of unimpaired flow and the Board determines that the higher flows need to be maintained to provide for reasonable protection of fish and wildlife, and (2) the Board finds that higher flows are needed to provide for reasonable protection of fish and wildlife, including due to change in other regulatory requirements that generate inflows and Delta outflow, as determined through the periodic review process. (Draft Plan, at 50-51.) By contrast, there is no similar restriction on increasing the unimpaired flow percentage on the lower San Joaquin River tributaries. Instead, the Board may increase flow requirements on the same terms and considerations that it may decrease them (Draft Plan, at 40-42), unlike on the Sac/Delta tributaries where the standards for increasing are more exacting than the standards for decreasing. (Draft Plan, at 50-51.) Third, implementation of both the Sac/Delta objectives and the LSJR objectives require development of biological goals. As with the implementation of adaptive adjustments, the development of biological goals for the LSJR objectives is burdened by the participation of the STM Working Group, whereas the development of biological goals for the Sac/Delta objectives is not. (Draft Plan, 116-117.) Fourth, the implementation of the Sac/Delta flow requirements allows for water right holders to propose local cooperative solutions to comply with the applicable objectives (Draft Plan, at 55-57), but implementation of the LSJR objectives does not include any such flexible compliance solution. (Draft Plan, at 40-45.)	

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1079	19	j. The Bay-Delta Monitoring and Evaluation Program (BDMEP) Cannot Be Used to Evade Compliance with the Porter-Cologne Act Chapter 13 states that implementation of the Bay-Delta Plan will include establishment of the Bay-Delta Monitoring and Evaluation Program (BDMEP) for the purpose of monitoring, reporting, assessing, accounting, and adaptively managing at the watershed scale, including the Bay, Delta, and tributaries. (Chapter 13, 13-36.) The Board contends that the BDMEP will be an appendix to the Bay-Delta Plan "that could be regularly updated without plan amendments, as appropriate, including through the annual and periodic review processes." (Chapter 13, 13-36.) Contrary to the Board's contention, the Porter-Cologne Act precludes modifications to the plan without adhering to certain notice and hearing requirements. (Wat. Code, § 13244.) Thus, modifying the components of the plan, whether it be beneficial uses, objectives, or the program of implementation, cannot be accomplished by simply relegating portions of the plan to an appendix and then modifying that appendix without following statutorily required processes. To the extent the Board proposes to use the BDMEP or any appendix in this way, such use would be unlawful.	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on annual and periodic review.
1079	20	k. Exemption for Irrigated Lands Below Sea Level in the Legal Delta The Board previously proposed an exemption from the inflow-based Delta outflow requirement for water rights in the legal Delta that divert for irrigation purposes on lands below sea level. That potential exemption is now identified in the Draft Plan. (Draft Plan, at 58.) In Chapter 13, the Board explains, "[i]nitial monitoring of water use suggests that the net consumptive use of irrigated agriculture on subsided islands below sea level in the Delta may be equivalent to the amount of water that would be used by the vegetation that would grow absent irrigation and land management." (Chapter 13, 13-19.) However, the Board states that "because of the limited data set available for analysis, there is some uncertainty in this conclusion." (Chapter 13, 13-19.) The Board plans to conduct additional analysis, "undertake a public process to evaluate the effectiveness of curtailments of	As described in the revised proposed Plan amendments, the consideration of the possible exemption would occur during implementation or during periodic review processes. The revised proposed Plan amendments include defined processes and timelines for implementation and for periodic review. The commenter has not justified why many of the other specific details they requested about the public process are required to be included in the Bay-Delta Plan. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		agricultural diversions below sea level," and later consider exemptions "during implementation or during periodic review processes" for lands below sea level in the legal Delta. (Draft Plan, at 58.) If the Board intends to conduct a "public process" during implementation that could exclude entire swaths of the watershed from compliance with the objectives, it must describe that public process in the program of implementation. As relevant here, Water Code section 13242 provides that the program of implementation must include "[a] description of the nature of actions which are necessary to achieve the objectives," and "[a] time schedule for the actions to be taken." The Board has not described, nor set a time schedule, for the purported public process it proposes to undertake as a means of implementing the inflow-based Delta outflow objective. Specifically, the Board has not described, among other things, how the public process will be conducted, whether interested parties may submit and/or rebut evidence, how evidence will be weighed and ruled upon, the criteria for determining whether certain water rights should be exempt or not exempt, and who will make the ultimate decision. In short, the Board has provided no description of this proposed action for implementing the inflow-based Delta outflow objective, except to state that it will include some type of public process. In the absence of an actual description in the plan itself of this proposed implementation action, the Board cannot use it without violating Water Code section 13242.	
1079	21	II. Comments on Chapter 13 a. The Board Misstates Its Obligations Under Water Code Section 13241 The Board asserts that "the term 'beneficial uses' as used in water quality control planning context differs from the term 'beneficial uses' in a water right context" (Chapter 13, 13-220), and that this difference affects the Board's obligation under Water Code section 13241 to consider "[p]ast, present, and probable future beneficial uses of water" when establishing water quality objectives to "ensure the reasonable protection of beneficial uses." There is no legal authority to support the	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of the reasonable protection of fish and wildlife beneficial uses, the State Water Board's consideration of different beneficial uses, and the State Water Board's consideration of the factors listed under Water Code section 13241 during the water quality control planning process. Further, nothing in Staff Report Section 13.6.2, Water Code Section 13241 Analysis, is intended to imply that the State Water Board is not obligated to consider demand and supply needs for other uses of water when formulating water quality objectives and a program of implementation to achieve those objectives. Language has been added to Section 13.6.2 to make this clear.

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		Board's assertion, nor to support the various conclusions the Board draws from it with respect to its obligations under Water Code section 13241. First, in analyzing how the term "beneficial uses" is employed in the water quality control planning context, the Board contends that fish and wildlife beneficial uses are distinct from other beneficial uses of water, such as agricultural beneficial uses, because fish and wildlife beneficial uses "require volumes of water achieved through setting minimum instream flows," whereas agricultural beneficial uses "do not require specific allocations of water." (Chapter 13, 13-220.) The Board provides no legal authority to support this distinction. Instead, it relies on an example from its own Bay-Delta Plan which sets a salinity standard for the protection of agricultural uses in the Delta—presumably for the proposition that maintaining the salinity standard does not require any particular volume of water. The Board fails to acknowledge that instream flows are required to maintain the salinity standard by repelling seawater intrusion in the Delta. (See, e.g., Antioch v. Williams Irrigation Dist. (1922) 188 Cal. 451.) Moreover, contrary to the Board's contention, protection of fish and wildlife beneficial uses does not "require volumes of water achieved through setting minimum instream flows" (Chapter 13, 13-220); there are numerous other ways to protect fish and wildlife beneficial uses, such as setting objectives that can be implemented by recommending actions to public and private entities. (See, Wat. Code, § 13242 [program of implementation must describe the nature of actions necessary to achieve the objectives, "including recommendations for appropriate action by any entity, public or private"]; United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 122 ["objectives … may not always be readily enforceable … [and] … an implementing program may be a lengthy and complex process requiring action by entities over which the Board has little or no control"].) In any event, despite the absence of any legal authority for this distinction between fish and wildlife beneficial uses and other beneficial uses of water, the Board uses the distinction to conclude that ensuring "reasonable protection of water quality for fish and wildlife, while also ensuring protection of agricultural uses, does not involve analysis of competing water allocations." (Chapter 13,	

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		13-220.) To the extent the Board suggests that it need not consider reductions in available supply for agricultural uses caused by instream flow requirements for fish and wildlife beneficial uses, the Board is wrong. Water Code section 13000 explicitly requires the Board to consider "all competing demands for water in determining what is a reasonable level of water quality protection." (United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 118, citing Wat. Code, § 13000.) In fulfilling this obligation, the Board must "take the larger view of the water resources [available] in arriving at a reasonable estimate of all water uses." (Id. at 119.) As courts have stated, the Board has "a duty to adopt objectives to protect fish and wildlife uses [and] in doing so [to also] consider and protect all of the other beneficial uses…of water…including municipal, industrial, and agricultural uses[;] [the Board must] balance all of these competing interests in adopting water quality objectives." (State Water Resources Control Bd. Cases (2006) 136 Cal.App.4th 674, 778.) Given the Board's charge to consider all competing demands for water in light of all available water resources, the Board cannot disregard reductions in available supply stemming from instream flow requirements for fish and wildlife beneficial uses. The Board also contends that "'beneficial use' is a different term of art" in the "water right context" than in the water quality control planning context. (Chapter 13, 13-220.) Specifically, the Board assets that in the water right context, "beneficial uses include domestic, irrigation, power, municipal, fish and wildlife, and many other uses." (Chapter 13, 13-220.) Notably, these same uses are identified in the Porter-Cologne Act, which defines beneficial uses as including "domestic, municipal, agricultural, and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves." (Wat. Code, § 13050(f).) The Board asserts that while the "descriptive terms" in the water right context "may look the same as those in a water quality control planning context, they are different and refer to the end use of a specific amount of applied water." (Chapter 13, 13-220.) The distinction the Board is making is unclear, unsupported, and departs from its previous interpretation and the interpretation of prior Water Quality	

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		Control Plans. Additionally, the Board does not explain what meaning it attributes to this purported distinction, nor how the distinction impacts its water quality control planning responsibilities. The Board must correct its inaccurate articulation of the law and its responsibilities thereunder. Additionally, the Board should provide a further explanation of how the supposed differences between the term beneficial use in the water right context and the water quality control planning context impact its responsibilities under the Porter-Cologne Act.	
1079	22	b. The Board's Consideration of the Factors in Water Code Section 13241 Is Too Narrow Under Water Code section 13241, the Board must consider, among other things, environmental characteristics of the hydrographic unit under consideration, and the water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area. In this instance, the hydrographic unit under consideration and the factors affecting water quality in the area extend to the San Joaquin River watershed by reason of the Board's inflow-based Delta outflow objective which requires flows from the San Joaquin River watershed. However, the Board's analysis does not extend to the San Joaquin River watershed and is therefore insufficient	The State Water Board used a two-phase approach for updating the Bay-Delta Plan because the complexities involved made this approach more manageable (Phase 1: LSJR flows; Phase 2: Sacramento/Delta flows and outflow). The relationship between LSJR flows and Delta Outflow is flexible and can be adjusted during the periodic review process. These actions are consistent with Water Code § 13241 and both Bay-Delta Plan updates underwent the public notice and comment process. Please refer to Common Response 1.2, Water Quality Control Planning Process, regarding State Water Board authorities related to the water quality control planning process, the Porter-Cologne Water Quality Control Act, and relationship to the LSJR/SD Update to the Bay-Delta Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a discussion of the Delta outflow objective. The inflow-based Delta outflow objective simply requires that any required inflows (from the Sacramento/Delta and Lower San Joaquin River) be provided as outflows. Implementation of the inflow-based Delta outflow objective could not alter the upstream inflow requirements from the San Joaquin River and thus would have no effect on the required inflows from the Lower San Joaquin River.
1079	23	c. The Board's Environmental Analysis Is Inadequate Because It Does Not Include Environmental Impacts in the San Joaquin River Watershed The basic purposes of CEQA are to (1) inform governmental decision makers and the public about the potential, significant	Page 24 of the 2018 Bay-Delta Plan stated the "Board's intention that an entity's implementation of the LSJR flow objectives...will meet any responsibility to contribute to the LSJR inflow component of the Delta outflow objective in [the Bay-Delta] Plan." It also acknowledged that the State Water Board could "further consider and allocate responsibility for implementing

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		environmental effects of proposed activities, (2) identify ways that environmental damage can be avoided or significantly reduced, (3) prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures, and (4) disclose to the public the reasons why a governmental agency approved the project in the manner chosen. (Cal. Code Regs., tit. 14, § 15002.) While certified regulatory programs such as the State Board's water quality control planning process are exempt from certain procedural requirements of CEQA, they are not exempt from "the broad policy goals and substantive standards of CEQA" (Pesticide Action Network North America v. Department of Pesticide Regulation (2017) 16 Cal.App.5th 224, 242.) Accordingly, the Staff Report, which purports to serve as a substitute for an environmental impact report, must fulfill these basic purposes as well as the specific requirements of California Code of Regulations, title 23, section 3777. (Cal. Code Regs., tit. 23, § 3777 [Draft SED "shall include" a "brief description of the proposed project," "[a]n identification of any significant or potentially significant adverse environmental impacts of the proposed project," "[a]n analysis of reasonable alternatives to the project and mitigation measures," and "[a]n environmental analysis of the reasonably foreseeable methods of compliance"].) The proposed Inflow-Based Delta Outflow objective requires flows from the San Joaquin River watershed. (Draft Plan, at 18.) Additionally, the proposed Narrative Delta Outflow Objective will be implemented via the Inflow-Based Delta Outflow Objective (Draft Plan, at 57). As both objectives are "year round" (Draft Plan, at 18), the Board could conceivably attempt to compel year-round flows from the San Joaquin River as well as additional flows from the Stanislaus, Tuolumne, and Merced Rivers that would not otherwise be required by the 2018 Bay-Delta Plan. In effect, the Board proposes to require new and unknown quantities of water from the San Joaquin River watershed. However, the Board's environmental analysis in Chapter 13 and elsewhere in the Staff Report excludes the San Joaquin River watershed (Figure 1-1b, Figure 13.7-1a), and fails to analyze any impacts to the San Joaquin River watershed from yearround or additional flows originating from the San Joaquin River watershed. Both CEQA and the Porter-Cologne Act require an	the Delta outflow objective in any subsequent proceeding, including a water right proceeding." The commenter is asserting claims related to LSJR/SD implementation and that are independent of the Sacramento/Delta update and would not be ripe until the State Water Board further considers allocation of responsibility for meeting the LSJR/SD flow objectives. The proposed Plan amendments do not modify any flow objectives promulgated for the San Joaquin tributaries in the 2018 Plan Update. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a discussion of the inflow-based Delta outflow objective. The inflow-based Delta outflow objective simply requires that required inflows (from the Sacramento/Delta and Lower San Joaquin River) be provided as outflows. Implementation of the inflow-based Delta outflow objective could not alter the upstream inflow requirements and thus would have no effect on the required inflows from the Lower San Joaquin River.

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		analysis of a wide range of anticipated impacts from water quality control plan revisions, and the Staff Report fails to comply with those requirements because it does not contain any analysis of impacts within the San Joaquin River watershed, including on the Stanislaus, Tuolumne, and Merced Rivers.	
1079	24	d. The Board's Environmental Analysis Is Inadequate Because It Does Not Evaluate Cumulative Impacts There are multiple changes to the both the Sacramento and San Joaquin River watersheds and operation thereof which have not been included or analyzed in the Draft Plan. First, as made clear in the DWR presentation and comments on January 28, 2026, DWR operates its export of water in the Delta under new requirements which allow for more dynamic operation, but also for increased exports during certain conditions. In late 2024, the California Department of Fish and Wildlife (CDFW) issued an Incidental Take Permit (ITP), by following the certification of a Final Environmental Impact Report for long-term operations of the State Water Project. Action 5 of the ITP allows for operational measures designed to minimize impacts on listed fish species—particularly salmonids—by balancing pumping restrictions with water supply needs. As described by Director Nemeth for the Board, DWR was able to export significantly more water based on San Joaquin River inflows and local evaluation of present species. The Board has not evaluated Action 5 and its effects on the Draft Plan, the Healthy Rivers and Landscapes proposal, or the LSJR Flow Objectives. Given Director Nemeth comments, the Draft Plan's failure to identify, describe, and evaluate the impacts of Action 5 result in a foundational defect. The Draft Plan must be revised to disclose and evaluate the impacts of Action 5. The USBR also provided comments during the Board hearing and noted that its participation in HRL may be affected by recent funding and approval changes. Although USBR did not provide specific operations direction, it did clarify USBR funding for HRL. In addition, USBR agreed to meet with Board staff to update the Board on these changes and generally the position of USBR moving forward. After meeting with USBR, the Board must either revise the Draft Plan or otherwise publicly disclose the	Section 7.23.1, Cumulative Impact Analysis, of the 2023 draft Staff Report and Section 13.7.21.1, Cumulative Impact Analysis, of the 2025 partially recirculated draft Staff Report address cumulative impacts of past, present, and reasonably foreseeable probable future projects. Please refer to Common Response 7.23, Cumulative Impact Analysis, for responses to comments related to the consideration and analysis of cumulative impacts associated with the 2018 LSJR/SD Plan Updates and other past, present, and reasonably foreseeable probable future projects. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP.

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		information from the USBR regarding its participation, funding, and other operations that could affect the Draft Plan or the implementation thereof.	